	City Council Study Session Muni Services SFA **August 24, 2020 - 5:30 PM** **Virtual** **AGENDA** **Watch the meeting LIVE!** **Watch the meeting video** Meeting videos are not available until 72 hours after the meeting has concluded.

I. CALL TO ORDER

II. Virtual Participation Link

A. Virtual Participation Link

The Auburn City Council Study Session Meeting scheduled for Monday, August 24, 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/96662050752

Or join by phone:

253 215 8782
877 853 5257 (Toll Free)

Webinar ID: 966 6205 0752

B. Roll Call

III. AGENDA ITEMS FOR COUNCIL DISCUSSION

A. Ordinance No. 6776 (Gaub)(15 Minutes)

An Ordinance relating to recreational vehicle parking, amending Section 10.36.191 of the Auburn City Code

B. Ordinance No. 6781 (Tate)(30 Minutes)

An Ordinance relating to Camping and Occupying Public Property, and amending Chapters 2.22.210, 2.22.220, 9.50.020, 9.78.010, 12.32.020, 13.12.020, and 13.48.170 and adding a new Section to Chapter 9.50 of the Auburn City Code

C. Ordinance No. 6783 (Thomas)(30 Minutes)

An Ordinance amending Ordinance No. 6693, the 2019-2020 biennial budget Ordinance, as amended by Ordinance No. 6712, Ordinance No. 6719, Ordinance No. 6720, Ordinance No. 6751, and Ordinance No. 6764, authorizing amendment to the City of Auburn 2019-2020 budget as set forth in Schedule “A” and Schedule “B”

D. Ordinance No. 6785 (Thomas)(5 Minutes)

An Ordinance amending Sections 3.40.020, 3.41.010, 3.42.020, 3.84.040 and 3.88.040 of the Auburn City Code relating to the use of taxes imposed on utilities

E. Ordinance No. 6786 (Tate)(20 Minutes)

An Ordinance creating a new Chapter 5.23 of the City Code regarding a City of Auburn Rental Housing Policy

F. Ordinance No. 6788 (Thomas)(5 Minutes)

An Ordinance amending Ordinance No. 6777, extending the temporary waiver of late fees for Utility Accounts and Airport Fees, superseding certain Sections of Auburn City Code requiring payment of such late fees as set forth in Auburn City Code 12.56.045; 13.06.300; 13.06.511; 13.20.390; and 13.48.120, in light of a declared public health emergency related to COVID-19

IV. MUNICIPAL SERVICES DISCUSSION ITEMS

A. Fireworks Update (O'Neil)(30 Minutes)

V. OTHER DISCUSSION ITEMS

VI. NEW BUSINESS

VII. ADJOURNMENT

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

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 6776 (Gaub)(15 Minutes)

Date:
August 18, 2020

Department:
Public Works

Attachments:
Draft Ordinance No. 6776
Presentation Slides

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

Administrative Recommendation:

For discussion only.

Background Summary:

The Departments of Public Works, Community Development, Police, and Administration worked together to propose changes to the City code to help address issues with recreational vehicles parking within the public right-of-way.

Proposed updates to the Recreational Vehicle (RV) Parking code, ACC 10.36.191 include the following:

- Limit RV parking to 24 hours citywide within the public right-of-way
- Create a parking permit program to allow RV parking for up to 72 hours, with limitations
- Prohibit occupation of RVs overnight in the right-of-way

Ordinance 6776 may be presented to Council for action on September 8, 2020.

Reviewed by Council Committees:

Councilmember:

Staff: Gaub

Meeting Date: August 24, 2020

Item Number:

ORDINANCE NO. <u>6776</u>

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RELATING TO RECREATIONAL VEHICLE PARKING, AMENDING SECTION 10.36.191 OF THE AUBURN CITY CODE

WHEREAS, ACC 10.36.191 currently limits recreational vehicle (RV) parking in the public right-of-way to 24 hours in residential neighborhoods, and to 72 hours in non-residential areas, and does not prohibit overnight RV occupancy;

WHEREAS, the parking of RVs within any public right-of-way for more than 24 hours and overnight RV occupancy in any public right-of-way can create a public nuisance and hazard;

WHEREAS, the proposed amendment would limit RV parking in any public right-of-way to 24 hours and create a parking permit program to allow RV parking for up to 72 hours under certain conditions;

WHEREAS, the City of Auburn chooses to use enforcement as a last resort and instead will implement these standards in a manner that prioritizes a combination of education and assistance in providing the RV occupant with alternatives for relocation;

WHEREAS, the proposed amendment would create restrictions and requirements for recreational vehicles parking in the public right-of-way to reduce the likelihood of the vehicles creating a public nuisance or hazard;

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

Section 1. **Amendment to City Code.** Section 10.36.191 of the Auburn City Code is amended to read as follows:

10.36.191 Recreational vehicle parking.

A. No person shall park any recreational vehicle, as defined in ACC10.36.020, and referred to hereafter as "RV" on any ~~street, alley or~~ public right-of-way ~~in any residential neighborhood in the city~~ for more than 24 hours~~.~~ except by permit as specified herein.

B. No RV may be occupied overnight while parked in any public right-of-way.

C. The vehicle must meet all licensing requirements, pursuant to Section 10. 36.205 ACC.

D. The RV is parked such that it complies with all other City and State parking laws and regulations

E. Repair or maintenance work on any RV is prohibited while parked in the right-of-way, pursuant to Section 10.36.270(25) ACC.

F. Use of a generator by an RV parked in the public right-of-way shall be limited in order to comply with Chapter 8.28 ACC.

G. Wires, hoses, cables, equipment, awnings, and other appurtenances associated with any RV shall not be allowed to be extended, set across, or placed within any portion of the public right-of-way.

H. RV Parking Permit: The City may issue permits that allow RVs to park for up to three (3) consecutive days within any improved and open public right-of-way with the following requirements, in addition to B through G above:

1. The permit is applied for, and issued to, an applicant who is the property owner or lawful occupant, directly adjacent to, and on the same side of the public right-of-way as the location where the RV is to be parked.
2. A permit may not be issued for the same RV or the same property location more than two (2) times in any twelve (12) month period.
3. No more than one permit may be in effect at any time for applicant(s) of the same address.
4. The permit must identify the property location adjacent to which the RV is to be parked, and must identify the RV by license plate number.

I. Permits issued under this Chapter may be revoked at any time by the City.

J. ~~B.~~ The penalty for parking in violation of this section shall be a fine of $250.00 per violation, in addition to other costs and assessments provided by law. A violation of this section shall be considered a parking infraction and shall be processed in accordance with the state statutes, court rules and city ordinances regarding parking infractions. Each calendar day during which a violation occurs shall constitute a separate infraction, and each instance when a recreational vehicle or trailer parks at a location in violation of this section shall be a separate violation. RVs parked in violation of this section are subject to impoundment pursuant to ACC 10.36.360.

K. Nothing in this section is intended to limit the application or enforceability of any Homeowner's Association covenants and rules.

L. ~~C.~~ This section does not permit or authorize anyone to park any recreational vehicle on any street within the city that does not have adequate space for parking, or where a sight distance obstruction would be created, or where parking is otherwise prohibited. (Ord. 6222 § 3, 2009; Ord. 6129 § 1, 2007; Ord. 6035 § 2, 2006.)

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:

APPROVED AS TO FORM:

____
Shawn Campbell, MMC, City Clerk

____
Kendra Comeau, City Attorney

Published: ______________________

PROPOSED CHANGES TO EXISTING CODE ACC 10.36.191

CECILE MALIK, JEFF TATE, JAMES NORDENGER

CITY COUNCIL STUDY SESSION
AUGUST 24, 2020

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

AUBURN VALUES

SERVICE
ENVIRONMENT
ECONOMY
CHARACTER
SUSTAINABILITY
WELLNESS
CELEBRATION

COORDINATION

- These proposed changes and parking program were coordinated efforts between:
    - Public Works
    - Community Development
    - Police
    - Administration
    - Homeless Coordinator

TEAM AUBURN

RV PARKING CODE (WITHIN ROW)
ACC 10.36.191

CURRENT CODE

- Restricts parking to 24h in residential areas
- Allows parking for up to 72h in commercial areas
- Does not prohibit RVs from being occupied overnight
- Provides limited information on what isn’t allowed in the ROW, which can lead to liability for the City

PROPOSED REVISIONS

- Restricts RV parking in ROW to 24h citywide
- Prohibits RVs from being occupied overnight
- Creates a parking program to park RVs in the ROW up to 3 days, with limitations
- Provides more clarity on what is not allowed in the ROW

ENFORCEMENT PROCESS

- Process to enforce RV parking code:
  - Receive complaint and arrive at the location:
    - Safety hazard: vehicle towed immediately
    - No Safety Hazard: vehicle marked for movement
    - If owner is present they are educated on regulations
    - Advise Kent Hay and/or Community Response Team (CRT) of the location and ask for their assistance, when applicable.

Safety Hazards
Blocking the roadway
Blocking wheelchair ramps
Blocking sidewalk
Blocking Driveway
Causing significant line-of-sight issues

  - Several days later: Officers check the vehicle - No movement
    - If vehicle has not moved, tag vehicle with a 24-hour Notice of Impound, and educate the owner.
  - Several days later: Officers check the vehicle – Still No movement
    - If no movement has occurred, and services have been offered or attempted, the vehicle is ticketed and impounded

SERVICE • ENVIRONMENT • ECONOMY • CHARACTER • SUSTAINABILITY • WELLNESS • CELEBRATION

RV PARKING ON PRIVATELY OWNED RESIDENTIAL LOTS

- On residential properties that already have a single family home, one RV may be placed on the property that accommodates temporary living.
- Limited to 15 calendar days within a calendar year.
- An additional 15 day extension may be granted by the Director.
- There are no fees or application forms required to obtain this authorization.
- Authorization is either provided via email exchange or as a result of a code enforcement interaction where the 15 day clock begins on the day that code enforcement makes contact with the property owner.

Next steps –

- Ordinance 6776 to Council on September 8th
- If adopted, develop and implement permit program
- Continue outreach, education, and enforcement

QUESTIONS?

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AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 6781 (Tate)(30 Minutes)

Date:
August 18, 2020

Department:
Community Development

Attachments:
Ordinance No. 6781
Administrative Policy - Homeless Encampments

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

Administrative Recommendation:

Schedule Ordinance No. 6781 for City Council action on September 8, 2020.

Background Summary:

Ordinance No. 6781 revises a number of chapters of Auburn City Code as they pertain to camping. Proposed modifications include the following highlights:

- Aligns the city's camping ordinance with the 9th Circuit Court Boise decision.
- Declares it unlawful to camp on city owned property without a permit or unless allowed by the Parks Director on park property.
- Change the penalty for camping within a designated park from a ticketed offense to a misdemeanor.
- Conditions enforcement of camping rules on the availability of overnight shelter that is free of charge. This provision includes the cost of transportation in the event transportation to the shelter is necessary.

Ordinance No. 6781 was prepared in coordination with the City Attorney's office, the Police Department, Parks, Arts and Recreation Department, Department of Community Development, Public Works Department, and Department of Administration. Representatives from each department will be available to answer questions posed by City Council.

Updated: Ordinance No. 6781 was presented to City Council during the July 27, 2020 Study Session meeting. City Council provide a number of questions and responses to the draft ordinance. Reflected within this version of the draft ordinance are the following:

1. *Additional Whereas recitals in the cover ordinance that are intended to better clarify the legislative intent of City Council. Of particular note is Council's ongoing desire to ensure that the ordinance is implemented in a manner that leads with services and assistance to the homeless community and not with punitive actions and penalties.*
2. *Inclusion of the Administrative Policy that will be used when implementing the*

ordinance. Council is not approving or denying the policy. It is provided so that Council is in a better position to have clarity on the way in which the law would be implemented. The Administrative Policy is included as Attachment B.

Reviewed by Council Committees:

Councilmember:	Brown	**Staff:**	Tate
Meeting Date:	August 24, 2020	Item Number:	

ORDINANCE NO. 6 7 8 1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RELATING TO CAMPING AND OCCUPYING PUBLIC PROPERTY, AND AMENDING CHAPTERS 2.22.210, 2.22.220, 9.50.020, 9.78.010, 12.32.020, 13.12.020, AND 13.48.170 AND ADDING A NEW SECTION TO CHAPTER 9.50 OF THE AUBURN CITY CODE

WHEREAS, Article XI, Section 11 of the Washington Constitution and RCW 35A.11.020 authorize the City of Auburn to regulate public property, including City parks, rights of way, and public utility property; and

WHEREAS, camping on public property is a public health, safety, and risk concern due to interference with other intended uses, such as daily government operations, public events, recreational activities, utility service, and pedestrian, bicycle, and vehicular traffic; and

WHEREAS, camping without adequate sanitation services, such as sewer, water, and garbage removal presents a public health hazard due to the increased risk of disease and virus transmission; and

WHEREAS, various public properties are developed for particular uses and should be available to the public for the property's intended purpose, including City operations, recreational use, transportation, utility service, public service events, environmental protection, and other public services; and

WHEREAS, the City of Auburn has contracted to provide shelter beds, and partners with social service providers to ensure that shelter and health services are available in Auburn for those experiencing homelessness; and

WHEREAS, the use of dedicated shelters by those experiencing homelessness facilitate these individuals receiving comprehensive services that may assist these individuals obtain long-term stability; and

WHEREAS, City Council recognizes that within any law there are different methods and philosophies in which it can be implemented and therefore finds that it is important to provide clarity around the legislative intent of this ordinance; and

WHEREAS, the City Council is committed to a service first philosophy that ensures all members of our community are treated with dignity and respect, and that city staff implement administrative practices where housing, mental health, drug addiction, employment, and other types of services are offered prior to punitive enforcement action; and

WHEREAS, City Council seeks to ensure that the offering of services is not viewed as a simple administrative checkbox that allows for an expedited method of implementing the fines and penalties that are established in these amendments; and

WHEREAS, fines and penalties are to be imposed as a last resort and only in those instances where a member of our community refuses to comply and refuses to accept free shelter and/or free transportation to a free shelter; and

WHEREAS, City Council incorporates fines and penalties only because any law that is adopted must include provisions for those rare instances where compliance is unachievable in other ways; and

WHEREAS, the Ninth Circuit Federal Court of Appeals held, in *Martin v. City of Boise*, that the United States Constitution prohibits imposition of criminal penalties for sitting, sleeping, or lying outside on public property if the offenders cannot obtain shelter elsewhere, although the court recognized that prohibitions against sitting, lying, or sleeping outside at particular times or in particular locations may be permissible since other public space would still be available.

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

Section 1. **Amendment to City Code.** Section 2.22.210 of Chapter 2.22, Park Code, of the Auburn City Code is amended to read as follows:

2.22.210 ~~**Overnight use.**~~**Tents and shelters**

Unless for a city-permitted event, no person shall erect, maintain, use or occupy in any City of Auburn park a tent or shelter that does not have an unobstructed view through such tent or shelter from at least two sides. Nothing in this section shall be construed to authorize overnight camping, which is prohibited in parks pursuant to ACC 9.50.030~~It is unlawful to camp or set tents or other shelters overnight in any park, unless authorized by the director~~. Violation of this section constitutes a Class 1 civil infraction pursuant to Chapter 7.80 RCW. (Ord. 6747 § 1 (Exh. A), 2019; Ord. 6465 § 1, 2013.)

Section 2. **Amendment to City Code.** Section 2.22.220 of Chapter 2.22, Park Code, of the Auburn City Code is amended to read as follows:

2.22.220 Opening and closing hours.

A. Unless otherwise posted, parks shall open one-half hour before sunrise and close one-half hour after sunset. Any person entering or remaining in a park when it is closed is subject to arrest and prosecution for criminal trespass ~~or a class 1 civil infraction pursuant to Chapter 7.80 RCW~~.

B. The director may extend open hours for sanctioned events, but only that portion of a park being used for the event will be open beyond normal hours; other areas of such a park shall remain closed.

C. This section shall not apply to:

1. Police officers or park employees while on-duty.

2. Sidewalks that are within the right-of-way of a public street, when the street is not within the boundaries of a park. (Ord. 6747 § 1 (Exh. A), 2019; Ord. 6465 § 1, 2013.)

Section 3. **Amendment to City Code.** Section 9.50.20 of Chapter 9.50, Loitering, is amended to read as follows:

9.50.020 Order to disperse.
A. Unless the activity is permitted by the city pursuant to city code, ~~I~~it is unlawful for any person to ~~loiter, loaf, wander, stand or remain idle either alone and/or in consort with others in a public place in such a manner so as to:~~

1. Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians;

2. Be on~~Commit in or upon~~ any public street, public highway, public sidewalk or any other public place ~~or building any act or thing which is an obstruction or interference to the free and uninterrupted~~ and intentionally obstruct the use of property or access to any lawfully conducted business during the normal operating hours of that business. ~~lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevent the free and uninterrupted ingress, egress and regress, therein, thereon and thereto.~~

B. When any person violates ~~causes or commits any of the conditions enumerated in~~ subsection A of this section, ~~a police officer or~~ a~~ny~~ law enforcement officer may~~shall~~ order that person to stop the violating activity ~~causing or committing such conditions~~ and to move on or disperse. Any person who fails or refuses to obey such orders is guilty of a misdemeanor punishable by a maximum of 90 days in jail and/or a $1,000 fine. ~~violation of this chapter~~. (Ord. 5682 § 1, 2002.)

Section 4. **New Section to City Code.** A new section, 9.50.030 "Camping," is added to Chapter 9.50 to read as follows:

NEW SECTION. 9.50.030 Camping
A. **Camping Prohibited**. It is unlawful for any person to camp, occupy camp facilities or use camp paraphernalia on city property, except as set forth in subsection C below:

B. **Storage of Camping Items Prohibited**. It is unlawful for any person to store camp facilities and camp paraphernalia on city property, except as otherwise provided by ordinance.

C. **Exceptions** The prohibitions contained in subsection A shall not be enforced if:

1)   the violation constitutes a trespass on park property under ACC 2.22.220.

2). the person is experiencing homelessness and there is no available overnight shelter for persons experiencing homelessness on the date that the prohibited activity occurs; or.

3). the person is camping or using camp paraphernalia or camp facilities at a Game Farm Park Campground site after paying the required fees; or

4) the person is camping or using camp paraphernalia or camp facilities as permitted under this subsection:

a. The director of the Parks, Arts, and Recreation department may permit persons to camp, occupy camp facilities, use camp paraphernalia, or store personal property in parks property as defined in 2.22 and as listed in the Park Inventory portion of the Parks, Recreation & Open Space Plan, within the city's Comprehensive Plan.

b. The director of the Parks, Arts, and Recreation Department may approve a permit for camping on city park property if the director finds, based upon a permit application and information otherwise obtained, that:

(1) Adequate sanitary facilities are provided and accessible at or near the camp site;

(2) Adequate trash receptacles and trash collection will be provided;

(3) The camping activity will not unreasonably disturb or interfere with the peace, comfort and repose of private property owners;

(4) The camping activity is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create a disturbance; and

(5) The camping is in the public interest.

c. The Director of the Parks, Arts, and Recreation Department is authorized to promulgate rules and regulations regarding the implementation and enforcement of this chapter.

d. Seven days is the maximum period of time a permit may authorize camping on city property.

e. Any person denied a permit may appeal the denial to the Hearing Examiner in the manner described in Chapter 2.46 and ACC 15.07.130 with the Director of the Parks, Arts, and Recreation Department serving the role of the building or fire official in that code.

D. **Definitions**. For this section, the following definitions shall apply:

1. "Available overnight shelter" means

a. a public or private shelter located within the City of Auburn that offers overnight shelter to persons experiencing homelessness with an available overnight space at no cost; or

b. If no shelter described in subsection (a) has available space, a shelter with free and available overnight space located within 40 miles of the City that is accessible by public transportation or by vehicle for hire at no cost to the individual or family experiencing homelessness.

c. A shelter is unavailable if an individual or family cannot use available space because of restrictions on a person's sex, familial or marital status, religious beliefs, disability, or length-of-stay.

d. A shelter is unavailable on any day that an individual or family attempts to secure a space at the shelter for the day and is denied due to lack of available space.

e. A shelter is available if an individual's past or present voluntary actions such as intoxication, drug use, or unruly behavior prevent the use of an otherwise available shelter space.

2. "City property" means all improved and unimproved real property owned or leased by the City of Auburn, and all City of Auburn easements, including but not limited to all portions of city parks, as defined in Chapter 2.22, city buildings, rights of way, city parking lots, city airport property, wetlands, and city utility facilities.

3. "Camp" or "camping" means to pitch, create, use, or occupy camp facilities for the purposes of habitation, living accommodation, or dwelling, as evidenced by the storage of personal belongings in 'camp facilities" or the use of "camp paraphernalia."

4. “Camp facilities” include, but are not limited to, tents, tarps configured for shelter, huts, temporary shelters. “Camp facilities” does not include shelters when used temporarily in a park for recreation or play, consistent with Chapter 2.22, during hours when the park is open to the public.

5. “Camp paraphernalia” includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, or non-city-designated cooking facilities and similar equipment.

6. “Store” means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

E. **Penalty**. When enforced, violation of this subsection is a misdemeanor punishable by a maximum penalty of 90 days in jail and/or a $1,000 fine.

Section 5. Amendment to City Code. Section 9.78.010 of Chapter 9.78, Public Disturbance, of the Auburn City Code is amended to read as follows:

9.78.010 Disorderly conduct.

A. A person is guilty of disorderly conduct if they:

1. Fight~~s~~ or encourage~~s~~ others to fight in any public place within the city;

2. Intentionally create the risk of an assault by w~~W~~illfully annoyings~~s~~, ~~molests,~~ botherings~~s~~, insultings~~s~~, or offerings~~s~~ an affront to another person;~~ and thereby intentionally creates the risk of assault~~;

3. Willfully break~~s~~, impair~~s~~, injure~~s~~ or deface~~s~~ any building, fence, awning, window, sign, signboard, tree, shrub, or other thing of value being the property of another;

4. Intentionally obstruct~~s~~ vehicular or pedestrian travel or traffic without lawful authority;

5. Remove~~s~~, interfere~~s~~ with, carry~~ies~~ away or destroy~~s~~ the property of another, or tear~~s~~ down, destroy~~s~~ or mutilate~~s~~ any notice or handbill lawfully posted in the city;

6. Intentionally disrupt~~s~~ any lawful assembly or meeting of persons without lawful authority;

7. Look~~s~~ into the windows of the residence of another without a lawful right to do so;

8. Urinate~~s~~ or defecate~~s~~ in any place open to the public view, other than in a restroom or toilet facility; or

9. Intentionally engage~~s~~ in conduct that tends to, or is reasonably likely to, disturb the peace, promote disorder or endanger the safety of others.

B. Disorderly conduct is a misdemeanor punishable by a maximum penalty of 90 days in jail and/or a $1,000 fine. (Ord. 6503 § 1, 2014; Ord. 5682 § 1, 2002.)

Section 6. Amendment to City Code. Section 12.32.020 of Chapter 12.32, Sidewalk Obstructions, of the Auburn City Code is amended to read as follows:

12.32.020 Unlawful sidewalk obstructions. ~~Prohibitions.~~

It is unlawful for any person, firm or corporation, or for any agent, representative, servant or employee thereof, to deposit, place, erect or maintain, or cause to be deposited, placed, erected or maintained, upon any sidewalk located in any public street, alley or place of the city, or upon any portion of such sidewalk, any bench, chair, rack, stand, structure, sign, merchandise or other object, except as approved by the city engineer, or to place, erect or maintain, or cause to be placed, erected or maintained, over such sidewalk, or over any portion of such sidewalk, any structure, sign or other object at such height or in such manner as to prevent or interfere with the free and unobstructed use of all of such sidewalk by pedestrians. Violation of this section is a civil infraction, subject to a maximum penalty of $250. (Ord. 6532 § 16, 2014; 1957 code § 8.18.020.)

Section 7. Amendment to City Code. Section 13.12.020 of Chapter 13.12, Protection of Water Supply, of the Auburn City Code is amended to read as follows:

13.12.020 Water division facilities – Damaging or ~~T~~trespassing ~~on or interfering with~~ prohibited.

~~It is unlawful for any person to damage, tamper with, disturb, trespass, or be upon the lands and premises of the city upon which water facilities exist including, but not limited to, intake structures, gatehouses, well buildings, treatment facilities, water storage tanks, underground vaults, pump stations and watershed properties whether or not such properties or facilities are enclosed by lawful fences. It is unlawful for any person to destroy, tamper with, or disturb any fence, gate or lock enclosing city water facilities~~.

A. No person may damage, tamper with, or disturb any municipal water system or water facility including, but not limited to:

1. intake structures, gatehouses, well buildings, treatment facilities, water storage tanks, underground vaults, pump stations, or watershed properties;~~,~~

2. any fences, gates or locks enclosing such facilities or systems, and

3. any land or premises containing such facilities or system, whether enclosed or not.

Violation of this subsection (A) is a misdemeanor punishable by a maximum penalty of 90 days in jail and/or a $1,000 fine.

B. No person may trespass or be upon the public lands and premises that contain water facilities or municipal water systems. Violation of this subsection (B) is an infraction subject to a maximum penalty of $250. (Ord. 5851 § 1, 2004; 1957 code § 10.12.020.)

Section 8. **Amendment to City Code.** Section 13.48.170 of Title 13.48, Storm Drainage Utility, of the Auburn City Code is amended to read as follows:

13.48.170 Trespassing on public storm drainage facility prohibited.

Unless authorized by the City, ~~I~~it is unlawful for any person ~~to trespass or~~ to be upon the public lands or ~~and~~ premises where~~of the city, lawfully posted, upon which~~ any public storm drainage facility is situated~~, unless duly authorized by the city~~. Any person who enters or remains upon any such land or premises in violation of

(1) any posted no trespassing signage at the location; or
(2) any orders to vacate the land or premises given by a police officer, city official, or city employee

shall be guilty of an infraction subject to a maximum penalty of $250. (Ord. 5853 § 1, 2004; Ord. 5212 § 1 (Exh. J), 1999; Ord. 4492 § 4, 1991.)

Section 9. **Amendment to City Code**. Section 13.20.100 of Chapter 13.20, Sewer, of the Auburn City Code is amended to read as follows:

13.20.100 Trespassing on and d~~D~~isturbing public sewer and streets

A. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer. No unauthorized person shall open, alter or disturb the streets or alleys or other public ways or easements of the city for the purposes of making connection with the public sewer system or repairing and maintaining a side sewer located within the public right-of-way or easement.

B. No person may damage, tamper with, or disturb any public sewer system or sewer facility, including, but not limited to:

1. wastewater pipes, manholes, pump stations and their appurtenant facilities, cleanouts, sewer meters, and pumps,
2. any fences, gates or locks enclosing such facilities or systems, and
3. any land or premises containing such facilities or system, whether enclosed or not.

Violation of this subsection (B) is a misdemeanor punishable by a maximum penalty of 90 days in jail and/or a $1,000 fine.

C. Unless authorized by the City, no person may trespass or be upon public lands and premises that contain sewer facilities. Any person who enters or remains upon any such public land or premises in violation of

(1) any posted no trespassing signage at the location; or
(2) any orders to vacate the land or premises given by a police officer, city official, or city employee

shall be guilty of an infraction subject to a maximum penalty of $250. (Ord. 5852 § 1, 2004; Ord. 5381 § 1, 2000; Ord. 5212 § 1 (Exh. I), 1999; Ord. 4241 § 2, 1987.)

Section 10. Restriction on Burdening Shelters or Encampments Hosted by Religious Organizations. This ordinance is intended to be interpreted consistent with RCW 35A.21.360 and shall be enforced according to the provisions of that state statute.

Section 11. Implementation. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 12. 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 13. **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: ____________________

<table>
<tr><td colspan="2">CITY OF AUBURN WASHINGTON</td><td>ADMINISTRATIVE POLICY</td></tr>
<tr><td colspan="2">TITLE: Homeless Encampment</td><td>SUBJECT: Procedure for the removal of unauthorized encampments and associated personal belongings</td></tr>
<tr><td>DATE: July 31, 2020</td><td>PAGES: 1</td><td>PREPARER:</td></tr>
</table>

Overview	The City adopts this policy to carry out the provisions of Auburn City Code (ACC) 2.22.010 and .210, ACC 12.32.010, ACC 10.68 and RCW 47.24.020(2). The purpose of this policy is to adopt an enforcement strategy for documenting and removing unauthorized encampments and/or camping activity (as defined in this policy) within the City and to ensure that individuals within such encampments or engaged in such activity are given access to needed resources including available shelter.
Definitions	1. Encampment – one or more tents or temporary shelters, bedding, storage or other indications of camping activity located in an area owned, operated or maintained by the City that violates city code and this enforcement policy. For purposes of this policy, such indications of camping activity are considered one Encampment if located within 20 feet. 2. Hazard – an item or items that pose a threat to public safety or health, or to City employees or other authorized personnel. Examples include, but are not limited to needles/syringes, illegal drugs or drug paraphernalia, human and/or animal waste, firearms or dangerous weapons, items showing signs of contamination or biohazard, and items posing a risk of fire. 3. Obstruction – people and/or items, including, but not limited to trash or other objects that interfere with public use or enjoyment of nonresidential public property, including interference with pedestrian or vehicle traffic. 4. Personal Property – non-hazard items that reasonably appear to belong to an individual. Examples include, but are not limited to: bank, charge or credit cards, cash, government issued documents (including identification documents), financial documents, legal documents, prescription medications, photographs, functioning and rideable bicycles, cellular phones, jewelry, tents or bedding capable of being safely stored, electronics, eyeglasses, crutches, and wheelchairs. When in doubt, the City will endeavor to treat an item as personal property, subject to reasonable health and safety concerns. Personal property does not include: a. property lawfully seized by police as evidence in a criminal investigation; b. illegal drugs, illegal or dangerous weapons, or other illegally possessed items; c. any items that can reasonably be considered litter or garbage as defined by ACC 8.16.020 and/or by RCW 70.93.030; d. any shopping carts defined by RCW 9A.56.010(16) and/or ACC 8.18.010 if they reasonably appear to be abandoned or to belong to a retail or commercial establishment. 5. Camping activity– includes, but is not limited to the use of tents or other temporary shelters, bedding, storage of personal belongs, and use or storage of cooking

	equipment. 6. Nonresidential public property – any City street, sidewalk, park, or other open area where the City or other governmental agency has a property interest. This term does not include houses, apartments, or other fixed residential property owned or leased by the City, or any property that is subject to RCW 35A.21.360. 7. Enforcement personnel – City employees, departments and/or others authorized by the City to enforce this policy, including members of the City Parks, Police and Community Development Departments, and others as may be appropriate.
Policies	**<u>INITIAL ENCAMPMENT DISCOVERY AND CONTACT</u>** If enforcement personnel discover or receive a report of a potential encampment, they should: • Visit the site to determine whether it is an encampment as defined under city code and/or under this policy and the enforcement measures warranted. • Contact any individuals at the encampment to provide them with any applicable legal notices and to offer them any available services, including available shelter. The Sundown Shelter in Auburn will be the first point of contact in applicable and other shelter will be sought outside of Auburn if The Sundown shelter is not a viable option. (located shelter will be suitable to each situation such as: pets, couples, families, etc.) • No charge bus tickets will be provided and other transportation could be made available if the situation calls for it. (example: Uber or Lyft if it is a family with toddlers). Directions will be made available along with bus numbers and times of departure. • If shelter is not available on the date that the notice is posted, the occupant(s) may stay in the location found until shelter is located that meets the requirement of suitable shelter, as long as their encampment does not: block sidewalk usage, impede automobile traffic, reside on private property, reside in environmentally sensitive areas, reside in the parks. As soon as shelter is found the occupants must leave the site immediately as the 48 notice is still in effect. • The person may refuse the shelter that is offered, but must adhere to the 48 hour vacate notice or could be trespassed and/or arrested. • Contact the City Attorney's Office for any needed policy, enforcement or interpretation guidance. • Create and maintain an Encampment Site Log to document all activities, events and interactions with the Encampment and any persons at the Encampment pursuant to this policy. • This Site Log will include: o The date personnel first observed the encampment; o A description of the encampment, including the number of tents or other unauthorized structures on site, and information about identifiable hazards or obstructions;

- The dates of communication with any person(s) at the site;
- The date and content of all notices personnel has posted at the site;
- A description of any arrest warrants served on any persons at the encampment; and
- The date(s) that personnel offered outreach and services to person(s) at the site, the nature of services offered and the response received, if any.

Photographs of the site and of all posted notices shall be taken and maintained in the Site Log.

The **Site Log** is **Attachment A** to these Standard Operating Procedures**.**

NOTICES

Enforcement personnel shall provide notices at encampments, as follows:

1. Notice of Violation and removal. Unless otherwise provided in paragraph 10 of the Encampment Removal section of this policy, upon contact with an unlawful Encampment, Enforcement Personnel should conspicuously post at the site and provide to any persons at the site a notice of violation and removal. This notice shall include: (1) the date of posting/giving to persons; (2) the nature of any violation(s) and applicable laws; (3) the nature of any available services for homeless persons, , including shelter beds; 4) a statement that if any violation(s) persist after 48 hours from the notice date, the Encampment will be removed and any property at the Encampment will be subject to the Personal Property section of this policy.
2. All notices shall be printed in English and any other language the City determines will provide adequate notice. Notices will be printed on triplicate NCR paper; one copy is to be posted on the site, one goes to Police and the third goes to the city employee posting notice.
3. Notices should be posted at the encampment site and/or provided to any individuals at the site ensure necessary staff availability for any needed follow up.

ENCAMPMENT REMOVAL

1. Enforcement personnel will coordinate the encampment removal.

2. All personnel, contractors and vendors contracted by the City to assist in removal shall abide by the procedures set forth in this policy.

3. Enforcement personnel will make reasonable efforts to contact any persons at the encampment site in person before removing it, and will arrange for outreach workers to visit the encampment at least once between the date of posting a notice of violation and removal and the date of encampment removal. Police may assist if needed. At any such visit, outreach personnel will provide information to any persons at the encampment regarding shelter, services, and the storage of personal property if the encampment is removed. Enforcement personnel will arrange for storage bins and tags/labels to be available for use if any person(s) on site wishes to sort his/her property on the date of removal.

4. Before encampment removal, Enforcement Personnel should first attempt to secure and offer available services and shelter to persons at the encampment. If criminal enforcement against any such persons is contemplated pursuant to [city camping ordinance, ACC section #], personnel must first attempt to secure and offer the person(s) shelter within Auburn city limits, or shelter at an available location outside Auburn if an Auburn shelter is unavailable as defined in [ACC section #]. If offering shelter located outside Auburn City limits, transportation to the shelter should be offered.

5. In enforcing this encampment policy, the City shall obtain any legally required arrest or search warrant(s).

6. Encampment removal and cleanup shall be performed by an outside contractor retained by the City, or by others designated by Enforcement Personnel, as warranted in an individual situation. If an outside contractor is NOT used, anyone involved in removing or cleaning up the encampment must use the following personal protection equipment to the extent it is available and feasible for use:

   - Eye protection
   - Sturdy, thick soled boots/shoes
   - Kevlar or puncture resistant gloves
   - Long pants
   - Garbage grabbers
   - Contractor grade garbage bags
   - Pick-up truck
   - Tie downs and tarps for truck
   - Shovel, rake and/or pitch fork
   - First aid kit with eye wash and hand sanitizer
   - Garbage cans
   - Bleach cleaning solution
   - Sharp objects container
   - Long sleeved shirt
   - N95 Mask
   - Tyvek aprons for Ranger uniform maintenance
   - Disposable gloves

   Any City personnel involved in encampment removal and cleanup must complete

City required training on these procedures.

7. Enforcement personnel must be at an encampment site when it is removed and cleaned up.
8. Individuals at an Encampment during removal will be allowed to remove any lawfully possessed personal property from the site. If they are unable to do so, the City will store the property pursuant to this policy.

PERSONAL PROPERTY

This policy section pertains to the identification, removal and storage of property at an Encampment site

1. Enforcement personnel will direct anyone involved in Encampment cleanup to attempt to segregate personal property from other items as follows:
   a. Police will review site to ensure that it is safe to proceed.
   b. Efforts should be made to protect fragile personal property.
   c. Storage bins should not be filled over capacity.
2. The City is authorized to dispose of items at an Encampment that are not personal property or that constitute a hazard. Examples may include trash and items unsuitable for segregation or storage due to their condition. Such items will be disposed of by a contractor or by Enforcement personnel if contractors are not needed.
3. Enforcement personnel will treat an item as personal property under this policy when in doubt.
4. When enforcing this policy, Enforcement personnel will move any property (personal property or otherwise) that violates ACC 12.32.020 to a suitable location for further processing.
5. When removing Encampment property under this section, Enforcement personnel shall complete a Property Log describing: whether an owner of the property is apparent, the items stored and/or disposed of, location found, date found, department/staff contact, and the disposition of the personal property (e.g. pick-up date and person, disposal, donation). If the segregation of personal property is performed by a contractor, Enforcement personnel are responsible for overseeing the segregation of personal property so that an accurate Property Log may be completed. The Property Log must include photographs of items that are stored and disposed of. An explanation shall be provided for the disposal of any items

	Stored items shall be labeled according to the name of the property owner, the encampment site and date of removal and described per the Property Log. The **Property Log** is **Attachment B** to this policy. 6. After completion of Encampment removal and cleanup, Enforcement Personnel shall maintain all related records. . 7. Enforcement personnel shall direct any personal property consisting of items listed in [2318 Sec. 15(2)] to the Auburn Police Department for retention and storage. The City shall store all other personal property that can be safely removed from the Encampment for 60 calendar days from the date the property was removed. 8. The storage location will be inside a building within the City limits. The storage location will be locked door to prevent unauthorized access.. The storage bins will be labeled according to the name of the property owner (or other identifying specifics if the owner's name is unknown), the encampment site and date of removal and described per the Property Log. Items that do not fit inside storage bins will be stored with other personal property removed from the site. 9. Retrieval of removed and stored personal property A) If an owner of any property removed from an encampment is apparent, and the owner has not been otherwise notified of the property's removal, Enforcement personnel shall attempt to notify the owner of the property's removal pursuant to RCW 63.21.060. The notice shall include information on retrieving the property under paragraph 9B of this policy. B) Individuals seeking to retrieve removed and stored personal property may contact the Outreach Program Administrator at 253-294-6429, who will inform the Managing Department to arrange for pick up of personal property. Arrangements made for the pickup of personal property may be made between the hours of 8:00 a.m. and 5:00 p.m. Pacific Time unless specific alternative arrangements are made with City personnel. Individuals seeking to retrieve personal property must provide the City with information including (1) the location from which the property was removed; (2) the date of removal; and (3) a description of the items removed with sufficient specificity to demonstrate ownership. C) Any stored property that remains unclaimed after any required owner notice for 60 days after the property's removal from an encampment may be disposed of pursuant to RCW 63.21.060 and/or RCW 63.32

CITY OF AUBURN WASHINGTON

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 6783 (Thomas)(30 Minutes)

Date:
August 17, 2020

Department:
Finance

Attachments:
Transmittal Memo
Ordinance No. 6783
Schedule A
Schedule B

Budget Impact:

Administrative Recommendation:

For discussion only.

Background Summary:

Ordinance No. 6783 (Budget Amendment #7) represents the seventh budget amendment for the 2019-2020 biennium and the third budget amendment for 2020. For details, see the attached transmittal memorandum and supporting materials.

Reviewed by Council Committees:

Councilmember:

Staff: Thomas

Meeting Date: August 24, 2020

Item Number:

Interoffice Memorandum

To: City Council

From: **Jamie Thomas, Finance Director**

CC: Nancy Backus, Mayor

Date: August 19, 2020

Re: Ordinance #6783 – 2019-2020 Budget Amendment #7

The City's biennial 2019-2020 budget was approved by Council as two one-year appropriations. Budget Amendments #1, #2, #3, and #4 amended the budget for calendar year 2019. Budget Amendments #5 and #6 amended the 2020 budget.

This amendment will be the seventh budget amendment for the biennium and the third budget amendment for calendar year 2020. The main purposes of this amendment are: (1) to adjust budgeted 2020 beginning fund balances to match actual 2019 ending fund balances per accounting records; (2) adjust budgeted revenues to reflect expected COVID-19 related impacts and the City's actions in response to the expected shortfalls; and (3) add budget authority for new programs and other expected changes in 2020. No new positions are being requested in this amendment.

Fund Balance Adjustments: This amendment adjusts City-wide 2020 budgeted beginning fund balances to reflect actual ending balances as of the end of 2019. The General Fund beginning fund balance is adjusted by an increase of $7,670,843; City-wide beginning fund balances are adjusted, in total, by a net increase of $18.2 million.

COVID-19 Related Adjustments: This category includes adjustments to revenue budgets to reflect expected shortfalls due directly or indirectly to the COVID-19 pandemic, impacts of the City's planned actions in response to these revenue shortfalls, and grant-related relief from outside agencies. Total General Fund adjustments result in a net decrease in fund balance of $1.9 million and include:

- Expected revenue shortfalls, most notable sales and use taxes (−$7,935,500)
- Revenue reallocations from other funds, including Motor Vehicle Fuel Taxes (MVFT) and utility taxes ($2,665,100)
- CARES Act grant funds and related expenditures ($2,451,600)
- Other COVID-19 related grants and related expenditures ($216,100)
- Planned departmental expenditure reductions and other actions ($3,351,650)

COVID-19 related adjustments result in a net decrease of $4.8 million to fund balances in other funds. These adjustments include:

- Expected revenue shortfalls, particularly utility sales revenues (−$2,779,300)
- Revenue reallocations to the General Fund (−$3,416,600)
- Cost reductions (−$1,012,000)
- Adjust REET-funded project expenditures (−$395,000)

Add budget authority for new programs and other expected changes in 2020: These include requests for increased funding for existing programs, new grants, and funding requests for new projects or programs. New requests include:

- General Fund – Affordable Housing Sales Tax Credit ($150,000)
- General Fund – Extend budget for WA Criminal Justice Training Commission agreement ($102,000)
- Fund 105 – Funding for advance design of future arterial street preservation projects ($100,000)
- Fund 430/460 – 2020 Utility System Revenue/Refunding Bonds ($11,993,500)
- Fund 560 – Funding for two vehicles for School Resource Officers ($135,300)

The following table summarizes the current and revised budget as a result of this amendment.

Table 1: 2020 Budget as Amended

2020 Amended Budget	$ 368,801,137
Budget Amendment #7 (Ord #6783)	26,393,345
2020 Budget as Amended	$ 395,194,482

Attachments:

- ❖ Ordinance # 6783
- ❖ Schedule “A” – Summary of 2020 Budget Adjustments by Fund
- ❖ Schedule “B” – 2020 Appropriations by Fund

ORDINANCE NO. 6783

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING ORDINANCE NO. 6693, THE 2019-2020 BIENNIAL BUDGET ORDINANCE, AS AMENDED BY ORDINANCE NO. 6712, ORDINANCE NO. 6719, ORDINANCE NO. 6720, ORDINANCE NO. 6751, AND ORDINANCE NO. 6764, AUTHORIZING AMENDMENT TO THE CITY OF AUBURN 2019-2020 BUDGET AS SET FORTH IN SCHEDULE “A” AND SCHEDULE “B”

WHEREAS, the Auburn City Council at its regular meeting of December 3, 2018, adopted Ordinance No. 6693 which adopted the City of Auburn 2019-2020 Biennial budget; and

WHEREAS, the Auburn City Council at its regular meeting of April 1, 2019, adopted Ordinance No. 6712 (BA#1) which amended Ordinance No. 6693 which adopted the City of Auburn 2019-2020 Biennial budget; and

WHEREAS, the Auburn City Council at its regular meeting of May 20, 2019, adopted Ordinance No. 6719 (BA#2) which amended Ordinance No. 6712 which amended the City of Auburn 2019-2020 Biennial budget; and

WHEREAS, the Auburn City Council at its regular meeting of July 15, 2019, adopted Ordinance No. 6720 (BA#3), which amended Ordinance No. 6719 which amended the City of Auburn 2019-2020 Biennial budget; and

WHEREAS, the Auburn City Council at its regular meeting of December 4, 2019, adopted Ordinances Nos. 6752 (BA#4) and 6751 (BA#5), both of which amended Ordinance No. 6720 which amended the City of Auburn 2019-2020 Biennial budget; and

WHEREAS, the Auburn City Council at its regular meeting of December 4, 2019, adopted Ordinance No. 6764 (BA#6), which amended Ordinance No. 6751 which amended the City of Auburn 2019-2020 Biennial budget; and

WHEREAS, the City of Auburn deems it necessary to appropriate additional funds to the various funds of the 2020 budget as outlined in this Ordinance (BA#7); and

WHEREAS, this Ordinance has been approved by one more than the majority of all councilpersons in accordance with RCW 35A.34.200.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. **Amendment of the 2019-2020 Biennial Budget.** The 2019-2020 Biennial Budget of the City of Auburn is amended pursuant to Chapter 35A.34 RCW, to reflect the revenues and expenditures as shown on Schedule “A” attached hereto and incorporated herein by reference. The Mayor of the City of Auburn, Washington is hereby authorized to utilize revenue and expenditure amounts shown on said Schedule “A” and Schedule “B”. A copy of said Schedule “A” and Schedule “B” is on file with the City Clerk and available for public inspection.

Section 2. **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 3. **Implementation.** The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

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:__________________

Schedule A
Summary of 2020 Budget Adjustments by Fund
Budget Amendment #7 (Ordinance #6783)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
General Fund (#001)				
2020 Adopted Budget	**12,394,863**	**75,249,867**	**80,586,405**	**7,058,325**
Previous Budget Amendments	3,575,454	2,256,070	3,832,340	1,999,184
2020 Amended Budget	**15,970,317**	**77,505,937**	**84,418,745**	**9,057,509**
BA#7 (Ordinance #6783, Proposed):	**7,670,843**	**(2,278,190)**	**(308,640)**	**5,701,293**
General Fund Revenues:				
Revenue reallocations (COVID-19 response)	-	2,665,100	-	2,665,100
Expected COVID-19 related revenue shortfalls	-	(7,935,500)	-	(7,935,500)
Mayor/Council:				
Departmental expenditure reductions (COVID-19 response)	-	-	(92,700)	92,700
Administration Department:				
Departmental expenditure reductions (COVID-19 response)	-	-	(87,500)	87,500
Reclassify Environ Services Specialist position to Outreach Prgm Administrator	-	-	40,500	(40,500)
Receive/expend donation frm MIT Charity Fund for Consolidated Resource Ctr	-	10,000	10,000	-
Small Business Assistance Award grant funds from US DOT (COVID-19 related)	-	109,560	109,560	-
Human Resources Department:				
Departmental expenditure reductions (COVID-19 response)	-	-	(87,000)	87,000
Reassign and reclassify ED Coordinator position to Equity Program Manager	-	-	25,000	(25,000)
Finance Department:				
Departmental expenditure reductions (COVID-19 response)	-	-	(6,000)	6,000
City Attorney's Office:				
Departmental expenditure reductions (COVID-19 response)	-	-	(7,000)	7,000
Community Development Department:				
Departmental expenditure reductions (COVID-19 response)	-	-	(363,500)	363,500
Receive/expend Affordable Housing Sales Tax Credit (authorized in Ord. 6732)	-	150,000	150,000	-
Police Department:				
Departmental expenditure reductions (COVID-19 response)	-	-	(217,000)	217,000
Coronavirus Emergency Supplemental Funding Program funds from DOJ	-	106,550	106,550	-
Extend budget for WA State Criminal Justice Training Commission agreement	-	102,000	80,200	21,800
Two vehicles for School Resource Officers (partially funded by ASD)	-	-	26,600	(26,600)
Public Works Department:				
Departmental expenditure reductions (COVID-19 response)	-	-	(36,500)	36,500
Traffic signal repairs (funded by insurance recoveries)	-	29,250	29,250	-

Schedule A
Summary of 2020 Budget Adjustments by Fund
Budget Amendment #7 (Ordinance #6783)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
Parks Department:				
Departmental expenditure reductions (COVID-19 response)	-	-	(431,800)	431,800
Incr. So. King County Sr. Ctrs & Resource Hub grant (previously City of Pacific)	-	22,050	22,050	-
Receipt and expenditure of private donations for frozen meals to seniors	-	11,200	11,200	-
Street Department:				
Departmental expenditure reductions (COVID-19 response)	-	-	(110,000)	110,000
Move decant disposal costs to the Solid Waste Fund (COVID-19 response)	-	-	(19,500)	19,500
Multiple Departments:				
Hiring freeze (COVID-19 response)	-	-	(989,950)	989,950
VEBA reduction (COVID-19 response)	-	-	(206,100)	206,100
Seasonal/temp layoffs (COVID-19 response)	-	-	(478,100)	478,100
Mandatory furloughs (COVID-19 response)	-	-	(238,500)	238,500
CARES Act revenues and expenditures (COVID-19 related)	-	2,451,600	2,451,600	-
Non-Departmental:				
True up 2020 beginning fund balance to 2019 actual ending balance	7,670,843	-	-	7,670,843
Revised 2020 Budget - Fund 001	23,641,160	75,227,747	84,110,105	14,758,802

Arterial Street Fund (#102)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
2020 Adopted Budget	1,344,477	3,694,600	3,995,900	1,043,177
Previous Budget Amendments and CIP Carry-Forwards	234,263	6,165,164	7,184,846	(785,419)
2020 Amended Budget	1,578,740	9,859,764	11,180,746	257,758
BA#7 (Ordinance #6783, Proposed):	391,483	(15,200)	-	376,283
Revenue reallocations (COVID-19 response)	-	(15,200)	-	(15,200)
True up 2020 beginning fund balance to 2019 actual ending balance	391,483	-	-	391,483
Revised 2020 Budget - Fund 102	1,970,223	9,844,564	11,180,746	634,041

Schedule A
Summary of 2020 Budget Adjustments by Fund
Budget Amendment #7 (Ordinance #6783)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
Local Street Fund (#103)				
2020 Adopted Budget	**956,880**	**1,902,000**	**1,916,300**	**942,580**
Previous Budget Amendments and CIP Carry-Forwards	1,462,235	-	1,212,534	249,701
2020 Amended Budget	**2,419,115**	**1,902,000**	**3,128,834**	**1,192,281**
BA#7 (Ordinance #6783, Proposed):	**131,497**	**(2,000)**	**-**	**129,497**
Revenue reallocations (COVID-19 response)	**-**	**(2,000)**	**-**	**(2,000)**
True up 2020 beginning fund balance to 2019 actual ending balance	**131,497**	**-**	**-**	**131,497**
Revised 2020 Budget - Fund 103	**2,550,612**	**1,900,000**	**3,128,834**	**1,321,778**
Hotel/Motel Tax Fund (#104)				
2020 Adopted Budget	**102,121**	**164,000**	**170,310**	**95,811**
Previous Budget Amendments	47,454	5,000	35,000	17,454
2020 Amended Budget	**149,575**	**169,000**	**205,310**	**113,265**
BA#7 (Ordinance #6783, Proposed):	**99,611**	**(59,100)**	**-**	**40,511**
Expected COVID-19 related revenue shortfalls	**-**	**(57,000)**	**-**	**(57,000)**
Revenue reallocations (COVID-19 response)	**-**	**(2,100)**	**-**	**(2,100)**
True up 2020 beginning fund balance to 2019 actual ending balance	**99,611**	**-**	**-**	**99,611**
Revised 2020 Budget - Fund 104	**249,186**	**109,900**	**205,310**	**153,776**
Arterial Street Preservation Fund (#105)				
2020 Adopted Budget	**1,369,417**	**3,832,640**	**3,967,840**	**1,234,217**
Previous Budget Amendments and CIP Carry-Forwards	(157,606)	2,889,569	3,141,384	(409,421)
2020 Amended Budget	**1,211,811**	**6,722,209**	**7,109,224**	**824,796**
BA#7 (Ordinance #6783, Proposed):	**830,108**	**(16,900)**	**100,000**	**713,208**
Revenue reallocations (COVID-19 response)	**-**	**(16,900)**	**-**	**(16,900)**
Funding for advance design of future arterial street preservation projects	**-**	**-**	**100,000**	**(100,000)**
True up 2020 beginning fund balance to 2019 actual ending balance	**830,108**	**-**	**-**	**830,108**
Revised 2020 Budget - Fund 105	**2,041,919**	**6,705,309**	**7,209,224**	**1,538,004**

Schedule A
Summary of 2020 Budget Adjustments by Fund
Budget Amendment #7 (Ordinance #6783)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
Drug Forfeiture Fund (#117)				
2020 Adopted Budget	233,460	152,000	310,956	74,504
Previous Budget Amendments	71,297	-	118,500	(47,203)
2020 Amended Budget	304,757	152,000	429,456	27,301
BA#7 (Ordinance #6783, Proposed):	973,216	-	-	973,216
True up 2020 beginning fund balance to 2019 actual ending balance	973,216	-	-	973,216
Revised 2020 Budget - Fund 117	1,277,973	152,000	429,456	1,000,517
Housing & Comm Develop Fund (#119)				
2020 Adopted Budget	36,458	539,970	539,970	36,458
Previous Budget Amendments	6,446	289,780	289,780	6,446
2020 Amended Budget	42,904	829,750	829,750	42,904
BA#7 (Ordinance #6783, Proposed):	-	371,800	371,800	-
Align budget to 2020 Community Development Block Grant Coronavirus award	-	371,800	371,800	-
Revised 2020 Budget - Fund 119	42,904	1,201,550	1,201,550	42,904
Recreation Trails Fund (#120)				
2020 Adopted Budget	71,426	7,100	-	78,526
Previous Budget Amendments	1,550	-	-	1,550
2020 Amended Budget	72,976	7,100	-	80,076
BA#7 (Ordinance #6783, Proposed):	1,449	(100)	-	1,349
Revenue reallocations (COVID-19 response)	-	(100)	-	(100)
True up 2020 beginning fund balance to 2019 actual ending balance	1,449	-	-	1,449
Revised 2020 Budget - Fund 120	74,425	7,000	-	81,425

Schedule A
Summary of 2020 Budget Adjustments by Fund
Budget Amendment #7 (Ordinance #6783)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
BIA Fund (#121)				
2020 Adopted Budget	74,673	55,200	90,000	39,873
Previous Budget Amendments	940	-	-	940
2020 Amended Budget	75,613	55,200	90,000	40,813
BA#7 (Ordinance #6783, Proposed):	58,212	(200)	-	58,012
Revenue reallocations (COVID-19 response)	-	(200)	-	(200)
True up 2020 beginning fund balance to 2019 actual ending balance	58,212	-	-	58,212
Revised 2020 Budget - Fund 121	133,825	55,000	90,000	98,825
Cumulative Reserve Fund (#122)				
2020 Adopted Budget	10,162,312	197,800	4,100,000	6,260,112
Previous Budget Amendments and CIP Carry-Forwards	75,954	-	42,200	33,754
2020 Amended Budget	10,238,266	197,800	4,142,200	6,293,866
BA#7 (Ordinance #6783, Proposed):	187,249	(112,000)	-	75,249
Revenue reallocations (COVID-19 response)	-	(112,000)	-	(112,000)
True up 2020 beginning fund balance to 2019 actual ending balance	187,249	-	-	187,249
Revised 2020 Budget - Fund 122	10,425,515	85,800	4,142,200	6,369,115
Mitigation Fees Fund (#124)				
2020 Adopted Budget	9,101,987	1,306,700	741,600	9,667,087
Previous Budget Amendments and CIP Carry-Forwards	2,897,279	-	4,712,322	(1,815,043)
2020 Amended Budget	11,999,266	1,306,700	5,453,922	7,852,044
BA#7 (Ordinance #6783, Proposed):	2,104,822	-	-	2,104,822
True up 2020 beginning fund balance to 2019 actual ending balance	2,104,822	-	-	2,104,822
Revised 2020 Budget - Fund 124	14,104,088	1,306,700	5,453,922	9,956,866
City Hall Annex 2010 A&B Bond Fund (#230)				
2020 Adopted Budget	-	1,658,400	1,658,400	-
Previous Budget Amendments	-	-	-	-
2020 Amended Budget	-	1,658,400	1,658,400	-
BA#7 (Ordinance #6764, Proposed):	4,489	-	-	4,489
True up 2020 beginning fund balance to 2019 actual ending balance	4,489	-	-	4,489

Schedule A
Summary of 2020 Budget Adjustments by Fund
Budget Amendment #7 (Ordinance #6783)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
Local Revitalization 2010 C&D Bond Fund (#231)				
2020 Adopted Budget	11,896	575,100	574,600	12,396
Previous Budget Amendments	3,436	-	-	3,436
2020 Amended Budget	15,332	575,100	574,600	15,832
BA#7 (Ordinance #6783, Proposed):	18,261	(500)	-	17,761
Revenue reallocations (COVID-19 response)	-	(500)	-	(500)
True up 2020 beginning fund balance to 2019 actual ending balance	18,261	-	-	18,261
Revised 2020 Budget - Fund 231	33,593	574,600	574,600	33,593
LID Guarantee Fund (#249)				
2020 Adopted Budget	1,648	40	-	1,688
Previous Budget Amendments	15	-	-	15
2020 Amended Budget	1,663	40	-	1,703
BA#7 (Ordinance #6783, Proposed):	6	-	-	6
True up 2020 beginning fund balance to 2019 actual ending balance	6	-	-	6
Revised 2020 Budget - Fund 249	1,669	40	-	1,709
LID 350 Fund (#275)				
2020 Adopted Budget	8,659	100	-	8,759
Previous Budget Amendments	(4,956)	-	-	(4,956)
2020 Amended Budget	3,703	100	-	3,803
BA#7 (Ordinance #6783, Proposed):	(3,455)	-	-	(3,455)
True up 2020 beginning fund balance to 2019 actual ending balance	(3,455)	-	-	(3,455)
Revised 2020 Budget - Fund 275	248	100	-	348

Schedule A
Summary of 2020 Budget Adjustments by Fund
Budget Amendment #7 (Ordinance #6783)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
Golf/Cemetery 2016 Refunding Fund (#276)				
2020 Adopted Budget	**-**	**376,000**	**376,000**	**-**
Previous Budget Amendments	19	-	-	19
2020 Amended Budget	**19**	**376,000**	**376,000**	**19**
BA#7 (Ordinance #6783, Proposed):	**(19)**	**-**	**-**	**(19)**
True up 2020 beginning fund balance to 2019 actual ending balance	**(19)**	**-**	**-**	**(19)**
Revised 2020 Budget - Fund 276	**-**	**376,000**	**376,000**	**-**
Parks Construction Fund (#321)				
2020 Adopted Budget	**365,772**	**590,100**	**470,000**	**485,872**
Previous Budget Amendments and CIP Carry-Forwards	226,931	2,534,719	2,539,633	222,017
2020 Amended Budget	**592,703**	**3,124,819**	**3,009,633**	**707,889**
BA#7 (Ordinance #6783, Proposed):	**72,713**	**(4,700)**	**-**	**68,013**
Revenue reallocations (COVID-19 response)	**-**	**(4,700)**	**-**	**(4,700)**
True up 2020 beginning fund balance to 2019 actual ending balance	**72,713**	**-**	**-**	**72,713**
Revised 2020 Budget - Fund 321	**665,416**	**3,120,119**	**3,009,633**	**775,902**
Capital Improvements Fund (#328)				
2020 Adopted Budget	**7,679,377**	**2,605,200**	**3,944,300**	**6,340,277**
Previous Budget Amendments and CIP Carry-Forwards	4,071,275	3,368,216	7,077,481	362,010
2020 Amended Budget	**11,750,652**	**5,973,416**	**11,021,781**	**6,702,287**
BA#7 (Ordinance #6783, Proposed):	**2,053,115**	**(10,000)**	**1,928,000**	**115,115**
Revenue reallocations (COVID-19 response)	**-**	**(10,000)**	**2,223,000**	**(2,233,000)**
Reduce / adjust REET-funded roofing project costs (COVID-19 response)	**-**	**-**	**(295,000)**	**295,000**
328.00.599.400.06 ENDING FUND BALANCE/W C				295,000
True up 2020 beginning fund balance to 2019 actual ending balance	**2,053,115**	**-**	**-**	**2,053,115**
Revised 2020 Budget - Fund 328	**13,803,767**	**5,963,416**	**12,949,781**	**6,817,402**

Schedule A
Summary of 2020 Budget Adjustments by Fund
Budget Amendment #7 (Ordinance #6783)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
Local Revitalization Fund (#330)				
2020 Adopted Budget	-	-	-	-
Previous Budget Amendments and CIP Carry-Forwards	378,117	-	378,117	-
2020 Amended Budget	378,117	-	378,117	-
BA#7 (Ordinance #6783, Proposed):	1,622	-	-	1,622
True up 2020 beginning fund balance to 2019 actual ending balance	1,622	-	-	1,622
Revised 2020 Budget - Fund 330	379,739	-	378,117	1,622
Water Fund (#430)				
2020 Adopted Budget	5,131,610	16,323,800	14,408,831	7,046,579
Previous Budget Amendments and CIP Carry-Forwards	4,949,949	6,822,221	13,647,958	(1,875,788)
2020 Amended Budget	10,081,559	23,146,021	28,056,789	5,170,791
BA#7 (Ordinance #6783, Proposed):	1,831,547	10,635,100	1,953,450	10,513,197
Expected COVID-19 related revenue shortfalls	-	(1,338,400)	-	(1,338,400)
Cost reductions (COVID-19 response)	-	-	(70,250)	70,250
Revenue reallocations (COVID-19 response)	-	(20,000)	-	(20,000)
Recognize 2020 Utility System Revenue/Refunding Bonds	-	11,993,500	2,023,700	9,969,800
True up 2020 beginning fund balance to 2019 actual ending balance	1,831,547	-	-	1,831,547
Revised 2020 Budget - Fund 430	11,913,106	33,781,121	30,010,239	15,683,988
Sewer Fund (#431)				
2020 Adopted Budget	5,528,686	9,394,700	7,777,448	7,145,938
Previous Budget Amendments and CIP Carry-Forwards	1,386,725	-	826,817	559,908
2020 Amended Budget	6,915,411	9,394,700	8,604,265	7,705,846
BA#7 (Ordinance #6783, Proposed):	301,354	(771,500)	45,250	(515,396)
Revenue reallocations (COVID-19 response)	-	(751,500)	-	(751,500)
Cost reductions (COVID-19 response)	-	-	(38,050)	38,050
Revenue reallocations (COVID-19 response)	-	(20,000)	-	(20,000)
Recognize 2020 Utility System Revenue/Refunding Bonds	-	-	83,300	(83,300)
True up 2020 beginning fund balance to 2019 actual ending balance	301,354	-	-	301,354
Revised 2020 Budget - Fund 431	7,216,765	8,623,200	8,649,515	7,190,450

Schedule A
Summary of 2020 Budget Adjustments by Fund
Budget Amendment #7 (Ordinance #6783)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
Storm Drainage Fund (#432)				
2020 Adopted Budget	4,151,402	10,399,200	8,831,070	5,719,532
Previous Budget Amendments and CIP Carry-Forwards	2,203,371	-	374,707	1,828,664
2020 Amended Budget	6,354,773	10,399,200	9,205,777	7,548,196
BA#7 (Ordinance #6783, Proposed):	843,517	(15,000)	7,750	820,767
Revenue reallocations (COVID-19 response)	-	(15,000)	-	(15,000)
Recognize 2020 Utility System Revenue/Refunding Bonds	-	-	69,700	(69,700)
True up 2020 beginning fund balance to 2019 actual ending balance	843,517	-	-	843,517
Revised 2020 Budget - Fund 432	7,198,290	10,384,200	9,213,527	8,368,963
Sewer Metro Sub Fund (#433)				
2020 Adopted Budget	3,341,367	18,549,300	18,397,800	3,492,867
Previous Budget Amendments	383,462	-	-	383,462
2020 Amended Budget	3,724,829	18,549,300	18,397,800	3,876,329
BA#7 (Ordinance #6783, Proposed):	(278,993)	(1,289,600)	-	(1,568,593)
Expected COVID-19 related revenue shortfalls	-	(1,287,100)	-	(1,287,100)
Revenue reallocations (COVID-19 response)	-	(2,500)	-	(2,500)
True up 2020 beginning fund balance to 2019 actual ending balance	(278,993)	-	-	(278,993)
Revised 2020 Budget - Fund 433	3,445,836	17,259,700	18,397,800	2,307,736
Solid Waste Fund (#434)				
2020 Adopted Budget	5,508,969	16,351,600	16,684,052	5,176,517
Previous Budget Amendments	91,608	-	-	91,608
2020 Amended Budget	5,600,577	16,351,600	16,684,052	5,268,125
BA#7 (Ordinance #6783, Proposed):	336,118	(152,100)	19,500	164,518
Expected COVID-19 related revenue shortfalls	-	(96,800)	-	(96,800)
Revenue reallocations (COVID-19 response)	-	(55,300)	-	(55,300)
Move decant disposal costs from the General Fund	-	-	19,500	(19,500)
True up 2020 beginning fund balance to 2019 actual ending balance	336,118	-	-	336,118
Revised 2020 Budget - Fund 434	5,936,695	16,199,500	16,703,552	5,432,643

Schedule A
Summary of 2020 Budget Adjustments by Fund
Budget Amendment #7 (Ordinance #6783)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
Airport Fund (#435)				
2020 Adopted Budget	**257,640**	**1,258,800**	**1,085,701**	**430,739**
Previous Budget Amendments	102,482	134,100	242,650	(6,068)
2020 Amended Budget	**360,122**	**1,392,900**	**1,328,351**	**424,671**
BA#7 (Ordinance #6783, Proposed):	**274,255**	**69,000**	**(6,100)**	**349,355**
Cost reductions (COVID-19 response)	**-**	**-**	**(6,100)**	**6,100**
Receipt CARES Act funds for Airport operational expenses (COVID-19 related)	**-**	**69,000**	**-**	**69,000**
True up 2020 beginning fund balance to 2019 actual ending balance	**274,255**	**-**	**-**	**274,255**
Revised 2020 Budget - Fund 435	**634,377**	**1,461,900**	**1,322,251**	**774,026**
Cemetery Fund (#436)				
2020 Adopted Budget	**264,098**	**1,187,000**	**1,343,743**	**107,355**
Previous Budget Amendments	261,627	-	7,800	253,827
2020 Amended Budget	**525,725**	**1,187,000**	**1,351,543**	**361,182**
BA#7 (Ordinance #6783, Proposed):	**296,320**	**-**	**88,700**	**207,620**
Cost reductions (COVID-19 response)	**-**	**-**	**(11,300)**	**11,300**
True up 2020 beginning fund balance to 2019 actual ending balance	**296,320**	**-**	**100,000**	**196,320**
Revised 2020 Budget - Fund 436	**822,045**	**1,187,000**	**1,440,243**	**568,802**
Water Capital Fund (#460)				
2020 Adopted Budget	**2,562,724**	**2,070,200**	**4,282,305**	**350,619**
Previous Budget Amendments and CIP Carry-Forwards	1,585,434	13,120,292	12,845,648	1,860,078
2020 Amended Budget	**4,148,158**	**15,190,492**	**17,127,953**	**2,210,697**
BA#7 (Ordinance #6783, Proposed):	**(4,067,079)**	**1,994,300**	**-**	**(2,072,779)**
Revenue reallocations (COVID-19 response)	**-**	**(5,700)**	**-**	**(5,700)**
Recognize 2020 Utility System Revenue/Refunding Bonds	**-**	**2,000,000**	**-**	**2,000,000**
True up 2020 beginning fund balance to 2019 actual ending balance	**(4,067,079)**	**-**	**-**	**(4,067,079)**
Revised 2020 Budget - Fund 460	**81,079**	**17,184,792**	**17,127,953**	**137,918**

Schedule A
Summary of 2020 Budget Adjustments by Fund
Budget Amendment #7 (Ordinance #6783)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
Sewer Capital Fund (#461)				
2020 Adopted Budget	9,049,491	750,500	1,265,000	8,534,991
Previous Budget Amendments and CIP Carry-Forwards	2,468,156	-	2,856,842	(388,686)
2020 Amended Budget	11,517,647	750,500	4,121,842	8,146,305
BA#7 (Ordinance #6783, Proposed):	1,782,510	(45,300)	-	1,737,210
Revenue reallocations (COVID-19 response)	-	(45,300)	-	(45,300)
True up 2020 beginning fund balance to 2019 actual ending balance	1,782,510	-	-	1,782,510
Revised 2020 Budget - Fund 461	13,300,157	705,200	4,121,842	9,883,515
Storm Drainage Capital Fund (#462)				
2020 Adopted Budget	10,701,488	581,800	2,063,900	9,219,388
Previous Budget Amendments	(338,682)	174,120	433,393	(597,955)
2020 Amended Budget	10,362,806	755,920	2,497,293	8,621,433
BA#7 (Ordinance #6783, Proposed):	1,446,929	(45,300)	-	1,401,629
Revenue reallocations (COVID-19 response)	-	(45,300)	-	(45,300)
True up 2020 beginning fund balance to 2019 actual ending balance	1,446,929	-	-	1,446,929
Revised 2020 Budget - Fund 462	11,809,735	710,620	2,497,293	10,023,062
Airport Capital Fund (#465)				
2020 Adopted Budget	99,605	775,700	778,000	97,305
Previous Budget Amendments and CIP Carry-Forwards	327,006	3,557,798	3,903,390	(18,586)
2020 Amended Budget	426,611	4,333,498	4,681,390	78,719
BA#7 (Ordinance #6783, Proposed):	3,230	(300)	-	2,930
Revenue reallocations (COVID-19 response)	-	(300)	-	(300)
True up 2020 beginning fund balance to 2019 actual ending balance	3,230	-	-	3,230
Revised 2020 Budget - Fund 465	429,841	4,333,198	4,681,390	81,649

Schedule A
Summary of 2020 Budget Adjustments by Fund
Budget Amendment #7 (Ordinance #6783)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
Cemetery Capital Fund (#466)				
2020 Adopted Budget	35,937	-	25,100	10,837
Previous Budget Amendments and CIP Carry-Forwards	317,315	55,400	380,400	(7,685)
2020 Amended Budget	353,252	55,400	405,500	3,152
BA#7 (Ordinance #6783, Proposed):	(94,269)	100,000	-	5,731
True up 2020 beginning fund balance to 2019 actual ending balance	(94,269)	100,000	-	5,731
Revised 2020 Budget - Fund 466	258,983	155,400	405,500	8,883
Insurance Fund (#501)				
2020 Adopted Budget	1,768,470	23,100	180,600	1,610,970
Previous Budget Amendments	4,456	-	-	4,456
2020 Amended Budget	1,772,926	23,100	180,600	1,615,426
BA#7 (Ordinance #6783, Proposed):	149,027	(13,100)	-	135,927
Revenue reallocations (COVID-19 response)	-	(13,100)	-	(13,100)
True up 2020 beginning fund balance to 2019 actual ending balance	149,027	-	-	149,027
Revised 2020 Budget - Fund 501	1,921,953	10,000	180,600	1,751,353
Workers' Comp Fund (#503)				
2020 Adopted Budget	2,482,073	1,261,900	833,415	2,910,558
Previous Budget Amendments	(963,880)	-	-	(963,880)
2020 Amended Budget	1,518,193	1,261,900	833,415	1,946,678
BA#7 (Ordinance #6783, Proposed):	359,434	(34,800)	-	324,634
Revenue reallocations (COVID-19 response)	-	(34,800)	-	(34,800)
True up 2020 beginning fund balance to 2019 actual ending balance	359,434	-	-	359,434
Revised 2020 Budget - Fund 503	1,877,627	1,227,100	833,415	2,271,312

Schedule A
Summary of 2020 Budget Adjustments by Fund
Budget Amendment #7 (Ordinance #6783)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
Facilities Fund (#505)				
2020 Adopted Budget	1,050,811	4,034,500	4,115,862	969,449
Previous Budget Amendments	259,043	(20,700)	435,500	(197,157)
2020 Amended Budget	1,309,854	4,013,800	4,551,362	772,292
BA#7 (Ordinance #6783, Proposed):	5,642	(308,100)	(555,300)	252,842
Revenue reallocations (COVID-19 response)	-	(13,100)	-	(13,100)
Cost reductions (COVID-19 response)	-	-	(160,300)	160,300
Reduce / adjust REET-funded roofing project costs (COVID-19 response)	-	(295,000)	(395,000)	100,000
True up 2020 beginning fund balance to 2019 actual ending balance	5,642	-	-	5,642
Revised 2020 Budget - Fund 505	1,315,496	3,705,700	3,996,062	1,025,134
Innovation & Technology Fund (#518)				
2020 Adopted Budget	2,564,974	6,724,153	7,182,511	2,106,616
Previous Budget Amendments	(3,138)	141,300	275,000	(136,838)
2020 Amended Budget	2,561,836	6,865,453	7,457,511	1,969,778
BA#7 (Ordinance #6783, Proposed):	(38,938)	(8,000)	(357,800)	310,862
Revenue reallocations (COVID-19 response)	-	(8,000)	-	(8,000)
Cost reductions (COVID-19 response)	-	-	(357,800)	357,800
True up 2020 beginning fund balance to 2019 actual ending balance	(38,938)	-	-	(38,938)
Revised 2020 Budget - Fund 518	2,522,898	6,857,453	7,099,711	2,280,640
Equipment Rental Fund (#550)				
2020 Adopted Budget	2,352,641	2,075,495	2,785,735	1,642,401
Previous Budget Amendments	164,875	9,900	115,900	58,875
2020 Amended Budget	2,517,516	2,085,395	2,901,635	1,701,276
BA#7 (Ordinance #6783, Proposed):	439,254	-	(237,300)	676,554
Cost reductions (COVID-19 response)	-	-	(237,300)	237,300
True up 2020 beginning fund balance to 2019 actual ending balance	439,254	-	-	439,254
Revised 2020 Budget - Fund 550	2,956,770	2,085,395	2,664,335	2,377,830

Schedule A
Summary of 2020 Budget Adjustments by Fund
Budget Amendment #7 (Ordinance #6783)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
Equipment Rental Capital Fund (#560)				
2020 Adopted Budget	**3,302,654**	**1,594,605**	**1,331,000**	**3,566,259**
Previous Budget Amendments and CIP Carry-Forwards	1,381,072	857,500	2,615,350	(376,778)
2020 Amended Budget	**4,683,726**	**2,452,105**	**3,946,350**	**3,189,481**
BA#7 (Ordinance #6783, Proposed):	**(264,422)**	**135,300**	**135,300**	**(264,422)**
Two vehicles for School Resource Officers (partially funded by ASD)	**-**	**135,300**	**135,300**	**-**
True up 2020 beginning fund balance to 2019 actual ending balance	**(264,422)**	**-**	**-**	**(264,422)**
Revised 2020 Budget - Fund 560	**4,419,304**	**2,587,405**	**4,081,650**	**2,925,059**
IT Capital Fund (#568)				
2020 Adopted Budget	**300,697**	**500,000**	**500,300**	**300,397**
Previous Budget Amendments and CIP Carry-Forwards	1,018,063	-	661,527	356,536
2020 Amended Budget	**1,318,760**	**500,000**	**1,161,827**	**656,933**
BA#7 (Ordinance #6783, Proposed):	**126,854**	**25,000**	**25,000**	**126,854**
Two vehicles for School Resource Officers (partially funded by ASD)	**-**	**25,000**	**25,000**	**-**
True up 2020 beginning fund balance to 2019 actual ending balance	**126,854**	**-**	**-**	**126,854**
Revised 2020 Budget - Fund 568	**1,445,614**	**525,000**	**1,186,827**	**783,787**
Fire Pension Fund (#611)				
2020 Adopted Budget	**2,111,149**	**125,100**	**222,320**	**2,013,929**
Previous Budget Amendments	22,922	-	-	22,922
2020 Amended Budget	**2,134,071**	**125,100**	**222,320**	**2,036,851**
BA#7 (Ordinance #6783, Proposed):	**22,370**	**-**	**-**	**22,370**
True up 2020 beginning fund balance to 2019 actual ending balance	**22,370**	**-**	**-**	**22,370**
Revised 2020 Budget - Fund 611	**2,156,441**	**125,100**	**222,320**	**2,059,221**

Schedule A
Summary of 2020 Budget Adjustments by Fund
Budget Amendment #7 (Ordinance #6783)

	Beg. Fund Balance	2020 Revenues	2020 Expenditures	Ending Fund Balance
SKHHP Fund (#654)				
2020 Adopted Budget	**-**	**-**	**-**	**-**
Previous Budget Amendments	78,250	376,500	432,820	21,930
2020 Amended Budget	**78,250**	**376,500**	**432,820**	**21,930**
BA#7 (Ordinance #6764, Proposed):	**127,695**	**-**	**-**	**127,695**
True up 2020 beginning fund balance to 2019 actual ending balance	**127,695**	**-**	**-**	**127,695**
Revised 2020 Budget - Fund 654	**205,945**	**376,500**	**432,820**	**149,625**
Cemetery Endowment Fund (#701)				
2020 Adopted Budget	**1,829,409**	**45,000**	**-**	**1,874,409**
Previous Budget Amendments and CIP Carry-Forwards	112,378	-	55,400	56,978
2020 Amended Budget	**1,941,787**	**45,000**	**55,400**	**1,931,387**
BA#7 (Ordinance #6783, Proposed):	**47,258**	**-**	**-**	**47,258**
True up 2020 beginning fund balance to 2019 actual ending balance	**47,258**	**-**	**-**	**47,258**
Revised 2020 Budget - Fund 701	**1,989,045**	**45,000**	**55,400**	**1,978,645**
Grand Total - All Funds				
2020 Adopted Budget	**108,311,321**	**189,050,270**	**199,654,274**	**97,707,317**
Previous Budget Amendments	28,702,597	42,736,949	70,675,239	764,307
2020 Amended Budget	**137,013,918**	**231,787,219**	**270,329,513**	**98,471,624**
TOTAL BA#7 (Ordinance #6783, Proposed):	**18,244,835**	**8,148,510**	**3,209,610**	**23,183,735**
Revised 2020 Budget	**155,258,753**	**239,935,729**	**273,539,123**	**121,655,359**
		395,194,482		**395,194,482**

Schedule B
2020 Appropriations by Fund

Fund	2020 Adopted Budget	BA#5 (Ord #31783475)	CIP Carry Forwards	BA#6 (Ord #5916660)	Additional CIP Carry Forwards	BA#7 (Ord #26393345)	Total Amendments	Revised Budget
General Fund (#001)	87,644,730	4,599,174	-	1,232,350	-	5,392,653	11,224,177	98,868,907
Arterial Street Fund (#102)	5,039,077	4,109,581	180,000	450,000	1,659,846	376,283	6,775,710	11,814,787
Local Street Fund (#103)	2,858,880	249,701	-	-	1,212,534	129,497	1,591,732	4,450,612
Hotel/Motel Tax Fund (#104)	266,121	52,454	-	-	-	40,511	92,965	359,086
Arterial Street Preservation Fund (#105)	5,202,057	(536,021)	800,000	1,606,240	861,744	813,208	3,545,171	8,747,228
Drug Forfeiture Fund (#117)	385,460	71,297	-	-	-	973,216	1,044,513	1,429,973
Housing & Comm Develop Fund (#119)	576,428	6,446	-	289,780	-	371,800	668,026	1,244,454
Recreation Trails Fund (#120)	78,526	1,550	-	-	-	1,349	2,899	81,425
BIA Fund (#121)	129,873	940	-	-	-	58,012	58,952	188,825
Cumulative Reserve Fund (#122)	10,360,112	33,754	42,200	-	-	75,249	151,203	10,511,315
Mitigation Fees Fund (#124)	10,408,687	(69,211)	1,944,100	-	1,022,390	2,104,822	5,002,101	15,410,788
1998 GO Library Bond Fund (#229)	-	-	-	-	-	-	-	-
City Hall Annex 2010 A&B Bond Fund (#230)	1,658,400	-	-	-	-	4,489	4,489	1,662,889
Local Revitalization 2010 C&D Bond Fund (#231)	586,996	3,436	-	-	-	17,761	21,197	608,193
SCORE Debt Service Fund (#238)	2,117,000	-	-	-	-	-	-	2,117,000
LID Guarantee Fund (#249)	1,688	15	-	-	-	6	21	1,709
LID 350 Fund (#275)	8,759	(4,956)	-	-	-	(3,455)	(8,411)	348
Golf/Cemetery 2016 Refunding Fund (#276)	376,000	19	-	-	-	(19)	-	376,000
Parks Construction Fund (#321)	955,872	120,757	1,311,800	758,050	571,043	68,013	2,829,663	3,785,535
Capital Improvements Fund (#328)	10,284,577	362,010	5,497,000	687,050	893,431	2,043,115	9,482,606	19,767,183
Local Revitalization Fund (#330)	-	-	290,500	-	87,617	1,622	379,739	379,739
Water Fund (#430)	21,455,410	8,307,683	3,230,666	88,000	145,821	12,466,647	24,238,817	45,694,227
Sewer Fund (#431)	14,923,386	894,808	280,667	211,250	-	(470,146)	916,579	15,839,965
Storm Drainage Fund (#432)	14,550,602	1,868,064	280,667	54,640	-	828,517	3,031,888	17,582,490
Sewer Metro Sub Fund (#433)	21,890,667	383,462	-	-	-	(1,568,593)	(1,185,131)	20,705,536
Solid Waste Fund (#434)	21,860,569	91,608	-	-	-	184,018	275,626	22,136,195
Airport Fund (#435)	1,516,440	236,582	-	-	-	343,255	579,837	2,096,277
Cemetery Fund (#436)	1,451,098	261,627	-	-	-	296,320	557,947	2,009,045
Water Capital Fund (#460)	4,632,924	9,187,643	3,286,000	-	2,232,083	(2,072,779)	12,632,947	17,265,871
Sewer Capital Fund (#461)	9,799,991	249,314	436,500	-	1,782,342	1,737,210	4,205,366	14,005,357
Storm Drainage Capital Fund (#462)	11,283,288	(1,394,955)	829,800	-	400,593	1,401,629	1,237,067	12,520,355
Airport Capital Fund (#465)	875,305	3,028,414	-	-	856,390	2,930	3,887,734	4,763,039
Cemetery Capital Fund (#466)	35,937	(7,685)	380,400	-	-	5,731	378,446	414,383
Insurance Fund (#501)	1,791,570	4,456	-	-	-	135,927	140,383	1,931,953
Workers' Comp Fund (#503)	3,743,973	(963,880)	-	-	-	324,634	(639,246)	3,104,727
Facilities Fund (#505)	5,085,311	14,043	-	224,300	-	(302,458)	(64,115)	5,021,196
Innovation & Technology Fund (#518)	9,289,127	(56,838)	-	195,000	-	(46,938)	91,224	9,380,351
Equipment Rental Fund (#550)	4,428,136	174,775	-	-	-	439,254	614,029	5,042,165
Equipment Rental Capital Fund (#560)	4,897,259	(267,778)	1,140,000	-	1,366,350	(129,122)	2,109,450	7,006,709
IT Capital Fund (#568)	800,697	356,536	661,527	-	-	151,854	1,169,917	1,970,614
Fire Pension Fund (#611)	2,236,249	22,922	-	-	-	22,370	45,292	2,281,541
SKHHP Fund (#654)	-	334,750	-	120,000	-	127,695	582,445	582,445
Cemetery Endowment Fund (#701)	1,874,409	56,978	55,400	-	-	47,258	159,636	2,034,045
Total	**297,361,591**	**31,783,475**	**20,647,227**	**5,916,660**	**13,092,184**	**26,393,345**	**97,832,891**	**395,194,482**

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 6785 (Thomas)(5 Minutes)

Date:
August 17, 2020

Department:
Finance

Attachments:
Ordinance No. 6785

Budget Impact:

Administrative Recommendation:

For discussion only.

Background Summary:

Auburn City Code provides for the imposition of tax on water, sewer, storm, garbage, cable, telephone, and electric utility revenue collected within the City of Auburn. The City levies 6% on external utilities (cable, telephone, electric power), which is the maximum allowed by RCW. There is more flexibility for City operated utilities (water, sewer, storm, and garbage) and the City currently levies 7% on those. In 2008 Auburn City Code was amended to allocate 1% of the utility tax revenue collected, to the Arterial Street Fund. The current breakdown of the utility tax rates is as follows:

Utility Tax Rates		
	General Fund	Arterial Street Fund
Water, Sewer, Storm (City)	6%	1%
Garbage (City)	6%	1%
Cable	5%	1%
Telephone Activities	5%	1%
Electric and Other Utilities	5%	1%

The impact of the COVID-19 pandemic has created a significant impact on the City's General Fund revenues and in response to these anticipated revenue shortfalls, the City has been able to balance the revenue gap in the 2020 budget through various cost saving measures, as well as revenue reallocations. A significant revenue reallocation includes transferring the 1% utility tax that is currently collected in the Arterial Street Fund, into the General Fund. This ordinance would provide the authority to use the 1% currently earmarked for Arterial Streets to the General Fund for the 2020 fiscal year only and would transfer an estimated $1,800,000 into the General Fund. To maintain funding in the Arterial Street Fund in 2020, a 1x transfer from Real Estate Excise Tax (REET) will be made.

Reviewed by Council Committees:

Councilmember:

Staff: Thomas

ORDINANCE NO. <u>6785</u>

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING SECTIONS 3.40.020, 3.41.010, 3.42.020, 3.84.040 AND 3.88.040 OF THE AUBURN CITY CODE RELATING TO THE USE OF TAXES IMPOSED ON UTILITIES

WHEREAS, the Auburn City Code (ACC), including Sections 3.40.020, 3.41.010, 3.42.020, 3.84.040 and 3.88.040 of the City Code (water, sewer, storm, garbage, cable, telephone and utility services, respectively), provides for taxes to be imposed on gross operating revenues of said identified utilities derived from operations of such utilities within the City; and

WHEREAS, City of Auburn Ordinance No. 6170, enacted in 2008, relegated the use of one percent (1%) of such taxes for support of the City's arterial street system; and

WHEREAS, in light of the current economic impacts of the COVID-19 pandemic, it is appropriate that the 1% of such tax for fiscal year 2020 that would have otherwise been earmarked for support of the City's arterial street system be, instead, transferred to the General Fund to support General Fund services for the City's fiscal year 2020.

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

<u>Section 1. Amendment to City Code.</u> Section 3.40.020 ACC (Water, Sewer, Storm) is amended to read as follows:

3.40.020 Levy and collection.

There is levied a tax of seven percent per year upon the total annual revenues of the water, storm drainage and sanitary sewer utility funds and on all water, storm drainage and sewer utilities, business enterprises or other entities engaged in providing such utility services within the city, which tax shall be collected from and levied upon the total revenues received by the water, storm drainage and sanitary sewer utility funds and on the revenues derived from within the city of all water, storm drainage and sewer utilities, business enterprises or other entities engaged in providing such utility services, for the benefit of the current expense fund, or as otherwise directed by the city. The finance director is directed to collect the tax of seven percent out of the total revenues received each year in the water, storm drainage and sewer utility funds, commencing July 1, 2008, and the finance director is directed to pay over the funds so collected into the current expense fund. The increase in tax revenue generated by the additional one percent tax levied pursuant to Ordinance No. 6170 shall be relegated for use by the city in support of its arterial street system, other than as follows: The1% tax levied January 1, 2020 – December 31,2020, will be transferred to the General Fund to support General Fund services for the City's fiscal year 2020.. It is provided, however, that if the state of Washington provides a long-term sustainable funding source to the city of Auburn arterial street fund in an amount sufficient to off-set the amount of the increases in utility tax rates of this section and the long-term funding source is sufficient to maintain the city of Auburn's arterial street system's pavement condition index (PCI) at an average of 70 PCI out of a score of 100 PCI for the foreseeable future, the water, storm drainage and sanitary sewer utility tax rate shall automatically revert to six percent per year upon the total annual revenues of the water, storm drainage and sanitary sewer utility funds. (Ord. 6170 § 1, 2008; Ord. 5699 § 1, 2002; Ord. 5280 § 1, 1999; Ord. 4178 § 2, 1986.)

Section 2. Amendment to City Code. Section 3.41.010 ACC (Garbage) is amended to read as follows:

3.41.010 Tax created.

There is created a utility tax in the amount of seven percent, to be levied on and after July 1, 2008, of the gross receipts against and upon the total annual revenues of the garbage fund, and on all solid waste utilities and upon every business enterprise or other entity engaged in handling solid waste. For the purposes hereof, "solid waste" means garbage, recyclables and yard debris. The increase in tax revenue generated by the additional one percent tax levied pursuant to Ordinance No. 6170 shall be relegated for use by the city in support of its arterial street system, other than as follows: The1% tax levied January 1, 2020 – December 31,2020, will be transferred to the General Fund to support General Fund services for the City's fiscal year 2020.. It is provided, however, that if the state of Washington provides a long-term sustainable funding source to the city of Auburn arterial street fund in an amount sufficient to off-set the amount of the increases in utility tax rates of this chapter and the long-term funding source is sufficient to maintain the city of Auburn's arterial street system's pavement condition index (PCI) at an average of 70 PCI out of a score of 100 PCI for the foreseeable future, the garbage and solid waste utility tax rate shall automatically revert to six percent of the gross receipts against and upon the total annual revenues of the garbage fund, and on all solid waste utilities and upon every business enterprise or other entity engaged in handling solid waste. (Ord. 6170 § 2, 2008; Ord. 5700 § 1, 2002; Ord. 5671 § 1, 2002; Ord. 4393, 1989; Ord. 4179 § 2, 1986.)

<u>Section 3. Amendment to City Code.</u> Section 3.42.020 ACC (Cable) is amended to read as follows:

3.42.020 Levy and collection of tax.

There is levied a tax of six percent on the gross income of, and upon the total annual revenues of, cable television businesses operating within the city, which tax shall be collected from and levied upon the total receipts of such cable television business(es). For the purposes hereof, the following terms and definitions shall apply:

A. "Gross income" means the value proceeding or accruing from the sale of any tangible property or service, and receipts (including all sums earned or charged, whether received or not), by reason of the investment of capital in the business engaged in, including rentals, royalties, fees, or other emoluments, however designated (excluding receipts or proceeds from the use or sale of real property or any interest therein, and proceeds from the sale of notes, bonds, mortgages, or other evidences of indebtedness, or stocks and the like) and without any deduction on account of the cost of the property sold, the cost of materials used, labor costs, interest or discount paid, or any expense whatsoever, and without any deduction on account of losses, including the amount of credit losses actually sustained by the taxpayer whose regular books or accounts are kept upon an accrual basis.

B. "Cable television business" means:

1. A system providing service pursuant to a franchise issued by the city under the Cable Communications Policy Act of 1984 Public Law No. 98-549, 47 U.S.C. Section 521, as it may be amended or superseded; or

2. Any system that competes directly with such franchised system by employing antennas, microwaves, wires, wave guides, coaxial cables, or other conductors, equipment or facilities designed, construed or used for the purpose of:

a. Collecting and amplifying local and distant broadcast television signals and distributing and transmitting them;

b. Transmitting original cable-cast programming not received through television broadcast signals; or

c. Transmitting television pictures, film and videotape programs not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers; provided, however, that "cable television service" shall not include entities that are subject to charges as "commercial TV stations" under 47 U.S.C. Section 158, as it may be amended or superseded.

C. The tax revenue generated by one percent levied pursuant to Ordinance No. 6170 shall be relegated for use by the city in support of its arterial street system<u>, other than as follows: The1% tax levied January 1, 2020 – December 31,2020, will be transferred to the General Fund to support General Fund services for the City's fiscal year 2020.</u>. The tax revenue generated by the remaining five percent levied pursuant to Ordinance No. 6620 shall be relegated for use by the city in support of its police, public safety and criminal justice system. (Ord. 6620 § 2, 2016; Ord. 6170 § 5, 2008.)

Section 4. Amendment to City Code. Section 3.84.040 ACC (Telephone) is amended to read as follows:

3.84.040 Tax – Imposed.

On and after July 1, 2008, there is levied upon and there shall be collected from every person, firm or corporation engaged in carrying on the following business for hire or for sale of a commodity or a service within or partly within the corporate limits of the city, a tax for the privilege of so doing business as defined in ACC 3.84.010. Upon any telephone business there shall be levied a tax equal to six percent of the total gross operating revenues, including revenues from intrastate tolls derived from the operation of such business within the city. Gross operating revenues for this purpose shall not include charges which are passed on to the subscribers by a telephone company pursuant to tariffs required by regulatory order to compensate for the cost to the company of the tax imposed by this chapter. The increase in tax revenue generated by the additional one percent tax levied pursuant to Ordinance No. 6170 shall be relegated for use by the city in support of its arterial street system, other than as follows: The1% tax levied January 1, 2020 – December 31,2020, will be transferred to the General Fund to support General Fund services for the City's fiscal year 2020. It is provided, however, that if the state of Washington provides a long-term sustainable funding source to the city of Auburn arterial street fund in an amount sufficient to off-set the amount of the increases in utility tax rates of this chapter and the long-term funding source is sufficient to maintain the city of Auburn's arterial street system's pavement condition index (PCI) at an average of 70 PCI out of a score of 100 PCI for the foreseeable future, the telephone utility tax rate shall automatically revert to five percent of the total gross operating revenues on telephone businesses, including revenues from intrastate tolls derived from the operation of such business within the city. (Ord. 6170 § 3, 2008; Ord. 5797 § 1, 2003; Ord. 5673 § 2, 2002; Ord. 4185 § 2, 1986. Formerly 5.82.040.)

Section 5. Amendment to City Code. Section 3.88.040 ACC (Utility Services) is amended to read as follows:

3.88.040 Tax – Levy.

On and after July 1, 2008, there is levied upon and there shall be collected from every person, firm or corporation engaged in carrying on an electric power business, natural gas business and/or artificial gas business for hire within or partly within the city limits an annual tax for the privilege of so doing, such tax to be equal to six percent of the total gross revenues received from the operation of such businesses within the city limits. The increase in tax revenue generated by the additional one percent tax levied pursuant to Ordinance No. 6170 shall be relegated for use by the city in support of its arterial street system, other than as follows: The1% tax levied January 1, 2020 – December 31,2020, will be transferred to the General Fund to support General Fund services for the City's fiscal year 2020. It is provided, however, that if the state of Washington provides a long-term sustainable funding source of to the city of Auburn arterial street fund in an amount sufficient to off-set the amount of the increases in utility tax rates of this chapter and the long-term funding source is sufficient to maintain the city of Auburn's arterial street system's pavement condition index (PCI) at an average of 70 PCI out of a score of 100 PCI for the foreseeable future, the electric power, natural gas business and artificial gas business utility tax rate shall automatically revert to five percent of the total gross revenues received from the operation of such businesses within the city limits. (Ord. 6170 § 4, 2008; Ord. 5797 § 2, 2003; Ord. 5673 § 3, 2002; Ord. 4180 § 1, 1986; Ord. 3827 § 1, 1982; Ord. 3679 § 1, 1981; 1957 code § 5.42.030. Formerly 5.88.040.)

Section 6. Implementation. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 7. 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 8. 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: ____________________

CITY OF AUBURN WASHINGTON

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 6786 (Tate)(20 Minutes)

Date:
August 19, 2020

Department:
Community Development

Attachments:
Ordinance 6786 Ch 5.23 ACC Residential Rental Just Cause

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

Administrative Recommendation:

Schedule Ordinance 6786 for City Council action on September 8, 2020.

Background Summary:

Summary is the same as that which was provided on July 13 and July 20, 2020. Updated information is provided in italics following the summary.

A Just Cause Eviction Ordinance (JCEO) protects tenants from being forced to leave their rental home without reasonable justification. Washington state law prohibits unfair, retaliatory evictions, a critical tenant protection (RCW 59.18.240; RCW 59.18.250). However, locally enforced JCEOs clearly enumerate the grounds on which landlords can end a tenancy. Any evictions or terminations of tenancy outside those specified by the ordinance are considered illegal once the JCEO is in effect.

City staff presented an overview of JCEO concepts during study session discussions on July 18, 2018 and April 22, 2019 as part of larger presentations related to various tenant protection programs in place throughout the region. Staff provided materials that the City of Seattle had assembled outlining their JCEO. A number of other cities in Washington State also have adopted a JCEO (including Burien and Federal Way). After researching multiple JCEO examples and interviewing staff from other municipalities, Burien was selected as a template for the creation of a draft JCEO for consideration by Auburn City Council.

There are a number of reasons for the preparation of the JCEO for Council consideration at this time:

1. Council previously expressed interest in adopting a JCEO in Auburn.
2. It is a policy action that is consistent with the recommendations contained in the Regional Affordable Housing Task Force 5 Year Action Plan.
3. It is a policy action that is consistent with the Joint Recommendations Committee for the 2020 State Legislative Agenda (of which Auburn is a member).
4. It is a policy action that is consistent with the South King Housing and Homelessness Partners (SKHHP).

5. The high degree of concern that the recent spike in high unemployment rates due to COVID 19 and its associated economic impact.
6. The concern that the Governor's temporary moratorium on residential tenant evictions will expire on August 1, 2020.

   In addition to establishing codified reasons for why a landlord may evict a tenant a JCEO also establishes local requirements for the notification timeframes that a landlord must abide by when increasing rental rates. Under Washington State law, a landlord is required to provide a minimum of 60 days notice that rental rates are increasing, irrespective of how much the landlord intends to increase rent. A JCEO can establish longer notification timeframes for more significant rent increases by establishing a percentage increase threshold and a longer timeframe. In the draft ordinance attached as Exhibit A, staff is proposing to establish a 120 day notification requirement when the rent will increase by more than 5%. Both the percent threshold and the number of days are highlighted below as one of the policy questions for City Council to consider. The reason that it is important to provide more notification for larger increases in rent is because the tenant may not be able to afford the increase which means they will need to find a new housing option. And finding a new housing option will require the tenant to secure funds associated with the cost of moving, security deposit for the new home, and first and last month's rent. When combined with the potential other costs associated with setting up new utility accounts, changing school districts, finding new child care, etc. it is difficult for the tenant to be prepared to move to a new home with a 60 day notification.

   Another advantage of a JCEO is that it allows a City to assist tenants and landlords in areas the City currently has no authority. While the landlord tenant laws are well established and are intended to protect both parties, the City does not have authority to enforce these laws. Enforcement is remedied through the courts. A JCEO provides the City with a tool to assist in some areas of landlord tenant relations.

POLICY QUESTIONS:

1. General: Does City Council generally support inclusion of a JCEO in Auburn City Code?
2. ACC 5.24.040.A.1: The draft document establishes a threshold and timeframe requirement that warrants further discussion:
   a. First, a 5% threshold is established. Rent increases of 5% or less require the standard 60 day notification established in Washington State law. Increases that are greater than 5% require more than 60 days notification. Jurisdictions that have a JCEO have different thresholds that range from 3% to 7%. Staff included 5% because it is the midpoint. Does City Council concur or should there be a different threshold? For additional perspective, here are some figures that help provide real dollars to the percentage options (using July 2019 median rental rate of $1,732 per month):

i. 3% increase = $50 per month
ii. 5% increase = $85 per month
iii. 7% increase = $120 per month

b. Second, a 120 day notification is established. Where rent increases are greater than 5% the landlord would have to provide a 120 day notice to the tenant. Similar to the percentage threshold, other JCEO's range from 90 days to 180 days. Staff selected 120 days because it is within the middle of the range. Does City Council concur with 120 days or should it be modified to 90 or 180 days?

3. <u>ACC 5.24.045</u>: Does City Council support the inclusion of the temporary COVID 19 related provisions included in section ACC 5.24.045 which establishes temporary, modified enforcement restrictions? This is a unique provision that is not contained in other JCEO's but is timely due to the August 1, 2020 expiration of the Governor's current order that prohibits certain types of residential evictions and lays the foundation for rental repayment plans for tenants that have lost income as a result of COVID 19 related matters.

   Update: Ordinance 6780 was presented to City Council during Study Session on July 13, 2020. City Council. The ordinance was docketed for Council consideration at their July 20, 2020 regular Council meeting. City Council adopted a portion of the ordinance in order to address a pending concern that the Governor's Order establishing a moratorium on evictions was set to expire on August 1, 2020. The moratorium was later extended to October 15, 2020. Council also requested that staff evaluate the public comments that had been received on the draft ordinance given that there were comments in support of the ordinance and comments in opposition of the ordinance, as well as suggested edits.

   Because City Council took action at their July 20, 2020 meeting to adopt a portion of the ordinance, Ordinance 6780 is now in effect. The balance of provisions have now been moved into a separate ordinance for Council consideration. The draft Just Cause Eviction Ordinance is now assigned to Ordinance 6786.

   Additionally, Ordinance 6780 created new chapter 5.24 of the Auburn City Code. Staff is proposing that the temporary COVID provisions adopted under Ordinance 6780 remain in its own Chapter of city code. Ordinance 6786 proposes to create new chapter 5.23 of the Auburn City Code. Chapter 5.23 will serve as the Just Cause Eviction Ordinance. This will provide for enhanced future record keeping since there is a sunset provision in Chapter 5.24 and Chapter 5.23 will remain in effect.

   Ordinance 6786 includes the following revisions:

1. *Changes the Chapter from 5.24 to 5.23*
2. *Adds provisions that delay implementation of the rules until October 16, 2020. The purpose of this delay is to allow staff adequate time to develop the webpage and materials articulated in the ordinance.*

3. *ACC 5.23.040.A1.a: the language in subsection (a) was replaced. A provision was removed that would have allowed tenants to break a lease in advance of the previously agreed upon lease terms as a result of the landlord providing longer notification of a rental increase. After further review, this provision would have created an unintended outcome. The provision was replaced with a reference to RCW 59.18.140 which exempts subsidized tenancy from the notification of rental increases. This RCW exists to ensure that subsidized rental rates can increase in association with an increase in tenant earnings.*
4. *ACC 5.23.040.A.2: a provision was added that allows landlords to increase the security deposit for tenants with pets. Included in this provision is a statement that is intended to prohibit other types of fees within the pet deposit.*
5. *ACC 5.23.060: Two exceptions were added to the "Notice of Proposed Sale of Low Income Housing" provisions. One exception is for properties that are sold or transferred but never listed. The other exception is to exempt properties where fewer than 20% of the units are studio apartments. The second exemption is intended to ensure that a property with a small number of studio units (which tend to rent for rates that qualify as affordable due to their size) is not classified as a "Low Income Housing" property.*

   Strikethrough/underline formatting shown in draft Ordinance 6786 reflects changes that have been made since the version provided on July 20 and July 27, 2020. These changes will not be reflected in the final version that is moved forward for Council consideration on September 8th (or other date). This is because the entirety of Chapter 5.23 is new language.

   Responses to comments previously received by members of the public:

1. *A comment was made that requested to know the budget implication to the City given that the agenda bills indicates that the are no budget impacts. The comment cited ACC 5.23.030 which requires the city to develop materials that are to be distributed to tenants. While it is true that staff resources will need to be dedicated to developing the webpage and the materials, staff views this work as typical programmatic work that will be absorbed by key staff that will be involved in the various aspects of development and implementation (e.g. business license coordinator, code enforcement, administration, and community services). ACC 5.23.030 places the burden of distributing materials on the landlord and not the city, therefore, there are no city costs associated with this aspect.*
2. *Comments were submitted that state that the Just Cause Eviction Ordinance is rent control which is not allowed in Washington State. Many cities have adopted similar ordinances and at least 2 have had their ordinances challenged and upheld in court. City staff has conducted legal research and is of the opinion that adding longer notification periods for more significant rental increase is not rent control. In fact, one of the comment letters indicates in one statement that the longer lead times are a form of rent control and then points to the Washington State statute to highlight*

notification requirements that were recently increased by the State Legislature. If the State Legislature's increase of rental notifications to 60 days is allowable without violating the State's Constitution, how does a city further increasing the notification requirement cross a threshold that makes it become a violation?

Reviewed by Council Committees:

Councilmember:	Trout-Manuel	**Staff:**	Tate
Meeting Date:	August 24, 2020	Item Number:	

ORDINANCE NO. 6 7 8 6

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, CREATING A NEW CHAPTER 5.243 OF THE CITY CODE REGARDING A CITY OF AUBURN RENTAL HOUSING POLICY

WHEREAS, earlier this year, the World Health Organization has announced novel coronavirus (COVID-19) is officially a global pandemic; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary Alex Azar declared a public health emergency because of COVID-19; and

WHEREAS, the Washington Governor also declared a State of Emergency due to new cases of COVID-19; and

WHEREAS, on March 5, 2020, the Mayor proclaimed a local emergency due to growing public health impacts of COVID-19, which the Auburn City Council ratified by Resolution No. 5504; and

WHEREAS, in addition to the COVID-19 challenges that can affect payment of residential rent, it is appropriate to establish regulations supporting the issues of increasing housing security and enforcement mechanisms as they relate to rental housing within the City limits of Auburn; and

WHEREAS, it is the City's intent to continue its commitment to maintain vibrant and diverse neighborhoods within Auburn, while balancing the needs of landlord and tenants.

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

Section 1. **New Chapter 5.243 to City Code.** A new Chapter 5.243 of the Auburn City Code is hereby created to read as follows:

Chapter 5.243
Rental Housing Policy

Sections:

5.243.010 Purpose and Intent.
5.243.020 Definitions.
5.243.030 Distribution of information required.
5.243.040 Deposit requirements, notice of rent increase requirements, and installment payments permitted.
5.243.050 Notice requirement generally-reasonable accommodation request.
5.243.060 Notice of proposed sale of low-income housing.
5.243.070 Just Cause Eviction
5.243.080 Compliance and enforcement.

5.243.010 Purpose and Intent.

The purpose of this chapter is to establish regulations supporting the topic of increasing housing security, and to establish standards and enforcement mechanisms as they relate to rental housing within the City limits of Auburn. It is the City's intent to continue its long-term commitment to maintain vibrant and diverse neighborhoods within Auburn. The regulations contained in this chapter balance the needs of the landlord, tenant, and the City while creating a partnership to ensure safe, healthy, and thriving rental housing in Auburn. The City recognizes that the renting of residential property is a commercial venture where owners and landlords must evaluate risk, profit, and loss. Providing housing for Auburn residents directly impacts quality of life at the most basic level, and therefore requires regulations to ensure that it is equitably undertaken. This chapter strives to ensure housing security for current and future residents, and addresses potential retaliation against tenants who make complaints about housing conditions.

5.243.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

A. "Assisted housing development" means a multifamily rental housing development that both receives government assistance and is defined as federally assisted housing in RCW 59.28.020, or that receives other federal, state, or local government assistance and is subject to use restrictions.

B. "Days" means calendar days unless otherwise provided.

D. "Director" means the Director of the City of Auburn Department of Community Development, or the Director's designee.

E. "Dwelling unit" means a structure or part of a structure used as a home, residence, or sleeping place by one, two, or more persons maintaining a common household, including, but not limited to, single-family residences and multiplexes, apartment buildings, and mobile homes.

E. "Immediate family member" includes the spouse or domestic partner, dependent children, and other dependent relatives.

F. "Landlord" means a landlord as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the Residential Landlord Tenant Act of 1973 ("RLTA") in effect at the time the rental agreement is executed. As of the effective day of this ordinance, the RLTA defines "landlord" as "the owner, lessor, or sub-lessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sub-lessor including, but not limited to, an agent, a resident manager, or a designated property manager."

G. "Non-refundable move-in fees "means non-refundable payment paid by a tenant to a landlord to cover administrative, pet, or damage fees, or to pay for cleaning of the dwelling unit upon termination of the tenancy, but does not include payment of a holding fee authorized by RCW 59.18.253(2).

H. "Owner" means "Owner" means the owner of record as shown on the last King County tax assessment roll or such owner's authorized agent.

1. "Rent" or "rental amount" means recurring and periodic charges identified in the rental agreement for the use and occupancy of the premises, which may include charges for utilities. These terms do not include nonrecurring charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys' fees. PROVIDED, however, that if, at the commencement of the tenancy, the landlord has provided an installment payment plan for nonrefundable fees or deposits for the security of the tenant's obligations and the tenant defaults in payment, the landlord may treat the default payment as rent owing.

J. "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit."

K. "Security deposit" means a refundable payment or deposit of money, however designated, the primary function of which is to secure performance of a rental agreement or any part of a rental agreement. "Security deposit" does not include a fee.

L. "Substantial rehabilitation" means extensive structural repair or extensive remodeling and requires a building, electrical, plumbing, or mechanical permit for the tenant's dwelling unit at issue. Any "substantial rehabilitation" as provided herein requires displacement of a tenant.

M. "Tenant" means any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

5.24.030 Distribution of information required.

A. Distribution of resources by landlord.

1. At the time a prospective tenant applies to reside in a dwelling unit, the landlord shall provide the prospective tenant with the landlord's written rental

criteria and, once created by the City, with a City of Auburn informational website address designated by the City for the purpose of providing information about the property and its landlord, which may include, but is not limited to, local code enforcement information relating to properties within City limits, and a website address for the Washington Secretary of State for the purpose of providing information on how to register to vote or change their address, if the individual is already registered to vote.

2. In the event a prospective tenant cannot reasonably access the internet and at their request, a landlord shall provide the prospective tenant a paper copy of the property and landlord information that can be found on the website identified above.

B. Distribution of information packets by landlord.

1. The Director shall prepare and update as necessary, summaries of this chapter, the Auburn Building and Property Maintenance Code (ACC 15.20), state RLTA (RCW 59.18), Forcible Entry and Forcible and Unlawful Detainer (RCW 59.12), and Fair Housing laws, describing the respective rights, obligations, and remedies of landlords and tenants, including information about legal resources available to tenants.

2. A landlord shall provide a copy of the summaries prepared by the Director to any tenant or prospective tenant when a rental agreement is offered, whether or not the agreement is for a new or renewal agreement.

3. Where there is an oral rental agreement, the landlord shall give the tenant copies of the summaries described herein, either before entering into the oral rental agreement or as soon as reasonably possible after entering into the oral rental agreement.

4. For existing tenants, landlords shall, within 30 days after the summaries are made available by the City, distribute current copies of the summaries to existing tenants.

5. The initial distribution of information to tenants must be in written form and landlords shall obtain the tenant's signature documenting tenant's receipt of such information. If a tenant refuses to provide a signature documenting the tenant's receipt of the information, the landlord may draft a declaration stating when and where the landlord provided tenant with the required information. After the initial distribution of the summaries to tenants, a landlord shall provide existing tenants with updated summaries by the City, and may do so in electronic form unless a tenant otherwise requests written summaries.

6. The packet prepared by the Director includes informational documents only, and nothing in the summaries therein shall be construed as binding on or affecting any judicial determination of the rights and responsibilities of landlords and tenants, nor is the Director liable for any misstatement or misinterpretation of the applicable laws.

C. Notice of resources. A landlord is required to provide a copy of resource summary, prepared by the City, to any tenant when the landlord provides a notice to a tenant under RCW 59.12.030.

5.243.040 Deposit requirements, notice of rent increase requirements and installment payments permitted.

A. A landlord may not increase the rent or charge any non-rent charges except in accordance with this section, unless such increase or charge has been agreed to in writing signed by landlord and tenant at the time of entering into the initial lease or rental agreement:

1. A landlord may not increase the rent of a tenant by more than five percent (5%) of the rent unless the landlord has provided the tenant with notice of the rent increase at least one hundred twenty (120) days before such increase shall take effect. Any rental increase of five percent (5%) or less may be served in accordance with state or other applicable law.

(a) Pursuant to RCW 58.19.140, if the rental agreement governs a subsidized tenancy where the amount of rent is based on the income of the tenant or circumstances specific to the subsidized household, a landlord shall provide a minimum of thirty days' prior written notice of an increase in the amount of rent to each affected tenant. An increase in the amount of rent may become effective upon completion of the term of the rental agreement or sooner upon mutual consent.[JT1]~~In the event of an increase of more than five percent (5%) of the rent, the tenant may terminate the tenancy immediately upon surrendering the dwelling unit at any point prior to the increase taking effect. The tenant shall only owe pro rata rent through the date upon which the premises are surrendered. Any notice increasing the rent above five percent (5%) of the current rent shall inform the tenant that they may terminate the tenancy at any time and owe pro rata rent through the date the tenant surrenders the dwelling unit.~~[JT2]

(b) Any notice of a rent increase shall be served in accordance with RCW 59.12.040.

2. Any amount paid to the landlord by the tenant at the commencement of the tenancy charged for the purpose of procuring and obtaining a dwelling unit, including the deposit or as security for performance of the tenant's obligations in a lease or rental agreement, must not exceed the allowable monthly rent as permitted by this chapter; Any landlord under this section must offer to the tenant prior to entering into the rental agreement the opportunity to pay amounts as deposit or security for performance over six months upon moving into the unit. However, additional security deposits may be added for tenants that have pets provided that those deposits are reasonable and do not embed other types of deposits or fees.[JT3]

3. Any fees for late payment of rent shall not exceed ten dollars ($10.00) per month. No other fees may be charged for late payment of rent, including for the service of any notice required under state law, or any legal costs, including court costs and attorney's fees, unless such fee is agreed to in writing signed by landlord and tenant at the time of entering into the initial lease or rental agreement.

4. No other fees may be charged in connection with the lease or rental agreement unless such fee is agreed to in writing signed by landlord and tenant at the time of entering into the initial lease or rental agreement, Provided that the

landlord may recoup from the tenant actual costs incurred by the landlord and caused by or attributable to the tenant if consistent with written the lease or rental agreement.

B. Installment payments, generally. Upon a tenant's written request, tenants may pay security deposits, non-refundable move-in fees, and/or last month's rent in installments as provided herein; except that the tenant cannot elect to pay the security deposit and non-refundable move-in fees in installments if (1) the total amount of the security deposit and nonrefundable move-in fees does not exceed 25 percent of the first full month's rent for the tenant's dwelling unit; and (2) payment of last month's rent is not required at the inception of the tenancy. Landlords may not impose any fee, charge any interest, or otherwise impose a cost on a tenant because a tenant elects to pay in installments. Installment payments are due at the same time as rent is due. All installment schedules must be in writing, signed by both parties.

B. Fixed-term tenancies for three months or longer. For any rental agreement term that establishes a tenancy for three months or longer, the tenant may elect to pay the security deposit, non-refundable move-in fees, and last month's rent, excluding any payment made by a tenant to the landlord prior to the inception of tenancy to reimburse the landlord for the cost of obtaining a tenant screening report, in three consecutive, equal monthly installments that begin at the inception of the tenancy.

C. Month-to-month or two-month tenancy. For any rental agreement term that establishes a tenancy from month-to-month or two months, the tenant may elect to pay the security deposit, non-refundable move-in fees, and last month's rent, excluding any payment made by a tenant to the landlord prior to the inception of tenancy to reimburse the landlord for the cost of obtaining a tenant screening report, in two equal installments. The first payment is due at the inception of the tenancy, and the second payment is due on the first day of the second month or period of the tenancy.

D. A tenant's failure to pay a security deposit, non-refundable move-in fees, and last month's rent according to an agreed payment schedule is a breach of the rental agreement and subjects the tenant to a fourteen-day notice pursuant to RCW 59.12.030(4), and shall mean that the entire amount of any outstanding payments shall become due when the next rent payment is due, unless otherwise agreed to in writing by the landlord and tenant.

E. Paying in installments does not apply to a landlord obtaining a tenant screening report, which report cost paid by the tenant shall be limited to the standard and actual cost of the tenant screening report.

F. No security deposit may be collected by a landlord unless the rental agreement is in writing and a written checklist or statement specifically describing the condition and cleanliness of or existing damages to the premises and furnishings, including, but not limited to, walls, floors, countertops, carpets, drapes, furniture, and appliances, is provided by the landlord to the tenant at the beginning of the tenancy. The checklist or statement shall be signed and dated by the landlord and the tenant, and the tenant shall be provided with a copy of the signed checklist or statement.

G. A landlord must place any required security deposit in a trust account and provide a written receipt and notice of the name, address, and location of the depository and any subsequent change thereof to the tenant, in compliance with the requirements of RCW 59.18.270.

H. Nothing in this Chapter 5.2~~4~~3 prohibits a landlord from bringing an action against a tenant to recover sums exceeding the amount of the tenant's security deposit for damage to the dwelling unit for which the tenant is responsible. The landlord may seek attorney's fees for such an action as authorized by chapter 59.18 RCW.

~~5.24.045 Temporary COVID-19 Rental Enforcement Restrictions.~~

~~A. During the term of the Emergency Proclamations issued by Washington State Governor Jay Inslee related to the COVID-19 Pandemic, including the Governor's Proclamation 20-05, and any amendments and extensions thereto, landlords, property owners, and property managers are prohibited from treating any unpaid rent or other charges related to a dwelling or parcel of land occupied as a dwelling as an enforceable debt or obligation that is owing or collectable, where such non-payment was as a result of the COVID-19 outbreak and where it occurred on or after February 29, 2020, the date when the initial State of Emergency was proclaimed in all counties in Washington State. This includes attempts to collect, or threats to collect, through a collection agency, by filing an unlawful detainer or other judicial action, withholding any portion of a security deposit, billing or invoicing, reporting to credit bureaus, or by any other means. This prohibition does not apply to a landlord, property owner, or property manager who demonstrates by a preponderance of the evidence to a court that the resident was offered, and refused or failed to comply with, a re-payment plan that was reasonable based on the individual financial, health, and other circumstances of that resident. The enforcement restrictions set forth herein shall only apply to rental payment amounts during the time the Governor's Emergency Proclamation 20-05, and any amendments and extensions thereto are in effect.~~

~~B. This Section 5.24.045 of the City Code shall automatically expire and shall be repealed without any other action by the City Council at such time as there are no remaining payments due and/or enforcement actions that could be brought hereunder, or one year after the effective date of this Ordinance, whichever comes first.~~ [JT4]

5.2~~4~~3.050 Notice requirement generally - reasonable accommodation request.

A landlord shall review and comply with all reasonable accommodation requests received from a tenant related to the service of any notice required by this chapter.

5.2~~4~~3.060 Notice of proposed sale of low-income housing.

A. Owners of a multifamily rental housing building having five or more housing units, anyone of which rents for an amount that is affordable to households at or below 80 percent of area median income, as median income was most recently determined by the United States Department of Housing and Urban Development, shall notify the Director of the owner's intent to sell the building. The notice shall be in writing and include the owner's name, phone number, and the address of the rental housing building that will be listed for sale. The notice shall be mailed no later than 60 days prior to the building being listed with any real estate service or advertised for sale either in a printed newspaper or website. For the purposes of this subsection, a building is "listed" when an owner has signed a listing agreement with a real estate agent. Owners of multifamily buildings having five or more housing units who are otherwise required by law or agreement to notify the Director of the owner's intent to sell or transfer the building and who have provided such notice are exempt from the notice requirement of this subsection. The following exceptions apply:

1. Properties that are transferred to family members, transferred through will, or that are not listed for sale; or

~~1.~~2. Properties where 20% or fewer of the units are studio apartments and that is what is triggering the notice provisions of this section.[JT5]

5.2~~4~~3.070 Just Cause Eviction

A. Pursuant to provisions of the Washington State Residential Landlord-Tenant Act (RCW 59.18.290), owners may not evict residential tenants without a court order, which can be issued by a court only after the tenant has an opportunity in a show cause hearing to contest the eviction (RCW 59.18.380). Owners of housing units shall not evict or attempt to evict any tenant, refuse to renew or continue a tenancy after expiration of the rental agreement[JT6], or otherwise terminate or attempt to terminate the tenancy of any tenant unless the owner can prove in court that just cause exists. Owners may not evict residential tenants from rental housing units if the units are not licensed with the City of Auburn as required by ACC Chapter 5.62, regardless of whether just cause for eviction may exist. An owner is in compliance with licensing requirement if the rental housing unit is licensed with the City of Auburn pursuant to ACC Chapter 5.62 before entry of a court order authorizing eviction or before a writ of restitution is granted. A court may grant a continuance in an eviction action in order to give the owner time to license the rental housing unit. The reasons for termination of tenancy listed below, and no others, shall constitute just cause under this Section ACC 5.24.070:

1. The tenant fails to comply with a fourteen-day notice to pay rent or vacate pursuant to RCW 59.12.030(3); a ten day notice to comply or vacate pursuant to RCW 59.12.030(4); or a three day notice to vacate for waste, nuisance

(including a drug-related activity nuisance pursuant to chapter RCW 7.43), or maintenance of an unlawful business or conduct pursuant to RCW 59.12.030(5);

2. The tenant habitually fails to pay rent when due which causes the owner to notify the tenant in writing of late rent four or more times in a 12-month period;

3. The tenant fails to comply with a ten-day notice to comply or vacate that requires compliance with a material term of the rental agreement or that requires compliance with a material obligation under chapter 59.18.130 RCW;

4. The tenant habitually fails to comply with the material terms of the rental agreement which causes the owner to serve a ten-day notice to comply or vacate three or more times in a 12-month period;

5. The owner seeks possession so that the owner or a member of his or her immediate family may occupy the unit as that person's principal residence and no substantially equivalent unit is vacant and available in the same building, and the owner has given the tenant at least 90 days' advance written notice of the date the tenant's possession is to end. The Director may reduce the time required to give notice to no less than 60 days if the Director determines that delaying occupancy will result in a personal hardship to the owner or to the owner's immediate family. Personal hardship may include but is not limited to hardship caused by illness or accident, unemployment, or job relocation. There is a rebuttable presumption of a violation of this subsection 5.2~~4~~3.070(A)(5) if the owner or a member of the owner's immediate family fails to occupy the unit as that person's principal residence for at least 60 consecutive days during the 90 days immediately after the tenant vacated the unit pursuant to a notice of termination or eviction using this subparagraph as the cause for eviction;

6. The owner elects to sell a dwelling unit subject to the provisions of this Chapter and gives the tenant at least 90 days' written notice prior to the date set for vacating, which date shall coincide with the end of the term of a rental agreement, or if the agreement is month to month, with the last day of a monthly period. The Director may reduce the time required to give notice to no less than 60 days if the Director determines that providing 90 days' notice will result in a personal hardship to the owner. Personal hardship may include but is not limited to hardship caused by illness or accident, unemployment, or job relocation. For the purposes of this subsection, an owner "elects to sell" when the owner makes reasonable attempts to sell the dwelling within 30 days after the tenant has vacated, including, at a minimum, listing it for sale at a reasonable price with a realty agency or advertising it for sale at a reasonable price in a newspaper of general circulation. There shall be a rebuttable presumption that the owner did not intend to sell the unit if:

(a) Within 30 days after the tenant has vacated, the owner does not list the single-family dwelling unit for sale at a reasonable price with a realty agency or advertise it for sale at a reasonable price in a newspaper of general circulation, or

(b) Within 90 days after the date the tenant vacated or the date the property was listed for sale, whichever is later, the owner withdraws the rental unit from the market, rents the unit to someone other than the former tenant, or otherwise indicates that the owner does not intend to sell the unit;

7. The tenant's occupancy is conditioned upon employment on the property and the employment relationship is terminated;

8. The owner seeks to do substantial rehabilitation in the building and gives the tenant at least 120 days' written notice prior to the date set for vacating. To utilize this basis as the rationale for termination, the owner must obtain at least one permit necessary for the rehabilitation before terminating the tenancy;

9. The owner elects to demolish the building, convert it to a cooperative, or convert it to a nonresidential use and gives the tenant at least 120 days' written notice prior to the date set for vacating. To utilize this basis as the rationale for termination, the owner must obtain a permit necessary to demolish or change the use before terminating any tenancy or converts the building to a condominium;

10. The owner seeks to discontinue use of a housing unit unauthorized by ACC 18 after receipt of a notice of violation;

11. The owner seeks to reduce the number of individuals residing in a dwelling unit to comply with the maximum limit of individuals allowed to occupy one dwelling unit as required by ACC Titles 15 and 18, and

(a)(1) The number of such individuals was more than is lawful under the current version of ACC Title 15 or Title 18; and

(2) That number has not increased with the knowledge or consent of the owner; and

(3) The owner is either unwilling or unable to obtain a permit to allow the unit with that number of residents and

(b) The owner has served the tenants with a 30-day notice, informing the tenants that the number of tenants exceeds the legal limit and must be reduced to the legal limit; and

(c) After expiration of the 30-day notice, the owner has served the tenants with and the tenants have failed to comply with a ten-day notice to comply with the limit on the number of occupants or vacate, and

(d) If there is more than one rental agreement for the unit, the owner may choose which agreements to terminate; provided that, the owner may either terminate no more than the minimum number of rental agreements necessary to comply with the legal limit on the number of occupants, or, at the owner's option, terminate only those agreements involving the minimum number of occupants necessary to comply with the legal limit;

12. An emergency order requiring that the housing unit be vacated and closed has been issued pursuant to ACC 15 and the emergency conditions identified in the order have not been corrected;

13. The owner seeks to discontinue sharing with a tenant of the owner's own housing unit, *i.e.*, the unit in which the owner resides, seeks to terminate the tenancy of a tenant of an accessory dwelling unit that is accessory to the housing unit in which the owner resides, or seeks to terminate the tenancy of a tenant in a single-family dwelling unit and the owner resides in an accessory dwelling unit on

the same lot. This subsection does not apply if the owner has received a notice of violation of the development standards of ACC Title 19;

14. A tenant, or with the consent of the tenant, the tenant's subtenant, sublessee, resident, or guest, has engaged in criminal activity on the premises, or on the property or public right-of-way abutting the premises, and the owner has specified in the notice of termination the crime alleged to have been committed and the general facts supporting the allegation, and has assured that the Department has recorded receipt of a copy of the notice of termination. For purposes of this subsection a person has "engaged in criminal activity" if he or she:

a. Engages in drug-related activity that would constitute a violation of chapters 69.41,69.50, or 69.52 RCW, or

b. Engages in activity that is a crime under the laws of this state, but only if the activity substantially affects the health or safety of other tenants or the owner.

B. Any rental agreement provision which waives or purports to waive any right, benefit or entitlement created by this Subsection 5.2~~4~~3.070 shall be deemed void and of no lawful force or effect.

C. With any termination notices required by law, owners terminating any tenancy protected by this section shall advise the affected tenant or tenants in writing of the reasons for the termination and the facts in support of those reasons;

D. If a tenant who has received a notice of termination of tenancy claiming subsection 5.2~~4~~3.070(A)(5), 5.2~~4~~3.070(A)(6) or 5.2~~4~~3.070(A)(13) as the ground for termination believes that the owner does not intend to carry out the stated reason for eviction and makes a complaint to the Director, then the owner must, within ten days of being notified by the Director of the complaint, complete and file with the Director a certification stating the owner's intent to carry out the stated reason for the eviction. The failure of the owner to complete and file such a certification after a complaint by the tenant shall be a defense for the tenant in an eviction action based on this ground.

E. In any action commenced to evict or to otherwise terminate the tenancy of any tenant, it shall be a defense to the action that there was no just cause for such eviction or termination as provided in this section.

F. It shall be a violation of this section for any owner to evict or attempt to evict any tenant or otherwise terminate or attempt to terminate the tenancy of any tenant using a notice which references subsections 5.2~~4~~3.070(A)(5), 5.2~~4~~3.070(A)(6), 5.2~~4~~3.070(A)(8), 5.2~~4~~3.070(A)(11), 5.2~~4~~3.070(A)(12) or 5.2~~4~~3.070(A)(13) as grounds for eviction or termination of tenancy without fulfilling or carrying out the stated reason for or condition justifying the termination of such tenancy.

G. An owner who evicts or attempts to evict a tenant or who terminates or attempts to terminate the tenancy of a tenant using a notice which references subsections 5.24.070(A)(5), 5.24.070(A)(6) 5.24.070 (A)(8) as the ground for eviction or termination of tenancy without fulfilling or carrying out the stated reason for or condition justifying the termination of such tenancy shall be liable to such tenant in a private right for action for damages up to $2,000, costs of suit, or arbitration and reasonable attorney's fees.

5.2~~4~~3.080 Compliance and enforcement.

A. Powers and duties of the Director.

1. The Director is authorized to enforce this chapter and may promulgate rules and regulations consistent with this chapter.

2. The Director shall attempt to settle by agreement any alleged violation or failures to comply with the provisions of this chapter; provided that nothing herein shall create a right or entitlement of a landlord to settlement by agreement.

3. The Director is authorized to request records from landlord and the landlord shall allow the Director access to such records, as well as a complete roster of tenants' names and contact information, when requested, with at least five business days' notice and at a mutually agreeable time, to investigate potential violations of the requirements of this chapter.

B. Violation.

1. If a violation of this chapter occurs, the Director shall utilize the procedures outlined in Chapter 5.15 ACC.

2. The Director may waive or reduce the penalty if the landlord comes into compliance within ten days of the Notice of Violation or shows that its failure to comply was due to reasonable cause and not willful neglect. If the Director finds a willful violation of this chapter, which resulted in a Notice of Violation outlined above, the Director may issue a Penalty that shall be $1,000.

3. Any civil penalties paid by the landlord shall be kept by the City and may be utilized to help offset payments that are due by the tenant.

4. Any tenant claiming injury from any violation of this chapter shall be entitled to bring an action in King County Superior Court or in any other court of competent jurisdiction to enforce the provisions of this chapter, and shall be entitled to all remedies available at law or in equity appropriate to remedy any violation of this chapter, including declaratory or injunctive relief. A tenant who prevails in any action to enforce this chapter shall be awarded his or her costs, reasonable attorneys' fees, and expenses.

a. A landlord who violates this chapter shall be liable for penalties of up to two times the monthly rent of the dwelling unit at issue.

b. Failure of a landlord to comply with any of the provisions of this chapter shall provide the tenant with a defense in any legal action brought by the landlord to recover possession of the dwelling unit.

D. Administrative Review by the Director

1. General. A person to whom a Notice of Violation or penalty is assessed may request an administrative review of the Notice of Violation or penalty.

2. How to request administrative review. A person may request an administrative review of the Notice of Violation or penalty by filing a written request with the Director within ten-days from the date the Notice of Violation or penalty

was issued. The request shall state, in writing, the reasons the Director should review the Notice of Violation or penalty. Failure to state the basis for the review in writing shall be cause for dismissal of the review. Upon receipt of the request for administrative review, the Director shall review the information provided. The City has the burden to prove a violation exists by a preponderance of the evidence.

3. Decision of Director. After considering all of the information provided, the Director shall determine whether a violation has occurred and shall affirm, vacate, suspend, or modify the Notice of Violation or penalty. The Director's decision shall be delivered, in writing, to the person to whom the notice of violation was issued by personal delivery or first-class mail.

E. Appeals to the Hearing Examiner of Director's Decision. Appeal of the Director's decision shall be made within ten days from the date of the Director's decision by filing a written notice of appeal, clearly stating the grounds that the appeal is based upon, with the Hearing Examiner, which appeal shall be governed by ACC Chapters 2.46 and 5.15.

Section 2. **Implementation.** The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation. With respect to the informational requirements established in ACC 5.23.030, City staff will develop the materials and webpage prior to the October 16, 2020 implementation date. The City encourages and welcomes the public to provide examples from other sources. Examples must be provided by September 18, 2020.

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 and shall have an implementation date that begins on October 16, 2020.

INTRODUCED: ____________________

PASSED: ________________________

APPROVED: ______________________

CITY OF AUBURN

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NANCY BACKUS, MAYOR

ATTEST: APPROVED AS TO FORM:

________________________________ ________________________________

Shawn Campbell, MMC, City Clerk Kendra Comeau, City Attorney

Published: ____________________

CITY OF AUBURN WASHINGTON

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 6788 (Thomas)(5 Minutes)

Date:
August 17, 2020

Department:
Finance

Attachments:
Ordinance No. 6788

Budget Impact:

Administrative Recommendation:

For discussion only.

Background Summary:

This ordinance extends the provisions of Ordinance No. 6777, adopted by Council on June 15, 2020. Ordinance No. 6777 extended the temporary waiver of late fees for utility accounts and airport fees set forth in Ordinance No. 6767, to August 31, 2020. Ordinance No. 6767, adopted by Council on March 23, 2020, temporarily superseded sections of the Auburn Municipal Code which requires water shut offs for delinquent utility accounts and late fees assessed on delinquent water, sewer, and airport consumption/usage. These sections will be waived until the earlier of: (a) termination of the civil emergency proclaimed by the Mayor on March 5, 2020; or (b) ~~June 30, 2020~~ August 31, 2020.

On July 31, 2020, Governor Jay Inslee issued proclamation 20-23.7, extending the prohibition on residential utility shut offs through October 15, 2020. This ordinance extends the waiver of the Auburn Municipal Code, as it relates to water shut offs for delinquent utility accounts and late fees assessed through October 15, 2020, to coincide with the Governor's proclamation.

Reviewed by Council Committees:

Councilmember:

Staff: Thomas

Meeting Date: August 24, 2020

Item Number:

ORDINANCE NO. 6788

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING ORDINANCE NO. 6777, EXTENDING THE TEMPORARY WAIVER OF LATE FEES FOR UTILITY ACCOUNTS AND AIRPORT FEES, SUPERSEDING CERTAIN SECTIONS OF AUBURN CITY CODE REQUIRING PAYMENT OF SUCH LATE FEES AS SET FORTH IN ACC 12.56.045; 13.06.300; 13.06.511; 13.20.390; AND 13.48.120, IN LIGHT OF A DECLARED PUBLIC HEALTH EMERGENCY RELATED TO COVID- 19

WHEREAS, the World Health Organization has announced novel coronavirus COVID-19) is officially a global pandemic; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary Alex Azar declared a public health emergency because of COVID- 19; and

WHEREAS, the Washington Governor declared a State of Emergency due to new cases of COVID-19; and

WHEREAS, on March 5, 2020, the Mayor proclaimed a local emergency due to growing public health impacts of COVID-19, which the Auburn City Council ratified by Resolution No. 5504; and

WHEREAS, the COVID-19 outbreak presents an extreme risk of person-to- person transmission of the virus and public health experts worldwide advise the best way to prevent transmission of the virus is to prevent infected people from coming in close contact with healthy persons; and

WHEREAS, following recommended public health best practices, including social distancing, which is critical to mitigate the spread of COVID-19, is also having significant negative economic effects on the national, regional, and local economy, in particular small businesses and workers in the Auburn-area who cannot work remotely and may not receive full wages during this time; and

WHEREAS, utility bills combined with the public health emergency for COVID-19 will inherently have a disproportionate negative impact on low-wage workers, individuals on fixed incomes, non- profit organizations and small businesses, inhibiting their ability to pay utility bills before the due date; and

WHEREAS, temporarily waiving the charging of late fees on delinquent bill balances as soon as possible, for utility bills and airport fees, is necessary both to help ease the negative impact on low-wage workers, individuals on fixed incomes, non-profit organizations and small businesses and to reduce the frequency of in-person bill payment during the emergency; and

WHEREAS, the Auburn City Code ("ACC") includes several provisions requiring late fees on delinquent utility consumption and utilization charges; and

WHEREAS, the ACC and the adopted City of Auburn Fee Schedule includes provisions requiring late fees on delinquent airport payments; and

WHEREAS, as part of its continued efforts to respond to the emergency and provide assistance to its customers, the City has determined it is appropriate to temporarily waive imposition or collection of late fees and penalties assessed against users of the City's utility systems and municipal airport; and

WHEREAS, in order to provide for a waiver of late fees, on March 23, 2020, the City Council adopted Auburn Ordinance No. 6767; and

WHEREAS, in order to address the purposes for which the late fees were to be waived, it is appropriate to extend the waiver of late fees, consistent with the Governor's Proclamation(s); and

WHEREAS, per Ordinance No. 6767, the initial date on which the waiver of late fees was set expire was June 30, 2020; and

WHEREAS, in accordance with the provisions of subsequent Washington State Gubernatorial Proclamations, Auburn's Ordinance No. 6777, adopted on June 15, 2020, extended the waiver of late fees through August 31, 2020; and

WHEREAS, the recently enacted Governor's Proclamation 20-23.7 extended the waiver of late fees and shutoff to October 15, 2020; and

WHEREAS, it is appropriate for the City of Auburn to similarly extend its waiver of late fees.

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

The provisions of Ordinance No. 6777 are amended as follows:

Section 1. **Late Fees Waived.** The imposition and collection of late fees assessed against users of the City of Auburn's utility systems and municipal airport are waived until the earlier of: a) termination of the civil emergency proclaimed by the Mayor on March 5, 2020; or (b) ~~August 31, 2020~~ October 15, 2020.

<u>Section 2.</u> **<u>Affected City Code Sections.</u>** To the extent the following sections or subsections of the ACC that authorize or require the collection of late fees and penalties on delinquent utility customer consumption, utilization charges, or airport fees, are inconsistent with Section 1 of this Ordinance, those sections are superseded and waived during the time period stated in Section 1:

ACC 12.46.045 (Airport tiedown, Hangar, and Storage Rental Fees)

ACC 13.06.290 (Water-Service Charges- Nonpayment Action)

ACC 13.06.300 (Water-Service Charges-Payment and Delinquency)

ACC 13.06.511 (Fees, Service Charges, Fines, Penalties and Damage)

ACC 13.20.390 (Sewage Conveyance and Disposal Service Charge-Payment Dates-Payment Delinquency)

ACC 13.48.120 (Sewers- Billing and Collection)

City of Auburn Fee Schedule (B)(9) (Engineering and Public Works Fees, Other Utility Fees)-Delinquent shut off, late charge, delinquent meter pull; (D)(1) (Auburn Municipal Airport Fees, Lease Fees)-Late payments and delinquency fee.

<u>Section 3.</u> **<u>Late Fee Waivers.</u>** The Mayor is authorized to waive late fees both in the code and set forth in the City of Auburn Fee Schedule consistent with ACC 2.03.030.

<u>Section 4.</u> **<u>Implementation.</u>** The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

<u>Section 5.</u> **<u>Severability.</u>** 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.

<u>Section 6.</u> **<u>Effective date.</u>** 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: ______________________

CITY OF AUBURN

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NANCY BACKUS, MAYOR

ATTEST:

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Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

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Kendra Comeau, City Attorney

Published: _____________________

CITY OF AUBURN WASHINGTON

AGENDA BILL APPROVAL FORM

Agenda Subject:
Fireworks Update (O'Neil)(30 Minutes)

Date:
August 18, 2020

Department:
Police

Attachments:
2020 Fireworks report

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

Administrative Recommendation:

For discussion only.

Background Summary:

In 2020, the City of Auburn continued to maintain a “zero tolerance” policy on the possession and/or discharge of illegal fireworks in the city. If officers were able to establish probable cause for either possession or discharge of illegal fireworks, they were to cite the appropriate city code. If officers were unable to establish probable cause for a particular individual, and fireworks were present, the fireworks were to be confiscated for destruction. In 2020, the City ordinance was changed to reflect the ability of Officers to issue civil infractions instead of criminal citations for many portions of the city code.

Reviewed by Council Committees:

Councilmember:

Staff: O'Neil

Meeting Date: August 24, 2020

Item Number:

AUBURN POLICE DEPARTMENT

2020
FIREWORKS REPORT

Background

In 2020, the City of Auburn continued to maintain a "zero tolerance" policy on the possession and/or discharge of illegal fireworks in the city. If officers were able to establish probable cause for either possession or discharge of illegal fireworks, they were to cite the appropriate city code. If officers were unable to establish probable cause for a particular individual, and fireworks were present, the fireworks were to be confiscated for destruction. In 2020, the City ordinance was changed to reflect the ability of Officers to issue civil infractions instead of criminal citations for many portions of the city code.

Objectives

Objectives from 2019 were continued in 2020.

1. Continue efforts to improve communication and collaborative efforts with representatives from the Muckleshoot Indian Tribe.

- Officer Gould has continued cultivating relationships with the Muckleshoot Indian Tribe through monthly meetings with the Muckleshoot Law and Order Committee. Sonny Jerry was the Fireworks Commissioner in 2020. Sonny, along with Tribal Councilmember Mike Jerry, were the primary contacts for all issues related to fireworks at the stands and discharge area.
- The Tribe communicated well with the City, giving advance notice of when vendor displays would take place. The City was able to notify citizens of the event so they could plan accordingly.
- The Tribe continued with the same hours of operation for the stands as 2019, the stands and discharge area were open until 2200 Sunday-Thursday and until 0000 on Friday and Saturday. The Tribe maintained the hours of operation on July 4th to 0200 on July 5th. The Tribe continued their agreement not to allow the discharge of fireworks at the stands after 0200 on July 5th.
- The Tribe did not notify the City of any restrictions at the stands related to COVID-19, but the sales of fireworks did start about 30 days later than in 2019 due to issues with COVID-19.

2. Continue with an active Officer presence and enforcement in the neighborhoods with proactive fireworks patrols and response to 911 complaints of fireworks.

- Fireworks emphasis patrols started this year on June 24th and ran through July 5th.
- APD maintained our deployment of 6 Officers and a Sergeant at the stands on July 4th.
- APD assigned one Sergeant and 6 officers to the north end of the city on July 4th between 1500 and 0100.
- APD assigned one Sergeant and 6 officers to the south end of the city on July 4th between 1500 and 0100.
- APD assigned one Sergeant and 6 officers to the City Parks on July 4th between 1500 and 0100.

AUBURN POLICE DEPARTMENT

Results

During the 2020 fireworks emphasis (excluding July 4th), 7 officers worked a total of 63 hours between June 24th and July 5th. In 2019, 6 officers worked 34 hours between June 24th and July 5th. There were 6 hours and 1 shift that went unfilled. The unfilled shift occurred on a night when two officers were allowed to work the emphasis patrol shift.

On July 4th, 18 Officers and three Sergeants were assigned to fireworks emphasis patrols throughout the city, an increase from 14 officers and two Sergeants in 2019. Officers worked as two man units, utilizing marked cars, increasing visibility to the citizens. The deployment was split into 6 officer elements, supervised by 1 Sergeant for effective command and control. Deployments were split into South End, North End and Parks.

Six officers and one Sergeant were deployed to the fireworks stands for crowd control and a police presence in the discharge area. Several thousand citizens patronized the stands throughout the day and evening. There were no significant injuries and one minor injury to patrons on the evening of July 4th. There were no significant fireworks related injuries at the stands during the week leading up to the holiday.

There were no reported injuries to officers this year.

The peak activity hours for firework related calls was between 9:00 p.m. and 12:00 a.m. Emphasis units secured at 0100 and there were only 5 firework related calls between 0100 and 0800. The stands were shut down by the stands officers and 6 extra emphasis officers, in coordination with the fireworks commissioner and fireworks security members, at 0100 hours. It took about 45 minutes to complete that task.

A request was made to APD to close the discharge area at approximately 10:00 P.M. when the stands sold out. It was considered that this decision has negatively impacted the City as a whole in the past, so the request was denied.

AUBURN POLICE DEPARTMENT

4TH OF JULY - SNAPSHOT

There were a total of 163 fireworks-related calls for service between **1100 hours on July 4th through 0800 hours on July 5th**.

Calls by District:

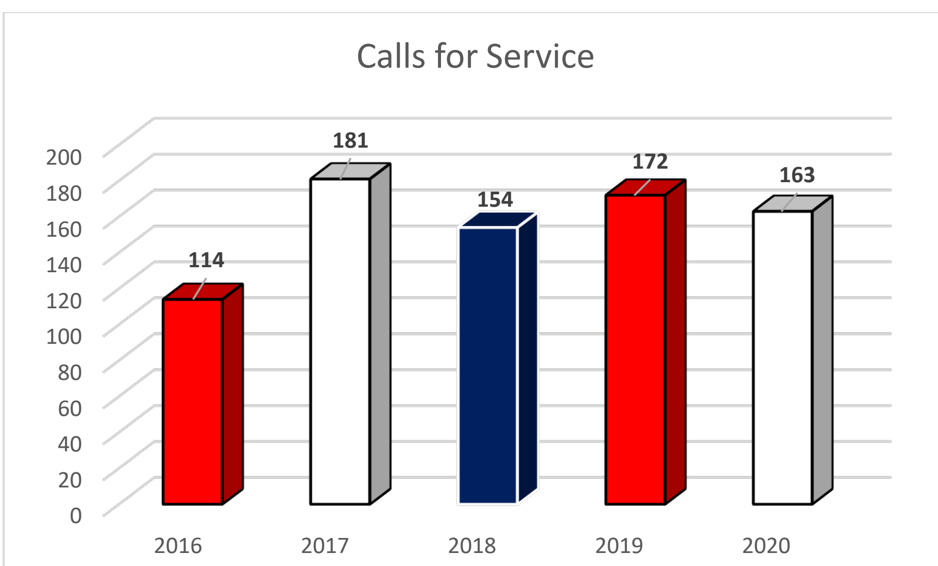
District 1 - 13
District 2 - 49
District 3 - 28
District 4 - 28
District 5 - 20
District 6 - 25

The calls by district numbers for the 4th of July show that District 2 was by far the busiest.

4TH OF JULY - OVER THE YEARS

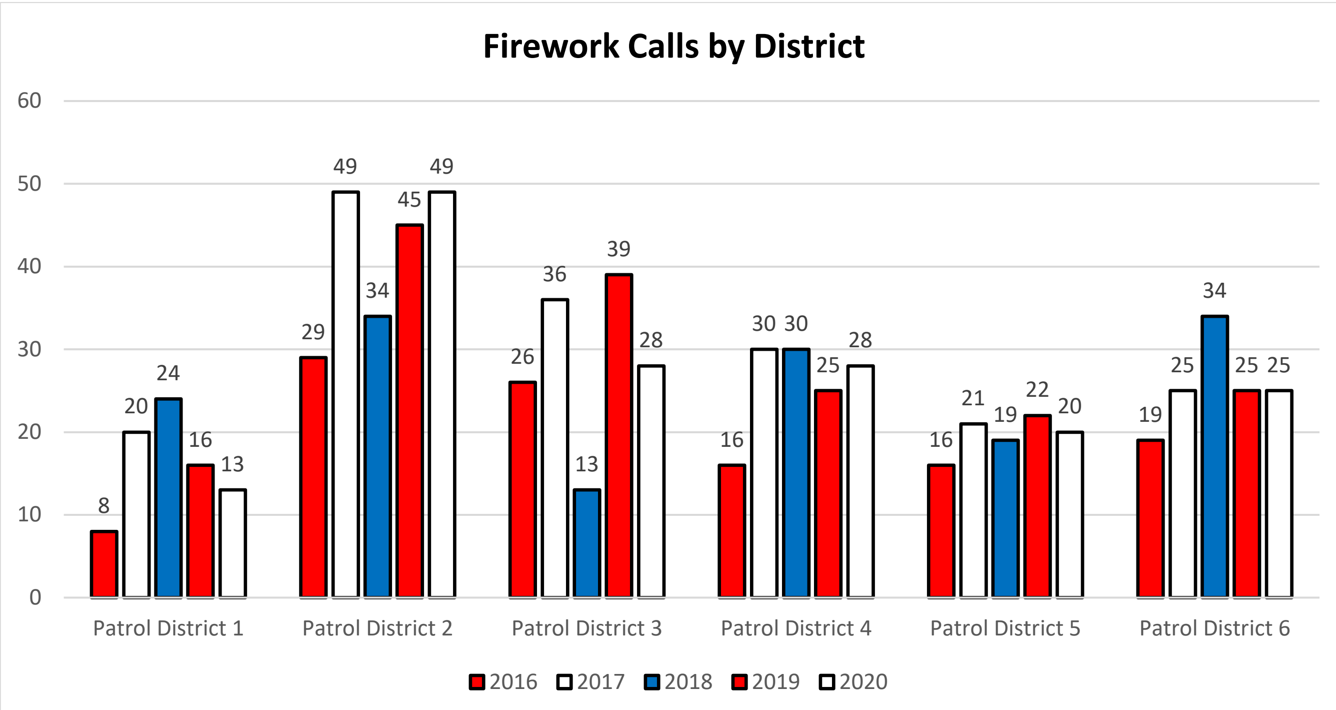
Fireworks calls for activity between 1100 on 7/4 through 0800 on 7/5 for the past five years.

	2016	2017	2018	2019	2020
Calls for Service	114	181	154	172	163



AUBURN POLICE DEPARTMENT

4TH OF JULY CALLS BY DISTRICT – OVER THE YEARS



CALLS FOR SERVICE – OTHER VALLEY AGENCIES

This chart shows Auburn in comparison to other valley cities. The numbers below represent fireworks-related calls for service from 1100 on 7/4 to 0800 on 7/5.

	1100 on 7/4/2020 to 0800 on 7/5/2020
Kent	**225**
Auburn	**163**
Federal Way	**153**
Renton	**129**
Tukwila	**61**

FIREWORK SEASON – OVER THE YEARS

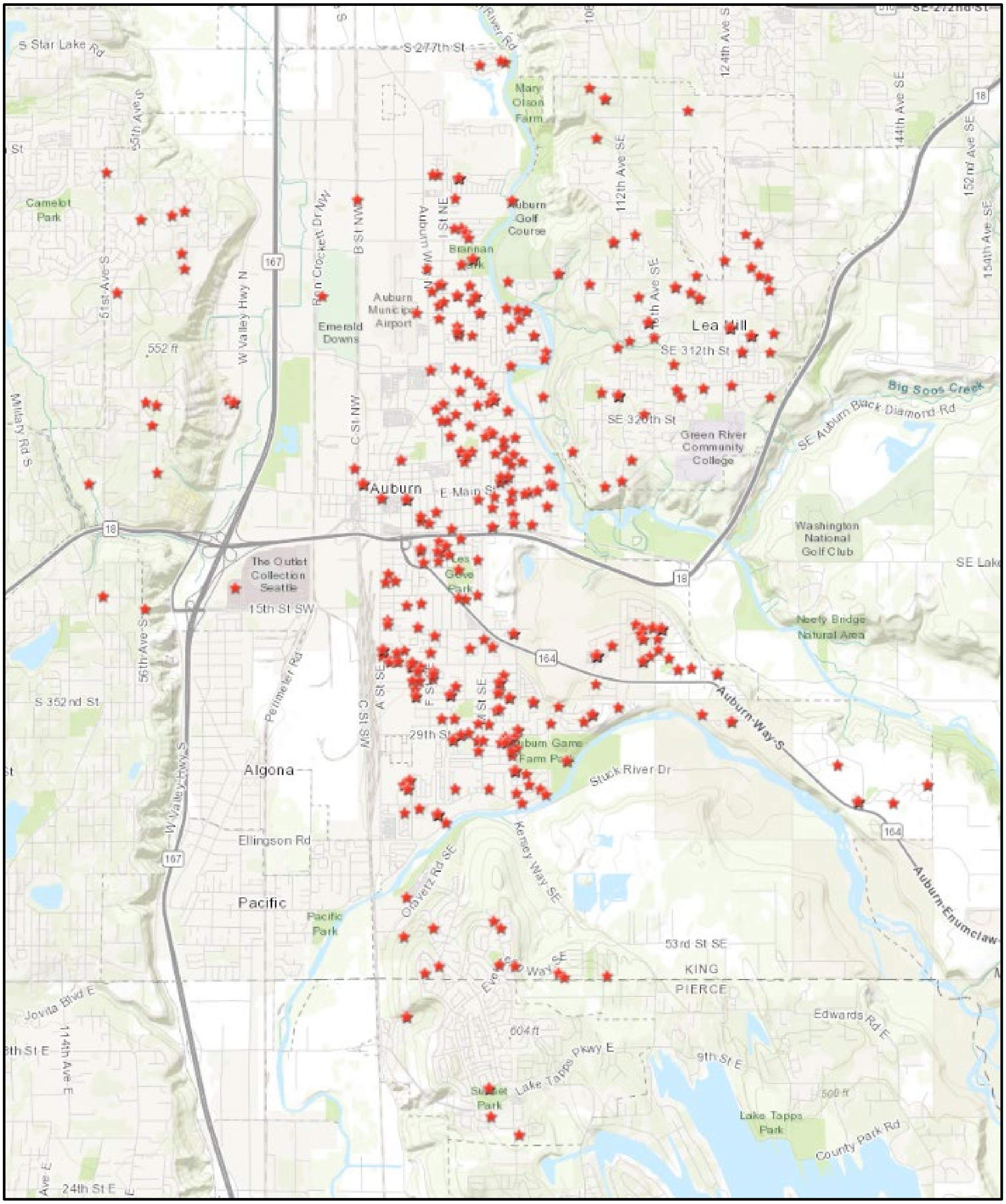
Calls for service, cases, and arrests over the past five years are captured below.

	6/1/2016 to 7/5/2016	6/1/2017 to 7/5/2017	6/1/2018 to 7/5/2018	6/1/2019 to 7/5/2019	6/1/2020 to 7/5/2020
Fireworks Calls for Service	320	392	288	390	511
Cases Written	4	4	7	6	5
Arrests Made	2	2	8	6	0
Infractions	0	0	0	0	11

	6/1/2020 to 7/5/2020
Patrol District 1	34
Patrol District 2	146
Patrol District 3	76
Patrol District 4	97
Patrol District 5	55
Patrol District 6	103
TOTAL	**511**

AUBURN POLICE DEPARTMENT

MAP



Confiscated Fireworks

751 confiscated fireworks were located in the storage container. This was a decrease from 3179 in 2019.

AUBURN POLICE DEPARTMENT

Lessons Learned

For 2020, the department again focused on areas that had the highest volume of firework complaints in the past and shifted emphasis enforcement to those areas as needed.

For the fourth year in a row, VRFA shared our SpecOps channel, faciliting communications between police and fire.

Cooperation with the Tribe was again excellent. Tribal representatives for the stands were in constant communication with the police department. Tribal Councilmember Mike Jerry was a consistent point of contact for Auburn PD.

An emphasis was placed on patrolling the parks, which reduced the amount of firework debris left behind.

There was an emphasis placed on education leading up to the 4^{th}. There were several social media posts made regarding legal and illegal fireworks. This should not only continue in 2021, but be increased.

The traffic on Auburn Way South was backed up for most of the afternoon and evening due to the left turn lane into the stands/discharge area. Working with City engineers to keep the left turn arrow on longer will potentially increase traffic flow and mitigate the impact to the community.

Some of the Auburn schools were targeted by citizens as discharge areas. No damaged was documented, but there was trash left behind. In 2021, school officers can be ordered to work to Patrol their respective high schools and the neighboring schools in their area.

The City parks were still a popular area for citizens to congregate and discharge fireworks. At one point, parks enforcement units encountered 150-200 people at Lea Hill park. Parks Director Daryl Faber was contacted prior to July 4^{th} and he was asked about barricades and closing the parks for July 4^{th}. It was learned that some of the parks have gates, but citizens would still be able to walk into all of the parks. For 2021, APD will work with parks to add more signage to the parks in addition to gaining access to keys, and training, for activating City park watering systems to activate sprinklers as a tool to dissuade citizens from accessing the parks after dark. In a phone conversation after July 4^{th}, Director Faber did note that there were small pockets of garbage in parks, but the annual vandalism to parks property was minimal compared to prior years. A parks emphasis will be continued in 2021.

The total amount of confiscated fireworks was minimal compared to prior years. This was due, in part, to the discretion given to Officers for the first time. When probable cause was obtained and a citizen was issued an initial infraction, the Officers had the discretion to warn the citizen that they now needed to take their fireworks to the discharge area. If probable cause was found for additional violations of City Code, the Officers were not given discretion for fireworks confiscation.

This was a unique year due to the COVID-19 pandemic and because of recent events related to law enforcement and citizens resulting in protests, violence and deaths across the country. Officers have noticed that citizens have become more and more agitated with “Stay at Home” orders. There was a concern that certain instigators may attempt to travel to Auburn and provoke some type of Police confrontation in the discharge area since this was the only “public” type demonstration of fireworks in the area with many people in attendance. There was an additional concern that due to current anti-Police sentiment by some citizens, confiscating fireworks could potentially lead to an unneccesary use of force situation between Auburn Officers and citizens of Auburn. Gladly, Auburn Police Officers working fireworks shifts on July 4th did not have to respond to any citizens resistance while enforcing State law and City Code.