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| CITY OF AUBURN WASHINGTON | **City Council Study Session PWCD SFA**<br>**October 12, 2020 - 5:30 PM**<br>**Virtual**<br>**AGENDA**<br>**Watch the meeting LIVE!**<br><br>**Watch the meeting video**<br>Meeting videos are not available until 72 hours after the meeting has concluded. |

I. CALL TO ORDER

II. Virtual Participation Link

A. Virtual Participation Link

The Auburn City Council Study Session Meeting scheduled for Monday, October 12, 2020 at 5:30 p.m. will be held virtually and telephonically. To attend the meeting virtually please click the link or enter the meeting ID into the Zoom app or call into the meeting at the phone number listed below.

Per the Governor's Emergency Proclamation 20-28, the City of Auburn is prohibited from holding an in-person meeting at this time.

City of Auburn Resolution No. 5533, designates City of Auburn meeting locations for all Council, Board and Commission meetings as virtual. All meetings will be held virtually and telephonically until King County enters into Phase 3 of Governor Inslee's Safe Start — Washington's Phased Reopening plan.

The link to the Virtual Meeting or phone number to listen to the Council Meeting is:

Join from a PC, Mac, iPad, iPhone or Android device:
Please click this URL to join. https://zoom.us/j/91396518858

Or join by phone:
253 215 8782
877 853 5257 (Toll Free)

Webinar ID: 913 9651 8858

B. Roll Call

III. ANNOUNCEMENTS, REPORTS, AND PRESENTATIONS

IV. AGENDA MODIFICATION

V. AGENDA ITEMS FOR COUNCIL DISCUSSION

A. City Council & Hearing Examiner Joint Meeting (Tate)(20 Minutes)

Introduction of the Hearing Examiner, review of the Hearing Examiner's Report and Hearing Examiner Rules of Procedure for future adoption by Resolution No. 5555

VI. PUBLIC WORKS AND COMMUNITY DEVELOPMENT DISCUSSION ITEMS

A. Building Code Overview (Tate)(30 Minutes)

Staff to present an overview of the origin of the International, State, and Local Building Codes and associated amendments in preparation for a future discussion of proposed amendments to coincide with the Triennial Code update

B. Capital Projects Status Report and Feature Project (Gaub)(10 Minutes)

C. Ordinance No. 6792 (Gaub)(20 Minutes)

An Ordinance amending Chapter 19.04 Transportation Impact Fees of the Auburn City Code

D. Ordinance No. 6795 (Gaub)(10 Minutes)

An Ordinance amending Chapter 12.60 of the Auburn City Code relating to Right-of-Way Permits

E. Resolution No. 5554 (Gaub)(10 Minutes)

A Resolution authorizing the Mayor to execute a Memorandum of Understanding with the Muckleshoot Indian Tribe to establish a partnership for implementing non-motorized improvements on and adjacent to State Route 164

VII. OTHER DISCUSSION ITEMS

VIII. NEW BUSINESS

IX. 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.*

CITY OF AUBURN WASHINGTON

# AGENDA BILL APPROVAL FORM

**Agenda Subject:**
City Council & Hearing Examiner Joint Meeting (Tate)(20 Minutes)

**Date:**
October 6, 2020

**Department:**
Community Development

**Attachments:**
Resolution No. 5555 Adopting Hearing Examiner Rules of Procedure
ACC 2.46 Hearing Examiner City Code Section
Draft Hearing Examiner Rules of Procedure

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

## Administrative Recommendation:

For discussion only.

## Background Summary:

At the October 12, 2020 study session, Community Development Dept. staff would like to provide a briefing on the City's Hearing Examiner. For background, this document will discuss the legal basis for the operation of the Hearing Examiner. Then, at the meeting, staff will introduce the Hearing Examiner, Phil A. Olbrechts, and allow time for him to report on recent operations/proceedings and then provide time for review and discussion of the proposed hearing examiner rules of procedure that was jointly developed by the Hearing Examiner and City Legal and Community Development Depts. staff.

**Authority for the Hearing Examiner**
Cities and counties in Washington State have statutory authority to establish a hearing examiner system. Under a hearing examiner system, a city or county hires or contracts with a hearing examiner to conduct "quasi-judicial" hearings, usually in place of local bodies such as the planning commission, the board of adjustment, or the city council.

The basic purpose of having a hearing examiner conduct these hearings is to have a professionally trained individual, typically an attorney, make objective quasi-judicial decisions that are supported by an adequate record and that are free from political influences. Using a hearing examiner system allows local legislative and advisory bodies that might otherwise conduct these hearings to better concentrate on policymaking. It can also potentially reduce local government legal risk and liability exposure through what should be more consistent and legally sustainable quasi-judicial decisions.

A **quasi-judicial action/decision** is an action which the decision maker is sitting "like a judge", evaluating a specific case or proposal submitted by an individual party or property owner. Examples include applications for variances, special use permits, and subdivisions

(plats). In each case, the decision maker is asked to make a decision that affects an individual (or family, partnership, or corporation), but not the entire community. Most quasi-judicial actions are the responsibility of the City's Hearing Examiner.

By contrast, the Planning Commission's responsibility is mainly **legislative actions**. A legislative action is one which will affect the entire community, not just an individual property owner or single piece of land. Examples include updating or revising the comprehensive plan and adopting zoning code text amendment ordinances. In these situations, the rules change for everyone.

There are two main Washington State statutory authorities that provide for the Hearing Examiner system and apply to code cities, as follows:

- RCW 35A.63.110 – Authorizes hearing examiner system as replacement for board of adjustment
- RCW 35A.63.170 – Authorizes use of a hearing examiner system in code cities for certain zoning matters

  Also, there are other minor state law provisions that authorize the Hearing Examiner to conduct open record hearings and to act on certain types of decisions such as subdivisions, appeals, and abatement and removal of junk vehicles from private property.

  A city or county council has considerable discretion in establishing how the hearing examiner system will operate. The position of hearing examiner (appointment, qualifications, termination, etc.), the type of issues the hearing examiner is authorized to consider and decide, and the effect of the hearing examiner's decisions are among the matters addressed by the local legislative body and set out in the enabling ordinance. Although counties and cities use hearing examiners primarily for hearing and deciding land use permit applications and/or administrative appeals of land use decisions, hearing examiners may also be used to conduct hearings and make recommendations or decisions on other local matters.

  Auburn City Code at Title 2.46 (Attachment) provides for the City's establishment of the hearing examiner system. This code section addresses the broad scope of responsibilities of the position including the types of decisions, the selection process for the Examiner, independence of decision making, and general steps in processing matters. In Section 2.46.035, (Powers and areas of jurisdiction) City Council has delegated certain decision making to the Hearing Examiner. Not only does the Hearing Examiner consider land use and development related cases for the Community Development Department, the Hearing examiner considers other local matters on different subjects for other city departments, such as:

- Appeals of a dangerous dog determinations for the Legal Dept. (ACC 6.35.020(D));

- Appeals of a decision by the City Engineer regarding construction permits for the Public Works Dept. (ACC 12.24.090(C));
- Hear and resolve tenant complaints against landlords regarding utility billing practices (third party utility billing) for the Finance Dept. (ACC 13.52.050) and
- Appeals from a decision of the parks director regarding park impact fees. (ACC 19.08.040) for the Parks, Arts, and Recreation Dept.

Also, this Section provides for various levels of decision making. Certain types of decisions are final as decided by the Hearing Examiner, other decisions are appealable to the City Council, and other decisions are recommendations to the City Council, who makes the final decision.

The city's Hearing Examiner is Phil A. Olbrechts, of Olbrechts & Associates PLLC and has been the Examiner since September of 2010. In October 18, 2010, the City Council approved Resolution No. 4651 authorizing agreement for Hearing Examiner Services with Olbrechts and Associates, PLLC. Prior to that (2007) he was the City's Hearing Examiner while at the Legal firm, Ogden Murphy Wallace, PLLC. He serves as Hearing Examiner for many municipalities and is knowledgeable and well-regarded.

**Proposed Hearing Examiner Rules of Procedure**
City code section ACC 2.46.130 provides for the due process of a public hearing to be held by the Examiner. More specifically, in Subsection B, it provides:

"B. The examiner shall have the power to prescribe rules and regulations for the conduct of hearings under this chapter subject to review by the city council and to administer oaths and preserve order."

As the City Council and the Planning Commission have done, the City proposes to adopt Hearing Examiner Rules of Procedure to provide greater specificity for the steps leading to and conduct of hearings (Attachment). The City has not previously adopted Hearing Examiner Rules of Procedure. Having Rules of Procedure would be valuable to all participants to have a standard set of guidance and procedures to consult. These are most applicable in the instances of contested cases and not routine land use matters. The draft Rules of Procedure have been jointly developed by the hearing examiner and City Legal and Community Development Depts. staff. Staff requests that the Council schedule the adoption of Resolution No. 5555 for the November 19, 2020 regular city council meeting.

## Reviewed by Council Committees:

**Councilmember:** Brown **Staff:** Tate
**Meeting Date:** October 12, 2020 Item Number:

**RESOLUTION NO. 5555**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, APPROVING AND AUTHORIZING USE OF THE CITY OF AUBURN. HEARING EXAMINER RULES OF PROCEDURE

WHEREAS, pursuant to Chapter 2.46 of the Auburn City Code (ACC), the City has appointed attorney Phil A. Olbrechts of Olbrechts and Associates, PLLC. as its Hearing Examiner; and,

WHEREAS, on October 18, 2010, the City Council approved Resolution No. 4651 authorizing agreement for Hearing Examiner Services with Olbrechts and Associates, PLLC., and,

WHEREAS, section 2.46.130 ACC provides that the Hearing Examiner shall have the power to prescribe rules and regulations for the conduct of hearings under this chapter, subject to review by the City Council; and,

WHEREAS, the Hearing Examiner and Legal Department and Community Development Department staff have worked together to develop proposed Rules of Procedure for the Hearing Examiner's use; and,

Whereas, pursuant to section 2.46.130 ACC, it is appropriate that the Rules of Procedure are reviewed by the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, HEREBY RESOLVES as follows:

Section 1. Having reviewed the proposed Hearing Examiner Rules of Procedure, City Council concurs with their use by the City of Auburn Hearing Examiner.

Section 2. That the Mayor is authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

Section 3. That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this _____ day of _____, 2020.

CITY OF AUBURN

_____
NANCY BACKUS, MAYOR

ATTEST:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Kendra Comeau, City Attorney

# Chapter 2.46
# HEARING EXAMINER

Sections:


2.46.010 Title.
2.46.020 General objectives.
2.46.030 Creation of the hearing examiner.
2.46.035 Powers and areas of jurisdiction.
2.46.040 Appointment and term.
2.46.050 Removal.
2.46.060 Qualifications.
2.46.070 Examiner pro tempore – Duties.
2.46.080 Hearing examiner – Conflict of interest.
2.46.090 Freedom from improper influence.
2.46.100 Applications and appeals.
2.46.110 Report by department.
2.46.120 Burden of proof.
2.46.130 Public hearing.
2.46.140 Examiner's decision and recommendations – Findings required.
2.46.150 Request for reconsideration.
2.46.160 Appeal of final decisions.
2.46.170 Hearing examiner's recommendation.
2.46.180 City council action.
2.46.190 Review of chapter by city council.


## 2.46.010 Title.

This chapter shall be hereafter known as the "hearing examiner" chapter and may be cited as such and will be hereinafter referred to as "this chapter." (Ord. 6442 § 31, 2012; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.010.)

## 2.46.020 General objectives.

It is the general objective of this chapter to:

A. Provide a single, efficient, integrated, land use regulatory decision-making process and public hearing system;

B. Render land use regulatory decisions and recommendations to the city council;

C. Provide a greater degree of due process in land use regulatory decision-making and public hearings;

D. Separate land use policy formulation from land use policy administration processes;

E. Provide an efficient and effective administrative adjudicatory system for review of contested administrative determinations. (Ord. 6442 § 31, 2012; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.020.)

## 2.46.030 Creation of the hearing examiner.

The office of the hearing examiner, hereinafter referred to as "examiner," is hereby created. The examiner shall interpret, review, and implement land use regulations as provided in this title and other ordinances, issues and matters as assigned, delegated and/or referred to the examiner. The term "examiner" shall likewise include the examiner pro tem. (Ord. 6442 § 31, 2012; Ord. 6185 § 8, 2008; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.030.)

## 2.46.035 Powers and areas of jurisdiction.

The hearing examiner shall have the power to receive and examine available information, conduct public hearings, prepare a record thereof and enter findings of fact, conclusions based upon those facts and enter decisions as provided by ordinance. Notwithstanding any other provision in the Auburn City Code, the hearing examiner's areas of jurisdiction shall include those matters contained in this chapter.

A. The decision of the hearing examiner on the following matters shall be final:

1. Appeals of assessed civil penalties. (ACC 1.25.065(E))[1]

2. Appeals regarding the city's decision on refunds from the construction sales tax exemption. (ACC 3.60.036(F))

3. Appeals from the planning director's denial of an application for a multifamily tax exemption (MFTE). (ACC 3.94.070(F))

4. Appeals from the planning director's denial of an extension of a conditional certificate for MFTE. (ACC 3.94.090(B))

5. Appeals of a dangerous dog determination. (ACC 6.35.020(D))

6. Appeals of a decision by the planning director regarding expansion of hours for construction noise. (ACC 8.28.010(B)(8)(d))

7. Appeals of a decision by the city engineer regarding construction permits. (ACC 12.24.090(C))

8. Appeals of a decision by the city engineer regarding undergrounding of utilities. (ACC 13.32A.130(D))

9. Appeals of decisions by the building official or fire code official regarding building and code violations. (ACC 15.07.130)[1]

10. Applications for a shoreline conditional use permit (Shoreline Master Program, Section 6.1.8, Ordinance No. 6733) (note that, by statutes, the State Department of Ecology has final approval authority).

B. The decision of the hearing examiner on the following matters shall be final unless such decision is appealed to the city council as provided in this chapter:

1. Appeals from denial, civil penalty suspension or revocation of a business license. (ACC 5.15.070)

2. Appeals from denial of a rental housing business license. (ACC 5.22.070(D))

3. Appeals from revocation or notice of intent to revoke a rental housing business license. (ACC 5.22.090(B))

C. The decision of the hearing examiner on the following matters shall be the final administrative decision of the city:

1. Appeals from the planning director's denial of a final certificate for multifamily property tax exemption (MFTE). (ACC 3.94.100(G))

2. Appeals from the planning director's cancellation of a tax exemption for MFTE. (ACC 3.94.120(C))

3. Appeals of a decision by the public works director regarding commute trip reductions. (ACC 10.02.120)

4. Appeals from denial of an adult entertainment establishment license, issuance or renewal. (ACC 5.30.070)

5. Appeals of a decision by the public works director regarding required public improvements. (ACC 12.64A.060)

6. Appeals of a decision by the public works director regarding system development charges. (ACC 13.41.070)

7. Hear and resolve tenant complaints against landlords regarding utility billing practices (third party billing). (ACC 13.52.050)

8. Appeals of a decision by the planning director on a relocation report and plan related to the closure of a mobile home park. (ACC 14.20.120)

9. Appeals of a decision by the floodplain administrator on floodplain development permits. (ACC 15.68.125)

10. Appeals of a decision by the landmarks and heritage commission on historical designations. (ACC 15.76.040)

11. Appeals of a decision by the SEPA responsible official on threshold determinations (ACC 16.06.250) – public hearing needed.

12. Appeals from critical area review decisions. (ACC 16.10.140)

13. Applications for a reasonable use exception due to critical area regulations. (ACC 16.10.150)

14. Applications for a buffer width variance of critical areas regulations which exceeds 10 percent of a quantifiable standard. (ACC 16.10.160)

15. Applications for a public agency special exception to critical area regulations. (ACC 16.10.170)

16. Appeals from a decision of the planning director regarding boundary line adjustments. (ACC 17.06.030)

17. Applications for a preliminary plat. (ACC 17.10.050)

18. Applications for modification of standards and specifications related to a preliminary plat. (ACC 17.18.010)

19. Applications for alteration of any subdivision. (ACC 17.20.030)

20. Appeals from a decision of the planning director regarding site plan approval of a business park. (ACC 18.36.020(B))

21. Applications for a special home occupation permit. (ACC 18.60.040(A))

22. Applications for a surface mining permit. (ACC 18.62.030)

23. Appeals from a decision of the planning director regarding administrative use permits. (ACC 18.64.020(A))

24. Applications for a conditional use permit. (ACC 18.64.020(B))

25. Applications for a variance. (ACC 18.70.010)

26. Appeals from a decision of the planning director regarding administrative variances. (ACC 18.70.015)

27. Applications for a special exception. (ACC 18.70.020)

28. Applications for a variance in the regulatory floodplain. (ACC 18.70.025)

29. Appeals from any administrative decision under ACC Title 18, Zoning. (ACC 18.70.050)

30. Appeals from a decision of the planning director regarding fire impact fees. (ACC 19.06.080)

31. Appeals from a decision of the parks director regarding park impact fees. (ACC 19.08.040)

D. On the following matters, the hearing examiner shall enter findings of fact, conclusions of law, and recommendations to the city council:

1. Applications for vacating a subdivision or portion of a subdivision, or any land dedicated for public use, except rights-of-way associated with public streets. (ACC 17.22.030)

2. Application for a business park (conceptual approval). (ACC 18.36.020(A))

3. Applications for a rezone (zoning map amendment) initiated by an applicant other than the city. (ACC 18.68.030)

4. Applications for major amendments to the Lakeland Hills PUD. (ACC 18.76.130) (Ord. 6442 § 31, 2012.)

**1** The appeal shall be processed and the hearing conducted according to the provisions of ACC 15.07.130.

## 2.46.040 Appointment and term.

The hearing examiner shall be appointed by the mayor and subject to confirmation by the Auburn city council. In the event that the appointed examiner is unable to perform the duties of office for whatever reason, or in the event of a vacancy in office, the mayor shall appoint an examiner pro tem who shall have the authorities herein provided. (Ord. 6442 § 31, 2012; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.040.)

## 2.46.050 Removal.

The examiner or the examiner pro tem may be removed from office at any time by the mayor. (Ord. 6442 § 31, 2012; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.050.)

## 2.46.060 Qualifications.

The examiner and the examiner pro tem shall be appointed solely with regard to their qualifications for the duties of the office, which shall include, but not be limited to, appropriate educational experience such as in urban planning, land use law and public administration. Wherever feasible, the mayor shall endeavor to appoint qualified candidates who reside in the Auburn area. (Ord. 6442 § 31, 2012; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.060.)

## 2.46.070 Examiner pro tempore – Duties.

The examiner pro tem shall have the power to perform the duties of the hearing examiner whenever the hearing examiner is absent, has a conflict of interest, or otherwise so requests. The qualifications for hearing examiner pro tem are the same as for the hearing examiner. (Ord. 6442 § 31, 2012; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.070.)

## 2.46.080 Hearing examiner – Conflict of interest.

The examiner shall not conduct or participate in any hearing or decision in which the examiner has a direct or indirect personal interest which might exert such influence upon the examiner that might interfere with their

decision-making process. Any actual or potential conflict of interest shall be disclosed by the hearing examiner to the parties immediately upon discovery of such conflict.

Participants appearing before the hearing examiner have the right, insofar as possible, to have the examiner free from personal interest or prehearing contacts on land use regulatory matters considered by them. It is recognized that there is a countervailing public right to free access to public officials on any matter. If such personal interest or prehearing contact impairs the examiner's ability to act on the matter, the hearing examiner shall state and shall abstain therefrom to the end that the proceeding is fair and has the appearance of fairness, unless all parties agree in writing to have the matter heard by said examiner. If all parties do not agree and the hearing examiner must abstain, the hearing examiner shall assign the matter to a hearing examiner pro tem to sit in the hearing examiner's stead. (Ord. 6442 § 31, 2012; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.080.)

## 2.46.090 Freedom from improper influence.

No city council member, city official, or any other person shall attempt to interfere with or improperly influence the examiner or examiner pro tempore in the performance of their designated duties. (Ord. 6442 § 31, 2012; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.090.)

## 2.46.100 Applications and appeals.

Applications and appeals requiring a determination by the hearing examiner shall be filed with the department that has responsibility for the ordinance that is the subject of the application or appeal.

A. Applications requiring a hearing examiner decision shall be scheduled for hearing promptly upon notification by the responsible department that the application is complete and ready for scheduling.

B. Promptly following receipt of a timely appeal, the hearing examiner shall schedule a hearing consistent with the requirements of the applicable ordinance(s) and these rules. (Ord. 6442 § 31, 2012; Ord. 4229 § 2, 1987. Formerly 18.66.110.)

## 2.46.110 Report by department.

When a matter identified in ACC 2.46.035 has been set for public hearing, the responsible department shall coordinate and assemble the comments and recommendations of other city departments and other governmental agencies having an interest in the subject application and shall prepare a report summarizing the issues involved, and the responsible department's findings and recommendation. This report shall be transmitted to the examiner at least four calendar days prior to the scheduled hearing. Copies of this report shall be mailed to the applicant prior to the hearing and shall be made available to the public for the cost of reproduction prior to the scheduled hearing. (Ord. 6442 § 31, 2012; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.120.)

## 2.46.120 Burden of proof.

Unless otherwise provided for in the Auburn City Code, the burden of proof before the hearing examiner shall be as follows:

A. *Appeal Hearings.* The applicant/appellant shall have the burden of proof, by a preponderance of the evidence, as to material factual issues except where applicable city code provisions or state law provides otherwise.

B. *Land Use Application Hearings.* For an application to be approved, a preponderance of the evidence presented at the hearing must support the conclusion that the application meets the legal decision criteria that apply.

C. *Code Enforcement Hearings.* The city shall have the burden of proving, by a preponderance of the evidence, that a code violation has occurred and that the proposed corrective action is reasonable. (Ord. 6442 § 31, 2012.)

## 2.46.130 Public hearing.

A. Before rendering a decision or recommendation on any application for which a public hearing is required, the examiner shall hold a public hearing thereon. Unless otherwise required by the Auburn City Code, all hearings conducted by the examiner shall be open record hearings. Notice of the place and time of the public hearing shall be given as provided in the ordinance governing the application. If none is specifically set forth, the following notice requirements shall be followed:

1. Be given not less than 10 days prior to the date of the hearing;

2. Set forth the time, place and purpose of such hearing;

3. Be provided in accordance with the requirements of ACC 14.07.040.

B. The examiner shall have the power to prescribe rules and regulations for the conduct of hearings under this chapter subject to review by the city council and to administer oaths and preserve order.

C. At the close of the testimony the examiner may close the public hearing, continue the hearing to a time and date certain, or close the public hearing pending the submission of additional information on or before a date certain.

D. Until a final action on the application is taken, the examiner may dismiss the application for failure to diligently pursue the application after notice is given to all parties of record.

E. If a project consists of different actions which require separate hearings to be held for each action, one consolidated hearing shall be held as required by ACC Title 14. (Ord. 6442 § 31, 2012; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.130.)

## 2.46.140 Examiner's decision and recommendations – Findings required.

A. Unless the time is extended pursuant to this section, within 10 working days of the conclusion of a hearing, or the date set for submission of additional information pursuant to this chapter, the examiner shall render a written decision, including findings from the record and conclusions therefrom, and shall transmit a copy of such decision by regular mail, postage prepaid, to the applicant and other parties of record in the case who have requested notice of the decision at the public hearing. The person mailing the decision shall prepare an affidavit of mailing, in standard form, and the affidavit shall become a part of the record of the proceeding. In the case of applications requiring city council approval, the examiner shall transmit their decision to the city council.

B. In extraordinary cases, the time period for filing of the recommendation or the decision of the examiner may be extended for not more than 20 working days after the conclusion of the hearing if the examiner finds that the amount and the nature of the evidence to be considered, or receipt of additional information which cannot be made available within the normal decision period, require the extension. Notice of the extension, stating the reasons therefor, shall be sent to all parties of record in the manner set forth in this section for notification of the examiner's decision.

C. *Conditions.* When acting on land use matters, the examiner's recommendation or decision may be to grant or deny the application, or the examiner may require of the applicant such conditions, modifications and restrictions as the examiner finds necessary to make the application compatible with the environment and carry out the goals and objectives of the comprehensive plan, this title, the land division ordinance, other codes and ordinances of the city of Auburn, and the approved preliminary plat, if applicable. Conditions, modifications and restrictions which may be imposed shall be founded in the body of legislation approved by the city council. Performance bonds may be required to insure compliance with the conditions, modifications and restrictions.

D. *Termination of Decision.* The city declares that circumstances surrounding land use decisions change rapidly over a period of time. In order to assure the compatibility of a decision with current needs and concerns, any such decision shall be limited in duration, unless the action or improvements authorized by the decision are implemented promptly. Any application, except a rezone, approved pursuant to this chapter shall be implemented within two years of such approval unless other time limits are prescribed elsewhere. Any application which is not so implemented shall terminate at the conclusion of that period of time and become null and void. The examiner may grant one extension of time for a maximum of one year for good cause shown. The burden of justification shall rest with the applicant. For large-scale or phased projects the examiner may at the time of approval or recommendation set forth time limits for expiration which exceed those prescribed in this section for such extended time limits as are justified by the record of the action. (Ord. 6442 § 31, 2012; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.140.)

## 2.46.150 Request for reconsideration.

The responsible director or an interested party affected by the final decision or recommendation of the examiner who asserts that the hearing examiner based that recommendation or decision on an erroneous procedure, errors of law or fact, or error in judgment, which could not be reasonably available at the prior hearing, may make

a written request for review by the examiner within seven calendar days after the written decision of the examiner has been rendered. The request for reconsideration shall set forth the specific errors relied upon by such appellant, and the examiner may, after review of the record, take further action as the examiner deems proper. The examiner may request further argument which shall be provided within 10 calendar days of the examiner's request. The examiner's written decision on the request for consideration shall be transmitted to all parties of record within 10 working days of receipt of the request for reconsideration or receipt of the additional argument requested, whichever is later. The date of the hearing examiner's final decision for appeal purposes shall be construed as the date of the hearing examiner's decision on the reconsideration request. (Ord. 6442 § 31, 2012; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.150.)

## 2.46.160 Appeal of final decisions.

The responsible director or any interested party affected by the examiner's written final decision may appeal the decision to superior court of the county in which the project is located. (Ord. 6442 § 31, 2012; Ord. 6185 § 7, 2008; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.160.)

## 2.46.170 Hearing examiner's recommendation.

A. For actions requiring the hearing examiner's recommendation as provided by ordinance, the examiner's recommendation shall be forwarded to the city council within 10 working days of the examiner's decision. The recommendation shall be placed on the next agenda of the city council. The city council upon its review of the record may:

1. Affirm the recommendation;
2. Remand the recommendation to the hearing examiner;
3. Schedule a closed record public hearing before the city council.

B. Any aggrieved person may request the city council to conduct its own closed record hearing. Upon its own closed record hearing the city council may affirm, reject, or modify the hearing examiner's recommendation or take whatever action it deems appropriate pursuant to law. (Ord. 6442 § 31, 2012; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.170.)

## 2.46.180 City council action.

Any application requiring action by the city council shall be evidenced by minute entry unless otherwise required by law. When taking any such final action, the city council shall make and enter findings of fact from the record and conclusions therefrom which support its action. Unless otherwise specified, the city council shall be presumed to have adopted the hearing examiner's findings and conclusions.

A. All applications requiring city council action shall be placed on the city council's agenda for consideration.

B. The action of the city council approving, modifying or rejecting the hearing examiner's decision or recommendation shall be final and conclusive, subject to any writ of review pursuant to law. (Ord. 6442 § 31, 2012; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.180.)

## 2.46.190 Review of chapter by city council.

The city council may on an annual basis review the content and effect of this chapter on the city of Auburn and its citizens. The method of review may include a public hearing open to all interested citizens. The city council after review and consideration shall at that time decide to modify, repeal, or retain all of or part of this chapter. (Ord. 6442 § 31, 2012; Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987. Formerly 18.66.190.)

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**The Auburn City Code is current through Ordinance 6775, passed May 18, 2020.**

Disclaimer: The city clerk's office has the official version of the Auburn City Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

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City Website: www.auburnwa.gov
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# CITY OF AUBURN HEARING EXAMINER RULES OF PROCEDURE

Resolution No. 5555, Adopted (date)

# City of Auburn Hearing Examiner Rules of Procedure

## 1. EXPEDITIOUS PROCEEDINGS

The Hearing Examiner and all parties shall make every reasonable effort to avoid delay at each stage of every proceeding consistent with fairness to all parties.

## 2. COMPUTATION OF TIME

(a) In computing any period of time prescribed or allowed by these Rules of Procedure ("Rules"), the day of the act, event, or default from which the designated period of time begins to run shall not be included.

(b) The last day of the period so computed shall be included, terminating at 5:00 p.m., unless the last day of the period is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050, in which event the period shall run until 5:00 p.m. of the next day which is not a Saturday, Sunday or legal holiday.

(c) When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays or legal holidays shall be excluded from the computation.

(d) "Working" days as referenced in these Rules exclude weekends, legal holidays, and other days City offices are officially closed.

## 3. DEFINITIONS

(a) "Code" or "ACC" means the Auburn City Code.

(b) "Council" means the Auburn City Council.

(c) "Examiner" or "Hearing Examiner" means the Auburn Hearing Examiner or Hearing Examiner Pro Tem (pro tempore).

(d) "Interested Person" means any individual, partnership, corporation, association, or public or private organization of any character who has standing to participate in the proceedings before the Hearing Examiner, as standing is defined herein, or who is authorized to participate in the proceedings by the ordinance or Code under which the proceeding is brought.

(e) "Intervenor" means an individual who is not already an interested person or a party, as those terms are defined herein, and who does not have a substantial and direct interest in the proceedings before the Hearing Examiner, but who has clearly ascertainable and identifiable interests and/or perspectives essential to consideration of the proceedings, and who, in light thereof, is granted permission

by the Hearing Examiner to participate in the proceedings as if a party.

(f) "Party" means:

(1) For an open record hearing in the proceedings before the Hearing Examiner:

(i) the applicant;
(ii) the City;
(iii) a person who testifies at the hearing or who submits written testimony for consideration at the hearing which is accepted by the Hearing Examiner and is recognized as part of the record of the proceeding; and

(2) For any open record appeal of an administrative decision:

(i) the applicant;
(ii) the appellant, with standing;
(iii) the City; and
(iv) any intervenors allowed by the Hearing Examiner to join as a party.

(g) "Standing" means the right of the applicant and of the City to participate in the proceedings before the Hearing Examiner. Standing also means the right of any other person who has been made a party of record prior to the issuance of a decision may appeal the decision. In order to appeal, the person or party shall be aggrieved or affected by the decision pursuant to RCW 36.70C.060.

## 4. QUALIFICATIONS, DUTIES AND JURISDICTION OF THE HEARING EXAMINER

(a) Hearing Examiner Qualifications**:** Hearings shall be presided over by a duly qualified Hearing Examiner or deputy Hearing Examiner appointed/contracted by the City Council pursuant to ACC 2.46.040, (Appointment and term).

(b) Hearing Examiner Duties**:** The Hearing Examiner shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings, and to maintain order. The Hearing Examiner shall have all powers necessary to that end, including the following:

(1) To administer oaths and affirmations;

(2) To issue subpoenas to compel witnesses to appear at the hearing;

(3) To rule upon offers of proof and to admit evidence;

(4) To regulate the course of the hearings and the conduct of the participants;

(5) To consider and rule upon procedural and other motions appropriate to the proceedings;

(6) To make and file orders, recommendations and decisions; and

(7) To hold prehearing or other conferences.

(c) Hearing Examiner Jurisdiction: The Hearing Examiner shall have the authority to conduct hearings, prepare a record, enter written findings and conclusions, and issue decisions or recommendations for any matter or appeal for which the ACC, other ordinance, or the City Council designates the Hearing Examiner to be the Hearing Body.

On appeals, the Hearing Examiner shall have the authority to vacate, remand, affirm or modify the underlying appealed from decision.

(d) Disqualification:

(1) The Examiner on his or her own initiative may enter an order of disqualification in the event of personal bias or prejudice, or to preserve the appearance of fairness.

(2) A party may file a declaration (a statement in writing and under penalty of perjury) stating facts supporting the belief that such party cannot have a fair and impartial hearing by reason of the personal bias, prejudice, or appearance of unfairness of the Hearing Examiner.

The declaration shall be filed not less than ten (10) working days before the hearing unless good cause is shown, and in any case before the Hearing Examiner makes any discretionary ruling; provided a declaration seeking disqualification on appearance of fairness grounds may be filed at any time, but must be filed promptly after the basis for disqualification is known or should have been known to the party seeking such disqualification.

The Hearing Examiner shall rule on the declaration prior to making any other ruling and prior to proceeding with the hearing.

## 5. EX PARTE COMMUNICATION

(a) For purposes of this rule, "ex parte communication" means a written or oral communication concerning the pending matter with the Hearing Examiner to

which all parties are not included outside of a public hearing and not included in the public record.

(b) Pursuant to Chapter 42.36 RCW, as is currently exists or is hereby amended, no interested person (nor his/her agent, employee, or representative) shall communicate ex parte directly or indirectly with the Hearing Examiner concerning the merits or facts of any matter being heard before the Hearing Examiner, or any factually related matter. This rule shall not prohibit ex parte communications about schedules and other procedural topics.

(c) The Hearing Examiner shall not communicate ex parte directly or indirectly with any interested person (nor his/her agent, employee or representative) regarding the merits or facts of any matter being heard before the Hearing Examiner except about procedural topics as identified above.

(d) If a substantial, prohibited ex parte communication is made to or by the Hearing Examiner, such communication shall be publicly disclosed at the next following public hearing regarding the pending matter or, if there is no further such hearing, disclosure shall be made in writing to all parties of record within five (5) working days of the date of the improper communication. Parties shall have the opportunity to make objections to the ex parte communication within ten (10) working days of such disclosure.

## 6. PREHEARING AND OTHER CONFERENCES

(a) The Examiner may, on his or her own order, or at the request of a party, hold a conference prior to the hearing to consider:

(1) Identification, clarification, and simplification of the issues;

(2) Disclosure of witnesses to be called and exhibits to be presented;

(3) Motions;

(4) Other matters deemed by the Hearing Examiner appropriate for the orderly and expeditious disposition of the proceedings.

(b) Prehearing conferences may be held in person or by telephone conference call or web conference.

(c) All parties shall be given notice of the date and time of prehearing conferences and how to participate. Such notice may be limited to the parties to a SEPA appeal for SEPA appeals that are consolidated with a permit hearing.

(d) Following the prehearing conference, the Hearing Examiner may issue an order reciting the actions taken or ruling on motions made at the prehearing conference.

## 7. APPEALS BEFORE THE HEARING EXAMINER

(a) Filing Requirements for Filing of the Appeal

Appeal filing fee and content requirements are set by Code. Any applicable Code deadlines for filing an appeal or serving the appeal at specified places or upon specified persons shall be considered jurisdictional. The failure of a party to comply with a jurisdictional requirement shall be grounds for dismissal of the appeal upon motion by a party or sua sponte by the Hearing Examiner at any time prior to the issuance of a final decision.

(b) Clarification of the Appeal Statement

If the Hearing Examiner determines that the appeal is vague or ambiguous or does not sufficiently set forth the exceptions and objections with regard to the appealed matter, the Hearing Examiner may require that the appellant amend the appeal.

Within ten (10) calendar days of notice to amend, or a shorter time period as found to be equitable by the Hearing Examiner, the appellant shall file a written clarification of the appeal as required by the Hearing Examiner. If the appeal is not amended by 5:00 p.m. of the last day of that time period, it shall be dismissed by the Hearing Examiner.

(c) Dismissal of Appeals

The Hearing Examiner shall dismiss an appeal without hearing when it is determined by the Hearing Examiner without merit on its face, frivolous, or brought merely to secure a delay.

(d) Parties to the Appeal

The parties to the appeal are the City, appellant(s) and the applicant. If multiple appellants or a group of appellants file an identical appeal, the Hearing Examiner may request that a representative be appointed to receive notices and copies of documents. The appointed representative will receive copies of documents and notices for the group.

(e) Intervention

An interested person may petition the Examiner to intervene as a party. The

petition shall be filed at least ten (10) working days prior to the appeal hearing and shall set forth reasons why the petitioner should be allowed to participate. The petition shall be considered at or before the beginning of the hearing and intervention shall be allowed only if the Examiner so orders, and upon such terms and conditions as the Examiner determines to be appropriate. Copies of the petition to intervene shall be distributed to all parties.

The parties shall have the opportunity for reply or objection. Any reply or objection must be filed at least three (3) working days prior to the appeal hearing.

(f) Withdrawal of the Appeal

The appellant may withdraw an appeal at any time prior to the close of the record.

(g) Format of Appeal Hearing

The format for an appeal hearing will be informal, yet designed in such a way that the evidence and facts relevant to the proceeding will become readily and efficiently available to the Hearing Examiner. Any appeal hearing shall include, but need not be limited to, the following elements:

(1) A brief introductory statement by the Hearing Examiner.

(2) Presentation by the City including any relevant testimony the City wishes to present.

(3) Presentation by the applicant, if the applicant is not the appellant.

(4) Cross examination of City witnesses by the appellant, if determined by the Hearing Examiner to be appropriate.

(5) Presentation by the appellant, including any relevant testimony the appellant wishes to present.

(6) Cross examination of appellant witnesses by the City, if needed.

(7) Rebuttal by the Applicant.

(8) Rebuttal by the City.

(9) Questions by the Hearing Examiner.

(10) Concluding remarks or summations and rebuttal thereto, as necessary.

(h) Participation by Non-Party

Appeal hearings are open to the public, but testimony is generally not allowed from a person who is not a party to an appeal hearing unless called as a witness by a party. The Hearing Examiner at his or her discretion may call or allow a non-party witness to testify upon a determination that such testimony will be relevant and not repetitive.

## 8. CODE ENFORCEMENT HEARINGS

Code enforcement hearings shall be subject to Sections 7d, e, g, and h.

## 9. PRE-DECISION HEARING ON APPLICATIONS

(a) Format of Pre-Decision Hearing

The format for a pre-decision hearing will be public and informal, but organized so that the testimony and evidence can be presented quickly and efficiently. A pre-decision hearing shall include, but need not be limited to, the following elements:

(1) A brief introductory statement by the Hearing Examiner.

(2) A presentation by the City, which may include reference to visual aids such as maps, and a summary of the recommendation of city staff.

(3) Testimony by the Applicant.

(4) Testimony from interested persons.

(5) Rebuttal by the City.

(6) Rebuttal by the Applicant.

(7) Closing remarks, if needed.

(8) The examiner may ask questions at any time of any party prior to close of the hearing.

(b) Content of the Record

The record of a hearing conducted by the Hearing Examiner shall include, but need not be limited to, the following:

(1) The application.

(2) The departmental staff reports.

(3) All other evidence received or considered including all exhibits and other materials filed.

(4) A recommendation or decision containing findings and conclusions including a statement of matters officially noticed by the Hearing Examiner.

(5) Electronic recordings of the proceedings.

(6) An affidavit or certificate of written notice given of the hearing.

**10. EVIDENCE**

(a) Burden of Proof

(1) Where applicable ordinance(s) so provide, the Hearing Examiner shall accord deference or other presumption as directed by the applicable ordinance(s).

(2) Where the applicable ordinance(s) provide that the appellant has the burden, appellant(s) must show by the applicable standard of proof that the City's decision or action is not in compliance with ordinance(s) authorizing that decision or action.

(3) Where applicable ordinances do not provide that the appellant has the burden, the City shall make a prima facie showing that its decision or action is in compliance with the ordinance(s) authorizing that decision or action.

(4) Unless otherwise provided by applicable ordinance(s), statue, or case law, the standard of proof is a preponderance of the evidence.

(b) Admissibility

The hearing generally will not be conducted according to technical rules relating to evidence and procedure. Any evidence that is relevant, material, and reliable may be admitted if in the Hearing Examiner's judgment, it possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.

(c) Official Notice

The Hearing Examiner may take official notice of generally accepted and recognized facts and law, including but not limited to City ordinances, resolutions, court decisions, and prior Hearing Examiner decisions. The Examiner may also take notice of other facts and laws as authorized in courts of law and technical or scientific facts generally accepted as such within the relevant scientific or technical community.

## 11. RECORDING

All proceedings before the Hearing Examiner shall be electronically recorded including but not limited to prehearing conferences, appeal hearings, and pre-decision hearings. The recordings of hearings shall be part of the official case record on file with the City Clerk.

## 12. OATH OR AFFIRMATION

All testimony shall be taken under oath or affirmation, but failure to administer the oath shall not be grounds for invalidation of the proceedings unless invalidation is required by other law.

## 13. CROSS-EXAMINATION

Cross-examination of expert witnesses and appeal parties and witnesses in hearings shall be permitted as necessary for full disclosure of the facts and as required by law. In hearings involving multiple parties, such as pre-decision hearings on land use applications, the Hearing Examiner may limit cross-examination as necessary to conduct an efficient and expeditious hearing.

## 14. LIMIT ON TESTIMONY

The Examiner may impose reasonable limitations on the number of witnesses heard, and on the nature and length of their testimony, in order to expedite the proceeding and avoid continuation of the hearing. Notice shall be given as early as practical when time limitations are to be imposed. If a party is unable to present his or her arguments and testimony within the allotted time, the record may be kept open and an opportunity may be granted to submit written materials after the close of the hearing.

## 15. MOTIONS

Any application to the Hearing Examiner for an order shall be by motion which, unless made during a public hearing, shall be in writing. The motion shall state explicitly the reasons for the request, and shall state the specific relief or order sought.

Motions in advance of the hearing shall be received by the Hearing Examiner and all

parties of record at least five (5) working days before the date of the hearing. Written responses and replies to such a motion shall be received by the Hearing Examiner and all parties of record before the time set for the hearing.

The Hearing Examiner may issue an order based on the written motion and any replies, without oral arguments, or may call for oral arguments before ruling on the motion.

## 16. CONSOLIDATION OF HEARINGS

When practical and consistent with ordinance requirements, the Hearing Examiner will consolidate land use matters for hearing. Any party may bring to the attention of the Hearing Examiner the need for consolidation.

## 17. SITE VIEW

The Hearing Examiner may view a site before or after a hearing, provided that any such site visit should be disclosed to the parties. Failure to view a site will not invalidate the Hearing Examiner's decision.

## 18. CONTINUING OR REOPENING HEARING

(a) Prior to a scheduled hearing, the Examiner may continue the hearing for good cause as determined by the Hearing Examiner. Written notice of the new date, time, and place of the continued hearing shall be provided to each party and person(s) entitled to receive notice pursuant to the ACC. The notice of a rescheduled hearing need not observe the time requirements to which the original notice was subject.

(b) Prior to the issuance of the subject decision or recommendation, the Examiner may continue or reopen proceedings for good cause and may permit or require written briefs or oral argument as consistent with state law. If a matter is reopened after conclusion of the hearing, written notice of the date, time, and place of the reopened hearing shall be provided to each party and person(s) entitled to receive notice pursuant to the ACC. Such notice shall be provided not less than ten (10) prior to the reopened hearing

(c) If the Examiner determines at hearing that there is good cause to continue such proceeding and then and there specifies the date, time, and place of the new hearing, no further notice is required.

## 19. LEAVING THE RECORD OPEN

(a) The Examiner may leave the record of hearing open at the conclusion of a hearing in order to receive argument, additional evidence, or for other good cause. Parties shall be provided notice of the consideration of any evidence

received after hearing and shall have an opportunity to review such evidence and to file rebuttal evidence or argument.

(b) Except as otherwise provided in these rules, information submitted after the close of the record shall not be included in the hearing record or considered by the Examiner in making the decision or recommendation.

## 20. RECOMMENDATION OR DECISION

The Hearing Examiner shall issue a written recommendation or decision within ten (10) working days of the closure of the record, unless the time period is extended as authorized by Code or a different time period is specified by Code.

Time limits may be extended by mutual agreement of the City, Applicant, and Appellant, or as otherwise authorized by Code or applicable law.

## 21. CONTENT OF RECOMMENDATION OR DECISION

The Hearing Examiner's recommendation or decision shall contain findings of fact, conclusions based thereon, and a recommendation or decision consistent with those conclusions.

## 22. CLARIFICATION OF A DECISION OR RECOMMENDATION OF THE EXAMINER

A party may file a written request for clarification of the decision or recommendation. Alternatively, the Hearing Examiner may issue a clarification upon his or her own motion. A clarification may not materially alter the outcome of the decision or recommendation. A request for clarification does not stop the running of the time for filing appeals, whether to the City Council or Superior Court.

The written request for clarification must be received by the City Clerk and by all parties within five (5) working days after the date of issuance of the Hearing Examiner’s decision or recommendation.

The Hearing Examiner, in his or her discretion, shall determine what further action is proper, and within five (5) working days after filing of the request shall issue that determination in writing to all parties of record.

## 23. RECONSIDERATION

(a) A party may file a written request for reconsideration with the City Clerk within seven (7) calendar days of the date of the Hearing Examiner’s decision. The timely filing of a request for reconsideration shall stay the Hearing Examiner’s decision until such time as the request has been disposed of by the

Hearing Examiner. No party may file a request to reconsider on a decision issued after reconsideration.

(b) The grounds for seeking reconsideration shall be limited to the following:

(1) The Hearing Examiner engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless;

(2) The Hearing Examiner's decision is an erroneous interpretation of the law;

(3) The Hearing Examiner's findings, conclusions and/or conditions are not supported by the record;

(4) The Hearing Examiner's decision is a clearly erroneous application of the law to the facts; or

(5) The Hearing Examiner exceeded the Hearing Examiner's jurisdiction;

(c) The request for reconsideration must:

(1) Contain the name, mailing address and daytime telephone number of the requesting party, together with the signature of the requesting party;

(2) Identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested;

(3) State the specific grounds upon which relief is requested;

(4) Describe the specific relief requested; and

(5) Where applicable, identify the specific nature of any new evidence. Such new evidence shall be considered only if the additional evidence relates to: (i) the grounds for disqualification of the Hearing Examiner when such grounds were unknown by the requesting party at the time the record was created; or (ii) matters that were improperly excluded from the record after being offered by a party.

(d) The Hearing Examiner shall issue a decision on the motion as follows:

(1) Deny the motion in writing; or

(2) Issue an amended decision; or

(3) Accept the motion and set the matter for closed record review with no or limited

new evidence or information allowed to be submitted and only written reconsideration arguments allowed.

## 24. TERMINATION OF JURISDICTION

The jurisdiction of the Hearing Examiner in a matter shall terminate upon the issuance of his or her final action in that matter. The Hearing Examiner's final action is the issuance of a recommendation or decision unless a request for reconsideration or clarification is timely filed. If a request for reconsideration or clarification is timely filed, the final action of the Hearing Examiner is his or her determination on the reconsideration or clarification request. For Hearing Examiner decisions that are recommendations, the City Council can reopen the Hearing Examiner's jurisdiction upon remand.

## 25. FILING

(a) Documents shall be deemed filed with the Hearing Examiner, City Clerk and City on receipt at the City of Auburn City Clerk's Office, located at 25 West Main Street, Auburn, WA 98001.

(b) Documents shall be served personally or, unless otherwise provided by applicable ordinance, by first-class, registered, or certified mail, or by facsimile (fax) transmission. Service shall be regarded as complete upon deposit in the regular facilities of the U.S. Mail of a properly stamped and addressed letter or packet, or at the time personally delivered, or transmitted by fax. On a case by case basis the Hearing Examiner may authorize service by email to specified email addresses in lieu of fax or mail.

## 26. INTERPRETATION

(a) The Hearing Examiner shall interpret City regulations in a manner that would preserve their constitutional validity on judicial appeal, but shall have no authority to invalidate or disregard City regulations due to any perceived noncompliance with constitutional requirements.

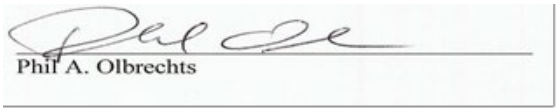
(b) The Hearing Examiner shall conduct hearings in a manner that is consistent with the procedural due process rights of the parties.

(c) In cases of ambiguity, the Examiner may rely upon Washington State Superior Court Civil Rules of Procedure as well as the Washington State Rules of Evidence, provided that the Examiner shall place a priority on ensuring that City hearings are handled in an expeditious manner and that participation remains easy and accessible for the general public.

(d) To the extent consistent with the administrative authority of the hearing examiner, City regulations and these Rules of Procedure, the hearing examiner shall apply principles applicable to judicial review under the Land Use Petition Act, Chapter 36.70C RCW, to

ensure that time and resources are not wasted addressing issues at the local level that are not subject to LUPA or other judicial review.

ADOPTED this XX day of (month) (year).




City of Auburn Hearing Examiner

# AGENDA BILL APPROVAL FORM

**Agenda Subject:**
Building Code Overview (Tate)(30 Minutes)

**Date:**
October 6, 2020

**Department:**
Community Development

**Attachments:**
Building Code Overview PowerPoint

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

**Administrative Recommendation:**

For discussion only.

**Background Summary:**

The Washington State Building Code Council has adopted updated 2018 building codes and related standards and associated State amendments. This is a recurring update that typically occurs every three (3) years in response to the publication of updated codes and standards by the International Code Council and associated organizations. The 2018 codes were scheduled to go into effect on July 1, 2020. Due to COVID 19 the implementation date was delayed to February 1, 2021.

**Reviewed by Council Committees:**

**Councilmember:** Brown
**Staff:** Tate
**Meeting Date:** October 12, 2020
Item Number:

CITY COUNCIL STUDY SESSION

# BUILDING CODE OVERVIEW

PRESENTED BY DEPARTMENT OF COMMUNITY DEVELOPMENT
JASON KRUM
OCTOBER 12, 2020

Department of Community Development
Planning • Building • Development Engineering • Permit Center • Community Services • Code Enforcement

AUBURN VALUES

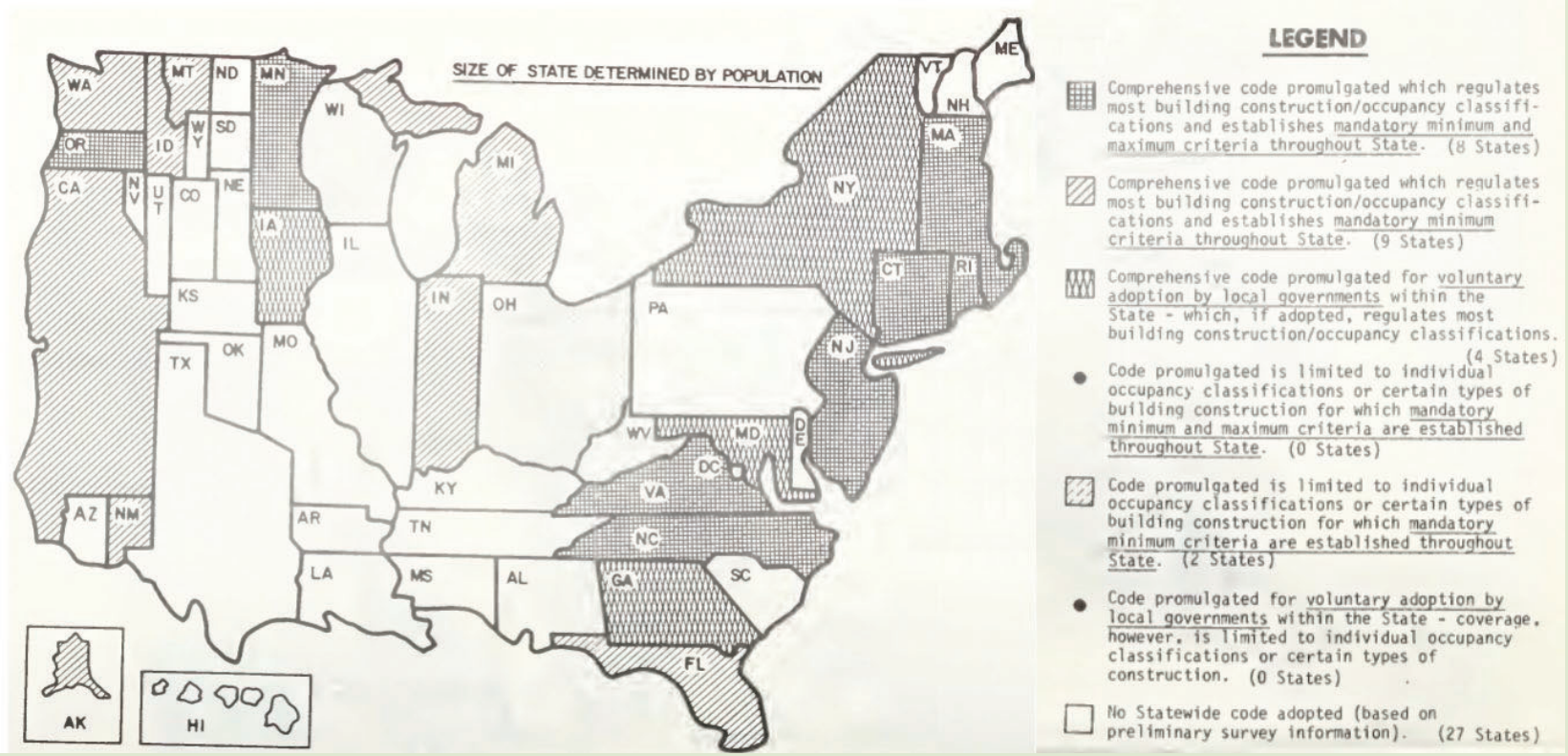
SERVICE
ENVIRONMENT
ECONOMY
CHARACTER
SUSTAINABILITY
WELLNESS
CELEBRATION

# LEGACY BUILDING CODES

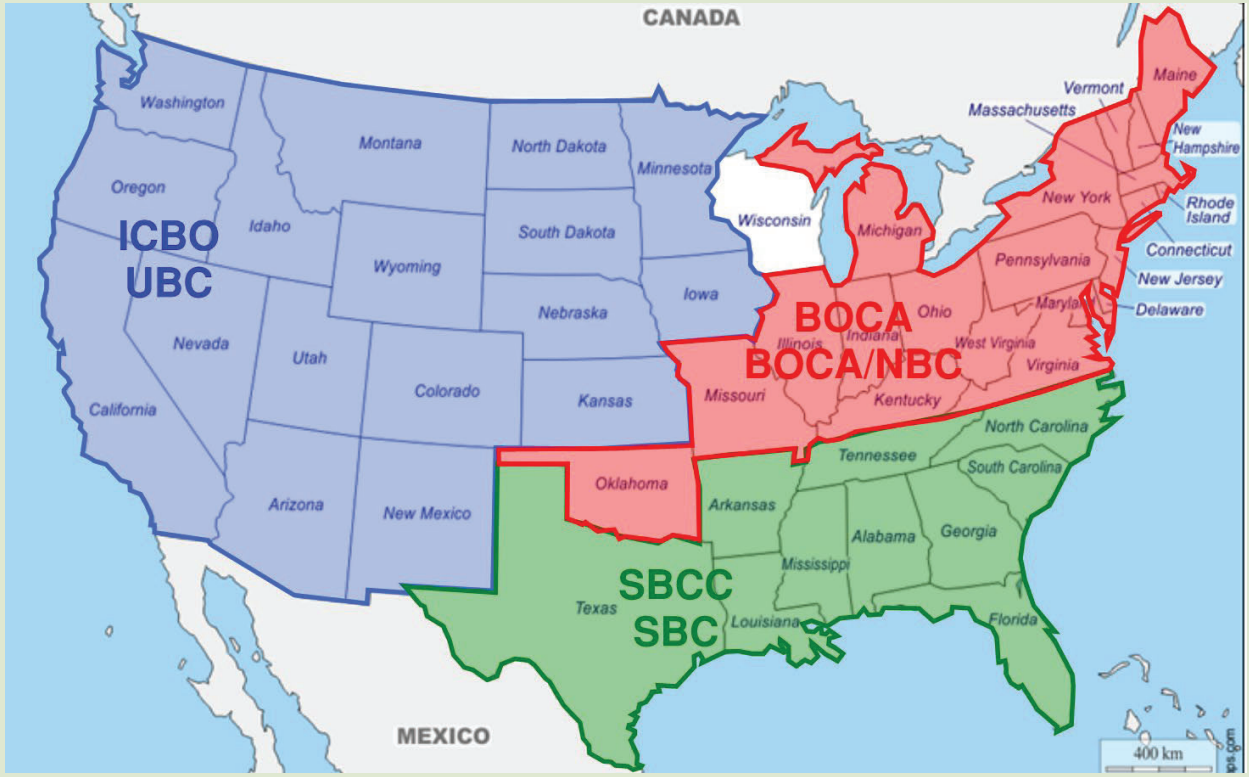
- Model Building codes in the U.S. developed from three regional groups
  - BOCA National Building Code (BOCA/NBC)
    Building Officials Code Administrators (BOCA)
  - Uniform Building Code (UBC)
    International Conference of Building Officials (ICBO)
  - Standard Building Code (SBC)
    Southern Building Code Congress International (SBCC)

# LEGACY BUILDING CODES

## 1977 U.S. Dept. of Commerce Report



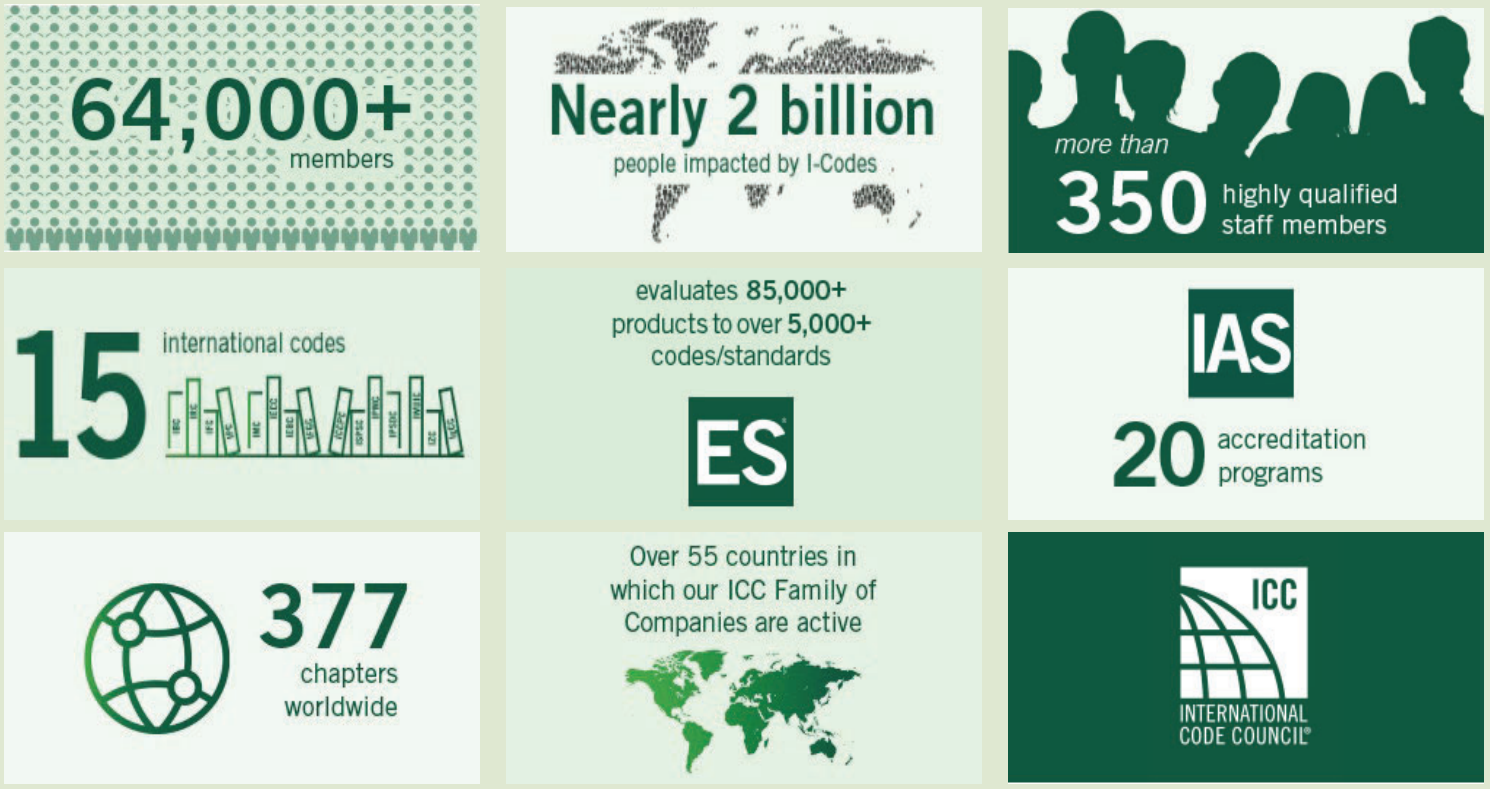
# LEGACY BUILDING CODES



# INTERNATIONAL BUILDING CODE

- The International Code Council (ICC) formed in 1994
- The ICC was incorporated in 2003 by all three regional groups (BOCA, ICO, SBCC)

# INTERNATIONAL BUILDING CODE

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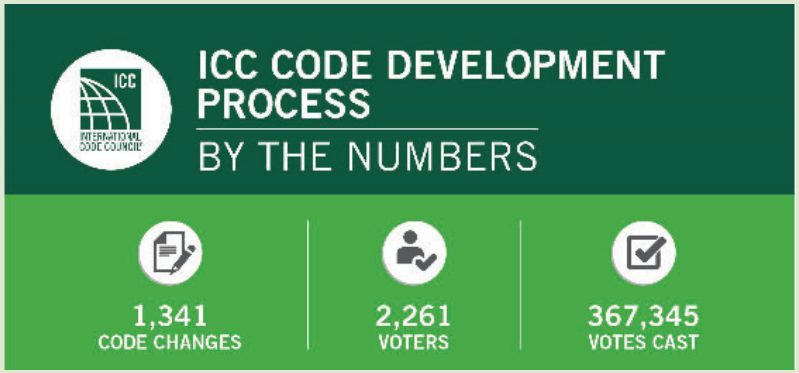
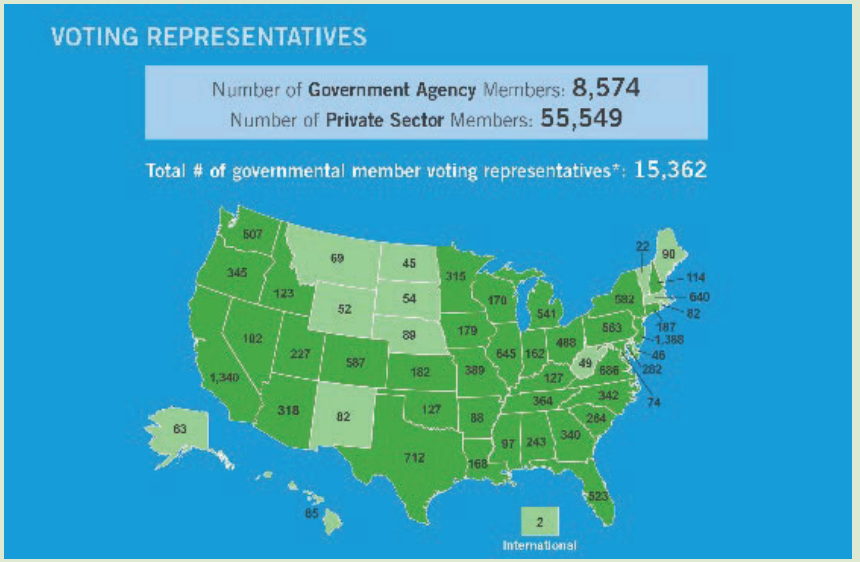
# INTERNATIONAL BUILDING CODE

- Updated I-Codes are published by ICC every 3 years
- Committees hear code change proposals
- Open process with public input
- ICC Voting Members decide

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# WASHINGTON STATE BUILDING CODE COUNCIL

- The State Building Code Council (SBCC) was created in 1974
- SBCC adopted the 1973 UBC effective January 1, 1975
- SBCC adopted the International Codes in 2003

# STATE BUILDING CODE

- 2015 International Building Code with statewide amendments
- ICC/ANSI A117.1-09, Accessible and Usable Buildings and Facilities, with statewide amendments
- 2015 International Residential Code with statewide amendments
- 2015 International Mechanical Code with statewide amendments
- 2015 International Fuel Gas Code with statewide amendments (part of the IMC adoption)
- 2014 Liquefied Petroleum Gas Code (NFPA 58)
- 2015 National Fuel Gas Code (NFPA 54) (for LP Gas installation only)
- 2015 International Fire Code with statewide amendments
- 2015 Uniform Plumbing Code with statewide amendments
- 2015 Washington State Energy Code
- 2015 International Existing Building Code with statewide amendments found in the IBC
- 2015 International Swimming Pool and Spa code
- National Electrical Code (NFPA 70)

# WASHINGTON STATE BUILDING CODE COUNCIL

- Every 3-years the SBCC adopts the updated codes along with state specific amendments
- Technical Advisory Groups review new codes and amendment proposals

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# AUBURN CITY CODE

- City of Auburn adopts updated codes every 3-years
  - Add local amendments
  - Offer local appeals
  - Establishment of penalties
  - Prosecution in municipal court

# AUBURN CITY CODE

- City of Auburn adopts codes and amendments in ACC Title 15 – Buildings and Construction

- Community Development & VRFA have been working on proposed Title 15 amendments throughout 2019

# AUBURN CITY CODE UPDATE

| Meeting | Date |
|---|---|
| Planning Commission | 10/06/2020 |
| Planning Commission – Public Hearing | 10/20/2020 |
| City Council – Study Session | 12/14/2020 |
| City Council – Ordinance No. 6763 | 01/04/2021 |

# BUILDING TEAM
# BACKGROUND AND QUALIFICATIONS

- 8 staff with an average of 17+ years of experience

**Building Staff (4):**

**105-yrs of collective experience**

- ICC Building Plans Examiner (2)
- ICC Residential Plans Examiner (1)
- ICC Fire Plans Examiner (1)
- ICC General Building Inspector (3)
- ICC Fire Inspector I (1)
- ICC Fire Inspector II (1)
- ICC Mechanical Inspector (1)
- ICC Residential Building Inspector (3)
- ICC Commercial Building Inspector (2)

**Permit Technicians (3):**

**20-yrs of collective experience**

- ICC Permit Technician (2)

**Building Official:**

**15-yrs of experience**

- Professional Engineer
- ICC Certified Building Official

# PERMIT PROCESS

- "Codes" include specific language on work exempt from permits

- Exemptions from permit requirements do not authorize work in violation of the code

# PERMIT PROCESS: DESIGN PROFESSIONAL

- Construction documents are required to be prepared by a registered design professional per IBC 107

- RCW 18.08.410 specifies project thresholds exempt from requiring a licensed architect

# PERMIT PROCESS: REVIEW

- **Permit documents are reviewed for:**

| | |
|---|---|
| Occupancy Group | Separation |
| Type of Construction | Fire Resistive Construction |
| Allowable Areas | Height |
| Occupant Load | Means of Egress |
| Fire Protection | Accessibility |
| Special Inspections | Deferred Submittals |
| Roof & Structures | Structural Design |
| Soils & Foundations | Mechanical |
| Plumbing | Ventilation |

# OCCUPANCY CLASSIFICATION

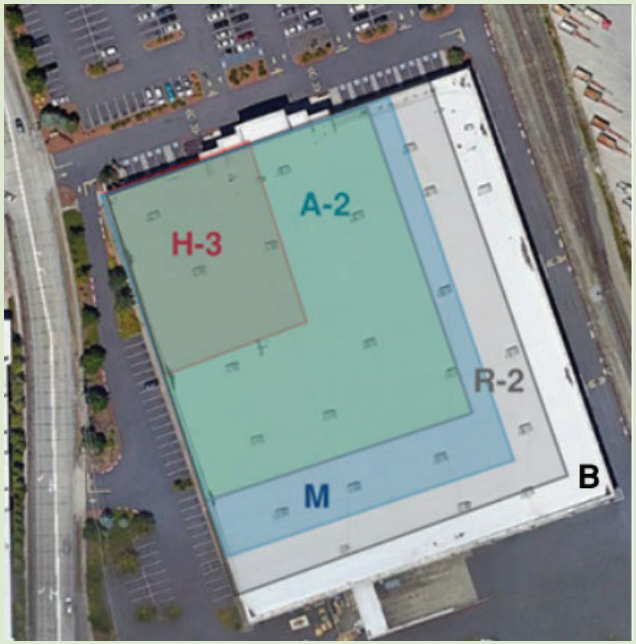
Chapter 3 of the IBC classifies 10 occupancy groups:

1. Assembly (Group A)
2. Business (Group B)
3. Educational (Group E)
4. Factory and Industrial (Group F)
5. High Hazard (Group H)
6. Institutional (Group I)
7. Mercantile (Group M)
8. Residential (Group R)
9. Storage (Group S)
10. Utility and Miscellaneous (Group U)

# OCCUPANCY CLASSIFICATION

## Occupancy Class influences design requirements

1. Building height
2. Area limitations
3. Fire protection
4. Occupancy load
5. Means of egress



# PERMIT PROCESS: ISSUANCE

- Prior to issuance, contractor registration is verified in accordance with RCW 18.27.110
- RCW 18.27.090 includes exemptions allowing a legal owner to perform construction work without a license

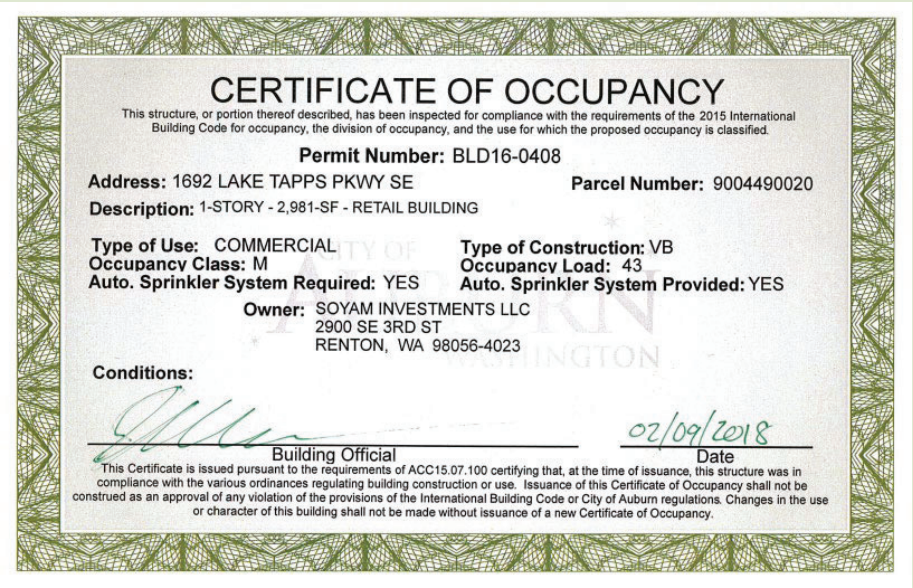
# PERMIT PROCESS: INSPECTION

- **IBC 110 specifies the following required inspections:**

| | |
|---|---|
| Footing | Foundation |
| Concrete slab | Under-floor |
| Lowest floor elevation (FHA) | Framing |
| Gypsum board and gypsum panel | Fire and smoke resistant penetrations |
| Lath | Energy efficiency |

# PERMIT PROCESS: OCCUPANCY

- As applicable, once project is complete, Certificate of Occupancy is issued upon final inspection



CERTIFICATE OF OCCUPANCY

This structure, or portion thereof described, has been inspected for compliance with the requirements of the 2015 International Building Code for occupancy, the division of occupancy, and the use for which the proposed occupancy is classified.

**Permit Number:** BLD16-0408

**Address:** 1692 LAKE TAPPS PKWY SE **Parcel Number:** 9004490020

**Description:** 1-STORY - 2,981-SF - RETAIL BUILDING

**Type of Use:** COMMERCIAL **Type of Construction:** VB
**Occupancy Class:** M **Occupancy Load:** 43
**Auto. Sprinkler System Required:** YES **Auto. Sprinkler System Provided:** YES

**Owner:** SOYAM INVESTMENTS LLC
2900 SE 3RD ST
RENTON, WA 98056-4023

**Conditions:**

Building Official — 02/09/2018 Date

This Certificate is issued pursuant to the requirements of ACC15.07.100 certifying that, at the time of issuance, this structure was in compliance with the various ordinances regulating building construction or use. Issuance of this Certificate of Occupancy shall not be construed as an approval of any violation of the provisions of the International Building Code or City of Auburn regulations. Changes in the use or character of this building shall not be made without issuance of a new Certificate of Occupancy.

# PERMIT PROCESS:
# VALLEY REGIONAL FIRE AUTHORITY

- The City of Auburn has a partnership with the Valley Regional Fire Authority (VRFA)
- VRFA provides review and inspection services for construction applications related to fire safety
- Fire Marshal vs Fire Code Official

# BUILDING CODE VIOLATIONS

- When a potential code violation is identified, a code compliance officer will investigate and work toward correction
- Violation concerns are raised by citizens, City Staff, VRFA, Police Department, other local agencies

## Thank you for your time

## Any Questions?

Department of Community Development

Planning • Building • Development Engineering • Permit Center • Community Services • Code Enforcement

AUBURN VALUES

SERVICE

ENVIRONMENT

ECONOMY

CHARACTER

SUSTAINABILITY

WELLNESS

CELEBRATION

# AGENDA BILL APPROVAL FORM

**Agenda Subject:**
Capital Projects Status Report and Feature Project (Gaub)(10 Minutes)

**Date:**
October 6, 2020

**Department:**
Public Works

**Attachments:**
Presentation
Capital Projects Status Report

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

**Administrative Recommendation:**

For discussion only.

**Background Summary:**

The purpose of this discussion is to inform the Council and Public of the overall status of the City's Capital Project program managed by the Engineering Services Division and to present the 2020 third quarter feature capital project: the Auburn Way North and 1st St NE Signal Replacement project (Project No. CP1927). This Project will replace the aging signal at the Auburn Way North and 1st St NE intersection with a new decorative signal meeting the City's Downtown Standards. Construction of this project is dependent upon procurement of the decorative signal poles, which are a long lead item, however it is anticipated to start in February 2021 and be complete in December 2021.

The Capital Project Group of Engineering Services is currently managing 36 projects, totaling approximately $63 million in total project costs.

**Reviewed by Council Committees:**

**Councilmember:** Brown **Staff:** Gaub

**Meeting Date:** October 12, 2020 Item Number:

ENGINEERING SERVICES

# CAPITAL PROJECT STATUS REPORT & FEATURE PROJECT

RYAN VONDRAK & MATT LARSON

CITY COUNCIL STUDY SESSION

OCTOBER 12, 2020

Public Works Department

Engineering Services • Airport Services • Maintenance & Operations Services

AUBURN VALUES

SERVICE

ENVIRONMENT

ECONOMY

CHARACTER

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WELLNESS

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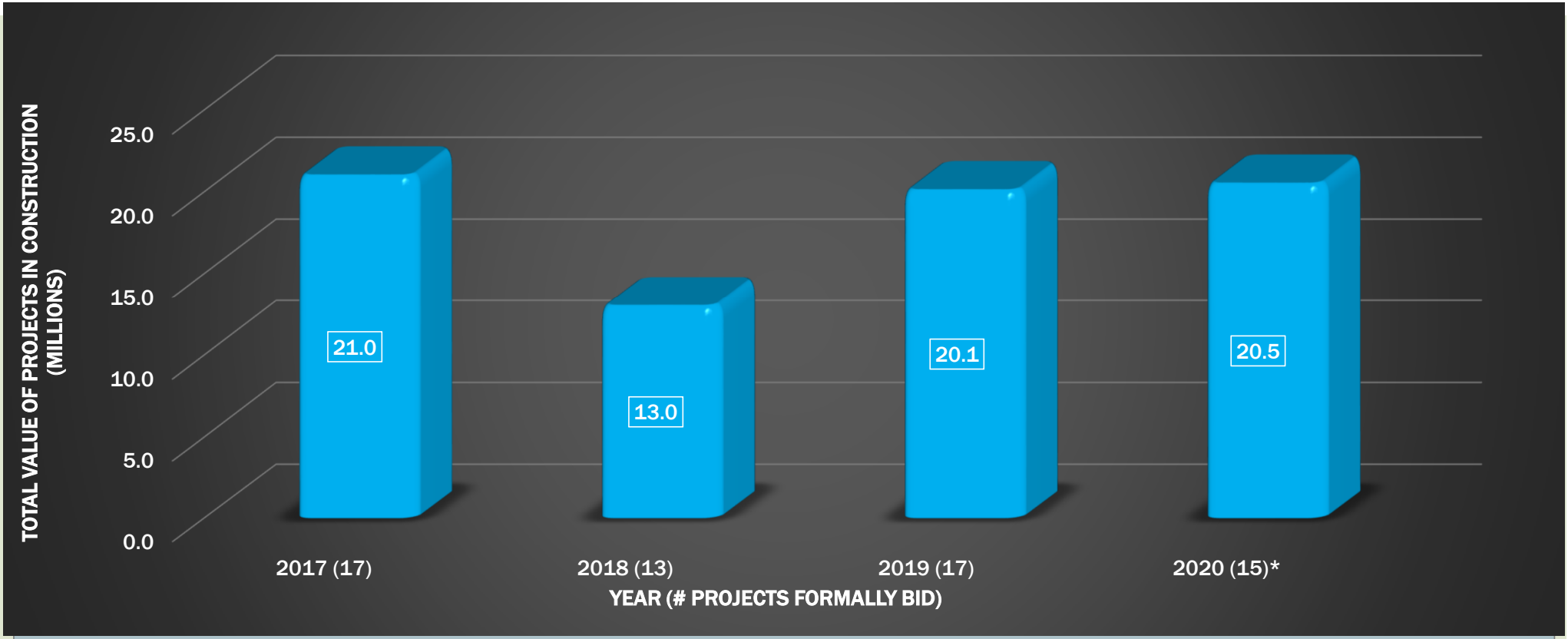
# CAPITAL PROJECTS – CURRENT STATUS

**36 Active Capital Projects (Approximate total project value $63 million)**

- **19 are in Design (Approximate total project value $28.6 million)**
- **17 are in construction (Approximate total project value $34.7 million)**

# CAPITAL PROJECTS – ADVERTISED FOR CONSTRUCTION

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# UPCOMING CONSTRUCTION PROJECTS

- **CP1927 Auburn Way North and 1st St NE Signal Replacement (Page 12 of 19 in CPS Report)**
- **CP2001 Deduct Meter Replacement, Phase 2 (Page 13 of 19 in CPS Report)**
- **CP2011 Lakeland Hills Way Preservation (Page 16 of 19 in CPS Report)**

# FEATURE CAPITAL PROJECT:

# AUBURN WAY NORTH
# 1ST STREET NE
# TRAFFIC SIGNAL REPLACEMENT

Public Works Department

Engineering Services • Airport Services • Maintenance & Operations Services

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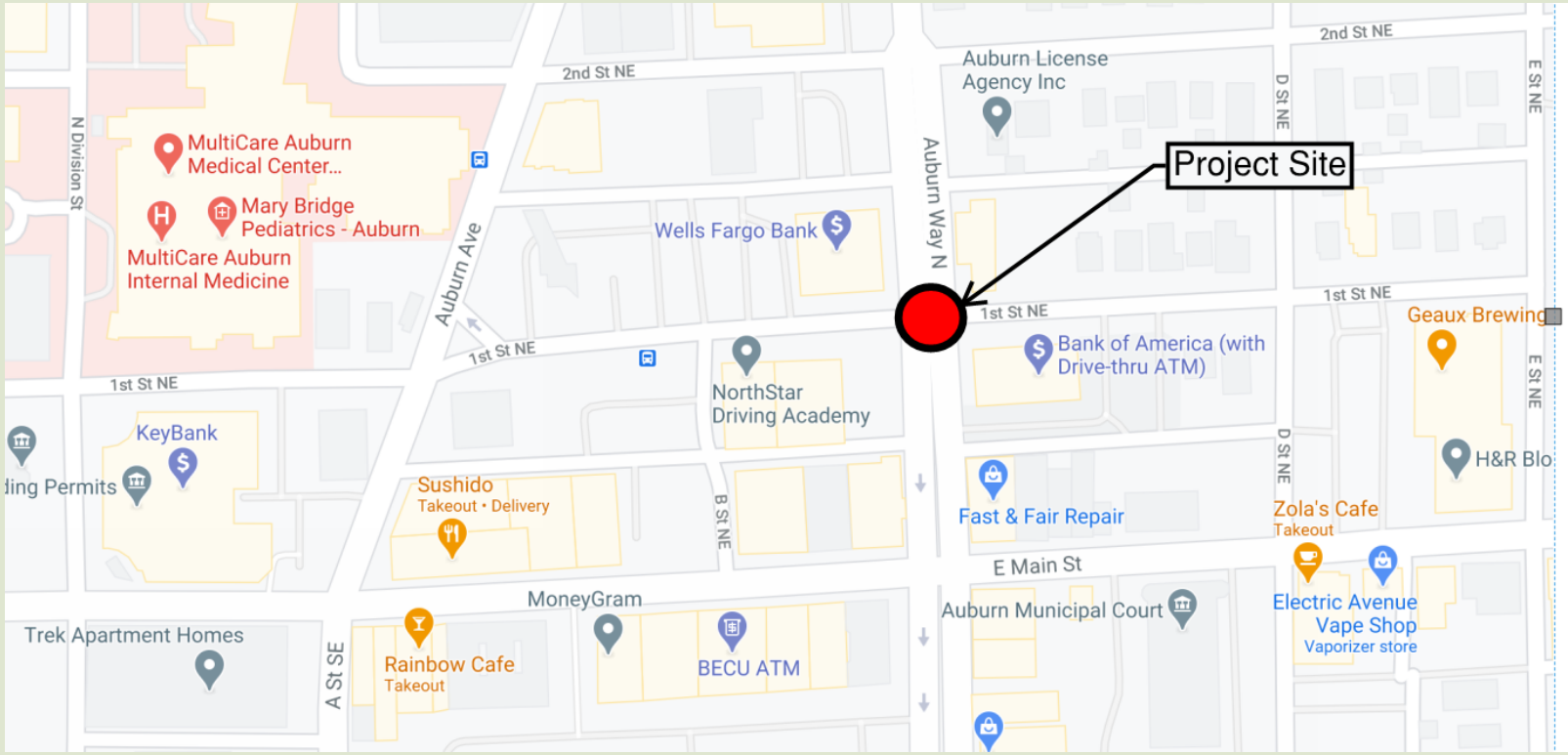
# VICINITY MAP

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# PROJECT SCOPE/PURPOSE

- Replace the Aging Traffic Signal System
- Improve Pedestrian and Vehicle Safety
  - Upgrade curb ramps and pedestrian signals to meet ADA Standards
  - Construct traffic calming measures
- Improve Vehicle Capacity Through the Intersection

**Auburn Way North at 1st Street NE – Looking North**

# EXISTING CONDITION

Northeast Corner

Looking Southeast

# BENEFITS

Traffic Calming – Curb Extensions

Downtown Standard
Decorative Signal Pole

Downtown Standard Aesthetics

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# PROJECT BUDGET

- Estimated Project Cost = $1.34 Million
  - Arterial Street Fund (Traffic Signal Replacement Program)
  - Arterial Street Preservation Fund
  - Storm Utility Fund

# SCHEDULE

**Design *Complete***
***Dec. 2020***

→

**Advertise & Award**
***Jan./Feb. 2021***

→

**CONSTRUCTION**
***Mar. - Dec. 2021***

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: CONSTRUCTION

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP1416 | F St SE Non-Motorized Improvements<br><br>This project will reconstruct F St SE from 4th St SE to Auburn Way South, including adding new sidewalks, curb and gutter, street lighting, streetscape elements, and safety improvements. Some sections of water and sewer lines will be replaced and overhead utilities will be relocated underground. Some ROW acquisition was necessary. The project also includes bike boulevard and way-finding components between Auburn Station and Les Gove Community Campus. | $4,320,387 (Includes Federal Grant Funds) | QTR 2 (APR-JUN)<br><br>20 | QTR 3 (JUL-SEP)<br><br>21 | Seth Wickstrom | Construction of the new sewer main is complete. Construction of the new watermain, storm drainage system and utility under-grounding underway. | Jacobs | Sound Pacific Construction |
| CP1516 | Auburn Municipal Airport Runway Enhancements<br><br>The purpose of the project is to improve safety and the ability to accommodate the current and forecast fleet of multi-engine piston aircraft for both takeoff and accelerate-stop distances at the Auburn Municipal Airport by extending both ends of Runway 16/34 to a total length of 3,841 feet of runway. | $3,886,703 (Includes Federal & State Grant Funds) | QTR 2 (APR-JUN)<br><br>20 | QTR 3 (JUL-SEP)<br><br>20 | Seth Wickstrom | Construction substantially complete, only punchlist work remains. | CenturyWest | Pivetta Brothers |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: CONSTRUCTION

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP1812 | Sewer Pump Station Electrical Improvements<br><br>The purpose of this project is to update the electrical systems at sewer pump stations throughout the City to meet current electrical code, improve safety and increase the efficiency of maintenance. | $1,280,000 | QTR 3 (JUL-SEP)<br><br>20 | QTR 2 (APR-JUN)<br><br>21 | Jeffrey Bender | Notice to proceed was issued on August 28, 2020. The custom electrical panels are being fabricated and work will be completed as the materials for each site become available. | Parametrix | Source Electric |
| CP1807 | Water Meter Vaults and Lids Replacement<br><br>Replace 8 large water meter vaults and 1 large water meter vault lid. | $1,260,000 | QTR 1 (JAN-MAR)<br><br>20 | QTR 3 (JUL-SEP)<br><br>20 | Seth Wickstrom | Final payment was processed on September 16, 2020. Project closeout is underway. | N/A | NW Cascade |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: CONSTRUCTION

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP1819 | A Street SE Preservation<br><br>The project will grind, repair, and overlay the roadway; upgrade non-ADA compliant curb ramps; replace traffic loops; upgrade pedestrian signal infrastructure as needed to meet ADA standards; and replace the water main and applicable appurtenances along the A St. SE corridor between East Main St. and 17th St. SE. The project will restore 4.77 lane miles (0.95 CL Miles) of roadway, upgrade up to 42 curb ramps, and replace approximately 1,000 feet of water main. | $3,001,200 (Includes Federal Grant Funds) | QTR 2 (APR-JUN)<br><br>19 | QTR 3 (JUL-SEP)<br><br>20 | Kim Truong | Physical Completion was granted on July 17, 2020. Final payment is being processed. | N/A | Pivetta Brothers |
| CP1903 | Auburn Way North Preservation Phase 2<br><br>This project will grind and overlay Auburn Way N from approximately 8th Street NE to 22nd Street NE, remove unused driveways, and upgrade curb ramps and pedestrian signals as needed to meet ADA requirements. | $1,631,206 (Includes Federal Grant Funds) | QTR 2 (APR-JUN)<br><br>20 | QTR 4 (OCT-DEC)<br><br>20 | Luis Barba | Contractor is currently working on installing underground utilities towards the south end of the project limits.<br><br>This project is combined with CP1904 for construction. | N/A | Sound Pacific Construction |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: CONSTRUCTION

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP1904 | Auburn Way North Preservation Phase 3<br><br>This project will grind and overlay Auburn N from approximately 4th Street SE to 8th Street NE, remove unused driveways, and upgrade all curb ramps and pedestrian signals to meet ADA requirements. | $2,465,339 (Includes Federal Grant Funds) | QTR 2 (APR-JUN)<br><br>20 | QTR 4 (OCT-DEC)<br><br>20 | Luis Barba | Contractor is currently constructing intersection curb ramps, as well as installing electrical improvements at the intersections. Work is mainly being done on the east side of Auburn Way North and Auburn Way South.<br><br>This project is combined with CP1903 for construction. | N/A | Sound Pacific Construction |
| CP1618 | Lake Tapps Parkway ITS Expansion Project<br><br>Construction of new Intelligent Transportation System (ITS) infrastructure along Lake Tapps Parkway and A St SE. New infrastructure includes new communication lines, Variable Message Sign, ITS PTZ cameras, network upgrades, wireless connections, an interconnection with Sumner at 8th St E, & weather stations at Lakeland hills. The project will also replace some aerial copper communication lines along A St SE. | $1,130,000 (Includes Federal Grant Funds) | QTR 3 (JUL-SEP)<br><br>20 | QTR 1 (JAN-MAR)<br><br>21 | Jai Carter | Notice to Procced was issued on September 18, 2020. Contactor is currently installing conduit for the fiberoptic cables along the backside of the pedestrian path. Installation of conduit will take approximately one month to complete. | Transpo Group | Mill Plain Electric |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: CONSTRUCTION

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP1901 | AWS - Poplar Curve Safety Improvements<br><br>This Project will design and construct safety improvements in the vicinity of the Poplar Street curve along Auburn Way S. The specific elements of the project will install LED street lights, a speed-activated curve ahead warning sign, high friction surface treatment, guardrail, and reconstruct curb radii and driveways. | $338,200 (Includes Federal Grant Funds) | QTR 3 (JUL-SEP)<br><br>20 | QTR 4 (OCT-DEC)<br><br>20 | Jeffrey Bender | The construction contract has been suspended awaiting material delivery. Construction work is anticipated to resume in November 2020. | N/A | NW Cascade |
| CP1912 | 15th Street NW Dynamic Message Sign<br><br>Construct a new dynamic message sign on the shoulder of eastbound 15th Street NW between C St NW and SR 167. Connect existing traffic signals at W Valley Hwy, C St NW, A St NE, and D St NE to existing City fiber system. | $406,820 | QTR 2 (APR-JUN)<br><br>20 | QTR 2 (APR-JUN)<br><br>21 | Seth Wickstrom | Work to connect the traffic signals within the project limits to the existing City fiber system is anticipated in October 2020. Due to the long lead time to procure the materials, installation of the Dynamic Message Sign is anticipated to start in January 2021. | N/A | West Coast Signal |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: CONSTRUCTION

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP1929 | Lea Hill AC Main Replacement Project<br><br>The project purpose is to replace approximately 5,685 LF of 4" to 8" existing asbestos cement (AC) water mains with 8" or 12" ductile iron pipe (DIP) water mains and associated gate valves, fire hydrants, water meters, service lines and other appurtenances in the City's Lea Hill Service Area. | $3,248,000 | QTR 3 (JUL-SEP)<br><br>20 | QTR 4 (OCT-DEC)<br><br>20 | Jai Carter | Watermain on 112th Ave SE is complete and it is anticipated that the paving on 112th Ave SE will be completed by the end of September. Contractor is installing water main, services, and appurtenances on S 290th St and 111th Ave SE currently then will transition to the 295th Street Site in early October 2020. | MurraySmith | Rodarte |
| CP1902 | 2020 Pedestrian Safety, Sidewalk and ADA Improvement Project<br>Improves pedestrian accessibility & safety throughout the City. Numerous sites throughout the City where sidewalks are in need of repair or improvement, curb ramps are missing or need to be improved, and where pedestrian crosswalk improvements are desired. Sites were identified based on input from citizens, M&O, and other City Departments. Priority was given to sites that serve low-income, elderly, and disabled populations, school walking routes, and high volumes of general pedestrian traffic. | $851,216 (Includes Federal Grant Funds) | QTR 3 (JUL-SEP)<br><br>20 | QTR 4 (OCT-DEC)<br><br>20 | Jeffrey Bender | The Contractor is currently working at 13 of the 17 sites and it is anticipated that many of the sites will be completed in October 2020. | N/A | R.W. Scott Construction |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: CONSTRUCTION

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP1926 | 2020 Arterial Street Preservation (15th St NW)<br><br>Replace the pavement and replace and up-size of the existing 8” cast iron water main to a 16” ductile iron water main on 15th Street NW from R Street NW to West Valley Highway.<br><br>The project will also grind and overlay of 15th Street NW from West Valley Highway to SR 167. | $1,633,400 | QTR 2 (APR-JUN)<br><br>20 | QTR 2 (APR-JUN)<br><br>21 | Seth Wickstrom | Contractor is currently installing the new watermain. | N/A | Road Construction Northwest (RCNW) |
| CP1826 | Mountain View Cemetery Paving<br><br>This project will design and construct roadway/pavement improvements at Mountain View Cemetery. | $355,000 | QTR 2 (APR-JUN)<br><br>20 | QTR 3 (JUL-SEP)<br><br>20 | Jai Carter | The construction work is complete.<br><br>This construction contract is combined with CP1925. See CP1925 for recent progress. | N/A | Lakeside Industries |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: CONSTRUCTION

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP1925 | 2020 Local Street Reconstruction and Preservation<br>The main purpose of this project is to improve the condition of the City's local streets. The project will design and construct the following: full-depth roadway replacement, grind/overlay, and curb ramp upgrades. The project construction contract is also anticipated to include re-application of thermoplastic markings throughout the City and preservation of pavement in Mountain View Cemetery (tracked as project CP1826). | $2,575,000 | QTR 2 (APR-JUN)<br>20 | QTR 4 (OCT-DEC)<br>20 | Jai Carter | Contractor is working on final cleanup and punch list items. Additional pavement marking sites were added throughout the city using remaining project funds. The contractor is nearly complete with the additional pavement marking sites.<br><br>The construction contract is combined with CP1826. | Jacobs | Lakeside Industries |
| CP2023 | 2020 Crack Seal<br><br>This project will implement maintenance of various classified streets by sealing newly formed cracks. Sealing the cracks will prolong the life of the pavement by stopping water from draining into the subbase of the pavement. | $150,000 | QTR 3 (JUL-SEP)<br>20 | QTR 4 (OCT-DEC)<br>20 | Seth Wickstrom | Construction contract was awarded to C.R. Contracting on September 15, 2020. Preconstruction meeting was held on September 24, 2020. Construction is anticipated to begin on October 5, 2020. | N/A | C.R. Contracting |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: CONSTRUCTION

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP2024 | Howard Road VFD Replacement<br><br>This project will remove and replace the existing 480V, 200HP variable frequency drives (VFDs) for Pumps 1 and 2 at the Howard Road Corrosion Control Facility. The work also will include a new VFD enclosure and VFD programming for each pump (2 total). The VFD enclosure will house the new VFD, 5% line and load reactors, disconnect switch, cooling fan, and door mounted keypad (One control panel for each drive, 2 total) | $120,000 | QTR 3 (JUL-SEP)<br><br>20 | QTR 4 (OCT-DEC)<br><br>20 | Jeffrey Bender | Construction contract was awarded to Custom Electric on September 15, 2020. Contract documents are being prepared and routed for signatures. | N/A | Custom Electric |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: DESIGN

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP1603 | Coal Creek Springs Transmission Main Repair<br><br>The project will construct a second, parallel transmission pipeline over the White River suspended from a new pedestrian bridge, inspect the existing steel transmission main for possible leaks and repair the leaks, if any. | $636,522 | QTR 1 (JAN-MAR)<br><br>22 | QTR 4 (OCT-DEC)<br><br>22 | Seth Wickstrom | Consultant design team is currently working on floodplain modeling, environmental permitting, and 90% design submittal. Construction funding is not yet secured. The City anticipates applying for a Drinking Water State Revolving Fund Loan and a Parks Grant to supplement City funds to cover construction costs. | Jacobs | TBD |
| CP1724 | 37th St NW Flood Control<br><br>The purpose of the project is to alleviate significant annual flooding at the 1000 block of 37th St NW of Auburn, Washington, by upgrading the drainage system with a box culvert. | $291,000 | TBD | TBD | Luis Barba | Completing storm modeling in support of the design effort. Coordinating with Ecology, Army Corps, MIT, and PSE regarding environmental concerns and permitting requirements. | N/A | TBD |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: DESIGN

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| MS1811 | Auburn Airport Runway Extension - Property Acquisition Phase<br>Acquire a portion of the King County Park & Ride as part of the Auburn Airport Runway Enhancement Project (Project Number CP1516). | $555,600 (Includes Federal Grant Funds) | | | Seth Wickstrom | Preliminary short plat application under review.<br>Working with King County on the purchase and sale agreement language for sale of property. | N/A | N/A |
| CP1916 | Academy Pump Station 1 Replacement<br><br>Replacement of Pump Station 1, Improvements to Pump Station 2, Replacement of backup power systems, replacement/installation of underground water main. | $4,352,479 | QTR 1 (JAN-MAR)<br><br>21 | QTR 1 (JAN-MAR)<br><br>22 | Jeffrey Bender | The consultant design team completed the 90% design submittal on September 4, 2020. The 90% design review was completed on September 23, 2020. | Carollo | TBD |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: DESIGN

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP1622 | Auburn Way South Improvements - Hemlock to Poplar<br>Roadway widening to create a five-lane cross section with two general purpose travel lanes in each direction, and a two-way center left-turn lane. A new traffic signal is proposed near the Noble Court intersection to support access to Chinook Elementary School. Additionally, curb and gutter, 10 foot sidewalks, illumination, transit stop improvements, storm water improvements, water main extension, and access management (where feasible) with accommodation for U-turns are proposed. | $1,500,000 (Includes Federal Grant Funds) | QTR 1 (JAN-MAR)<br>22 | QTR 4 (OCT-DEC)<br>23 | Jeffrey Bender | Design is currently on hold due to coordination efforts with WSDOT and Auburn School District related to the Chinook Elementary improvements.<br><br>Construction funding has not been secured. The City will apply for grants where available. | Parametrix | TBD |
| CP1927 | Auburn Way N and 1st Street NE Signal Replacement<br>This project will replace the existing traffic signal at Auburn Way North and 1st Street NE with a new traffic signal per the City of Auburn standards and the Downtown standards.<br><br>The project also includes adding left turn pocket on 1st Street NE and flashing yellow arrows in all four directions. | $1,156,513 | QTR 2 (APR-JUN)<br>21 | QTR 3 (JUL-SEP)<br>21 | Matt Larson | 60% design review is complete. City design team is working toward 90% design submittal which is anticipated to be completed in October 2020. | N/A | TBD |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: DESIGN

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP2001 | Deduct Meter Replacement, Phase 2<br><br>This Project will replace approximately 56 of the 128 remaining deduct meters within the City limits, including replacing related piping and restoration. | $512,500 | QTR 1 (JAN-MAR)<br><br>21 | QTR 2 (APR-JUN)<br><br>21 | Jeffrey Bender | Coordination with individual property owners for access is underway.<br><br>City design team is working toward 90% design submittal. | N/A | TBD |
| CP1920 | Citywide LED and Streetlight Controls<br><br>This project will retrofit existing City street lights with LED fixtures and street light controls for remote management. | $2,700,000 | QTR 2 (APR-JUN)<br><br>20 | QTR 4 (OCT-DEC)<br><br>20 | Scott Nutter | Installation of upgraded LED lights underway. | Washington Department of Enterprise Services | McKinstry |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: DESIGN

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP1922 | Lead Service Line Replacement Project<br><br>The purpose of this project is to provide improvements to the City's water distribution system, and avoid any potential public health issues associated with existing lead gooseneck service line infrastructure. The project will replace approximately 7,100 linear feet of water main, approximately 190 water services, potentially reconstruct 13 street segments and upgrade associated drainage, curb & gutter, curb ramps; as well as grind and overlay 4 street segments. | $5,415,000 | QTR 1 (JAN-MAR)<br><br>21 | QTR 4 (OCT-DEC)<br><br>21 | Jai Carter | 30% design review was completed on September 22, 2020. Consultant design team is working on project environmental documentation and geotechnical exploration is anticipated to begin on October 6, 2020. Consultant design team working toward 60% design submittal. | MurraySmith | TBD |
| CP2012 | M Street SE Sidewalk Improvements<br><br>Project will design and construct missing sections of sidewalk along M Street SE between Auburn Way S and 8th St SE. The project scope includes installation of sidewalk, ADA curb ramps and street lighting. | $749,542 (Includes State Grant Funds) | QTR 2 (APR-JUN)<br><br>21 | QTR 3 (JUL-SEP)<br><br>21 | Luis Barba | City design team is working towards 60% submittal which is anticipated in October 2020. | N/A | TBD |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: DESIGN

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP2003 | 2nd Street SE Preservation Project<br><br>This project will reconstruct the pavement on 2nd Street SE between A Street SE and Auburn Way S. The project will also replace 450 feet of sewer main, construct new curb ramps, install new LED Street lighting, replace curb & gutter as needed, and upgrade drainage infrastructure as needed. | $1,163,755 (Includes State Grant Funds) | QTR 1 (JAN-MAR)<br><br>21 | QTR 4 (OCT-DEC)<br><br>21 | Jai Carter | City design team is working toward the 30% design submittal which is anticipated to be completed in early October 2020.<br><br>Private utility and King County Metro coordination is also underway. | N/A | TBD |
| CP2010 | 2021 Sewer Repair and Replacement Project<br><br>This project plans to replace a total of approximately 2585 LF of 8”-10” diameter sewer line at 9 separate sites and construct 10 spot repairs. | $2,400,000 | QTR 1 (JAN-MAR)<br><br>21 | QTR 4 (OCT-DEC)<br><br>21 | Jai Carter | City design team is working toward the 30% submittal which is anticipated to be completed in early October 2020. | N/A | TBD |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: DESIGN

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP2011 | Lakeland Hills Way Preservation<br><br>Grind, patch, and overlay Lakeland Hills Way from 57th Drive SE to Lake Tapps Dr SE. | $1,385,000 | QTR 1 (JAN-MAR)<br><br>21 | QTR 4 (OCT-DEC)<br><br>21 | Seth Wickstrom | City design team is working toward 90% design submittal which is anticipated to be completed in early October 2020. | N/A | TBD |
| CP2018 | S. 330th St and 46th Place S Storm Improvements<br><br>Relocate existing storm system located on private property, into approximately 350 linear feet of new 24-inch storm pipe within the public right-of-way. Improvements will include replacing existing outfall structure and connections of private drainage pipes. | $379,000 | QTR 2 (APR-JUN)<br><br>21 | QTR 3 (JUL-SEP)<br><br>21 | Luis Barba | The city design team is currently working towards the 90% design submittal which is anticipated to be completed in October 2020. | N/A | TBD |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: DESIGN

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP2017 | 2021 Storm Renewal and Replacement Project<br><br>The purpose of this project is to repair and replace storm system infrastructure throughout the City, at six different locations. Improvements will eliminate known drainage issues and reduce maintenance efforts. | $1,100,000 | QTR 2 (APR-JUN)<br><br>21 | QTR 3 (JUL-SEP)<br><br>21 | Luis Barba | City design team is working toward the 75% design submittal which is anticipated in November 2020. | N/A | TBD |
| CP2019 | 2021 Local Street Reconstruction and Preservation<br>This project will design and construct the following improvements:<br>Site #1 (G St SE from E Main to 4th St SE) - Full depth pavement re-build; replace water main incl. water services; upgrade storm drainage system as needed; and upgrade curb ramps to meet ADA.<br><br>Site #2 (Riverwalk/Forest Ridge) - Grind and overlay the roadway; replace water main incl. water services; upgrade storm drainage system on 24th Ave/St. SE; and upgrade curb ramps to meet ADA. | $5,660,000 | QTR 1 (JAN-MAR)<br><br>21 | QTR 3 (JUL-SEP)<br><br>21 | Kim Truong | Consultant design team is working toward 60% design submittal which is anticipated to be completed in October 2020. | Jacobs | TBD |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: DESIGN

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP2007 | Lea Hill Rd Bridge Deck Preservation<br><br>The project will grind and overlay the Lea Hill bridge deck in an effort to extend the overall service life of the bridge. | $647,850 (Includes Federal Grant Funds) | QTR 2 (APR-JUN)<br><br>21 | QTR 3 (JUL-SEP)<br><br>21 | Kim Truong | Grant funding for preliminary engineering was authorized on September 9, 2020. Anticipate advertisement for consultant services in October. | TBD | TBD |
| CP2006 | 3rd Street SW Bridge Decks Preservation<br><br>The project will seal and overlay the 3rd Street SW bridge decks in an effort to extend the overall service life of the bridges. | $673,540 (Includes Federal Grant Funds) | QTR 2 (APR-JUN)<br><br>21 | QTR 3 (JUL-SEP)<br><br>21 | Kim Truong | Grant funding for preliminary engineering was authorized on September 2, 2020. Anticipate advertisement for consultant services in October. | TBD | TBD |

# Capital Project Status Report

Public Works Department - Engineering General Services Division

Project Status: DESIGN

| Project Number | Project Name & Description | Current Budget | Construction Start | Construction Finish | Project Manager | Recent Progress | Design Consultant | Contractor |
|---|---|---|---|---|---|---|---|---|
| CP2009 | Rainier Ridge Pump Station<br><br>This project will replace the Rainier Ridge Sewer Pump Station and its associated force main (approximately 725 ft). | $3,415,000 | QTR 2 (APR-JUN)<br><br>22 | QTR 4 (OCT-DEC)<br><br>22 | Jai Carter | Consultant selection process is underway. Proposals were received on September 3, 2020. It is anticipated that design work will begin in November 2020. | TBD | TBD |

# AGENDA BILL APPROVAL FORM

**Agenda Subject:**
Ordinance No. 6792 (Gaub)(20 Minutes)

**Date:**
October 6, 2020

**Department:**
Public Works

**Attachments:**
Draft Ordinance No. 6792
Exhibit A: Revised Chapter 19.04
Auburn Downtown Map
Lakelland Hills PUD Map
TIF Comparison Chart

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

**Administrative Recommendation:**

For discussion only.

**Background Summary:**

Discussion of proposed Ordinance No. 6792 amending chapter 19.04 of the Auburn City Code relating to transportation impact fees. The proposed changes in Ordinance No. 6792 will modify the definitions for building permits, the assessment of impact fees, and the eligibility for an independent fee calculation. In addition, the proposed changes will remove code provisions which have expired or which require updating based on staff recommendations.

Staff will also present and discuss the proposed 2021 update to the transportation impact fees. The proposed fees are based on the funding needs identified in the 2021-2026 TIP (adopted by City Council on June 15, 2020 by Resolution 5527) and anticipated development activities during the next 6 year period that necessitate additional transportation capacity. The proposed fee would be included in the fee schedule for 2021 that will be brought later to the City council for adoption:

- Increase in the base City wide fee of 5% from $4,739 to $4,894 per trip
- Reduced fees for downtown remain in place
- Fees for Lakeland Hills Planned Unit Development (PUD) increase by 2% based on the Consumer Price Index for the Seattle area

**Reviewed by Council Committees:**

**Councilmember:** Brown
**Staff:** Gaub
**Meeting Date:** October 12, 2020
Item Number:

**ORDINANCE NO. 6792**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON AMENDING CHAPTER 19.04 TRANSPORTATION IMPACT FEES OF THE AUBURN CITY CODE.

WHEREAS, the City of Auburn authorizes transportation impact fees under Chapter 19.04 of the Auburn City Code ("ACC") for changes in land use that cause impacts to the City's transportation network; and,

WHEREAS, City staff recommends the following changes: a) change to the definitions to include vacant parcels, which can be used as parking lots and therefore, have an impact on the transportation system, and further recommends modification to the definitions in ACC 19.04.020; b) update the definitions for gross floor area and gross leasable area to be identical as the one in the ITE Trip Generation Handbook; c) allowing the assessment of impact fees where a change in use increases the impact to the transportation system; d) clarifying that applicants shall conduct an independent study, if required by the director, and pay for the study in advance of City review; e) adopting the ITE Trip Generation Handbook; f) further defining applicable exemptions; g) clarifying processes and making other necessary updates to code language; h) update the section addressing when impact fees are assessed; and i) remove sections that have expired.

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

**Section 1. Amendment to City Code.** Chapter 19.04 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.** 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:

_____
Kendra Comeau, City Attorney

Published: _____

**ORD 6792**
**EXHIBIT A**

# CHAPTER 19.04
# TRANSPORTATION IMPACT FEES[1]

**Sections:**


| | |
|---|---|
| **19.04.010** | **Findings and authority.** |
| **19.04.020** | **Definitions.** |
| ***19.04.030*** | ***Reserved.*** |
| **19.04.040** | **Assessment of impact fees.** |
| **19.04.050** | **Independent fee calculations.** |
| **19.04.060** | **Credits and adjustments.** |
| **19.04.070** | **Exemptions.** |
| **19.04.080** | **Appeals.** |
| **19.04.090** | **Establishment of an impact fee account for transportation.** |
| **19.04.100** | **Refunds.** |
| **19.04.110** | **Use of funds.** |
| **19.04.120** | **Review and update of impact fees.** |
| **19.04.130** | **Miscellaneous provisions.** |


[1] Code reviser's note: The fee schedule of the city of Auburn, mentioned throughout this chapter, is available in the city clerk's office for public review and examination.

## 19.04.010 Findings and authority.

The council of the city of Auburn (the "council") hereby finds and determines that new growth and development, including but not limited to new residential, commercial, retail, office, and industrial development, in the city of Auburn will create additional demand and need for transportation facilities in the city of Auburn, and the council finds that new growth and development should pay a proportionate share of the cost of transportation facilities needed to serve the new growth and development. The city of Auburn has conducted extensive studies documenting the procedures for measuring the impact of new developments on transportation facilities. These studies have contributed to the rates as established in the fee schedule of the city of Auburn. Therefore, pursuant to Chapter 82.02 RCW, the council adopts this chapter to assess impact fees for transportation facilities. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in establishing the transportation impact fee program. (Ord. 6341 § 3, 2011; Ord. 5763 § 1, 2003; Ord. 5506 § 1, 2001.)

## 19.04.020 Definitions.

The following words and terms shall have the following meanings for the purposes of this chapter, unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

A. “Act” means the Growth Management Act, Chapter 36.70A RCW, as now in existence or as hereafter amended.

B. “Building permit,” for the purposes of this chapter only, ~~means~~ is defined as: 1) an official document or certification ~~which is~~ issued by the city that ~~and which~~ authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, ~~moving~~ relocation, or repair of a building or structure; ~~or~~ 2) a business license issued by the c~~C~~ity associated with a change in building occupancy of an existing building or structure; ~~,~~ or (3) a change in land use where no building permit is required.
~~. In the case of increased impacts on transportation facilities caused by a change in use or occupancy of an existing building or structure, and where no building permit is required, the term “building permit” shall specifically include business registrations.~~

C. “Capital facilities plan” means the capital facilities plan element of the city’s comprehensive plan adopted pursuant to Chapter 36.70A RCW, and such plan as amended.

D. “City” means the city of Auburn.

E. “Council” means the city council of the city of Auburn.

F. “Department” means the department of public works.

G. “Development activity” means 1) any construction or expansion of a building ~~or,~~ structure; ~~,~~ 2) ~~or use,~~ any change in ~~use~~ occupancy of a building or structure; ~~,~~ or 3) any change in ~~the use of land~~land use. ~~that creates additional demand and need for transportation facilities.~~

H. “Director” means the director of the department of public works or the director’s designee.

I. “Downtown plan area” means the study area as identified and adopted in the City of Auburn Downtown Plan dated May 2001 that is defined by the boundary of the Union Pacific Railroad on the west and State Route 18 on the south. The eastern boundary is defined as “F” Street SE from State Route 18 to East Main Street, East Main Street from “F” Street SE to “E” Street SE, and “E” Street NE from East Main Street to 4th Street NE. The northern boundary is defined as 2nd Street NW from the Interurban Trail to “D” Street NW, 3rd Street NW/NE from “D” Street NW to Auburn Avenue, and 4th Street NE from Auburn Avenue to “E” Street NE. For the purposes of this chapter, the downtown plan area boundary has been slightly modified to avoid bisecting properties.

J. “Dwelling unit” means a building, or portion thereof, designed for residential occupancy, consisting of one or more rooms which are arranged, designed or used as living quarters for one family only.

K. “Encumber” means to reserve, set aside or otherwise earmark the impact fees in order to pay for commitments, contractual obligations or other liabilities incurred for public facilities.

L. “Feepayer” is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity, commencing a land development activity or land use change which creates the demand for additional transportation facilities, and which requires the issuance of a building permit. “Feepayer” includes an applicant for an impact fee credit.

M. “Gross floor area (GFA)” ~~means the total square footage of any building, structure, or use, including accessory uses~~means the sum of the area of each floor level of a building (expressed in square feet), including cellars, basements, mezzanines, penthouses, corridors, lobbies, stores, and offices, that are within the principal outside faces of exterior walls, not including architectural setbacks or projections. Included are all areas that have floor surfaces with clear standing head room (6ft 6in min.) regardless of use. With the exception of buildings containing enclosed malls or atriums, GFA is equal to the gross leasable area (GLA) and gross rentable area.

N. “Gross leasable area (GLA)” means the total floor area designed for tenant occupancy and exclusive use, including any basements, mezzanines, or upper floors, expressed in square feet. For the purposes of the trip generation calculation, the floor area of any parking garages within the building shall not be included within the GLA of the entire building. GLA is the area for which tenants pay rent; it is the area that produces income for the property owner.

O. “Hearing examiner” means the examiner who acts on behalf of the council in considering and applying land use regulatory codes as provided under Chapter 2.46 ACC. Where appropriate, “hearing examiner” also refers to the office of the hearing examiner.

P. “Impact fee” means ~~a~~ a required payment of money imposed by the city of Auburn on development activity pursuant to this chapter as a condition of issuing a building permit~~granting development approval in order~~ to pay for the transportation facilities needed to serve new growth and development.

Q. “Impact fee account” or “account” means the account established for the transportation impact fees collected. The account shall be established pursuant to ACC 19.04.090, and comply with the requirements of RCW 82.02.070.

R. “Independent fee calculation” means the transportation impact calculation prepared by a feepayer to support the assessment of an impact fee other than by the use of the current ITE Trip Generation Manual ~~attached schedules~~.

S. “Interest” means the interest rate earned by local jurisdictions in the State of Washington Local Government Investment Pool, if not otherwise defined.

T. “Multiple-family dwelling” means a building designed exclusively for occupancy by three or more families living independently of each other, and containing three or more dwelling units.

U. “Owner” means the owner of record of real property; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

V. “PM peak hour” means the hour of the highest transportation demand for the entire Auburn transportation system which, between noon and midnight, typically occurs between the hours of 4:00 p.m. and 6:00 p.m.

W. “Single-family dwelling” means a detached building designed exclusively for occupancy by one family and containing one dwelling unit. A manufactured home may be considered a one-family dwelling, if sited per Chapter 18.31 ACC.

X. “Square footage” means the square footage of the gross floor area or gross floor leasable area of the development.

Y. “State” means the state of Washington.

Z. “Transportation project improvements” means site improvements and facilities that are planned and designed to provide service for a particular development or users of the project, and are not transportation system improvements. No transportation improvement or facility included in a capital facilities plan approved by the council shall be considered a transportation project improvement.

AA. “Transportation system improvements” means transportation facilities that are included in the city of Auburn’s capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to transportation project improvements.

BB. “Grandfathering” means that existing land uses of a property in effect on July 1, 2001, the initial effective date of the impact fees ordinance, are entitled to system capacity credits determined by the adopted impact fees rate schedule.

CC. “Surplus credits” means credits over and above those calculated as an impact fee. For example:

1. In grandfathering calculations, if the difference between a proposed use fee minus existing use credit results in a positive number, the result is the impact fee due.
2. In grandfathering calculations, if the difference between a proposed use fee minus existing use credit results in a negative number, the result is the surplus

credit and no impact fee would be due. Current practice is to not pay out in real dollars the calculated surplus credit.

In off-site system capacity improvements or ROW dedication it is also possible to create sufficient value that results in a surplus credit.

DD. "Change in use" for the purposes of this chapter means a different use as set forth in the identification of uses for the various fees for uses in the ITE Trip Generation Manual or by an independent fee calculation~~.~~

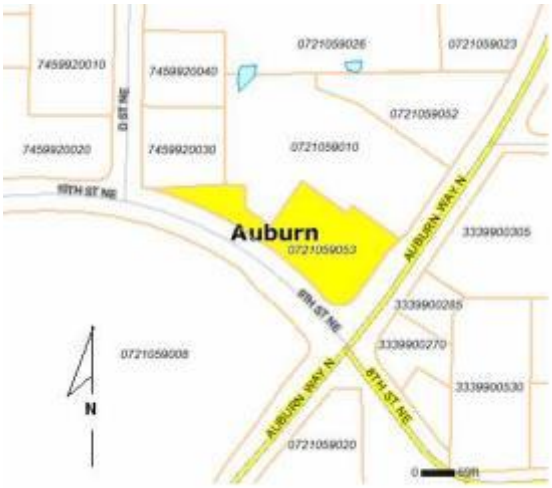
EE. "ITE Trip Generation Manual" means the ~~most~~ current edition of the manual promulgated and published by the Institute of Transportation Engineers.

~~FF. "Downtown catalyst area" means the areas defined by (1) the boundary of West Main Street/East Main Street to the north, "A" Street SE to the east, 2nd Street SE/2nd Street SW to the south, and "A" Street SW to the west; and (2) the boundary of East Main Street to the south, Auburn Avenue to the east, 1st Street NE to the north, and North Division Street to the west.~~

~~GG. "Downtown catalyst accessory area" means the area defined by the boundary of 1st Street NW to the south, "A" Street NW to the west, 2nd Street NW to the north, and North Division Street to the east.~~

HFF~~H.~~ "Emergency public interest area" means the area defined as King County Tax Parcel No. 0721059053, located at 901 Auburn Way N., Auburn, WA 98002, described more particularly as follows:

Lots 1, 2 and 3 of City of Auburn Short Plat No. SPL0009-98, according to short plat recorded April 20, 1999, under recording No. 9904202125, in King County, Washington, and as shown below:




(Ord. 6341 § 3, 2011; Ord. 6199 § 1, 2008; Ord. 6197 § 1, 2008; Ord. 6089 § 1, 2007; Ord. 5763 § 1, 2003; Ord. 5604 § 1, 2001; Ord. 5506 § 1, 2001.)

**19.04.030 Reserved.**
(Ord. 6341 § 3, 2011; Ord. 5763 § 1, 2003; Ord. 5506 § 1, 2001.)

**19.04.040 Assessment of impact fees.**
A. ~~Effective July 1, 2001, t~~The city shall collect impact fees, based on its ~~the~~ fee schedule ~~of the city of Auburn~~, as a condition of issuing ~~ance for from~~ any ~~appli~~cant ~~seeking a~~ building permit ~~from the city for any development activity within the city~~.

~~B. Effective May 19, 2003, where a change in use increases the trip generation by more than one whole PM peak hour trip, the director shall calculate a transportation impact fee based on the increases in the trip generation rate.~~

B~~C~~. The director shall apply a heavy truck adjustment factor to the transportation impact fees for ~~industrial~~ land uses categorized as industrial in the ITE Trip Generation Manual, addressing the percentage of vehicle trips for such uses made by trucks of three or more axles and the street capacity used by such trucks in comparison to other vehicles.

C~~D~~. Except when fees are deferred, ~~T~~the amount of impact fees shall be ~~based on the lowest rate in effect between~~assessed at the time an applicant submits a complete application for a building permit ~~and the time of~~at the time of building permit issuance~~~~, or pursuant to an independent fee calculation accepted by the director pursuant to ACC 19.04.050, and adjusted for any credits pursuant to ACC 19.04.060. Should the scope of the development change after permit application and prior to fee payment, the amount of the impact fees will be adjusted to the fees in effect at the time of payment. When fees are deferred pursuant to ACC 19.04.040(H, I, or J), the assessment will be based on the fees in effect at the time payment.

D~~E~~. Payment of impact fees shall be made by the feepayer at the time the building permit is issued, unless fees are deferred pursuant to this chapter. ~~. The amount to be paid shall not be increased for any applicant that submitted a complete application for the building permit before the city established the impact fee rates.~~

E~~F~~. Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to ACC 19.04.060 shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to ACC 19.04.060 setting forth the dollar amount of the credit awarded. Impact fees, as determined after the application of appropriate credits, shall be collected from the feepayer at the time the building permit is issued.

~~G. The department shall not issue a building permit unless and until the impact fees have been paid or credit(s) awarded.~~

F~~H~~. For complete single-family building permit applications for new development, redevelopment or a change in use, and at or before ~~prior to or at the time of~~ issuance of any single-family residential building permit for a dwelling unit that is being constructed,

the applicant may elect to record a covenant against title to the property on forms prepared and provided by the city. The forms shall ~~that~~ require~~s~~ payment of transportation impact fees due and owing by ~~providing for~~ automatic payment through escrow ~~of these transportation impact fees due and owing to be paid~~ no later than: a) ~~at time of~~ closing of the sale of the unit; b) ~~or~~ at final inspection or issuance of certificate of occupancy; or c) ~~or~~ 18 months from the date ~~of issuance of~~ the original building permit was issued, whichever comes first. Failure to pay shall result in the following:

1. If the full amount of any fees required by this chapter remains unpaid 30 days after the city has sent written notification of the payment obligation to the responsible party, then ~~written notification of its obligation to pay the charges established in this chapter the full amount remains unpaid,~~ the responsible party shall be subject to the enforcement provisions of ACC 1.25.030 and 1.25.065. Written notification shall be by regular and certified mail ~~and~~ to the responsible party's most current mailing address ~~available contact information~~ on file with the city. For the purposes of applying ACC 1.25.030 and 1.25.065, the responsible party shall constitute a property owner, the property(ies) for which a permit(s) has been issued shall constitute the property(ies) on which the violation is occurring, and the impact fee amount remaining unpaid shall constitute a violation occurring on the permitted property(ies) under these sections.

2. Any unpaid charges under ~~adopted by~~ this chapter that are outstanding 30 days after their due ~~from the~~ date ~~the charges are due~~ shall constitute a lien against the property(ies) for which a permit(s) has been issued in the amount of the unpaid charges. In addition to the actions authorized in subsection (H)(1) of this section, the city may record a lien against the permitted property(ies) in the amount of the unpaid charges and may immediately suspend any permits previously issued for the lot or unit associated with the current development activity and shall limit the granting of any future permits for the lot or unit until such time that all outstanding water, sanitary sewer and storm drainage development charges are paid in full.

3. The appeals process authorized in ACC 19.04.080 shall not apply to determinations made pursuant to this section.

G~~I~~. For complete multifamily building permit applications for new development, redevelopment or a change in use, and at or before ~~prior to or at the time of~~ issuance of any multifamily residential building permit that is being constructed, the applicant may elect to record a covenant against title to the property on forms prepared and provided by the city. The forms shall require ~~that requires~~ payment of transportation impact fees due and owing by ~~providing for~~ automatic payment through escrow ~~of these transportation impact fees due and owing to be paid~~ no later than: a) closing of the sale of the unit; b) at final inspection or issuance of certificate of occupancy; or c) 18 months from the date the original building permit was issued, whichever comes first. ~~at time of closing of the sale of the unit or at final inspection or issuance of certificate of occupancy or 18 months from the date of issuance of the original building permit, whichever comes first.~~ Failure to pay shall result in the following:

1. If the full amount of any fees required by this chapter remainss unpaid 30 days after the city has sent written notification of the payment obligation to the responsible party, then ~~written notification of its obligation to pay the charges established in this chapter the full amount remains unpaid,~~ the responsible party shall be subject to the enforcement provisions of ACC 1.25.030 and 1.25.065. Written notification shall be by regular and certified mail ~~and~~ to the responsible party's most current mailing address ~~available contact information~~ on file with the city. For the purposes of applying ACC 1.25.030 and 1.25.065, the responsible party shall constitute a property owner, the property(ies) for which a permit(s) has been issued shall constitute the property(ies) on which the violation is occurring, and the impact fee amount remaining unpaid shall constitute a violation occurring on the permitted property(ies) under these sections.

2. Any unpaid charges under ~~adopted by~~ this chapter that are outstanding 30 days after ~~from~~ their due date ~~the charges are due~~ shall constitute a lien against the property(ies) for which a permit(s) has been issued in the amount of the unpaid charges. In addition to the actions authorized in subsection (I)(1) of this section, the city may record a lien against the permitted property(ies) in the amount of the unpaid charges and may immediately suspend any permits previously issued for the lot or unit associated with the current development activity and shall limit the granting of any future permits for the lot or unit until such time that all outstanding water, sanitary sewer and storm drainage development charges are paid in full.

3. The appeals process authorized in ACC 19.04.080 shall not apply to determinations made pursuant to this section.

H~~J~~. For nonresidential development composed of:

a) new development, or
b) redevelopment or a change in use that includes
(1) ~~and inclusive of~~ commercial office and retail uses, and~~,~~
(2) light and heavy manufacturing uses, but exclud~~es~~ing~~~~

(i) warehousing and distribution uses~~,~~ and
(ii) institutional development (including, but not limited to public and private schools and colleges and hospitals),

and before ~~prior to the~~ issuance of any permit application and following the execution of a payment agreement on forms prepared and provided by the city, the applicant may elect to pay transportation impact fees due and owing, less any credits awarded, no later than before ~~prior to~~ issuance of certificate of occupancy or 18 months from the date of issuance of the original building permit, whichever comes first. Failure to pay shall result in the following:

1. If the full amount of any fees required by this chapter remains unpaid 30 days after the city has sent written notification of the payment obligation to the responsible party, then ~~written notification of its obligation to pay the charges established in this chapter the full amount remains unpaid~~, the responsible party shall be subject to the enforcement provisions of ACC 1.25.030 and 1.25.065. Written notification shall be by regular and certified mail ~~and~~ to the responsible party's most current mailing address ~~available contact information~~ on file with the city. For the purposes of applying ACC 1.25.030 and 1.25.065, the responsible party shall constitute a property owner, the property(ies) for which a permit(s) has been issued shall constitute the property(ies) on which the violation is occurring, and the impact fee amount remaining unpaid shall constitute a violation occurring on the permitted property(ies) under these sections.

2. Any unpaid charges under ~~adopted~~ by this chapter that are outstanding 30 days after their due date ~~from the date the charges are due~~ shall constitute a lien against the property(ies) for which a permit(s) has been issued in the amount of the unpaid charges. In addition to the actions authorized in subsection (J)(1) of this section, the city may record a lien against the permitted property(ies) in the amount of the unpaid charges and may immediately suspend any permits previously issued for the lot or unit associated with the current development activity and shall limit the granting of any future permits for the lot or unit until such time that all outstanding water, sanitary sewer and storm drainage development charges are paid in full.

3. The appeals process authorized in ACC 19.04.080 shall not apply to determinations made pursuant to this section. (Ord. 6583 § 1, 2016; Ord. 6455 § 3, 2013; Ord. 6341 § 3, 2011; Ord. 6005 § 1, 2006; Ord. 5763 § 1, 2003; Ord. 5506 § 1, 2001.)

**19.04.050 Independent fee calculations.**

A. If in the judgment of the director, none of the fee categories set forth in the fee ~~attached~~ schedule accurately describes or captures the impacts of the new development, the applicant shall conduct an independent fee calculation and the director may impose alternative fees on a specific development based on those calculations, once accepted by the city.

~~B. Feepayers may opt not to have the impact fees determined according to the attached schedule. Such feepayers shall prepare and submit to the director an independent fee calculation for the development activity for which a building permit is sought.~~

B~~C~~. The documentation submitted and supporting an independent fee calculation shall clearly show PM peak hour trip generation characteristics of the proposed development activity based on industry-accepted standards as articulated in the ITE trip generation manual. The modified fee shall be based on the average cost per trip established in the fee schedule of the city of Auburn, and shall consider the alternative trip generation data.

CD. A non-reimbursable administrative fee shall be charged for each independent fee calculation. Payment of theThe fee is required prior shall be deposited with the city to pay for City review of the independent fee- studycalculation upon submittal of the documented independent fee study.

DE. After the city completes its review, the actual fees and expenses will be determined and the cash deposit shall be adjusted to provide for a refund by the city or additional payment by the feepayer.

EF. While there is a presumption that the calculations set forth in the city's fee attached schedule are valid, the director shall consider the documentation submitted by the feepayer, but is not required to accept such documentation which the director reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the feepayer to submit additional or different documentation for consideration. The director is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development, and/or principles of fairness.

FG. Determinations made by the director pursuant to this section may be appealed to the office of the hearing examiner subject to the procedures set forth in ACC 19.04.080. (Ord. 6341 § 3, 2011; Ord. 5763 § 1, 2003; Ord. 5506 § 1, 2001.)

**19.04.060 Credits and adjustments**.

A. A feepayer can request that a credit or credits for transportation impact fees be awarded to him/her for transportation project improvements provided by the feepayer in excess of the standard requirements for the feepayer's development if the land, improvements, and/or the facility constructed are identified as transportation system improvements that provide capacity to serve new growth in the capital facilities plan, or the director, at his/her discretion, makes the finding that such land, improvements, and/or facilities would serve the transportation goals and objectives of the capital facilities plan.

B. For each request for a credit or credits, the director shall determine the value of dedicated land by using available documentation or selecting an appraiser from a list of independent appraisers maintained by the department to determine the value of the land being dedicated. The value of the improvements will be determined through documentation submitted by the feepayer.

C. The feepayer shall pay the cost of the appraisal and shall deposit on account the estimated cost of the appraisal as determined by the city at the time the feepayer requests consideration for a credit.

D. After receiving the appraisal, the director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, where applicable, the legal description of the site donated, and the legal description or other

adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 days shall nullify the credit.

E. Any request ~~claim~~ for credit must be made by ~~no later than~~ the time of application for a building permit, or it ~~. Any claim not so made~~ shall be deemed waived.

F. No credit shall be given for transportation project improvements or right-of-way dedications for direct access improvements to and/or within the development in question.

G. Determinations made by the director pursuant to this section shall be subject to the appeals procedures set forth in ACC 19.04.080.

H. Pursuant to and consistent with ~~the requirements of~~ RCW 82.02.060, the fee rate in the city's fee schedule ~~for the city of Auburn~~ has been reasonably adjusted for other revenue sources which are earmarked for, or proratable to, funding transportation facilities.

I. In order to grandfather the capacity rights of existing land uses, the director will utilize the adopted rates to calculate any impact fee credits and to determine any surplus credits for off-site system improvements made by the property owner. Only in a situation when a property owner makes off-site system capacity improvements that qualify in accordance with subsection A of this section will any surplus credits (value computed during the permit year and not adjusted for inflation) remain with the property or any subdivision of that property to benefit future development where a traffic impact fee is determined to be due. (Ord. 6341 § 3, 2011; Ord. 5763 § 1, 2003; Ord. 5506 § 1, 2001.)

**19.04.070 Exemptions.**

A. The following shall be exempt~~ted~~ from the payment of transportation impact fees:

1. Replacement of a structure with a new structure of the same PM peak hour trip generation and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure.

2. Alterations, expansion, enlargement, remodeling, or rehabilitation~~, or conversion~~ of an existing dwelling unit where no additional dwelling units are created and the land use category in the ITE Trip Generation Handbook~~use~~ is not changed.

3. Alterations of an existing non-residential structure that does not increase the GFA or GLA.~~expand the usable space.~~

4. Miscellaneous improvements, including but not limited to fences, walls, swimming pools, and signs.

~~5. A change in use where the increase in PM peak hour trip generation is less than the threshold stated in ACC 19.04.040(B).~~

~~5~~6. Demolition, or ~~moving~~ relocation of a structure out of the ~~city~~City.

~~7. Any building permit application that has been submitted to the department before 5:00 p.m. the business day before the first effective date of the transportation impact fee rate schedule and subsequently determined to be a complete application by the city.~~

~~8. All development activity within the "downtown plan area" as defined in ACC 19.04.020(I); provided, that this exemption shall sunset on June 30, 2007, unless otherwise extended by the city council.~~

~~9. All development activity within the "downtown catalyst area" as defined in ACC 19.04.020(FF); provided, that this exemption shall sunset on December 31, 2017, unless otherwise extended by the city council.~~

~~10. Fifty percent of all development activity within the "downtown catalyst accessory area" as defined in ACC 19.04.020(GG), to the effect that the exemption provided hereby shall be for 50 percent of the applicable transportation impact fees; provided, that this exemption shall sunset on December 31, 2008, unless otherwise extended by the city council.~~

~~11. All development activity within the "emergency public interest area" as defined in ACC 19.04.020(HH); provided, that this exemption shall sunset on December 31, 2008, unless otherwise extended by the city council.~~

B. The director shall be authorized to determine whether a particular development activity falls within an exemption identified in this section. Determinations of the director shall be subject to the appeals procedures set forth in ACC 19.04.080. (Ord. 6637 § 1, 2017; Ord. 6526 § 1, 2014; Ord. 6412 § 1, 2012; Ord. 6341 § 3, 2011; Ord. 6308 § 1, 2010; Ord. 6199 § 2, 2008; Ord. 6197 § 2, 2008; Ord. 6178 § 1, 2008; Ord. 6089 § 2, 2007; Ord. 6068 § 1, 2006; Ord. 5763 § 1, 2003; Ord. 5604 § 1, 2001; Ord. 5506 § 1, 2001.)

**19.04.080 Appeals.**

A. Any feepayer may pay the impact fees imposed by this chapter under protest in order to obtain a building permit. Appeals regarding the impact fees imposed on any development activity may only be made by the feepayer of the property where such development activity will occur. No appeal submitted under protest shall be permitted unless and until the impact fees at issue have been paid. Alternatively, any feepayer may appeal the impact fees determined by the director without first paying the fees,

providing the applicant is willing to provide a satisfactory security of the appealed fee amount in accordance with the requirements of ACC 17.14.010(A) prior to issuance of the building permit. Alternatively, any feepayer may appeal the impact fees determined by the ~~public works~~ director without first paying the fees, providing the applicant is willing to postpone issuance of the building permit until after the appeal process when the revised final fee is known.

B. 1) Appeals of ~~the public works~~ director~~'s~~ decisions ~~determinations~~ under ~~made pursuant to~~ this chapter shall be filed with the city's public works department and ~~shall be~~ heard by the city's hearing examiner pursuant to Chapter 2.46 ACC. ~~Determinations on~~ Aappeals to the hearing examiner shall be based on whether the decision being appealed was consistent with applicable state law and city codes. 2) The hearing examiner's determination shall be final unless appealed to the superior court for ~~of~~ the county in which the property subject to ~~of~~ the transportation impact fees is located. Appeals to superior court shall comply with ~~within the city of Auburn in accordance with the procedures in~~ RCW 34.05.510 through 34.05.598, and shall be ~~with the appeal being~~ filed with the city clerk within 30 days after issuance of the hearing examiner's determination.~~decision of the hearing examiner~~. (Ord. 6341 § 3, 2011; Ord. 6182 § 5, 2008; Ord. 5763 § 1, 2003; Ord. 5506 § 1, 2001.)

**19.04.090 Establishment of an impact fee account for transportation.**

~~A. Impact fee receipts shall be earmarked specifically and deposited in special interest-bearing accounts. The fees received shall be prudently invested in a manner consistent with the investment policies of the city.~~

A~~B~~. There is hereby established a separate transportation impact account ~~impact fee account~~ for the fees collected pursuant to this chapter. ~~: the transportation impact account~~. Impact fee receipts shall be earmarked specifically and deposited in this account. The fees received shall be prudently invested in a manner consistent with the investment policies of the city. Funds withdrawn from this account must be used in accordance with ~~the provisions of~~ ACC 19.04.110. Interest earned on the fees shall be retained in the account and expended for the purposes for which the impact fees were collected.

B~~C~~. ~~On an annual basis, t~~The financial director shall provide an annual report to the council on the transportation impact account showing the source and amount of all moneys collected, earned, or received, and the transportation improvements that were financed in whole or in part by impact fees.

D. Impact fees shall be expended or encumbered within ten (10) ~~six~~ years of receipt, unless the council identifies in written findings extraordinary and compelling reason or reasons for the delay.

~~E. In order to comply with RCW 82.02.060(2), impact fees for development activity in the downtown plan area shall be paid for with public funds other than from impact fee~~

~~accounts during the exemption period set forth in ACC 19.04.070 (A)(8).~~ (Ord. 6341 § 3, 2011; Ord. 5763 § 1, 2003; Ord. 5604 § 1, 2001; Ord. 5506 § 1, 2001.)

**19.04.100 Refunds.**

A. If the city fails to expend or encumber ~~the~~ impact fees paid by a property owner under this chapter within ~~six~~ ten (10) years of payment~~when the fees were paid~~, or within such other time periods pursuant to ACC 19.04.090 where extraordinary or compelling reasons exist~~, such other time periods as established pursuant to ACC 19.04.090~~, the current owner of the property for ~~on~~ which the impact fees were ~~have been~~ paid may receive a refund of ~~such~~the~~h~~ fees. ~~In determining whether impact fees have been expended or encumbered, l~~impact fees shall be considered expended or encumbered on a first-in, first-out basis, unless ~~; provided, that~~ any party ~~that~~ voluntarily elects to use the alternative fee payment method ~~specified~~ in ACC 19.04.040. If electing the alternative fee payment method, the party shall waive any right to recover transportation fees not expended or encumbered within the above time frames. ~~sign as a condition of use of the alternative fee payment method a waiver of right on a form prepared and provided by the city to recovery of transportation impact fees not spent within the statutory six-year timeframe.~~

B. The city shall notify potential refund claimants by first class mail deposited with the United States Postal Service at the last known address of such claimants. A potential claimant or claimant must be the owner of the property.

C. Owners seeking a refund of impact fees must submit a written request for a refund of the fees to the director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

D. Any impact fees for which no application for a refund has been made within this one-year period shall be retained by the city and expended on appropriate transportation system improvements.

E. Refunds of impact fees under this section shall include any interest earned on the impact fees by the city.

F. If and when the city seeks to terminate any or all components of the transportation impact fee program, all unexpended or unencumbered funds from any terminated component or components, including interest earned, shall be refunded pursuant to this section. If ~~Upon the finding that~~ any ~~or all~~ fee requirements are to be terminated, the city shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail to their last known address ~~of the claimants~~. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the city, but must be expended for appropriate transportation system improvements. This notice requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated.

G. The city shall also refund to the developer of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees, if the development activity for which the impact fees were imposed did not occur. (Ord. 6341 § 3, 2011; Ord. 5763 § 1, 2003; Ord. 5506 § 1, 2001.)

**19.04.110 Use of funds.**

A. Pursuant to this chapter, transportation impact fees:

1. Shall be used for transportation improvements that will reasonably benefit the new development; and

2. Shall not be imposed to make up for deficiencies in transportation facilities serving existing developments; and

3. Shall not be used for maintenance or operations.

B. As a general guideline, transportation impact fees may be used for any transportation improvements which could otherwise be funded by a bond issue of the city.

C. Transportation impact fees may be spent for transportation improvements, including but not limited to planning, land acquisition, right-of-way acquisition, site improvements, necessary off-site improvements including mitigation, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, and any other expenses which can be capitalized.

D. Impact fees may be used to recoup transportation improvement costs previously incurred by the city to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

E. In the event that bonds or similar debt instruments are or have been issued for the advanced provision of transportation improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development. (Ord. 6341 § 3, 2011; Ord. 5763 § 1, 2003; Ord. 5506 § 1, 2001.)

**19.04.120 Review and update of impact fees**.

A. The fee rate schedules set forth in the fee schedule of the city of Auburn shall be reviewed periodically by the council.

B. The fee schedules set forth in the fee schedule of the city of Auburn shall be reviewed by the council as it may deem necessary and appropriate in conjunction with the annual update of the capital facilities plan element of the city’s comprehensive plan. (Ord. 6341 § 3, 2011; Ord. 6050 § 1, 2006; Ord. 5763 § 1, 2003; Ord. 5506 § 1, 2001.)

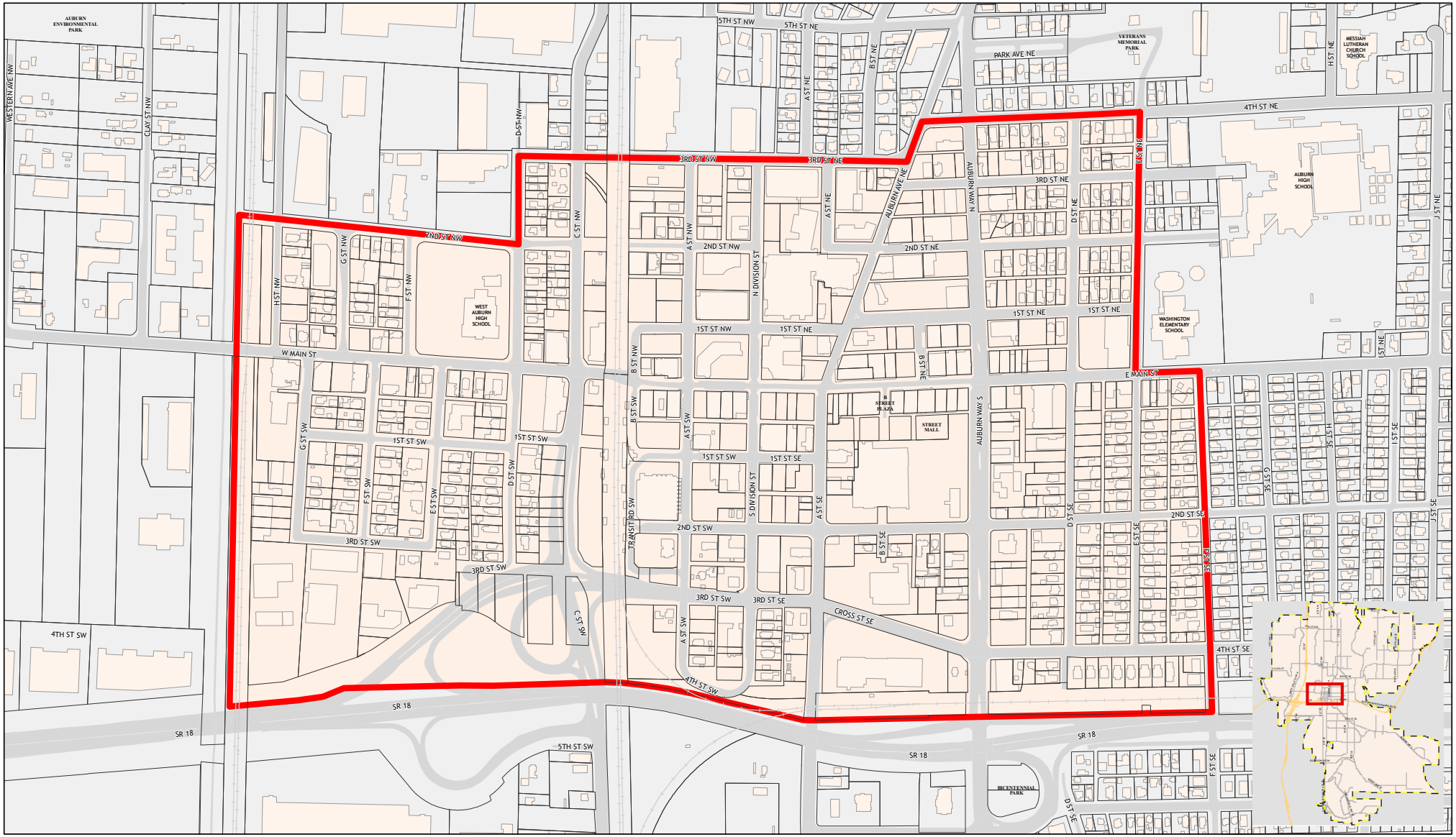
**19.04.130 Miscellaneous provisions**.

A. *Existing Authority Unimpaired.* Nothing in this chapter shall preclude the city from requiring the feepayer or the proponent of a development activity to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of RCW 82.02.050(1)(c).

B. *Captions.* The chapter and section captions used in this chapter are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this chapter.

C. *Severability.* If any portion of this chapter is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other section of this chapter.

D. *Short Title.* This chapter shall be known and may be cited as the “The City of Auburn Transportation Impact Fee Ordinance.” (Ord. 6341 § 3, 2011; Ord. 5763 § 1, 2003; Ord. 5506 § 1, 2001.)




# Auburn Downtown Map
## Figure 1

CITY OF AUBURN WASHINGTON

INFORMATION SHOWN IS FOR GENERAL REFERENCE PURPOSES ONLY AND DOES NOT NECESSARILY REPRESENT EXACT GEOGRAPHIC OR CARTOGRAPHIC DATA AS MAPPED. THE CITY OF AUBURN MAKES NO WARRANTY AS TO ITS ACCURACY.

1 INCH = 400 FEET

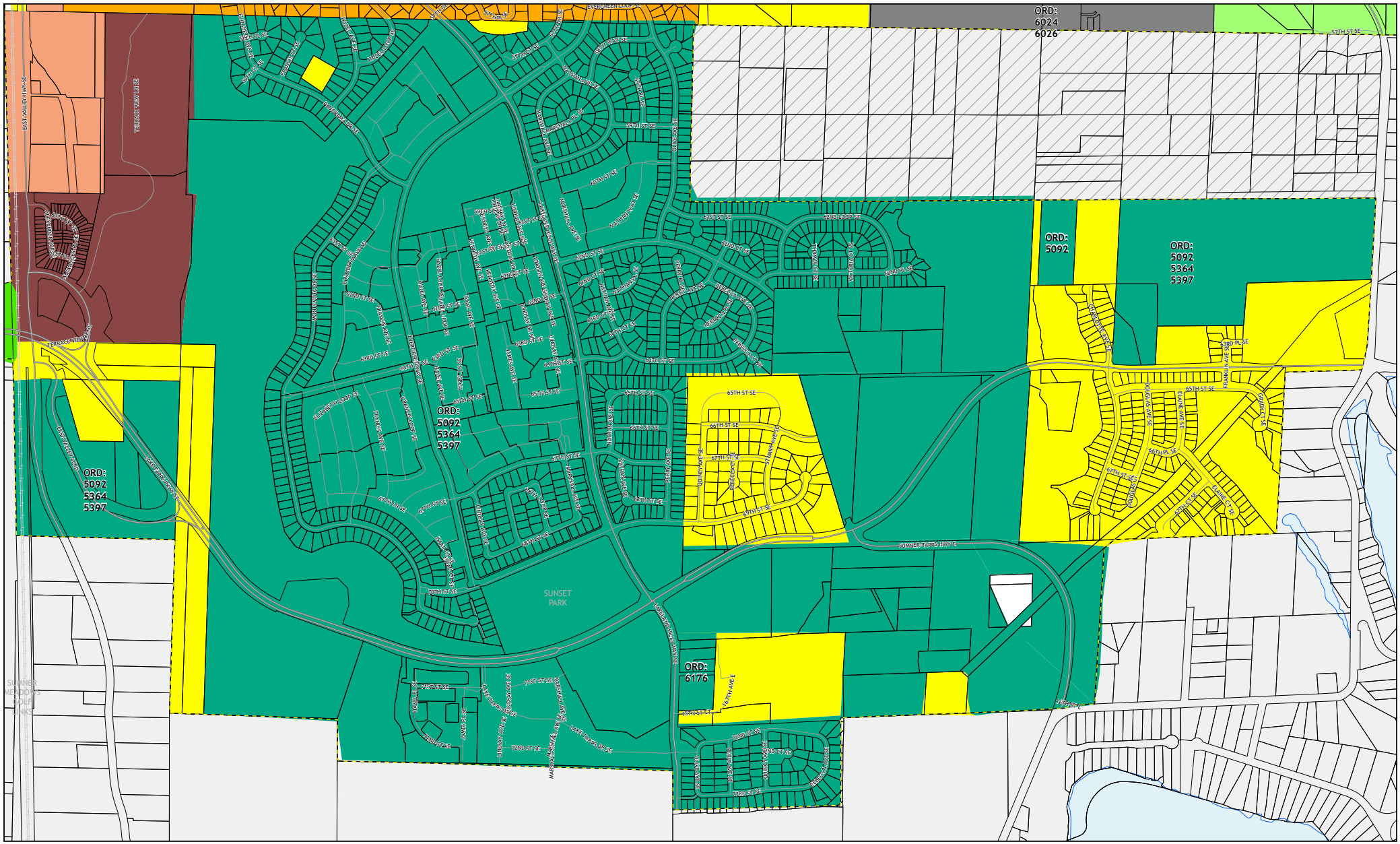
Printed On: 08/16/2010

Map ID : 1271

Urban Center Boundary (231.34 Acres)

Auburn City Limits

# Lakeland Hills South PUD




Auburn City Limits
Parcels
Potential Annexation Areas
Water Features
RR Residential District
R1/LHR1 Single-Family Residential District
R2/LHR2 Single-Family Residential District
C1/LHC1 Light Commercial District
P1/LHP1 Public Use District
PUD Planned Unit Development
Lakeland Hills South PUD
TV Terrace View

0 140 280 420 560 700
FEET

Printed On 03/05/09
Map ID: 3240

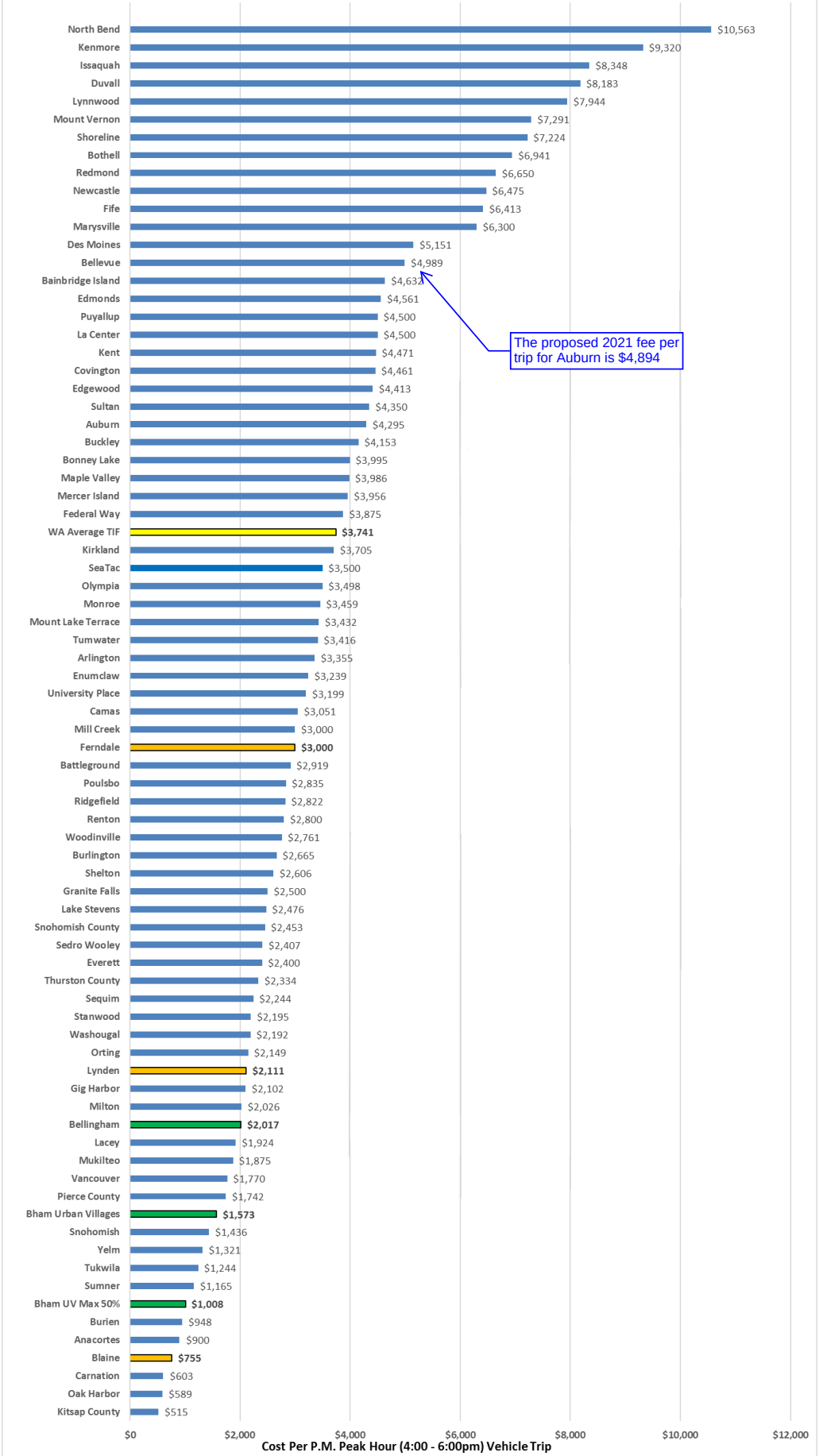
Information shown is for general reference purposes only and does not necessarily represent exact geographic or cartographic data as mapped. The City of Auburn makes no warranty as to its accuracy.

## Comparison of 2019-2020 TIF Base Rates in 72* Cities and 4 Counties in Western Washington

### With Whatcom County Cities and Bellingham's Urban Village TIF Reductions Highlighted for Emphasis

*[*City of Sammamish, WA $14,707 TIF base rate excluded from graphic due to size - see TIF rate table on next page]*

Data compiled by Chris Comeau, AICP-CTP, Transportation Planner, Bellingham Public Works ccomeau@cob.org or (360) 778-7946



# AGENDA BILL APPROVAL FORM

**Agenda Subject:**
Ordinance No. 6795 (Gaub)(10 Minutes)

**Date:**
October 7, 2020

**Department:**
Public Works

**Attachments:**
Ordinance No. 6795
Exhibit A
Presentation

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

**Administrative Recommendation:**

For discussion only.

**Background Summary:**

Chapter 12.60 of the Auburn City Code (ACC Chapter 12.60 ACC) establishes the rules and regulations for controlling and enforcing right-of-way uses of the City Right-of-Way to assure that proposed uses are consistent with public health, safety, and welfare of the community, and that any harm or nuisance which may result from a proposed use is prevented. Changes are being proposed to the City fee schedule and permit structure that promote equity and economic prosperity while also supporting City cost recovery goals. Revisions are needed to ACC Chapter 12.60 ACC to support the proposed changes to the fee schedule for 2021 and permit structure for right-of-way use permits. Additional revisions are needed to ACC Chapter 12.60 ACC to address current permitting practices and to modernize portions of the code.

**Reviewed by Council Committees:**

**Councilmember:** Brown
**Staff:** Gaub
**Meeting Date:** October 12, 2020
Item Number:

**ORDINANCE NO. 6795**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING CHAPTER 12.60 OF THE AUBURN CITY CODE RELATING TO RIGHT-OF-WAY PERMITS

WHEREAS, Chapter 12.60 of the Auburn City Code (Chapter 12.60 ACC) establishes the rules and regulations for controlling and enforcing uses of the City Right-of-Way to assure that proposed uses are consistent with public health, safety, and welfare of the community, and that any harm or nuisance which may result from a proposed use is prevented; and

WHERAS, changes are being proposed to the City fee schedule and permit structure that promote equity and economic prosperity while also supporting City cost recovery goals; and

WHEREAS, revisions are needed to Chapter 12.60 ACC to support the proposed changes to the fee schedule for 2021 and permit structure for Right-of-Way permits; and

WHEREAS, additional revisions are needed to Chapter 12.60 ACC to address current permitting practices and to modernize portions of the code.

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

**Section 1. Amendment to City Code.** Chapter 12.60 of the Auburn City Code is amended to read as shown on 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.** This Ordinance will take effect and be in force on January 1st, 2021.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

_____
NANCY BACKUS, MAYOR

ATTEST:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Kendra Comeau, City Attorney

Published: _____

# Chapter 12.60
# RIGHT-OF-WAY PERMITS

## 12.60.010 Purpose – Permit required.

The purpose of this chapter is to establish minimum rules and regulations for controlling and enforcing right-of-way uses to assure that proposed uses are consistent with public health, safety, and welfare of the community, and that any harm or nuisance which may result from a proposed use is prevented.

It shall be unlawful for anyone to make private use of any public right-of-way without a right-of-way use permit issued by the city, or to use any public right-of-way without complying with all provisions of a permit issued by the city, unless such private use falls within the designated exceptions set forth in this chapter. (Ord. 6125 § 1, 2007; Ord. 5784 § 1, 2003; Ord. 5298 § 1, 1999; Ord. 5042 § 1 (Exh. D), 1998; Ord. 4767 § 1, 1995; Ord. 3351 § 2, 1978.)

## 12.60.015 Definitions.

The following words and phrases, wherever used in this chapter, shall have the meanings ascribed to them in this section except where otherwise defined or unless the context shall clearly indicate to the contrary.

A. "Abutting property" means and includes property bordering upon and contiguous to a right-of-way.

B. "Applicant" means any person, company, corporation, enterprise, or entity applying for the issuance or renewal of a right-of-way use permit or any person, company, corporation, enterprise, or entity that has been issued a right-of-way use permit.

C. "Application" means, for the purposes of this chapter, the collection of papers necessary to initiate a right-of-way use permit request, and shall include an application in the form approved by the city, and other submittals consistent with the purposes of this chapter.

D. "Banner" means any pliable canvas, cloth, or synthetic sign material or holiday or festival decor such as garland or similar decor stretched over or across any right-of-way.

E. "Community event or special event" means an event of a public nature sponsored or co-sponsored by the city of Auburn for the purpose of celebrating a particular holiday, festival, or other traditional commemoration, and may include carnivals, fairs, festivals, parades, or other similar short-term uses of rights-of-way.

F. "Co-sponsored by the city of Auburn" means the city is joining – is willing to join – as an applicant; provided, however, the primary sponsor is still responsible for all right-of-way use permit paperwork, liability, and fees.

G. "Private use" means use of the public right-of-way for the benefit of a person, partnership, group, organization, company, or corporation, other than as a thoroughfare for any type of vehicles, pedestrians or equestrians.

H. "Right-of-way" means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, landscape (parking) strips, squares, triangles, and other rights-of-way open to the use of the public, and the space above or beneath the surface of same. This definition specifically does not include streets, alleys, ways, landscape strips, and sidewalks which have not been deeded, dedicated, or otherwise permanently appropriated to the city for public use.

I. "Sidewalk cafe" means a portion of a public right-of-way ~~sidewalk~~ on which tables and chairs are placed for the use of patrons while consuming food and/or beverages served by a cafe or restaurant on abutting property.

J. "Sidewalk display" means a display of goods and wares on a public right-of-way~~sidewalk~~ for retail sale to the public by the owner or manager of a business upon abutting property, which products are being offered for sale inside the business.

K. "Sidewalk vending unit or vending unit" means a movable cart or similar device that is operated from a fixed location on a public right-of-way from which food, beverages (excluding alcohol), flowers, plants, and/or merchandise are provided to the public with or without charge. The provisions of this chapter shall not apply to mobile caterers, generally defined as person(s) engaged in the business of transporting food and beverages in motor vehicles to residential, business, and industrial establishments pursuant to prearranged schedules, and dispensing items from the vehicles for retail sale to the personnel of such establishments.

L. "Vending" means the commercial sale of food, beverages (excluding alcohol), flowers, plants, and/or merchandise only from a sidewalk vending unit upon public right-of-ways of the city of Auburn. "Vending" does not include alcohol as defined in RCW 66.04.010, tobacco, firearms, munitions, or any article which a minor is prohibited by law from purchasing, or any materials restricted by the fire code from direct access or handling by the public. (Ord. 6125 § 1, 2007.)

## 12.60.020 Right-of-way use permit application process and fee.

A. The city engineer or designee, herein referred to as "the city," shall establish policies and procedures to administer the permit program.

B. Applicants shall submit a complete application form to the city requesting the use of a specific location of right-of-way for a specific period of time. In addition to the information required in the application, the applicant may be required to submit ~~, in addition to the application form,~~ any documents the city deems necessary to perform an accurate evaluation of the right-of-way use permit application.

C. Decisions regarding issuance, renewal, denial, or termination of any such permits shall be subject to insurance requirements, bond requirements, indemnification and hold harmless agreements, the capacity of the rights-of-way to accommodate the applicant's proposed facilities or use, evaluation of competing public interest, and other administrative details determined and administered by the city.

D. As part of a complete right-of-way use permit application, the applicant shall submit to the city ~~right-of-way use permit fees, including~~ a non-refundable application fee, as set forth in the city of Auburn fee schedule, at the time of application. ~~; provided, however, bona fide governmental agencies of the federal government or the state of Washington or subdivisions thereof shall be exempt from payment of said fee. Type D hauling P~~permits may~~will~~ require additional fees, depending on the proposed use, to be paid, per the city of Auburn fee schedule, before the permit can be issued. All fees are non-refundable.

E. If insurance is required as a condition of approval, the insurance guidelines in 12.66 ACC~~city policy~~ shall apply unless otherwise established by the city.

F. Applications that include parking, road, or sidewalk impacts, that, as determined by the City Engineer, require a parking plan, traffic control plan, or pedestrian detour plan, require an additional application fee per the city of Auburn fee schedule.

G. If the applicant does not take action in good faith, the application will be considered abandoned after 180 days of non-action.

H~~F~~. Conditions of approval will be identified during the city's review of the application and may include a certificate of insurance, indemnification and hold harmless agreement, traffic control plan, performance bond, time and use restrictions, video data, status reports, restoration of disturbed right-of-way features, contract for a uniformed police officer to provide required traffic control, other city permits such as building permits, or any other requirements the city deems necessary to protect the right-of-way and public health, safety, and welfare. (Ord. 6125 § 1, 2007; Ord. 5298 § 1, 1999; Ord. 5042 § 1 (Exh. D), 1998; Ord. 5005 § 2, 1997; Ord. 4767 § 1, 1995; Ord. 4239 § 1, 1987; Ord. 3351 § 3, 1978.)

## 12.60.025 Right-of-way use permit types.

There are four types of right-of-way use permits.

A. Type A is a short-term permit for 14 days or less, which allows the applicant to display a banner at a specific location as described in ACC 12.60.030.

B. Type B is a short-term permit for uses of less than 30 days as described in ACC 12.60.040.

C. Type C is a long-term permit for uses of 30 days to five years as described in ACC 12.60.050.

D. Type D is used for hauling or moving loads on city rights-of-way, as described in ACC 12.60.060, and can be short-term, less than 30 days, or long-term, 30 days to five years. (Ord. 6125 § 1, 2007.)

## 12.60.030 Type A street banner permit.

A. Other than where the city itself places a banner across a right-of-way, only organizations co-sponsoring community events or special events with the city may be entitled to apply for a right-of-way use permit for a banner; provided, that the co-sponsor shall meet all of the following criteria:

1. An Auburn-based organization;

2. Nonpolitical in nature;

3. A nonprofit organization (having obtained IRS certification as tax exempt under 26 U.S.C. 501(CC)(3)) or government entity;

4. An organization that does not discriminate in regard to race, ethnicity, religion, color, gender, sexual orientation, national origin, creed, age, marital status, veteran status, disability status, or any other basis prohibited by federal, state, or local law.

B. Qualified applicants may display temporary banner signs. These signs shall not advertise or promote the sale of any product, commodity, or service for which a person pays a fee except a nonprofit community event.

C. In the event that there is a competing interest of qualified applicants for such a right-of-way use permit for a banner, the city shall give priority to community events. For organizations not advertising a community event, each qualified applicant may display banners for a maximum of two seven-day periods within any calendar year. In the event of a schedule conflict between a community event and another application, the community event shall take precedence.

D. Banners shall conform to the city's standard detail for banners and shall be erected by the city on city-approved support standards at a city-designated location. (Ord. 6125 § 1, 2007; Ord. 5784 § 2, 2003; Ord. 5298 § 1, 1999; Ord. 5042 § 1 (Exh. D), 1998; Ord. 4767 § 1, 1995; Ord. 4106 § 1, 1986.)

## 12.60.040 Type B short-term permit.

A. Type B is a short-term permit for uses of less than 30 days.

B. Type B permit uses include, but are not limited to, right-of-way closures for sidewalk sales, rallies, block parties, or other similar events and placement of storage containers or dumpsters in the right-of-way when not otherwise authorized as part of a permitted construction activity.

~~C. In the event a Type B permit involves a street, sidewalk, or parking closure, additional fees are required per the city of Auburn fee schedule.~~

C~~D~~. Issuance of right-of-way use permits that involve downtown, community impacts, full street closures, or uses with policy implications shall require approval of the city engineer.

D~~E~~. Applicant shall be an individual or organization that does not discriminate in regard to race, ethnicity, religion, color, gender, sexual orientation, national origin, creed, age, marital status, veteran status, disability status, or any other basis prohibited by federal, state, or local law. (Ord. 6532 § 17, 2014; Ord. 6125 § 1, 2007; Ord. 5298 § 1, 1999; Ord. 5042 § 1 (Exh. D), 1998.)

## 12.60.050 Type C long-term permit.

A. Type C is a long-term permit for uses of 30 days to five years.

B. Type C permit uses include, but are not limited to, ~~installation of~~ groundwater monitoring wells, landscaping, fences, awnings, canopies, balconies, underground storage tanks, bus shelters, underground or overhead facilities such as fiber optic cables or utility vaults except when a franchise ~~or public way agreement~~ applies, use of the right-of-way to paint or repair a building or to stage for construction unless provided for in a construction or development permit, sidewalk cafes and other outdoor seating, and sidewalk vending units.

~~C. In the event a Type C permit involves a street, sidewalk, or parking closure, additional fees are required per the city of Auburn fee schedule.~~

C~~D~~. Issuance of right-of-way use permits that involve downtown, community impacts, full street closures, or uses with policy implications shall require approval of the city engineer.

D. For the purpose of determining permit fees, Type C permits are categorized as either surface encroachments or non-surface encroachments. Surface encroachments are uses occupying any portion of the right-of-way from ground level to 7-feet 5-inches above ground level, regardless if a portion of the utilized right-of-way is above or below this range. Non-surface encroachments are uses that do not occupy any portion of the area defined as a surface encroachment.

E. Applicant shall be an individual or organization that does not discriminate in regard to race, ethnicity, religion, color, gender, sexual orientation, national origin, creed, age, marital status, veteran status, disability status, or any other basis prohibited by federal, state, or local law. (Ord. 6532 § 18, 2014; Ord. 6125 § 1, 2007.)

## 12.60.060 Type D hauling permit.

A. The city requires any person, company, corporation, enterprise or entity operating a vehicle over the state's legal load or size limit on the public rights-of-way to obtain a permit for overweight or oversize hauling. The permit shall mitigate impacts to said rights-of-way by addressing public safety, environmental, traffic, noise, unusual wear and tear, or other impacts to the rights-of-way.

B. The city, with respect to rights-of-way within the city's jurisdiction, may restrict or prohibit the operation thereon of trucks or any other vehicles, except school buses, public transit and emergency vehicles, or may impose weight limits, determine haul routes for local trips, or place any other restrictions as may be deemed necessary, including when the city determines that any right-of-way would be seriously damaged or destroyed by climatic conditions, deficient structural integrity, or any other conditions if unrestricted use is continued.

In the event the city determines the project, program, or activity for which the person, company, corporation, enterprise or entity is using said rights-of-way will create unusual wear and tear on the right-of-way, or significant impacts to public safety, the environment, traffic, and noise, and for all projects that require mitigation of hauling and related impacts within the city, the person, company, corporation, enterprise or entity using the right-of-way may request a right-of-way use permit, which identifies the specific restrictions, prohibitions, and conditions of use. In addition to the potential conditions listed in ACC 12.60.020(F), said permit may include conditions for mitigation necessitated by the impacts of the project, program, or activity, which shall include, but not be limited to, any mitigation set out in the contract or bid documents, or other review documents, or as may be otherwise required for said project, program, or activity.

C. The city shall not, however, prohibit the use of any city street designated a part of the route of any primary state highway through any such incorporated city or town by vehicles or any class of vehicles or impose any restrictions or reductions in permissible weights unless such restriction, limitation, or prohibition, or reduction in permissible weights be first approved in writing by the department of transportation (RCW 46.44.080). (Ord. 6125 § 1, 2007.)

## 12.60.070 Right-of-way use permit term, extension, renewal and termination.

A. No permit term shall exceed five years unless it has been approved by the full council.

B. The city has authority to grant a single 30-day extension to the applicant upon receipt of a written request, absent any known reasons for denial. Extensions of right-of-way use permits that involve downtown, community impacts, full street closures, or uses with policy or broad citywide implications shall require approval of the city engineer and may require additional fees.

C. Once a permit has expired or been revoked, the permit is not eligible for renewal and the applicant must apply for a new permit if continued use of the right-of-way is desired. Only Type C permits may be renewed. Permit renewal requires a new, complete application as determined by the city to be submitted; however, if the

complete application is submitted to the city prior to the permit expiration, the application fee will be waived. No permit shall be automatically renewed.

D. All right-of-way use permits are wholly of a temporary nature, and vest no permanent rights whatsoever.

E. Right-of-way use permits are approved for the location and applicant listed on the permit and cannot be transferred for another location or for another applicant unless first approved by the city.

F. The city shall have the authority to restrict, suspend, or revoke a permit upon 30 days' notice; provided, however, the city shall have the authority to immediately suspend or revoke a permit without such notice in situations that present, in the city's determination, a health or safety hazard or constitute a public nuisance. The grounds for restricting, suspending, or revoking a right-of-way use permit shall include, but not be limited to:

1. Any other license or permit that the applicant is required to have for the same use as the right-of-way use permit is not acquired or is suspended, revoked, or canceled.

2. The applicant has violated or failed to meet any of the provisions of this chapter or is in violation of any other ordinances or regulations of the city relating to the use by the applicant for which the permit is applied for or issued.

3. The applicant has failed to meet the conditions of the permit.

4. The use for which the permit was approved has changed.

5. The permit was procured by fraud or misrepresentation of fact or was issued in error or on the basis of incorrect information supplied to the city.

6. The abutting property owner or legal representative withdraws consent in writing for a sidewalk vending unit. (Ord. 6532 § 19, 2014; Ord. 6125 § 1, 2007.)

## 12.60.080 Correction and discontinuance of unsafe, nonconforming, noncompliant or unauthorized conditions.

A. Whenever the city determines that any condition on any right-of-way is in violation of, or any right-of-way is being used contrary to, any provision of this code or procedures adopted hereunder or other applicable codes or standards, or without a right-of-way use permit, the city may order the correction or discontinuance of such condition or any activity causing such condition.

B. The city is authorized to order correction or discontinuance of any such condition or activities following the methods specified in procedures adopted pursuant to this code.

C. The city shall also have all powers and remedies which may be available under state law, this code, and procedures adopted hereunder for securing the correction or discontinuance of any condition specified in this section.

D. The city is authorized to use any or all of the following methods in ordering correction or discontinuance of any such conditions or activities as the city determines appropriate:

1. Serving of oral or written directives to the permittee or other responsible person requesting immediate correction or discontinuance of the specified condition;

2. Serving of a written notice of violation, ordering correction or discontinuance of a specific condition or activity within 10 days of notice, or such other reasonable period as the city may determine;

3. In the event the permittee fails to correct or discontinue the condition or activity within the specified period of time after receiving notice, the city shall have the authority to remove the structure and the cost of removal shall become a lien against the private property adjoining the right-of-way where the structure was removed; provided, that private property is owned by the permittee. The lien so created shall be subject to foreclosure pursuant to the foreclosure laws of the state;

4. Revocation of previously granted permits where the permittee or other responsible person has failed or refused to comply with requirements imposed by the city related to such permits;

5. Issuance of an order to immediately stop work until authorization is received from the city to proceed with such work;

6. Any object or thing which shall occupy any right-of-way without a permit is declared a nuisance. The city may attach a notice to any such object stating that if it is not removed from the right-of-way within 24 hours of the date and time stated on the notice, the object or thing may be taken into custody and stored at the owner’s expense. The notice shall provide an address and phone number where additional information may be obtained. If the object is a hazard to public safety, it may be removed summarily by the city. Notice of such removal shall be thereafter given to the owner, if known. This section does not apply to motor vehicles;

7. All expenses incurred by the city in abating the condition or any portion thereof shall constitute a civil debt owing to the city jointly and severally by such persons who have been given notice or who own the object or placed it in the right-of-way, which debt shall be collectible in the same manner as any other civil debt;

8. The city shall also have all powers and remedies which may be available under law, this code and procedures adopted hereunder for securing the correction or discontinuance of any conditions specified by the city. (Ord. 6125 § 1, 2007.)

ENGINEERING SERVICES

# ORDINANCE 6795 – ROW USE PERMITS CODE UPDATE

JACOB SWEETING, CITY ENGINEER

CITY COUNCIL STUDY SESSION
OCTOBER 12, 2020

Public Works Department
Engineering Services • Airport Services • Maintenance & Operations Services

AUBURN VALUES

SERVICE
ENVIRONMENT
ECONOMY
CHARACTER
SUSTAINABILITY
WELLNESS
CELEBRATION

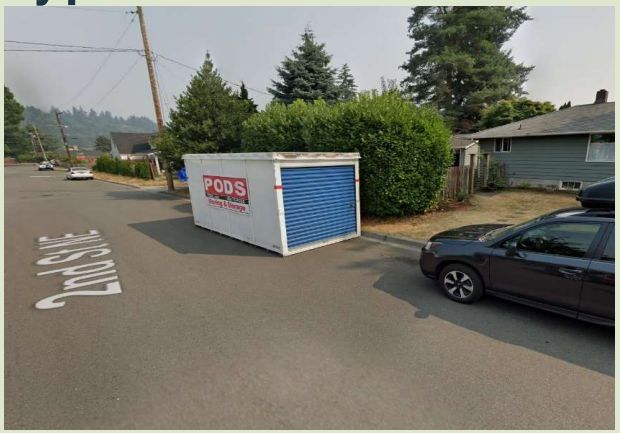
# ORDINANCE 6795 – CODE REVISIONS

- Chapter 12.60 of the Auburn City Code (ACC Chapter 12.60 ACC) establishes the rules and regulations for controlling and enforcing right-of-way uses of the City Right-of-Way
- Changes are being proposed to the City fee schedule and permit structure
- Revisions are needed to ACC Chapter 12.60 ACC to support the proposed changes
- Additional revisions are needed to ACC Chapter 12.60 ACC to address and improve current permitting practices and to modernize portions of the code.

# ROW USE PERMIT - CURRENT STRUCTURE

## Type A – Banner

## Type B – Short Term




## Type C – Long Term

- Type D – Hauling Permit
- Full permit fee due with application (no application fee)
- Additional fee for street, parking, and sidewalk closures

# ROW USE PERMIT - PROPOSED STRUCTURE

## Type C – Long Term

### Surface Encroachment

### Non-Surface Encroachment

- Application fee due with application
- Permit fee due upon approval prior to permit issuance.
- Additional fee for review of street, parking and sidewalk closure plans.

# ROW USE PERMIT – PROPOSED FEES

| | 2020 Fee | Proposed 2021 Application Fee | Proposed 2021 Permit Fee |
|---|---|---|---|
| Type A – Banner (Permit and Application Fee) | $56.00 | $60.00 | Incl. w/App Fee |
| Type B – Short Term (Permit and Application Fee) | $66.00 | $60.00 | Incl. w/App Fee |
| Type C – Long Term (Non-Surface Encroachment) | $275.00 for 1st year, $110.00 each add. year | $250.00 | $60.00 per year |
| Type C – Long Term (Surface Encroachment) | $275.00 for 1st year, $110.00 each add. year | $250.00 | $120.00 per year |
| Type D – Haul Permit | $110.00 + Field Staff Support Time If Needed | $117.00 | Field Staff Support Time If Needed |
| Street, Sidewalk, Parking Closure – Plan Review | $66.00 | $106.00 | N/A |

# NEXT STEPS/QUESTIONS

- Proposed Schedule:
  - Ordinance 6795 at Council – October 19, 2020
  - Cost Recovery Discussion –October 26, 2020
  - Fee Schedule Adoption – November 2, 2020
- Questions?

# AGENDA BILL APPROVAL FORM

**Agenda Subject:**
Resolution No. 5554 (Gaub)(10 Minutes)

**Date:**
October 6, 2020

**Department:**
Public Works

**Attachments:**
Resolution No. 5554 with Exhibit A
MOU, Auburn Way South City Projects

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

**Administrative Recommendation:**

For discussion only.

**Background Summary:**

Staff will provide background and discussion regarding Resolution 5554 that authorizes the Mayor to enter into a partnership with the Muckleshoot Indian Tribe (MIT) for the purposes of implementing non-motorized improvements on, and along, SR 164. The resolution authorizes execution of a memorandum of understanding (MOU) with MIT and subsequent funding agreements with MIT in accordance with the MOU and as authorized by ACC 3.10.010.

The MOU provides the framework for MIT to provide funding and support for City projects on, and adjacent to, Auburn Way South. The first project anticipated to be pursued under the MOU is the Riverwalk Drive Sidewalk Project which is Project N-9 in the City's adopted transportation improvement plan (TIP). This project would construct sidewalks on the east side of Riverwalk Drive from Howard Road to Auburn Way South and also install an enhanced pedestrian crossing at Howard Road. Other City projects that could receive funding and support include filling the gap in sidewalks on the south side of Auburn Way South from the R Street Bridge to the Muckleshoot Plaza (TIP Project N-7) and the Auburn Way South widening project from Hemlock Drive to Poplar Street SE (TIP Project R-6). The MOU also provides the framework for the City to provide support for projects pursued by MIT, including a trail project that would construct non-motorized connections on, and along, SR 164 from the MIT center at SE 392nd to Poplar Street SE. The MIT trail project would likely be implemented in several phases starting from the Tribal center and then expanding west.

Resolution 5554 is scheduled to be considered at the October 19th City Council meeting.

**Reviewed by Council Committees:**

**Councilmember:** Brown
**Staff:** Gaub
**Meeting Date:** October 12, 2020
Item Number:

**RESOLUTION NO. 5554**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF AUBURN AND THE MUCKLESHOOT INDIAN TRIBE TO ESTABLISH A PARTNERSHIP FOR IMPLEMENTING NON-MOTORIZED IMPROVEMENTS ON AND ADJACENT TO STATE ROUTE-164

WHEREAS, the City's 2015 Comprehensive Plan has adopted a policy to improve the overall quality of life for Auburn residents through the design and construction of non-motorized facilities; and

WHEREAS, the Muckleshoot Indian Tribe ("MIT") also values contributing to the quality of life of its members, neighbors, and partners in the City; and

WHEREAS, a trails and sidewalk system will provide safe and effective non-motorized transportation facilities on, along, and adjacent to SR-164, improving the quality of life and public safety for both MIT and the residents of the City; and

WHEREAS, cooperation and partnership between the MIT and the City on projects that provide safe and effective non-motorized facilities on, along, and adjacent to SR-164 (Projects) is needed to provide funding for the Projects; and

WHEREAS, cooperation and partnership between the MIT and the City on Projects will help provide a sidewalk and trail system that meets the needs of MIT and the City; and

WHEREAS, the MIT and City are willing to commit funding and staff resources to the Projects as approved through the inclusion of the Projects in the respective MIT and City budgets; and

WHEREAS, the MIT and the City are authorized to enter into this MOU and subsequent agreements under RCW 39.34.030.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, HEREBY RESOLVES as follows:

**Section 1.** The Mayor is authorized to execute a Memorandum of Understanding (MOU) with the Muckleshoot Indian Tribe related to forming a partnership for implementing projects the improve non-motorized transportation on, and adjacent to, SR-164, which MOU will be in substantial conformity with the MOU attached as Exhibit A.

**Section 2.** The Mayor is authorized to execute funding agreements with the Muckleshoot Indian Tribe in the general form of the agreement included as Exhibit A in the MOU for projects that support the intent of the MOU and for which the Mayor has the authority to enter into agreements per ACC 3.10.010.

**Section 2.** The Mayor is authorized to implement those administrative procedures necessary to carry out the directions of this Resolution.

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**Section 3.** This Resolution will take effect and be in full force upon passage and signatures.

Signed _____.

CITY OF AUBURN

_____
NANCY BACKUS, MAYOR

ATTEST:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Kendra Comeau, City Attorney

# MEMORANDUM OF UNDERSTANDING BETWEEN THE MUCKLESHOOT INDIAN TRIBE AND THE CITY OF AUBURN ESTABLISHING A PARTNERSHIP FOR MAKING NON-MOTORIZED IMPROVEMENTS ON AND ALONG SR-164

## 1. Parties

This memorandum of understanding ("MOU") is made and entered between the CITY OF AUBURN, (the "City") and the MUCKLESHOOT INDIAN TRIBE OF WASHINGTON ("MIT") (collectively, the "Parties" and individually, "Party").

## 2. Background

On Thursday, December 5th 2019, City and MIT elected officials and staff met to discuss various topics including the need for non-motorized improvements on, and along SR-164. The City presented a brief history and summary of accidents along SR-164 involving pedestrians and bicyclists. The Parties expressed a shared interest in working together to develop, fund, and construct improvements that would help make the areas on, and along SR-164 more safe for non-motorized travel. On December 16th, 2019, City and MIT staff met to discuss needs for projects to improve non-motorized travel and how these projects could be developed, prioritized, and funded. The Parties agreed that a Memorandum of Understanding could be developed to serve as a guideline for how the Parties would work together to make non-motorized improvements on, and along, SR-164.

## 3. Purpose

The goal of the MOU is to establish a working partnership that fosters collaboration between the Parties to achieve the Parties' common aim to make improvements that support non-motorized travel on, and along SR-164 between M Street SE in Auburn and SE 400th Street in Unincorporated King County.

## 4. Project Workgroup

This MOU establishes a working group consisting of City and MIT staff that will meet on at least a quarterly basis to discuss non-motorized needs on , and along SR-164, potential projects to meet those needs, prioritization of those projects, potential funding mechanisms and opportunities for the projects, and a plan for implementing the projects. The workgroup will summarize its discussions to the City and Tribal Councils at least once per year. The workgroup will prepare project specific agreements between the Parties as needed to establish project funding terms and present the agreements to the City and Tribal Councils for review, discussion, and approval. The Parties anticipate that some projects will be funded by both Parties and some projects will be funded by only the City or only MIT. The workgroup will facilitate the preparation and submittal of joint grant applications on behalf of the Parties for projects. The workgroup will facilitate the

preparation of support letters from the Parties as needed to support grant applications for projects.

**5. Funding Agreements**

Agreements to provide funding for projects will be in the general form of the attached Exhibit A.

**6. Support Letters**

Support letters for project grant applications will be in the general form of the attached Exhibit B.

IN WITNESS TO THE TERMS OF THIS MOU, the parties have agreed to this MOU:

| MUCKLESHOOT INDIAN TRIBE | CITY OF AUBURN |
|---|---|
| _____ | _____ |
| Chairperson<br>Muckleshoot Tribal Council | Nancy Backus, Mayor |
| Date: _____ | Date: _____ |
| | APPROVED AS TO FORM: |
| | _____ |
| | Kendra Comeau, City Attorney |
| | Date: _____ |

# EXHIBIT A

INTERLOCAL AGREEMENT BETWEEN THE MUCKLESHOOT INDIAN TRIBE AND THE CITY OF AUBURN FOR SIDEWALKS AND TRAILS ON AND ALONG SR-164

This Interlocal Agreement ("Agreement") is made and entered between the CITY OF AUBURN, (the "City") and the MUCKLESHOOT INDIAN TRIBE OF WASHINGTON ("MIT") (collectively, the "Parties" and individually, "Party").

Draft

## RECITALS

1. The City's 2015 Comprehensive Plan has adopted a policy to improve the overall quality of life for Auburn residents through the design and construction of non-motorized facilities.

2. The MIT values contributing to the quality of life of its citizens and neighbors.

3. A trails and sidewalk system that would provide safe and effective non-motorized transportation facilities on, along, and adjacent to SR-164, improves the quality of life and public safety for both MIT and the residents of the City.

4. Cooperation and partnership between the MIT and the City on projects that provide safe and effective non-motorized facilities on, along, and adjacent to SR-164 (Projects) is needed to provide funding for the Projects.

5. Cooperation and partnership between the MIT and the City on Projects will help provide a sidewalk and trail system that meets the needs of MIT and the City.

6. The MIT and City are willing to commit funding and staff resources to the Projects.

7. The MIT and the City are authorized to enter into this Agreement under RCW 39.34.030.

## AGREEMENT

In consideration of the mutual covenants, conditions, and promises, contained in this Agreement, the parties agree as follows:

1. SCOPE OF SERVICES.

The MIT and the City agree to jointly plan, design, and construct of the projects listed on attached Attachment A to provide non-motorized facilities on, along, and adjacent to SR-164. Changes or additions to the Projects require amendment to this agreement.

2. ROLES AND RESPONSIBILITIES

Roles and responsibilities for each project are as listed on Attachment A and as defined below:

2.1 Lead: The lead agency shall be responsible for obtaining all necessary permits and/or agreements and for accomplishing all aspects of the Scope of Work set out in paragraph 1 above. The lead agency be the contracting agent responsible for managing contracts with design and construction professionals. The lead agency shall remain responsible for the proper design of the project. The lead agency shall be responsible for the actual construction of the project, and assuring that construction of the project is complete pursuant to the contract terms and consistent with the terms of this Agreement. The lead agency will provide the support agency with the opportunity to review project plans and to provide comment on the project design.

2.2 Support: The support agency will attend project meetings to provide input to the lead agency regarding project design. The support agency shall have the opportunity, but not the duty, to review project plans prior to the time that such documents are considered final by the lead agency. The support agency shall provide its comments, within thirty (30) calendar days of the date that the documents are submitted to the support agency for review. The support agency will provide support letter(s) to the lead agency to support the lead agency's efforts to secure grants and partnerships.

3 COST REIMBURSEMENT AND FUNDING

3.1. Project Costs and Responsibilities: The responsibility for paying all costs associated with each Project shall be with the lead agency. Projects Costs include, but are not limited to, the following: design engineering, right-of-way acquisition, construction, permitting, inspection, contract administration services, and other cost items agreed to by the parties. The support agency agrees to provide funding or other support as specified on attached Attachment A, provided that, such funding obligation shall be conditioned on the support agency's issuance of a final funding commitment letter approving the Project design, and completion of the Project in substantial conformance with the approved design.

3.2. Invoicing and Fund Distribution: Upon completion of the Work, the lead agency shall submit one inclusive first and final itemized invoice to the support agency, for the lead agency's actual direct and related indirect costs incurred associated with performance of the Project, up to the amount specified on Attachment A. The support agency shall provide payment in full within sixty (60) calendar days upon receipt of the itemized invoice.

## 4 INDEMNIFICATION

The Party acting as lead agency ("Lead Agency") shall indemnify and hold the Party acting as supporting agency ("Supporting Agency")and its agents, employees, and/or officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the Supporting Agency arising out of, in connection with, or incident to the Lead Agency'ss actions as the Lead Agency for its Project; provided, however, that if such claims are caused by or result from the concurrent negligence of the Supporting Agency, its agents, employees, and/or officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Lead Agency; and provided further, that nothing shall require the Lead Agency to hold harmless or defend the Supporting Agency, its agents, employees and/or officers from any claims arising from the sole negligence of the Supporting Agency, its agents, employees, and/or officers. No liability shall attach to the Parties by reason of entering into this Agreement except as expressly provided.

Should a court of competent jurisdiction determine that RCW 4.24.115 applies to this Agreement, then the Parties agree to defend, indemnify and hold each other their officers, officials, employees and volunteers harmless to the maximum extent permitted thereunder. It is further specifically and expressly understood that the indemnification provided herein constitutes the Parties' waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

## 5 COMPLIANCE WITH REGULATIONS AND LAWS

The parties shall comply with all applicable rules and regulations pertaining to them in connection with the matters covered in this Agreement.

## 6 ASSIGNMENT

The parties shall not assign this Agreement or any interest, obligation or duty therein without the express written consent of the other party.

## 7 WAIVER OF SOVEREIGN IMMUNITY

MIT expressly, unequivocally, and irrevocably agrees to a limited waiver of sovereign immunity. The waiver is limited: (1) to actions brought by the Parties to this Agreement (City and MIT); (2) for breach, termination, enforcement of contract provisions, interpretation, validity thereof, including the determination of the scope or applicability of this Agreement and the performance of any duties or responsibilities performed under this Agreement; (3) to the extent allowed by law, for actual damages, that is, each Party waives the right to consequential or punitive damages; (4) to determine applicable laws; and, (5) to all actions necessary to enforce judgments entered with respect to the enforcement of this Agreement if not otherwise prohibited by law. This limited waiver is available solely to claims by City, its employees, and agents, and not by any other entity, entities, or any individual or third party, not a Party to this Agreement. Notwithstanding any other provision in this Agreement, this limited waiver of sovereign immunity is limited to the extent of MIT's contributions, roles, responsibilities under this Agreement, performance of duties including the plan, design, and construction of projects listed on Attachment A whether by MIT, its employees, agents, to the extent of any applicable insurance coverage.

MIT consents to the jurisdiction of the Washington State Superior Court in the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement; the Parties further agree that any such action or proceedings shall be brought in the superior court situated in King County, Washington. MIT agrees that it will not raise sovereign immunity as a defense in any judicial action brought by the City to enforce this provision or any term under this contract with respect to claims within the scope of the limited waiver of sovereign immunity provided herein..

## 8 ATTORNEY'S FEES

If either party shall be required to bring any action to enforce any provision of this Agreement, or shall be required to defend any action brought by the other party with respect to this Agreement, and in the further event that one party shall substantially prevail in such action, the losing party shall, in addition to all other payments required therein, pay all of the prevailing party's reasonable costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorney's fees in trial court and in appellate courts.

## 9 OWNERSHIP AND USE OF DOCUMENTS.

All documents, reports, memoranda, diagrams, sketches, plans, surveys, design calculations, working drawings and any other materials created or otherwise prepared by either party as part of its performance of this Agreement shall be owned by and become the property of that party, and may be used by that party for any purpose.

## 10 RECORDS INSPECTION AND AUDIT.

The MIT shall maintain books, records, documents, correspondence and other evidence pertaining to the costs and expenses of the City Project (hereinafter referred to collectively as "the records"), to the extent and in such detail as will properly reflect all costs, direct and operating, of acquisition of real estate and of labor, materials, equipment, supplies and services and other costs and expenses of whatever nature for which reimbursement shall be provided by the City. The books and records required under this Section shall be maintained in accordance with generally accepted accounting standards. The MIT shall retain the records and make them available for audit for a period of six (6) years after final payment is made by the City pertaining to the MIT Project.

SAMPLE

11 NOTICES

All notices and payments hereunder may be delivered or mailed. If mailed, they shall be sent to the following respective addresses:

To the CITY: City of Auburn
Public Works Director
25 West Main Street
Auburn, WA 98001
253-931-3010

To the MIT: Muckleshoot Indian Tribe

39015 172nd Ave. S.E.
Auburn, WA 98092
253-xxx-xxxx

or to such other respective addresses as either party may from time to time designate in writing. All notices and payments mailed by regular post (including first class) shall be deemed to have been given on the second business day following the date of mailing, if properly mailed and addressed. Notices and payments sent by certified or registered mail shall be deemed to have been given on the day next following the date of mailing, if properly mailed and addressed. For all types of mail, the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing.

12 NONDISCRIMINATION

The City for itself, its heirs, personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree that it will comply

with pertinent statues, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sexual orientation, sex, age, or the presence of any sensory, mental or physical handicap be discriminated against or receive discriminatory treatment.

13 TERMINATION.

Neither the MIT or City may terminate this agreement without the written concurrence of the other party.

14 MISCELLANEOUS

14.1. All of the covenants, conditions and agreements in this Agreement shall extend to and bind the legal successors and assigns of the parties.

14.2. This Agreement shall be deemed to be made and construed in accordance with the laws of the State of Washington. Jurisdiction and venue for any action arising out of this Agreement shall be in the county of Washington State in which the property or project is located, and if not site specific, then in King County, Washington.

14.3. The captions in this Agreement are for convenience only and do not in any way limit or amplify the provisions of this Agreement.

14.4. The duration of this Agreement shall be for the period of time it reasonably takes for the performances by the parties as contemplated herein.

14.5. No separate legal entity is created hereby. The identity of the parties hereto is as set forth hereinabove.

14.6. The performances of the duties of the parties provided hereby shall be done in accordance with standard operating procedures and customary practices of the parties.

14.7. Unless a joint oversight and administration board is created as provided herein, the oversight and administration of the Agreement shall be by the respective named representatives identified in Paragraph **11** hereof, or their designees.

14.8. No provision of this Agreement shall relieve either party of its obligations and or responsibilities imposed by law.

14.9. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable by a final decision of any court having jurisdiction on the matter, the remainder of this Agreement or the application of such term or provision to persons or circumstances

other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect, unless such court determines that such invalidity or unenforceability materially interferes with or defeats the purposes hereof, at which time the City shall have the right to terminate the Agreement.

14.10. This Agreement constitutes the entire agreement between the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modifications or amendments of this Agreement shall be valid or effective unless evidenced by an agreement in writing signed by both parties.

14.11. Counterparts: This Agreement may be executed in multiple counterparts, each of which shall be one and the same Agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

SAMPLE

IN WITNESS TO THE TERMS OF THIS AGREEMENT, the parties have executed this Agreement:

# Attachment A – Projects and Responsibilities

| Project Name | Description | Lead Agency | Support Agency | Support Agency Contribution |
|---|---|---|---|---|
| Riverwalk Sidewalks – Auburn Way South to Howard Rd | New 5’ wide sidewalks along the east side of Riverwalk Drive from Howard Rd to Auburn Way South and Rectangular Rapid Flashing Beacon (RRFB) crossing at Howard Rd. | City | MIT | $500,000.00 and project review support not to exceed 50 staff hours |
| MIT Trail Project | MIT To provide description | MIT | City | Project review support not to exceed 50 staff hours |

SAMPLE

October 20, 2011

Matthew Enders, PE
WSDOT Highways & Local Programs Division
PO Box 47390
310 Maple Park Avenue SE
Olympia, WA 98504-7390

Dear Matthew:

The Muckleshoot Indian Tribal (MIT) Council is pleased to be a supporter and partner in the City Safety program grant application with the City of Auburn. The Auburn Way South SR-164 (AWS) Corridor Safety proposal includes vital safety improvements that complement ongoing construction projects and complete the safety improvement planning for AWS between Muckleshoot Plaza and Hemlock St SE.

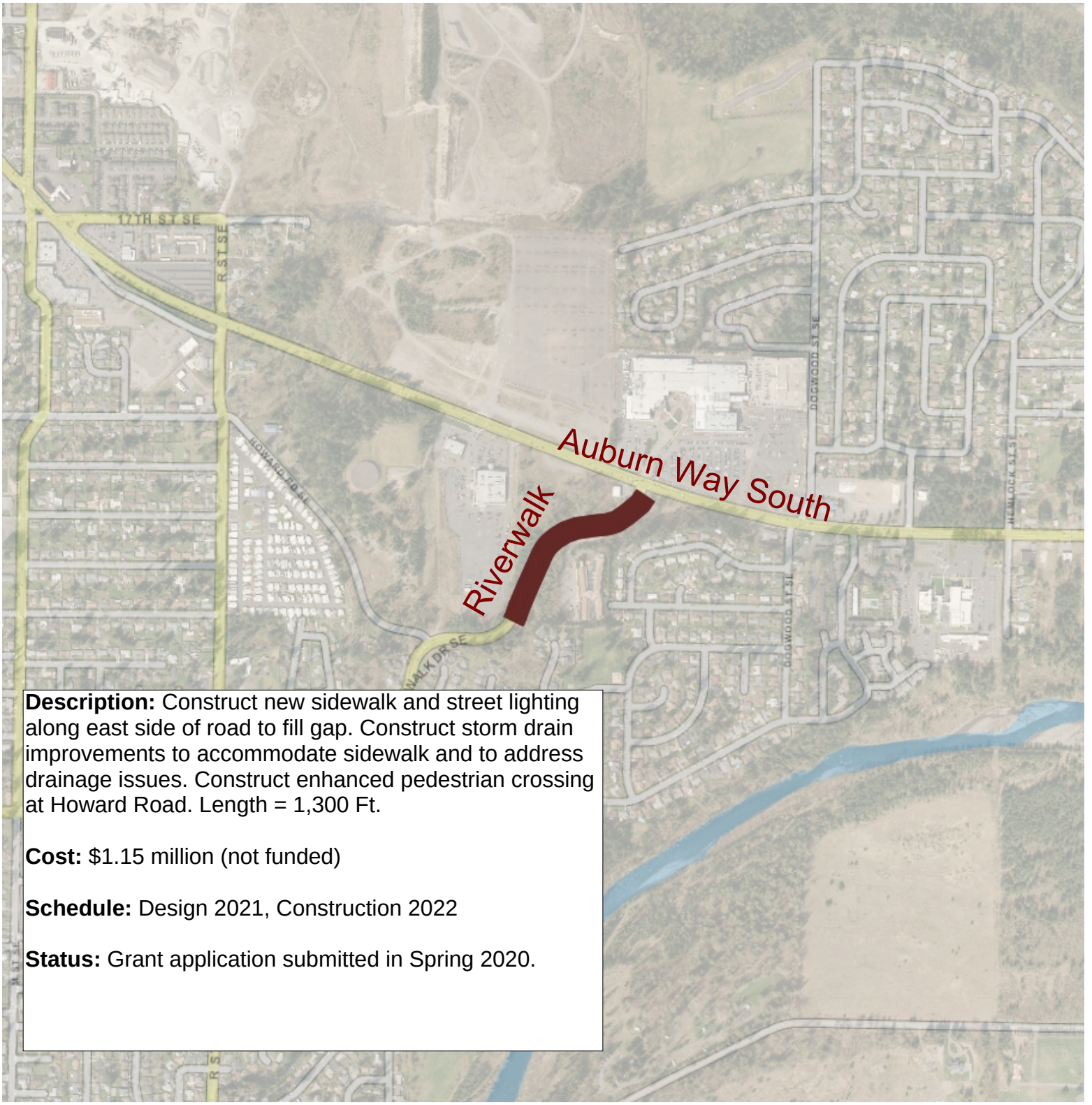
The City of Auburn and the Muckleshoot Indian Tribe have worked cooperatively with WSDOT over the past couple years to develop a comprehensive corridor improvement plan that will greatly enhance the safety of this high accident route. Currently, the City and MIT are partnering in the design and construction of two other segments of this corridor and we are hopeful that with the award of this grant the final segment of this planning effort can be realized.

Thank you in advance for your time and consideration.

Sincerely,

Muckleshoot Tribal Chair

# Riverwalk Dr. SE Non-Motorized Improvements




**Description:** Construct new sidewalk and street lighting along east side of road to fill gap. Construct storm drain improvements to accommodate sidewalk and to address drainage issues. Construct enhanced pedestrian crossing at Howard Road. Length = 1,300 Ft.

**Cost:** $1.15 million (not funded)

**Schedule:** Design 2021, Construction 2022

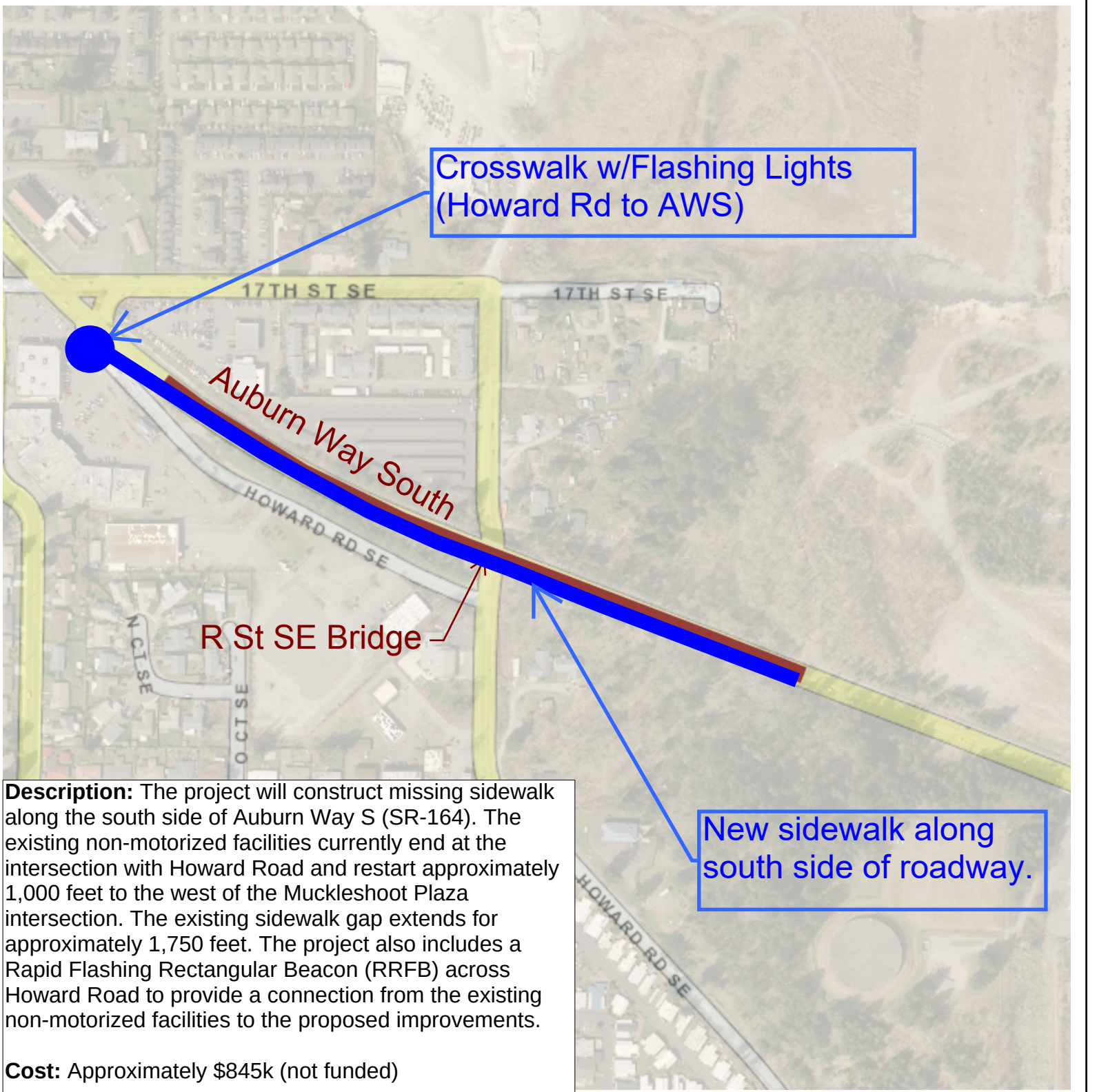
**Status:** Grant application submitted in Spring 2020.

Printed Date: 6/30/2016

Map Created by City of Auburn eGIS

Information shown is for general reference purposes only and does not necessarily represent exact geographic or cartographic data as mapped. The City of Auburn makes no warranty as to its accuracy.

# Auburn Way South - Sidewalk Improvements (South Side)




**Description:** The project will construct missing sidewalk along the south side of Auburn Way S (SR-164). The existing non-motorized facilities currently end at the intersection with Howard Road and restart approximately 1,000 feet to the west of the Muckleshoot Plaza intersection. The existing sidewalk gap extends for approximately 1,750 feet. The project also includes a Rapid Flashing Rectangular Beacon (RRFB) across Howard Road to provide a connection from the existing non-motorized facilities to the proposed improvements.

**Cost:** Approximately $845k (not funded)

**Schedule:** Design 2022, Construction 2023

**Status:** Grant application submitted Spring 2020

Printed Date: 6/30/2016

Map Created by City of Auburn eGIS

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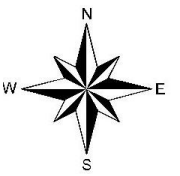
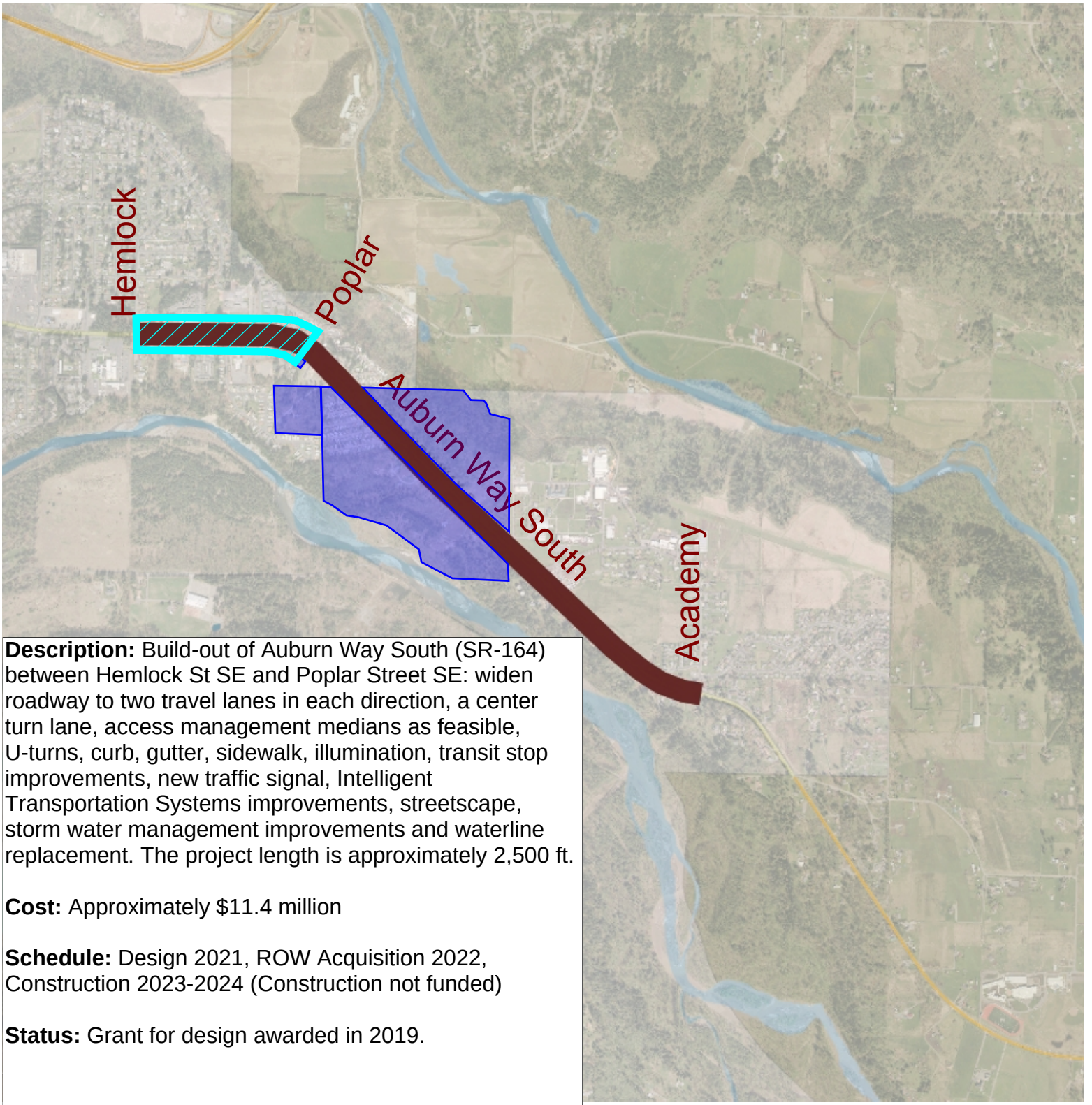


# Auburn Way South (SR-164) Corridor - Hemlock to Poplar




**Description:** Build-out of Auburn Way South (SR-164) between Hemlock St SE and Poplar Street SE: widen roadway to two travel lanes in each direction, a center turn lane, access management medians as feasible, U-turns, curb, gutter, sidewalk, illumination, transit stop improvements, new traffic signal, Intelligent Transportation Systems improvements, streetscape, storm water management improvements and waterline replacement. The project length is approximately 2,500 ft.

**Cost:** Approximately $11.4 million

**Schedule:** Design 2021, ROW Acquisition 2022, Construction 2023-2024 (Construction not funded)

**Status:** Grant for design awarded in 2019.

Printed Date: 6/30/2016

Map Created by City of Auburn eGIS

Information shown is for general reference purposes only and does not necessarily represent exact geographic or cartographic data as mapped. The City of Auburn makes no warranty as to its accuracy.

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MIT TRUST AND INDIVIDUAL TRUST PROPERTIES