

City Council Meeting
August 15, 2016 - 7:00 PM
Auburn Senior Activity Center, located
at 808 9th St SE
AGENDA

[Watch the meeting LIVE!](#)

[Watch the meeting video](#)

Meeting videos are not available until 72
hours after the meeting has concluded.

I. CALL TO ORDER

A. Pledge of Allegiance

B. Roll Call

II. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

III. APPOINTMENTS

IV. AGENDA MODIFICATIONS

V. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

A. Public Hearings

No public hearing is scheduled for this evening.

B. Audience Participation

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

C. Correspondence

There is no correspondence for Council review.

VI. COUNCIL AD HOC COMMITTEE REPORTS

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

VII. CONSENT AGENDA

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

A. Minutes of the August 1, 2016 Regular City Council Meeting*

B. Claims Vouchers (Coleman)

Claims voucher number 440024 through 440245, in the amount of \$5,251,264.18 and six wire transfers in the amount of \$967,099.38 and dated August 15, 2016.

C. **Payroll Vouchers (Coleman)**

Payroll check numbers 536636 through 536666 in the amount of \$563,702.57, electronic deposit transmissions in the amount of \$1,498,779.55 for a grand total of \$2,062,482.12 for the period covering July 28, 2016 to August 10, 2016.

D. **Public Works Project No. CP1522* (Snyder)**

City Council to award Contract No. 16-19, to KLB Construction on their low bid of \$1,649,376.05 plus Washington State sales tax of \$156,690.72 for a total contract price of \$1,806,066.77 for Project No. CP1522, 30th Street NE Area Flooding, Phase 1B

(RECOMMENDED ACTION: City Council approve the Consent Agenda.)

VIII. **UNFINISHED BUSINESS**

IX. **NEW BUSINESS**

X. **ORDINANCES**

A. **Ordinance No. 6606* (Snyder)**

An Ordinance of the City Council of the City of Auburn, Washington, granting to City of Enumclaw Natural Gas, a franchise for gas utility

(RECOMMENDED ACTION: City Council adopt Ordinance No. 6606.)

B. **Ordinance No. 6611* (Snyder)**

An Ordinance of the City Council of the City of Auburn, Washington, amending Section 17.14.005 of the Auburn City Code, Relating to Civil Plan Preparation, Submittal and Approval

(RECOMMENDED ACTION: City Council adopt Ordinance No. 6611.)

C. **Ordinance No. 6612* (Snyder)**

An Ordinance of the City Council of the City of Auburn, Washington, amending Section 14.22.020 of the Auburn City Code relating to requirements for updating the Comprehensive Plan

(RECOMMENDED ACTION: City Council adopt Ordinance No. 6612.)

D. **Ordinance No. 6613* (Heid)**

An Ordinance of the City Council of the City of Auburn, Washington, creating a new Section, 5.20.250, Of The Auburn City Code and amending Sections 1.04.060, 1.25.010, 5.20.030, 5.20.050 and 9.22.030 of the Auburn City Code related to marijuana related businesses and activities, and imposing a moratorium on marijuana related activities as identified herewith

(RECOMMENDED ACTION: City Council adopt Ordinance No. 6613.)

E. **Ordinance No. 6615* (Snyder)**

An Ordinance of the City Council of the City of Auburn, Washington, creating a new Chapter 15.20 of Auburn City Code [Property Maintenance Code], and New Sections 18.12.100, 8.20.060, 8.20.070, of the City Code and amending

Sections 1.25.030, 1.25.050, 1.25.065, 8.08.080, 8.12.020, 8.12.070, 8.12.080, 8.12.090, 8.20.030, 8.20.040, 8.20.050, 12.36.050 and 15.06.010 of the Auburn City Code and repealing Section 1.25.070 of the Auburn City Code Relating to Nuisance Abatement

(RECOMMENDED ACTION: City Council adopt Ordinance No. 6615.)

XI. MAYOR AND COUNCILMEMBER REPORTS

At this time the Mayor and City Council may report on their significant City-related activities since the last regular Council meeting.

A. From the Council

B. From the Mayor

XII. 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.

*Denotes attachments included in the agenda packet.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the August 1, 2016 Regular City Council Meeting

Date:

August 10, 2016

Department:

Administration

Attachments:

[8-1-2016 minutes](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:****Reviewed by Council Committees:****Councilmember:****Staff:**

Meeting Date: August 15, 2016

Item Number: CA.A



City Council Meeting
August 1, 2016 - 7:00 PM
Auburn City Hall
MINUTES

I. CALL TO ORDER

A. Pledge of Allegiance

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

B. Roll Call

City Councilmembers present: Deputy Mayor Wales, Bob Baggett, Claude DaCorsi, John Holman, Bill Peloza, Yolanda Trout-Manuel, and Rich Wagner.

Department Directors and staff members present included: Director of Administration Dana Hinman, City Attorney Daniel B. Heid; Community Development and Public Works Director Kevin Snyder, Assistant Director of Engineering Services/City Engineer Ingrid Gaub, Police Chief Bob Lee, Finance Director Shelley Coleman, Director of Human Resources and Risk Management Rob Roscoe, Property and Facilities Analyst Josh Arndt and Deputy City Clerk Shawn Campbell.

II. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

There was no announcement, proclamation or presentation.

III. APPOINTMENTS

There was no appointment for Council consideration.

IV. AGENDA MODIFICATIONS

Resolution No. 5245 regarding grant funding from the Port of Seattle was added to the agenda.

V. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

A. Public Hearings

1. Public Hearing for Franchise Agreement No. 16-36 (Snyder)
City Council to conduct a public hearing to receive public comments and suggestions in consideration of Franchise Agreement No. 16-36 for Enumclaw Natural Gas

Mayor Backus opened the public hearing at 7:23 p.m. No one in attendance spoke regarding Franchise Agreement No. 16-36, and the hearing was closed.

B. Audience Participation

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

Phillip Dawdy, 1608 E Republican Street, Seattle

Mr. Dawdy stated he represents KF Industries which has been issued the fourth retail marijuana license issued by the Washington State Liquor and Cannabis Control Board for the city of Auburn. He said his client is looking forward to opening soon in the city. They plan to employ as many as 30 people. He noted that having legal cannabis stores open is taking business away from the black market.

James Sloop, 6329 Discovery Street E, Fife

Mr. Sloop stated he was a consultant for KF Industries. He said limiting the stores to only two stores in a city the size of Auburn raises prices. He said having a marijuana store at their proposed site would increase the security of the area.

Wanda Granquist, 2935 17th SE, Auburn

Ms. Granquist thanked Council for working to move the marijuana store by her neighborhood. She does not agree a marijuana business improves the neighborhood.

Jim

Jim thanked Council for their effort to move the marijuana store from his neighborhood.

C. Correspondence

There was no correspondence for Council review.

VI. COUNCIL AD HOC COMMITTEE REPORTS

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

Councilmember Baggett reported on behalf of the Finance ad hoc committee that reviews claims and payroll vouchers. Councilmember Baggett reported he and Councilmember Wagner reviewed the claims and payroll vouchers as presented and described on this evening's agenda and recommend their approval by Council.

VII. CONSENT AGENDA

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

A. Minutes of the July 18, 2016 Regular Meeting

B. Claims Vouchers (Coleman)

Claims voucher numbers 439789 through voucher 440023, dated August 1, 2016 in the amount of \$1,252,825.59 and two wire transfers in the amount of \$185,027.14.

- C. Payroll Vouchers (Coleman)
Payroll check numbers 536603 through 536635 in the amount of \$706,859.28, electronic deposit transmissions in the amount of \$1,522,954.36 for a grand total of \$2,229,813.64 for the period covering July 14, 2016 to July 27, 2016.
- D. Public Works Project No. CP1320 (Snyder)
City Council to approve Final Pay Estimate No. 8 to Contract No. 14-11 in the amount of \$4,702.50 and accept construction of Project No. CP1320, Maintenance and Operations Storm Drainage Improvement project

Deputy Mayor Wales moved and Councilmember Trout-Manuel seconded to approve the Consent Agenda.

Deputy Mayor Wales stated the Consent Agenda consists of minutes, claims and payroll vouchers and public works projects.

MOTION CARRIED UNANIMOUSLY. 7-0

VIII. UNFINISHED BUSINESS

There was no unfinished business.

IX. NEW BUSINESS

There was no new business.

X. ORDINANCES

- A. Ordinance No. 6613 (Heid)
An Ordinance of the City Council of the City of Auburn, Washington, creating a new Section, 5.20.250, Of The Auburn City Code and amending Sections 1.04.060, 1.25.010, 5.20.030, 5.20.050 and 9.22.030 of the Auburn City Code related to marijuana related businesses and activities, and imposing a moratorium on marijuana related activities as identified herewith

Deputy Mayor Wales moved and Councilmember Peloza seconded to postpone Ordinance No. 6613 to August 15, 2016.

MOTION CARRIED UNANIMOUSLY. 7-0

XI. RESOLUTIONS

- A. Resolution No. 5243 (Snyder)
A Resolution of the City Council of the City of Auburn, Washington, initiating street vacation proceedings and setting a public hearing to consider the vacation of right-of-way in the vicinity of the 50 foot right-of-way and the 14 foot alley south of East Main Street and east of A Street SE

Deputy Mayor Wales moved and Councilmember DaCorsi seconded to adopt Resolution No. 5243.

Director Snyder described the proposed vacation area and advised the City is cleaning up the right of way.

Councilmember Holman asked if the vacation will increase the parking in this area. Director Snyder stated it is a possibility.

Councilmember Pelozo asked if the area currently has parking stalls. Director Snyder stated there are some parking stalls in this area.

MOTION CARRIED UNANIMOUSLY. 7-0

B. Resolution No. 5245

A Resolution of the City Council of the City of Auburn, Washington, authorizing and supporting its grant funding application to the Port of Seattle for Economic Development Partnership Program Funds

Deputy Mayor Wales moved and Councilmember Trout-Manuel seconded to adopt Resolution No. 5245.

MOTION CARRIED UNANIMOUSLY. 7-0

XII. MAYOR AND COUNCILMEMBER REPORTS

At this time the Mayor and City Council may report on their significant City-related activities since the last regular Council meeting.

A. **From the Council**

Deputy Mayor Wales reported she attended the South Vietnamese memorial dedication in Les Gove Park. She reminded everyone that August 2, 2016 is National Night Out.

Councilmember DaCorsi reported he attended the Affordable Housing Advisory Board meeting. The meeting was a joint meeting between the Affordable Housing Advisory Board, the Interagency Council on Homelessness and the State Advisory Council on Homelessness to discuss legislative priorities.

Councilmember Pelozo reported he attended the King County Flood Control District meeting.

Councilmember Baggett reported he attended the Association of Washington Cities Municipal Budgeting Workshop.

Councilmember Trout-Manuel reported she attended the dedication ceremony for the new Veterans Memorial at Les Gove Park.

B. **From the Mayor**

Mayor Backus noted Council meetings and study sessions will be held at alternate sites during the Council Chambers remodel, which should take approximately three months. She reported she attended the Bon Odori event and the Kids Mystery Box camp put on by the City's Parks Department.

XIII. EXECUTIVE SESSION

For clarification of these minutes, the executive session was held immediately following the call to order and roll call.

At 7:04 p.m. Mayor Backus recessed the meeting to executive session for approximately 15 minutes in order to discuss pending litigation pursuant to RCW 42.30.110(1)(i). City Attorney Heid, Assistant City Attorney Leiser, Human Resources and Risk Management Director Roscoe, Community Development and Public Works Director Snyder and Director of Administration Hinman attended the executive session.

Mayor Backus reconvened the meeting at 7:22 p.m.

XIV. **ADJOURNMENT**

There being no further business to come before the Council, the meeting adjourned at 7:54 p.m.

APPROVED this 15th day of August, 2016.

NANCY BACKUS, MAYOR

Shawn Campbell, Deputy City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claims Vouchers

Date:

August 10, 2016

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

approve claim vouchers.

Background Summary:

Claims voucher number 440024 through 440245, in the amount of \$5,251,264.18 and six wire transfers in the amount of \$967,099.38 and dated August 15, 2016.

Reviewed by Council Committees:**Councilmember:****Staff:**

Coleman

Meeting Date: August 15, 2016

Item Number: CA.B



AGENDA BILL APPROVAL FORM

Agenda Subject:

Payroll Vouchers

Date:

August 10, 2016

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council approve Payroll Vouchers.

Background Summary:

Payroll check numbers 536636 through 536666 in the amount of \$563,702.57, electronic deposit transmissions in the amount of \$1,498,779.55 for a grand total of \$2,062,482.12 for the period covering July 28, 2016 to August 10, 2016.

Reviewed by Council Committees:**Councilmember:****Staff:**

Coleman

Meeting Date: August 15, 2016

Item Number: CA.C



AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Works Project No. CP1522

Date:

August 8, 2016

Department:

CD & PW

Attachments:

[Budget Status Sheet](#)

[Bid Tab Summary](#)

[Vicinity Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council award Contract No. 16-19, to KLB Construction on their low bid of \$1,649,376.05 plus Washington State sales tax of \$156,690.72 for a total contract price of \$1,806,066.77 for Project No. CP1522, 30th Street NE Area Flooding, Phase 1B.

Background Summary:

The City received six (6) responsive bids and the low bid was approximately 18% below the engineer's estimate. Staff has performed reference checks and other verifications to determine that KLB Construction meets the responsible bidding criteria and recommends award.

The purpose of this project is to construct a new 42-inch storm line from 'I' Street NE to the existing Brannan Park Pump Station. The pipe will replace the existing 30-inch storm pipe to relieve street flooding that results from the limited capacity of the existing 30-inch line to convey the storm water to its current Brannan Park Pump Station discharge point. This project is a continuation of the 30th Street NE Area Flooding Phase 1A project, where a new 42-inch storm line was installed along 30th Street NE from 'C' Street NE to 'I' Street NE in Summer of 2015. The project will also include a joint utility trench within a private alleyway for PSE and Comcast work.

Construction of this project is anticipated to start in September 2016 and be completed by December 2016.

Additional Authorized Contingency Consideration:

Additional project funding is available due to the low bid the City received for this project. A contract contingency increase of \$80,607.00 (above the city code authorized contingency) is requested for a total of \$180,607.00 (10% of the contract

amount) in authorized contingency due to the potential risks of working in close proximity to the building and residential homes.

The estimated total project cost is \$2,293,810.00, which is equal to the amount budgeted for the project.

Reviewed by Council Committees:

Councilmember:

Staff: Snyder

Meeting Date: August 15, 2016

Item Number: CA.D

BUDGET STATUS SHEET

Project No: CP1522

30th Street NE Area Flooding - Phase 1B

Project Manager: Kim Truong

Initiation Date: 1/7/13

Advertisement Date: 6/16/14

Award Date:

2015 Mid Biennial Adjustment Permission to Advertise >>> Contract Award Change Order Approval Budget Update

Date: 8/5/2016

The "Future Years" column indicates the projected amount to be requested in future budgets.

Funding	2015	2016	2017	Total
462 Fund - Storm*	4,932	2,288,878		2,293,810
Total	4,932	2,288,878	0	2,293,810

Activity	2015 (actual)	2016	2017	Total
Design Engineering - City Costs	992	20,678		21,670
Design Engineering - Consultant	3,940	60,929		64,869
Permits		598		598
PSE and Comcast Joint Utility Trench		100,000		100,000
Construction Contract		1,806,067		1,806,067
Authorized Contingency (10%)		180,607		180,607
Construction Engineering - Consultant		50,000		50,000
Construction Engineering - City Costs		60,000	10,000	70,000
Total	4,932	2,278,878	10,000	2,293,810

462 Storm Budget Status

	2015	2016	2017	Total
*462 Funds Budgeted ()	(4,932)	(2,288,878)	0	(2,293,810)
462 Funds Needed	4,932	2,278,878	10,000	2,293,810
*462 Fund Project Contingency ()	0	(10,000)	0	0
462 Funds Required	0	0	10,000	0

* (#) in the Budget Status Sections indicates Money the City has available.

**BID TABULATION
BID TOTALS SUMMARY**

Project Name: CP1522, 30th Street NE Area Flooding-Phase 1B, Contract 16-19

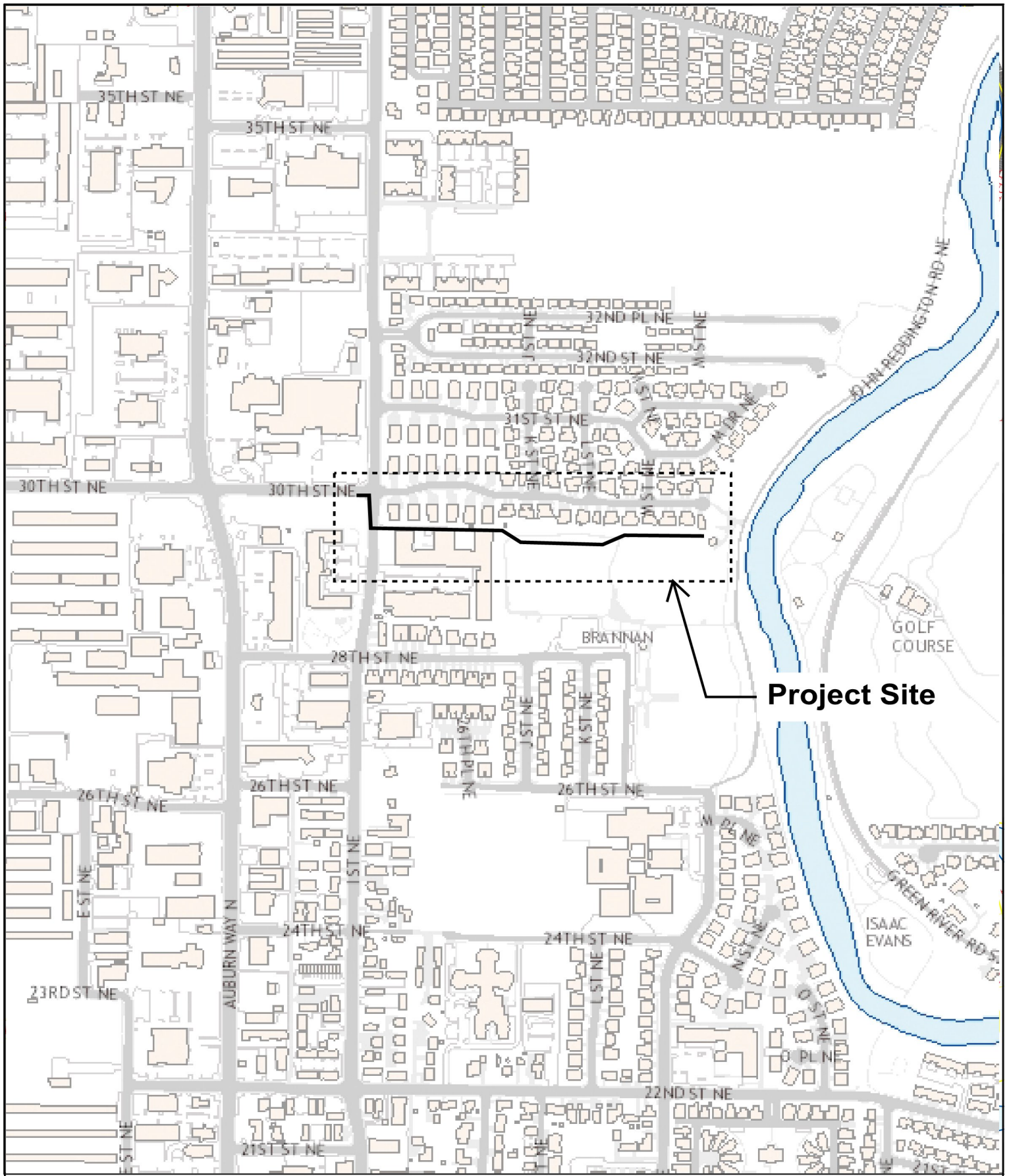
Prepared by: City of Auburn

Bid Date: 8/4/16

ENGINEER'S ESTIMATE:	\$ 2,001,113.25			
AVERAGE BASIC BID AMOUNT:	\$ 2,067,214.98			
BASIC BID SPREAD AMOUNT:	\$ 708,623.95	Basic BID Amount	Spread \$	Spread %
LOW BIDDER:	KLB Construction	\$ 1,649,376.05	-\$351,737.20	-17.58%
Second Bidder:	KC Equipment, LLC	\$ 1,824,822.50	-\$176,290.75	-8.81%

	Basic BID (Tax not Included)	Total BID (Tax Included)
KLB Construction	\$ 1,649,376.05	\$ 1,806,066.77
KC Equipment, LLC	\$ 1,824,822.50	\$ 1,998,180.64
Titan Earthwork	\$ 2,113,408.31	\$ 2,314,182.10
RL Alia Company	\$ 2,190,144.00	\$ 2,398,207.68
Olson Brothers Excavating	\$ 2,267,539.00	\$ 2,482,955.21
James W Fowler Co.	\$ 2,358,000.00	\$ 2,582,010.00

NOTE: An evaluation of whether a bidder is responsible or non-responsible was only made for the low bidder. This does not indicate one way or the other, how other bidders would be considered if they were the low bidder.



30th Street NE Area Flooding, Phase 1B

Vicinity Map
July 2016
Not to Scale



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6606

Date:

July 25, 2016

Department:

CD & PW

Attachments:

[Ord 6606](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council introduce and adopt Ordinance No. 6606 for Enumclaw Natural Gas Franchise Agreement No. 16-36.

Background Summary:

Per Auburn City Code Chapter 20.06.010, a franchise shall be required of any commercial utility operator who desires to occupy public ways of the City and to provide commercial utility services to any person or area of the City.

During review of facilities located in City right-of-way the City determined that City of Enumclaw Natural Gas is required to obtain a Franchise Agreement per Auburn City Code Chapter 20.06.010. Enumclaw has applied for a Franchise Agreement for a term of twenty (20) years to continue to operate within the City's rights of way natural gas transmission and distribution facilities for sale and service to customers within the City of Auburn.

Enumclaw's existing facilities currently serve customers located in south Auburn off of Auburn Way South in the Academy and Lemon Tree Lane neighborhoods and surrounding area. Enumclaw has no plans to expand services as the rest of Auburn is currently served by PSE. Any construction, maintenance, improvements or changes to Enumclaw's facilities are managed through the City's permitting processes that are a requirement of the Franchise Agreement. Safety of Enumclaw's facilities is regulated and inspected through the Washington Utilities and Transportation Commission.

A staff presentation was given at the July 25th Study Session discussing Draft Ordinance No 6606. A Public Hearing to consider this application and hear public comment was held before the City Council on August 1, 2016 in accordance with Auburn City Code Chapter 20.06.030.

Ordinance No. 6606, if adopted by City Council, approves Franchise Agreement No. 16-36 subject to terms and conditions outlined in the Ordinance.

Reviewed by Council Committees:

Councilmember:

Staff: Snyder

Meeting Date: August 15, 2016

Item Number: ORD.A

ORDINANCE NO. 6 6 0 6

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, GRANTING TO CITY OF ENUMCLAW NATURAL GAS, A FRANCHISE FOR GAS UTILITY

WHEREAS, City of Enumclaw Natural Gas ("Grantee") has applied to the City of Auburn ("City") for a non-exclusive Franchise for the right of entry, use, and occupation of certain public right(s)-of-way within the City, expressly to install, construct, erect, operate, maintain, repair, relocate and remove its facilities in, on, over, under, along and/or across those right(s)-of-way; and

WHEREAS, following proper notice, the City Council held a public hearing on Grantee's request for a Franchise, at which time representatives of Grantee and interested citizens were heard in a full public proceeding affording opportunity for comment by any and all persons desiring to be heard; and

WHEREAS, from information presented at such public hearing, and from facts and circumstances developed or discovered through independent study and investigation, the City Council now deems it appropriate and in the best interest of the City and its inhabitants that the franchise be granted to Grantee.

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

Section 1. Grant of Right to Use Franchise Area

A. Subject to the terms and conditions stated herein, the City grants to the Grantee general permission to enter, use, and occupy the right(s)-of-way and/or other public property specified in Exhibit "A", attached hereto and incorporated by reference (the "Franchise Area").

B. The Grantee is authorized to install, remove, construct, erect, operate, maintain, relocate and repair the types of facilities specified in Exhibit "B", attached hereto and incorporated by reference, and all necessary appurtenances thereto, ("Grantee Facilities") for provision of those services set forth in Exhibit "C" ("Grantee Services") in, along, under and across the Franchise Area.

C. This Franchise does not authorize the use of the Franchise Area for any facilities or services other than Grantee Facilities and Grantee Services, and it extends no rights or privilege relative to any facilities or services of any type, including Grantee Facilities and Grantee Services, on public or private property elsewhere within the City. This Franchise is intended to convey only a limited

right and interest and is not a warranty of title or interest in the City's right-of ways. The Agreement does not convey any right to Grantee to install Grantee Facilities on or to otherwise impact, city-owned or leased properties, easements, or rights-of way outside the ones identified in Exhibit A.

D. This Franchise is non-exclusive and does not prohibit the City from entering into other agreements, including Franchises, impacting the Franchise Area, unless the City determines that entering into such agreements interferes with Grantee's right set forth herein.

E. Except as explicitly set forth herein, this Franchise does not waive any rights that the City has or may hereafter acquire with respect to the Franchise Area or any other City roads, rights-of-way, property, or any portions thereof. This Franchise shall be subject to the power of eminent domain, and in any proceeding under eminent domain, the Grantee acknowledges its use of the Franchise Area shall have no value.

F. The City reserves the right to change, regrade, relocate, abandon, or vacate any right-of-way within the Franchise Area. If, at any time during the term of this Franchise, the City vacates any portion of the Franchise Area containing Grantee Facilities, the City shall reserve an easement for public utilities within that vacated portion, pursuant to RCW 35.79.030, within which the Grantee may continue to operate any existing Grantee Facilities under the terms of this Franchise for the remaining period set forth under Section 3.

G. The Grantee agrees that its use of Franchise Area shall at all times be subordinated to and subject to the City and the public's need for municipal infrastructure, travel, and access to the Franchise Area, except as may be otherwise required by law.

H. This Franchise is subject to the provisions of Auburn City Code ("ACC"), including specifically ACC Chapter 20.10, "CONDITIONS OF PUBLIC WAY AGREEMENTS, FRANCHISES, AND FACILITIES LEASES", and all federal and state laws, codes and regulations as currently exist or as amended. However, if the provisions of city code, as amended or superseded, conflict with any terms and conditions of this agreement, the provisions of this agreement shall govern. A conflict doesn't exist where this agreement is silent about a condition or matter addressed by city code.

Section 2. Notice

A. Whenever this Franchise calls for notice to or notification by any party, the same (unless otherwise specifically provided) shall be in writing and directed by certified mail to the recipient at the address set forth in this Section. If the date for making any payment, notice, or performing any act is a legal

holiday, payment or notice may be made or the act performed on the next succeeding business day which is not a legal holiday.

City: Engineering Aide,
 Community Development and Public Works Department
 City of Auburn
 25 West Main Street
 Auburn, WA 98001-4998
 Telephone: (253) 931-3010; Fax: (253) 931-3048

with a copy to: City Clerk
 City of Auburn
 25 West Main Street
 Auburn, WA 98001-4998

Grantee: City of Enumclaw Gas Manager
 2041 Railroad St
 Enumclaw, WA 98022
 360-825-5541
 360-825-3505 (afterhours & emergency)

with a copy to: City Clerk
 City of Enumclaw
 1339 Griffin Avenue
 Enumclaw, WA 98022

B. Any changes to the above-stated Grantee information shall be sent to the City's Engineering Aide, Community Development and Public Works Department, with copies to the City Clerk, referencing the title of this agreement.

C. The above-stated Grantee voice and fax telephone numbers shall be staffed at least during normal business hours, Pacific time zone.

Section 3. Term of Agreement

A. This Franchise shall run for a period of 20 (twenty) years, from the date of execution specified in Section 5.

B. Renewal Option of Term: The Grantee may renew this Franchise for an additional five (5) year period upon submission and approval of the

application specified under ACC 20.06.130, as it now exists or is amended, within the timeframe set forth therein (currently between 180 and 240 days prior to expiration of the then-current term). Any materials submitted by the Grantee for a previous application may be considered by the City in reviewing a current application, and the Grantee shall submit those materials that differ from the previous materials or as deemed necessary by the City to address changes in the Grantee Facilities or Grantee Services, or to reflect specific reporting periods mandated by the ACC.

C. Failure to Renew Franchise – Automatic Extension. If the Parties fail to formally renew this Franchise prior to the expiration of its term or any extension thereof, the Franchise automatically continues month to month until renewed or either party gives written notice at least one hundred and eighty (180) days in advance of intent not to renew the Franchise.

Section 4. Definitions

For the purpose of this agreement:

“ACC” means the Auburn City Code.

“Emergency” means a condition of imminent danger to the health, safety and welfare of persons or property located within the City including, without limitation, damage to persons or property from natural consequences, such as storms, earthquakes, riots, acts of terrorism or wars.

“Maintenance or Maintain” shall mean examining, testing, inspecting, repairing, maintaining and replacing the existing Grantee Facilities or any part thereof as required and necessary for safe operation.

“Relocation” means permanent movement of Grantee facilities required by the City, and not temporary or incidental movement of such facilities, or other revisions Grantee would accomplish and charge to third parties without regard to municipal request.

“Rights-of-Way” means the surface and the space above and below streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks, easements, rights-of-ways and similar public properties and areas.

“Grantee Facilities” means, collectively, any and all natural gas systems owned or operated by Grantee, including but not limited to gas pipes, pipelines, mains, laterals, conduits, feeders, regulators, valves, meters meter-reading devise, fixtures, communication systems, and any and all other equipment appliances, attachments, appurtenances and other items necessary, convenient, or in any

way appertaining to any and all of the foregoing for the purpose of transmission of natural gas, whether the same be located over or under ground.

"Hazardous Substance" shall specifically include, but shall not be limited to, petroleum and petroleum products and their by-products, residue, and remainder in whatever form or state.

"Operate" or "Operations" shall mean the operation, use, and maintenance of Grantee Facilities, pursuant to the terms of this Agreement.

"Party" or "Parties" means collectively the City and Grantee, and individually either the City or Grantee.

"Public Works Project" means, any City capital improvement or the construction, relocation, expansion, repair, maintenance, or removal of any part of the Public Way or City-owned facilities located on or in the Public Way for: parks; streets; sidewalks; curbs; pedestrian and/or vehicle traffic; sewers, storm water drains; water facilities, and; City owned fiber optic cable, conduit or network facilities.

"Third Party" means any person, party, or entity other than the City and Grantee.

"FERC" means the Federal Energy Regulatory Commission, or such other successor regulatory agency having jurisdiction over interstate pipeline companies.

Section 5. Acceptance of Franchise

A. This Franchise, and any rights granted hereunder, shall not become effective for any purpose unless and until Grantee files with the City Clerk (1) the Statement of Acceptance, attached hereto as Exhibit "D," and incorporated by reference, (2) all verifications of insurance coverage specified under Section 17, (3) the financial guarantees specified in Section 18 and (4) payment of any outstanding application fees per the City fee schedule. These four items shall collectively be the "Franchise Acceptance". The date that such Franchise Acceptance is filed with the City Clerk shall be the effective date of this Franchise.

B. Should the Grantee fail to file the Franchise Acceptance with the City Clerk within thirty (30) days after the effective date of the ordinance approving the Franchise Agreement, the City's grant of the Franchise will be null and void.

Section 6. Construction and Maintenance

A. The Grantee shall apply for, obtain, and comply with the terms of all permits required under ACC Chapter 12.24 for any work done upon Grantee Facilities. Grantee shall comply with all applicable City, State, and Federal codes, rules, regulations, and orders, as they now exist or as may be hereafter amended or superseded, in undertaking such work, which shall be done in a thorough and proficient manner.

Grantee's work within the Public Way which directly affects Grantee's construction, operation, and maintenance of Grantee Facilities shall be performed in accordance with Federal law and regulation.

B. Grantee agrees to coordinate its activities with the City and all other utilities located within the public right-of-way within which Grantee is undertaking its activity. Such efforts shall include, at a minimum, reasonable and diligent efforts to keep the other party and other utilities within the Public Way informed of its intent to undertake such construction work.

C. In addition to complying with ACC 20.10.80, as hereafter amended or superseded, Grantee Facilities shall be located and maintained within the Right-of-way so as not to interfere with the reasonable ingress or egress to the properties abutting the right-of-ways as they exist at the time of installation of the Grantee Facilities. The City expressly reserves the right to prescribe how and where Grantee Facilities shall be installed within the public right-of-way and may from time to time, pursuant to the applicable sections of this Franchise, require, at no cost to the City, the removal, relocation and/or replacement thereof in the public interest and safety at the expense of the Grantee.

D. Grantee shall continuously be a member of the State of Washington One Number Locator service under RCW 19.122, or an approved equivalent as determined by the City, and shall comply with all such applicable rules and regulations. Before commencing any work within the public right-of-way, the Grantee shall comply with the One Number Locator provisions of RCW Chapter 19.122 to identify existing utility infrastructure.

E. Tree Trimming. Upon prior written approval of the City and in accordance with City ordinances, Grantee shall have the authority to reasonably trim trees upon and overhanging streets, public rights-of-way, and places in the Franchise Area so as to prevent the branches of such trees from coming in physical contact with the Grantee Facilities. Grantee shall be responsible for debris removal from such activities. If such debris is not removed within twenty-four (24) hours of completion of the trimming, the City may, at its sole discretion, remove such debris and charge Grantee for the cost thereof. This section does not, in any instance, grant automatic authority to clear vegetation for purposes of

providing a clear path for radio signals. Any such general vegetation clearing will require a land clearing permit.

H. Markers demarcating the pipeline's location shall be placed on the surface at least every 100 yards in areas not under pavement so as to provide clear warning of the presence of the pipeline but in a manner that does not interfere with trails or other public uses in that area. Additionally, Grantee shall place continuous underground markers demarcating the pipeline's location each time Grantee digs to the pipeline for any reason.

Section 7. Repair and Emergency Work

In the event of an emergency, the Grantee may commence such repair and emergency response work as required under the circumstances, provided that the Grantee shall notify the City telephonically during normal business hours at 253-931-3010 and during non-business hours at 253-876-1985 as promptly as possible before such repair or emergency work commences, and in writing as soon thereafter as possible. Such notification shall include the Grantee's emergency contact phone number for the corresponding response activity. For any emergency or after normal business hour issues involving the Grantee's facilities which requires the Grantee's immediate response the City shall contact the Grantee at 360-825-3505 which is operated 24 hours a day, seven days a week. The City may act, at any time, without prior written notice in the case of emergency, but shall notify the Grantee in writing as promptly as possible under the circumstances of the nature of the emergency and the actions taken to address it.

Section 8. Damages to City and Third-Party Property

A. Grantee agrees that if any of its actions under this Franchise impairs or damages any City property, survey monument, or property owned by a third-party, Grantee will restore, at its own cost and expense, said property to a safe condition. Such repair work shall be performed and completed to the satisfaction of the City Engineer.

B. The City may at any time perform or have performed any and all work that it considers necessary to restore to a safe condition any area within the Public Way disturbed by Grantee in the performance of this Agreement. Grantee shall pay all reasonable costs of such work upon demand of the City.

C. All survey monuments which are disturbed or displaced by Grantee in its performance of any work under this Agreement shall be referenced and restored by Grantee, as per WAC 332-120, as from time to time amended, and all pertinent federal, state, and local standards and specifications.

Section 9. Location Preference

A. Any structure, equipment, appurtenance or tangible property of a utility, other than the Grantee's, which was installed, constructed, completed or in place prior in time to Grantee's application for a permit to construct or repair Grantee Facilities under this Franchise shall have preference as to positioning and location with respect to the Grantee Facilities. However, to the extent that the Grantee Facilities are completed and installed prior to another private utility's submittal of a permit for new or additional structures, equipment, appurtenances or tangible property, then the Grantee Facilities shall have priority. These rules governing preference shall continue in the event of the necessity of relocating or changing the grade of any City road or right-of-way. A relocating utility shall not necessitate the relocation of another utility that otherwise would not require relocation. This Section shall not apply to any City facilities or utilities that may in the future require the relocation of Grantee Facilities. Such relocations shall be governed by Section 11.

B. When constructing new facilities, or replacing or reconstructing facilities, Grantee shall maintain a minimum underground horizontal separation of five (5) feet from City water and five (5) feet from City sanitary sewer and storm sewer facilities; provided, that for development of new areas, the City, in consultation with Grantee and other utility purveyors or authorized users of the Public Way, will develop and follow the City's determination of guidelines and procedures for determining specific utility locations, subject additionally to this agreement.

Section 10. Grantee Information

A. Grantee agrees to supply, at no cost to the City, any information reasonably requested by the City Engineer to coordinate municipal functions with Grantee's activities and fulfill any municipal obligations under state law. Said information shall include, at a minimum, as-built drawings of Grantee Facilities, installation inventory, and maps and plans showing the location of existing or planned facilities within the City. Said information may be requested either in hard copy or electronic format, compatible with the City's data base system, as now or hereinafter existing, including the City's geographic information Service (GIS) data base. Grantee shall keep the City Engineer informed of its long-range plans for coordination with the City's long-range plans.

B. Upon the City's reasonable request, in connection with the design of any Public Works Project, Grantee shall verify the location of its underground Facilities within the Public Way by excavating (e.g., potholing) at no expense to the City. In the event Grantee performs such excavation, the City shall not require any restoration of the disturbed area in excess of restoration to the same condition as existed immediately prior to the excavation.

C. The parties understand that Washington law limits the ability of the City to shield from public disclosure any information given to the City. Grantee shall clearly mark any information that it provides to the City as "Proprietary" information if Grantee believes that disclosure of that information would be exempt under the trade secrets exemption in RCW 42.56.270. The City agrees that if it receives a request for Grantee's proprietary information, it will initially assert the exemption under 42.56.270, and will notify Grantee of the request.

The City shall not initiate legal action to prevent disclosure of Grantee's proprietary information. If a requestor files a lawsuit to compel disclosure, Grantee agrees to defend the action at Grantee's sole expense.

Grantee shall indemnify and hold harmless the City for any loss or liability for fines, penalties, and costs (including attorneys fees) imposed on the City because of non-disclosures requested by Grantee under Washington's open public records act, provided the City has notified Grantee of the pending request or Grantee is made aware of the request or claim.

Section 11. Relocation of Grantee Facilities

A. Except as otherwise so required by law, Grantee agrees to relocate, remove, or reroute its facilities within thirty (30) days of being ordered by the City Engineer at no expense or liability to the City, except as may be required by RCW Chapter 35.99. Such alternate location for relocation of Grantee's facilities shall be determined and approved jointly by the City and Grantee at no cost to the City. Pursuant to the provisions of Section 16, Grantee agrees to protect and save harmless the City from any customer or third-party claims for service interruption or other losses in connection with any such change, relocation, abandonment, or vacation of the Public Way.

B. If a readjustment or relocation of the Grantee Facilities is necessitated by a request from a party other than the City, that party shall pay the Grantee the actual costs thereof. Any contractor doing work pursuant to contract with the City shall not be considered a Third Party for purposes of this section.

C. Any condition or requirement imposed by the City upon any Third Party (including, but not limited to, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits obtained pursuant to any zoning, land use, construction or other development regulation) which requires the relocation of Grantee's Facilities within the Rights-of-Way shall be a condition or requirement causing relocation of Grantee's Facilities to occur subject to the provisions of Subsection B above; provided, however in the event the City reasonably determines and notifies Grantee that the primary

purpose of imposing such condition or requirement upon such Third party is to cause or facilitate the construction of a Public Works Project to be undertaken within a segment of the Right-of-Ways on the City's behalf and consistent with the City's Capital Facility Plan or Transportation Improvement Program, then Grantee shall relocate its Facilities within such segment of the Rights-of-Way in accordance with this Agreement.

D. As to any relocation of Grantee's Facilities whereby the cost and expense thereof is to be borne by Grantee in accordance with this Section 11, Grantee may, after receipt of written notice requesting such relocation, submit in writing to the City alternatives to relocation of its Facilities. Upon the City's receipt from Grantee of such written alternatives, the City shall evaluate such alternatives and shall advise Grantee in writing if one or more of such alternatives are suitable to accommodate the work which would otherwise necessitate relocation of Grantee's Facilities. In evaluating such alternatives, the City shall give each alternative proposed by Grantee full and fair consideration with due regard to all facts and circumstances which bear upon the practicality of relocation and alternatives to relocation. In the event the City determines that such alternatives are not appropriate, Grantee shall relocate its Facilities as otherwise provided in this Agreement.

E. Nothing in this Section 11 shall require Grantee to bear any cost or expense in connection with the relocation of any Facilities under benefit of easement independent of this Agreement or other rights not arising under this Agreement, nor shall anything in this Section 11 require the City to bear any such cost or expense. Nothing in this Section 11 shall be construed to be a waiver of any right of either Grantee or the City to contest any claim or assertion by the other of responsibility to pay such cost or expense.

F. Subject to ACC 20.10.160, in the event of an emergency posing a threat to public safety or welfare requires the relocation of Grantee's Facilities within the Rights-of-Way, the City shall give Grantee notice of the emergency as soon as reasonably practicable. Upon receipt of such notice from the City (and subject to the issuance of any necessary order(s) of the (Washington Utilities and Transportation Commission), Grantee shall endeavor to respond as soon as reasonably practicable to relocate the affected Facilities.

Section 12. Abandonment and or Removal of Grantee Facilities

Subject to ACC 20.10.130, within one hundred and eighty days (180) of Grantee's permanent cessation of use of the Grantee Facilities, or any portion thereof, the Grantee shall (subject to any necessary approval(s) and/or order(s) to be provided by WUTC concerning abandonment), at the City's discretion, either abandon in place or remove the affected facilities. Abandonment or removal shall be at the sole cost and expense of Grantee. Any Facilities left in

place shall be made inert by purging all natural gas from such Facilities (including displacement of natural gas with an appropriate inert gas) and disconnecting and sealing such Facilities, all in compliance with applicable regulations and industry standards. The City's consent shall not relieve Grantee of the obligation and/or costs to subsequently remove or alter such Facilities in the event the City reasonably determines that such removal or alteration is necessary or advisable for the health and safety of the public, in which case Grantee shall perform such work at no cost to the City. The obligations contained in this Section shall survive the expiration, revocation, or termination of this Agreement.

Section 13. Encroachment Management

Grantee shall manage and inspect encroachments as defined by federal and applicable state and local laws, rules, regulations and industry standards, as now enacted or hereinafter amended, and any other future laws or regulations that are applicable to Grantee, the Facilities, and business operations. Upon notification to Grantee of planned construction by another within ten (10) feet of Grantee's pipeline, Grantee shall flag the precise location of its Facilities before the construction commences, provide a representative to inspect the construction when it commences, and periodically inspect thereafter to ensure that Grantee's pipeline is not damaged by the construction.

Section 14. Emergency Management, Leaks, Ruptures, and Emergency Response.

A. Annually, upon the request of the City, Grantee shall meet with the Valley Regional Fire Authority, the Auburn Police Department, and the City's Emergency Management Office to coordinate emergency management operations and, at least once a year, at the request of the City, Grantee personnel shall actively participate with the Valley Regional Fire Authority and the City in emergency preparedness drills or planning sessions.

B. Grantee shall have in place, at all times during the term of this Agreement, a system for remotely monitoring pressures and flows across the Public Way.

C. During the term of this Agreement, Grantee shall have a written emergency response plan and procedure for locating leaks and ruptures and for shutting down valves as rapidly as possible.

D. Upon acceptance of this Agreement, Grantee shall provide, for the City's approval and acceptance, a copy of its emergency response plans and procedures, including, but not limited to, emergency rupture response. If the parties disagree as to the adequacy of Grantee's emergency response plan, the parties will submit the plan to independent, third party review. If the review

recommends that Grantee make modifications or additions to Grantee's emergency response plan, Grantee covenants to consider said recommendations in good faith. If Grantee declines to follow the recommendations, Grantee shall provide a written report to the City explaining its reasoning for not following said recommendations. The parties agree to comply with the dispute resolution provisions contained herein to resolve any dispute over whether to follow the recommendations. Upon completion of the review of Grantee's emergency plans and procedures set forth in this section, Grantee shall provide a copy of the plans and procedures to the City and to the Valley Regional Fire Authority.

E. Grantee's emergency plans and procedures shall designate Grantee's responsible local emergency response officials and a direct twenty four (24) hour emergency contact number for the control center operator. Grantee shall, after being notified of an emergency, cooperate with the City and make every effort to respond as soon as possible to protect the public's health, safety and welfare.

F. Grantee shall be solely responsible for all its necessary costs incurred in responding to any leak, rupture or other release of natural gas from Grantee's Facilities, including, but not limited to, detection and removal of any contaminants from air, earth or water, and all remediation costs.

G. If requested by the City in writing, Grantee shall provide a written summary concerning any leak or rupture within thirty (30) days of the event, including, but not limited to, the leak or rupture's date, time, amount, location, response, remediation and other agencies Grantee has notified.

H. The City may request that any substantial leak or rupture be investigated by an independent pipeline consultant selected by the City. Grantee shall be solely responsible for paying all of the consultant's costs and expenses incurred in investigating the occurrence and reporting the findings. Grantee shall meet and confer with the independent consultant following the consultant's investigation to address whether any modifications or additions to Grantee's pipeline(s) and/or Facilities may be warranted.

I. If the consultant recommends that Grantee make modifications or additions to Grantee's pipeline(s) and/or Facilities, Grantee covenants to consider said recommendations in good faith. If Grantee declines to follow the consultant's recommendations, Grantee shall provide a written report to the City explaining its reasoning for not following said recommendations. The parties agree to comply with the dispute resolution provisions contained herein to resolve any dispute over whether to follow the consultant's recommendations.

Section 15. Maintenance, Inspection, and Testing.

Grantee shall remain solely and separately liable for the function, testing, maintenance, replacement and/or repair of the pipeline or other activities permitted under this Agreement. Grantee shall operate, maintain, inspect, and test the Facilities in full compliance with all applicable federal, state, and local laws, rules, regulations, and industry standards, as now enacted or hereinafter amended, and any other future laws or regulations that are applicable to Grantee, the Facilities, and business operations.

Section 16. Indemnification and Hold Harmless

A. The Grantee shall defend, indemnify, and hold the City and its officers, officials, agents, employees, and volunteers harmless from any and all costs, claims, injuries, damages, losses, suits, or liabilities of any nature including attorneys' fees arising out of or in connection with the Grantee's performance under this Franchise, except to the extent such costs, claims, injuries, damages, losses, suits, or liabilities are caused by the sole negligence of the City.

B. The Grantee shall hold the City harmless from any liability arising out of or in connection with any damage or loss to the Grantee Facilities caused by maintenance and/or construction work performed by, or on behalf of, the City within the Franchise Area or any other City road, right-of-way, or other property, except to the extent any such damage or loss is directly caused by the sole negligence of the City, or its agent performing such work.

C. The Grantee acknowledges that neither the City nor any other public agency with responsibility for fire fighting, emergency rescue, public safety or similar duties within the City has the capability to provide trench, close trench or confined space rescue. The Grantee, and its agents, assigns, successors, or contractors, shall make such arrangements as Grantee deems fit for the provision of such services. The Grantee shall hold the City harmless from any liability arising out of or in connection with any damage or loss to the Grantee for the City's failure or inability to provide such services, and, pursuant to the terms of Section 14(A), the Grantee shall indemnify the City against any and all third-party costs, claims, injuries, damages, losses, suits, or liabilities based on the City's failure or inability to provide such services.

D. Acceptance or inspection by the City of any work performed by the Grantee shall not be grounds for avoidance of this section.

E. It is further specifically and expressly understood that the indemnification provided herein constitutes the Grantee's waiver of immunity under Industrial Insurance, Title 51, RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The

provisions of this section shall survive the expiration or termination of this Agreement.

F. In addition to the promise of indemnification required by ACC 20.10.230, Grantee shall indemnify, defend and hold the City, its appointed and elective officials, agents, officers, employees, and volunteers harmless from and against any and all claims, demands, liability, loss, cost, damage or expense of any nature whatsoever including all costs and attorney's fees, made against the City on account of violation of any environmental laws applicable to the Grantee Facilities, or from any release of natural gas or Hazardous Substances on or from the Grantee Facilities. This indemnity includes, but is not limited to: (a) liability for a governmental agency's costs of removal or remedial action for hazardous substances; (b) damages to natural resources caused by hazardous substances, including the reasonable costs of assessing such damages; (c) liability for any other person's costs of responding to hazardous substances; and (d) liability for any costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any environmental laws.

G. The grantee, franchisee, or lessee further agrees to indemnify, hold harmless and defend the City against any claims for damages, including, but not limited to, business interruption damages and lost profits, brought by or under users of the grantee, franchisee, or lessee's facilities as the result of any interruption of service due to damage or destruction of the user's facilities caused by or arising out of activities conducted by the City, its officers, agents, employees, or contractors, except to the extent any such damage or destruction is caused by or arises from the sole negligence or any willful or malicious actions on the part of the City, its officers, agents, employees, or contractors.

Section 17. Insurance

A. The Grantee shall procure and maintain for the duration of this Franchise, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Grantee, its agents, representatives, or employees in the amounts and types set forth below:

1. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles with a minimum combined single limit for bodily injury and property damage of \$2,000,000.00 (two million dollars) per accident. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance with limits no less than \$20,000,000.00 (twenty million dollars) each occurrence, \$20,000,000.00

(twenty million dollars) general aggregate and a \$20,000,000.00 (twenty million dollars) products-completed operations aggregate limit. Coverage shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, and personal injury and advertising injury and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse, or underground property damage.

3. Professional Liability insurance with limits no less than \$1,000,000.00 per claim for all professional employed or retained Grantee to perform services under this Franchise.

4. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

B. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability, and Commercial General Liability insurance:

1. The Grantee's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Grantee's insurance and shall not contribute with it.

2. The Grantee's insurance shall not be cancelled by either party except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

C. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

D. Verification of Coverage. Grantee shall furnish the City with documentation of insurer's A.M. Best rating and with original certificates and a copy of amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

E. Grantee shall have the right to self-insure any or all of the above-required insurance. Any such self insurance is subject to approval by the City. Participation in a self-insured, governmental risk pool shall satisfy the conditions set forth above.

F. Grantee's maintenance of insurance as required by this Franchise shall not be construed to limit the liability of Grantee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

Section 18. Relationship of the Parties

A. Nothing in this Agreement shall be construed to create or confer any right or remedy upon any person(s) other than the City and Grantee. No action may be commenced or prosecuted against any Party by any Third Party claiming as a Third Party beneficiary of this Agreement. This Agreement shall not release or discharge any obligation or liability of any Third Party to either Party.

B. Nothing contained in this Agreement shall be construed to create an association, trust, partnership, agency relationship, or joint venture or to impose a trust, partnership, or agency duty, obligation or liability on or with regard to any party. Each party shall be individually and severally liable for its own duties, obligations, and liabilities under this Agreement.

C. Grantee accepts any privileges granted by the City in an "as is" condition. Grantee agrees that the City has never made any representations, implied or express warranties or guarantees as to the suitability, security or safety of Grantee's location of facilities or the facilities themselves in public property or rights of way or possible hazards or dangers arising from other uses of the public rights of way or other public property by the City or the general public. Grantee shall remain solely and separately liable for the function, testing, maintenance, replacement and repair of the pipeline or other activities permitted under this Agreement.

D. Except as specifically provided herein, this Agreement shall not create any duty of the City or any of its officials, employees or agents and no liability shall arise from any action or failure to act by the City or any of its officials, employees or agents in the exercise of powers reserved to the City. Further, this Agreement is not intended to acknowledge, create, imply or expand any duty or liability of the City with respect to any function in the exercise of its police power or for any other purpose. Any duty that may be deemed to be created in the City shall be deemed a duty to the general public and not to any specific party, group or entity.

Section 19. Successors and Assignees

A. All the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors, assigns of, and independent

contractors of the Grantee, and all rights and privileges, as well as all obligations and liabilities of the Grantee shall inure to its successors, assignees and contractors equally as if they were specifically mentioned herein wherever the Grantee is mentioned.

B. This Franchise shall not be leased, assigned or otherwise alienated without the express prior consent of the City by ordinance.

C. Grantee and any proposed assignee or transferee shall provide and certify the following to the City not less than sixty (60) days prior to the proposed date of transfer: (a) Complete information setting forth the nature, term and conditions of the proposed assignment or transfer; (b) All information required by the City of an applicant for a Franchise with respect to the proposed assignee or transferee; and, (c) An application fee which shall be set by the City, plus any other costs actually and reasonably incurred by the City in processing, and investigating the proposed assignment or transfer.

D. Prior to the City's consideration of a request by Grantee to consent to a Franchise assignment or transfer, the proposed Assignee or Transferee shall file with the City a written promise to unconditionally accept all terms of the Franchise, effective upon such transfer or assignment of the Franchise. The City is under no obligation to undertake any investigation of the transferor's state of compliance and failure of the City to insist on full compliance prior to transfer does not waive any right to insist on full compliance thereafter.

Section 20. Dispute Resolution

A. In the event of a dispute between the City and the Grantee arising by reason of this Agreement, the dispute shall first be referred to the operational officers or representatives designated by Grantor and Grantee to have oversight over the administration of this Agreement. The officers or representatives shall meet within thirty (30) calendar days of either party's request for a meeting, whichever request is first, and the parties shall make a good faith effort to achieve a resolution of the dispute.

B. If the parties fail to achieve a resolution of the dispute in this manner, either party may then pursue any available judicial remedies. This Franchise shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in King County, Washington. Each party shall bear its own cost in any such action for its own attorneys' fees and costs of suit.

Section 21. Enforcement and Remedies

A. If the Grantee shall willfully violate, or fail to comply with any of the provisions of this Franchise through willful or unreasonable negligence, or should it fail to heed or comply with any notice given to Grantee under the provisions of this agreement, the City may, at its discretion, provide Grantee with written notice to cure the breach within thirty (30) days of notification. If the City determines the breach cannot be cured within thirty days, the City may specify a longer cure period, and condition the extension of time on Grantee's submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty day cure period, and diligent prosecution of the work to completion. If the breach is not cured within the specified time, or the Grantee does not comply with the specified conditions, the City may, at its discretion, either (1) revoke the Franchise with no further notification, or (2) claim damages as provided in ACC 20.10.340 per day for every day after the expiration of the cure period that the breach is not cured.

B. Should the City determine that Grantee is acting beyond the scope of permission granted herein for Grantee Facilities and Grantee Services, the City reserves the right to cancel this Franchise upon thirty days (30) written notice to Grantee and require the Grantee to apply for, obtain, and comply with all applicable City permits, franchises, or other City permissions for such actions, and if the Grantee's actions are not allowed under applicable federal and state or City laws, to compel Grantee to cease such actions.

C. Interpretation or construction of this Franchise shall not be affected by any determination as to who is the drafter of this Franchise, this Franchise having been drafted by mutual agreement of the parties.

Section 22. Compliance with Laws and Regulations

A. In carrying out any authorized activities under the privileges granted herein, Grantee shall meet accepted industry standards and comply with all applicable laws, rules, and regulations, of any governmental entity with jurisdiction over the pipeline and its operation (specifically including, but not limited to, all requirements, rules, regulations, and orders of FERC and the applicable provisions of the City's comprehensive plan). This shall include all applicable laws, rules and regulations existing at the Effective Date of this Franchise or that may be subsequently enacted by any governmental entity with jurisdiction over Grantee or the pipeline(s) and the Facilities. Furthermore, notwithstanding any other terms of this agreement appearing to the contrary, the Grantee shall be subject to the police power of the City to adopt and enforce general ordinances necessary to protect the safety and welfare of the general public in relation to the rights granted in the Franchise Area.

B. The City reserves the right at any time to amend this Franchise to conform to any hereafter enacted, amended, or adopted federal or state statute or regulation relating to the public health, safety, and welfare, or relating to roadway regulation, or a City Ordinance enacted pursuant to such federal or state statute or regulation upon providing Grantee with thirty (30) days written notice of its action setting forth the full text of the amendment and identifying the statute, regulation, or ordinance requiring the amendment. Said amendment shall become automatically effective upon expiration of the notice period unless, before expiration of that period, the Grantee makes a written call for negotiations over the terms of the amendment. If the parties do not reach agreement as to the terms of the amendment within thirty (30) days of the call for negotiations, the City may enact the proposed amendment, by incorporating the Grantee's concerns to the maximum extent the City deems possible.

C. The City may terminate this Franchise upon thirty (30) days written notice to the Grantee, if the Grantee fails to comply with such amendment or modification.

Section 23. License, Tax and Other Charges

This Franchise shall not exempt the Grantee from any future license, tax, or charge which the City may hereinafter adopt pursuant to authority granted to it under state or federal law for revenue or as reimbursement for use and occupancy of the Franchise Area.

Section 24. Consequential Damages Limitation

Notwithstanding any other provision of this Agreement, in no event shall either party be liable for any special, incidental, indirect, punitive, reliance, consequential or similar damages.

Section 25. Force Majeure

In the event that either Party is prevented or delayed in the performance of any of its obligations under this Agreement by reason beyond its reasonable control (a "Force Majeure Event"), then that Party's performance shall be excused during the Force Majeure Event. Force Majeure Events shall include, without limitation, war; civil disturbance; flood, earthquake or other Act of God; laws, regulations, rules or orders of any governmental agency; sabotage; strikes or similar labor disputes involving personnel of a party, its contractors or a Third party; or any failure or delay in the performance by the other party, or a Third Party who is not an employee, agent or contractor of the Party claiming a Force Majeure Event, in connection with this Agreement. Upon removal or termination of the Force Majeure Event, the Party claiming a Force Majeure Event shall promptly perform the affected obligations in an orderly and expedited manner

under this Agreement. The Parties shall use all commercially reasonable efforts to eliminate or minimize any delay caused by a Force Majeure Event. The occurrence of a Force Majeure Event shall not alter or impair any of the provisions concerning liability and/or insurance as provided in this Agreement.

Section 26. Severability & Survival

In the event that a court or agency of competent jurisdiction declares a material provision of this Franchise to be invalid, illegal or unenforceable, the parties shall negotiate in good faith and agree, to the maximum extent practicable in light of such determination, to such amendments or modifications as are appropriate actions so as to give effect to the intentions of the parties as reflected herein. If severance from this Franchise of the particular provision(s) determined to be invalid, illegal or unenforceable will fundamentally impair the value of this Franchise, either party may apply to a court of competent jurisdiction to reform or reconstitute the Franchise so as to recapture the original intent of said particular provision(s). All other provisions of the Franchise shall remain in effect at all times during which negotiations or a judicial action remains pending.

All provisions, conditions and requirements of this Agreement that may be reasonably construed to survive the termination or expiration of this Agreement shall survive the termination or expiration of the Agreement. Subject to Section 15 above, the Parties' respective rights and interests under this Agreement shall inure to the benefit of their respective successors and assigns.

Section 27. Titles

The section titles used herein are for reference only and should not be used for the purpose of interpreting this Franchise.

Section 28. Implementation.

The parties each represent and warrant that they have full authority to enter into and to perform this Agreement, that they are not in default or violation of any permit, license, or similar requirement necessary to carry out the terms hereof, and that no further approval, permit, license, certification, or action by a governmental authority is required to execute and perform this Agreement, except such as may be routinely required and obtained in the ordinary course of business.

Whenever this Agreement sets forth a time for any act to be performed, such time shall be deemed to be of the essence, and any failure to perform within the allotted time may be considered a material violation of this Agreement.

Section 29. Entire Agreement

Ordinance No. 6606

May 31, 2016

Page 20 of 26

This Agreement, as subject to the appropriate city, state, and federal laws, codes, and regulations, and the attachments hereto represent the entire understanding and agreement between the parties with respect to the subject matter and it supersedes all prior oral negotiations between the parties. All previous Agreements between the parties pertaining to GRANTEE's operation of its pipeline(s) and/or Facilities are hereby superseded.

Section 30. Effective date.

This Ordinance shall 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:

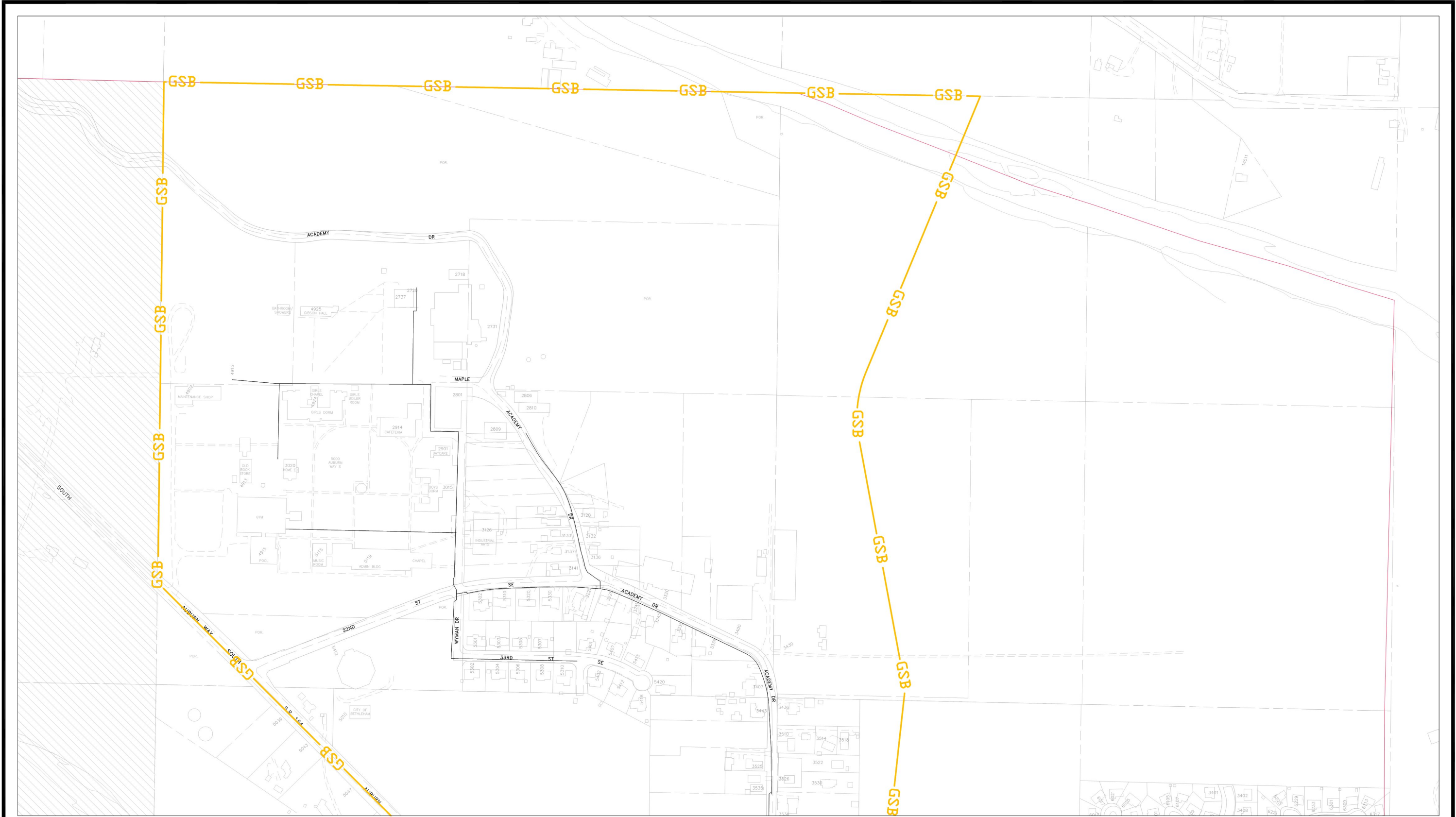
Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

Published: _____



SCALE IN FEET

0 100 200 400 800

1 inch = 400 feet

1:4800

CALL 2 DAYS BEFORE YOU DIG

1-800-424-5555

LEGEND

ACTIVE GAS MAIN

ABANDONED OR DEAD MAIN

GAS SERVICE

AUBURN CITY LIMITS

GAS SERVICE BOUNDARY

MUCKELSHOOT TRIBAL LANDS

S-21-N	S-20-N	S-19-N
S-21-S	S-20-S	S-19-S
T-21-N	T-20-N	T-19-N

City of Enumclaw

DEPARTMENT OF PUBLIC WORKS

1309 MYRTLE AVENUE, ENUMCLAW, WASHINGTON 98022

(360) 825-3593 - FAX (360) 825-7232

NATURAL GAS SYSTEM

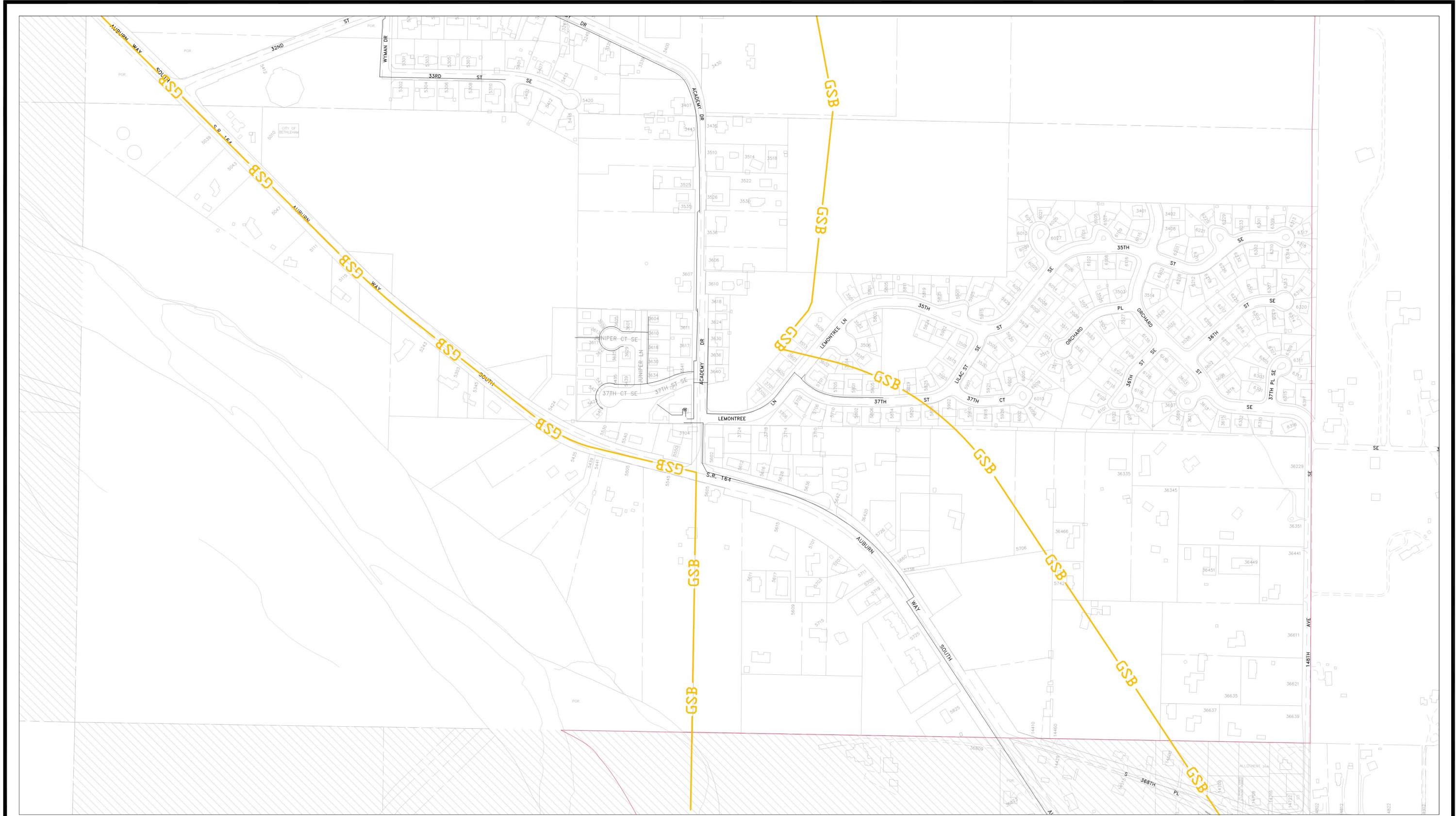
HALF-QUARTER SECTION

S-20(SOUTH)

S 1/2, NW 1/4, SEC. 27, T.21.N., R.05.E., W.M.

City of Enumclaw, King County, Washington, USA.

S OF S-20



SCALE IN FEET

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50 200

1 inch = 400 feet

1:4800

REV. DATE: 03/29/2016

CALL 2 DAYS BEFORE YOU DIG

1-800-424-5555

The City of Enumclaw makes no claims concerning the accuracy of this map nor assumes any liability resulting from the use of the information hereon.

LEGEND

ACTIVE GAS MAIN

ABANDONED OR DEAD MAIN

GAS SERVICE

AUBURN CITY LIMITS

GAS SERVICE BOUNDARY

MUCKELSHOOT TRIBAL LANDS

S-20-S	S-19-S	S-18-S
T-20-N	T-19-N	T-18-N
T-20-S	T-19-S	T-18-S

City of Enumclaw

DEPARTMENT OF PUBLIC WORKS

1309 MYRTLE AVENUE, ENUMCLAW, WASHINGTON 98022

(360) 825-3593 - FAX (360) 825-7232

NATURAL GAS SYSTEM

HALF-QUARTER SECTION

T-19 (NORTH)

N 1/2, SE 1/4, SEC. 27, T.21.N., R.05.E., W.M.

City of Enumclaw, King County, Washington, USA.

N OF T-19

Exhibit B

One Main Gate Station
Two District Regulator Stations
One Corrosion Control Rectifier
One Odorizer
6 inch steel high pressure pipe operating at 250 psig
2 inch steel intermediate pipe operating at 40 psig
2 inch Polyethylene pipe operating at 40 psig
½" – 2" steel and plastic services

Exhibit C

Gas Services Provided by the City of Enumclaw Gas

1. 250,000 – 425,000 Btu/hr Residential Service Line and Meter Set.
2. 615,000 -800,000 Btu/hr Commercial or Industrial Service Line and Meter Sets.
3. 1.5 MMBtu/hr – 17 Mmbtu/hr Commercial or Industrial Service Line and Meter Sets.

EXHIBIT "D"

STATEMENT OF ACCEPTANCE

_____, for itself, its successors and assigns, hereby accepts and agrees to be bound by all lawful terms, conditions and provisions of the Franchise attached hereto and incorporated herein by this reference.

[Grantee]

By: _____ Date: _____
Name:
Title:

STATE OF _____)
_____)ss.
COUNTY OF _____)

On this ____ day of _____, 2016, before me the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared, _____ of _____, the company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.

Signature

NOTARY PUBLIC in and for the State of _____, residing at _____

MY COMMISSION EXPIRES: _____



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6611

Date:

August 9, 2016

Department:

Community Development & [Ord 6611](#)
Public Works

Attachments:**Budget Impact:**

\$0

Administrative Recommendation:

City Council to Adopt Ordinance No. 6611.

Background Summary:

Auburn City Code section 17.14.005 currently states that an applicant cannot submit their civil plans for review and consideration until after they have received preliminary plat approval from the Hearing Examiner. Community Development staff are proposing that an applicant be allowed to submit their civil plans for review earlier than preliminary plat approval. This will allow an applicant to experience several weeks to months of time savings for project reviews.

Subdivisions are reviewed in three general phases – (1) Preliminary Plat, (2) Civil Review (followed by construction of permitted civil improvements), (3) Final Plat. Because City code currently requires that an applicant wait until they have received preliminary plat approval it creates a window of time where the applicant is delayed while they wait to submit their civil plan review application. The draft amendment seeks to reduce their delay by 4 to 12 weeks because it changes the submittal milestone from “preliminary plat approval” to “staff recommendation”. A minimum 4 week time savings is realized because a staff recommendation is issued approximately 2 weeks before the Hearing Examiner conducts a hearing and the Hearing Examiner’s decision is generally rendered 2 weeks after the hearing. An additional 8 weeks of time savings will be realized for some projects that are appealed or where a request for reconsideration is submitted to the Hearing Examiner in instances where further clarification of the decision is needed.

Besides allowing for earlier submittal of civil plan applications, the draft amendments also include language that is intended to declare that an early submittal does not equate to a vesting right. The vesting right is still hinged to the Hearing Examiner’s decision. The reason this language is included is in the event that the Hearing

Examiner modifies the staff recommendation, it is the Hearing Examiner's decision that must be adhered to and not the staff recommendation. Because this type of scenario is possible there is additional draft language that is intended to point out that there is a modest amount of risk assumed by the applicant if they choose to submit early. Therefore, it is important to ensure that the applicant is aware that they are taking some risk and that they will not hold the City liable in the event they have submitted an early civil application and the Hearing Examiner modifies the staff recommendation (which could then result in the applicant having to modify the civil design that was submitted before the preliminary plat was approved).

The draft amendments were presented to City Council during the July 25, 2016 Study Session with approval to bring forward for Council action.

Reviewed by Council Committees:

Other: Legal, Public Works, and Planning

Councilmember:

Staff: Snyder

Meeting Date: August 15, 2016

Item Number: ORD.B

ORDINANCE NO. 6 6 1 1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING SECTION 17.14.005 OF THE AUBURN CITY CODE, RELATING TO CIVIL PLAN PREPARATION, SUBMITTAL AND APPROVAL

WHEREAS, the current provisions of the Auburn city code provides that plans for civil improvements shall be submitted to the city following preliminary plat approval; and

WHEREAS, the reason for the requirement that plans for facility extension agreements and other development related civil plans be submitted to the city following preliminary plat approval is to allow the city to measure the consistency of the subsequent civil plans against the approved preliminary plat; and

WHEREAS, there may be occasions when it would be advantageous for a developer to submit such civil plans in advance of the approval of the preliminary plat, so long as the City has conducted enough review of the preliminary plat application to gauge sufficiency for processing and feasibility of the proposal and the developer understands and agrees that the risks of doing so are born by the developer; and

WHEREAS, in order to authorize this opportunity for earlier submittal of plans, it is appropriate that the city code be amended to specify requirements related to such early submittal of civil plans.

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

Section 1. Amendment to City Code. That Section 17.14.005 of the Auburn City Code, be, and the same hereby is, amended to read as follows:

17.14.005 Plan preparation, submittal and approval.

A. Plans for improvements shall be prepared, signed, dated and stamped by a professional civil engineer registered in the state of Washington and shall be in accordance with city standards and specifications. Plans shall be submitted to the city, following preliminary plat approval, for circulation and review. No construction permit or approval shall be issued and no construction activity

shall commence relating to subdivision improvements until the plans required by this chapter have been approved and signed by the city engineer. Plans shall be consistent with the approved preliminary plat. All sanitary sewer, water, drainage and street improvements to be dedicated to the city shall be covered by a public facilities extension agreement, as required by ACC Titles 12 and 13.

B. For preliminary plats that were approved, but not constructed, prior to the effective date of the amendments to this chapter as adopted by the ordinance codified in this chapter, the owner/developer may choose to use the standards in effect at the time of the preliminary plat approval or, if approved by the city engineer, use the standards adopted pursuant to this chapter.

C. Notwithstanding the previous requirement that civil plans for improvements shall be submitted following approval of the preliminary plat, the city may, in its sole discretion, allow an applicant/developer to submit plans after the Department issues its recommendation to the Hearing Examiner and prior to preliminary plat approval, provided that the applicant/developer recognizes and acknowledges that the city's willingness to receive civil plans in advance of preliminary plat approval does not constitute a submittal which would vest any rights for the applicant/developer, and that the applicant/developer bears all risks of submitting plans in advance of preliminary plat approval. Furthermore, early submittal shall be allowed by the City only upon the applicant/developer entering into an agreement with the city whereby the applicant/developer agrees to the following:

1. That the application shall not be considered "complete" for any purpose under federal, state, or city law, until after the preliminary plat is approved, and all possible appeal periods of that approval have expired.

2. That since the application is not "complete," an early submitted application is not vested. Further, that the applicant/developer has no vested rights based on the filing of these plans, and that any comprehensive plan provisions, development regulations, or administrative regulations adopted prior to the date the preliminary plat is approved shall apply to the application.

3. That the applicant/developer waives, on behalf of itself, heirs, assigns, successors, etc., any claim based on the city agreeing to allow plan submission and review before preliminary plat approval.

4. That the applicant/developer will defend, indemnify, and hold the city harmless against any and all claims based on the city's agreement to allow submission and review before preliminary plat approval.

5. That the city's acceptance of plans -before preliminary plat approval does not create an obligation upon the city to accept plans prior to plat approval in the future. (Ord. 6239 § 1, 2009; Ord. 6186 § 9, 2008; Ord. 5164 § 1, 1998; Ord. 4296 § 2, 1988, Formerly 17.12.010.)

Section 2. Constitutionality or Invalidity. If any section, subsection clause or phase of this Ordinance is for any reason held to be invalid or unconstitutional such invalidity or unconstitutionality shall not affect the validity or constitutionality of the

remaining portions of this Ordinance, as it is being hereby expressly declared that this Ordinance and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, adopted and approved and ratified irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid or unconstitutional.

Section 3. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 4. Necessary for Immediate Effectiveness. That this ordinance is deemed to be necessary for immediate use in effect, and is declared to be an emergency ordinance effective upon passage by a number of votes by councilmembers constituting a quorum plus one.

Section 5. Effective Date. This ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication, as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

Ordinance No. 6611
July 13, 2016
Page 3

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read 'Daniel B. Heid', is written over a horizontal line.

Daniel B. Heid, City Attorney

Published: _____



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6612

Date:

August 9, 2016

Department:

Community Development & [Ord 6612](#)
Public Works

Attachments:**Budget Impact:**

\$0

Administrative Recommendation:

City Council to adopt Ordinance No. 6612

Background Summary:

On December 14, 2015 City Council took action on Ordinance No. 6584 to adopt the 2015 Core Comprehensive Plan, the Land Use Element, the Housing Element, the Capital Facilities Element, the Utilities Element, the Economic Development Element, the Parks and Recreation Element, and a series of supporting planning documents/appendices.

Chapter 14.22 of the Auburn City Code is titled "Comprehensive Plan". Chapter 14.22 is the section of City Code that incorporates the specific names of the chapters and documents that comprise the full Comprehensive Plan.

The purpose of the draft amendments to Chapter 14.22 is to update the names of the documents so that they are consistent with those titles that are used in Ordinance No. 6584.

The draft amendments were presented to City Council during the July 25, 2016 Study Session with approval to bring forward for Council action.

Reviewed by Council Committees:

Other: Legal and Planning

Councilmember:**Staff:**

Snyder

Meeting Date: August 15, 2016

Item Number: ORD.C

ORDINANCE NO. 6 6 1 2

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING SECTION 14.22.020 OF THE AUBURN CITY CODE RELATING TO REQUIREMENTS FOR UPDATING THE COMPREHENSIVE PLAN

WHEREAS, cities and towns within King and Pierce Counties are required to periodically update their comprehensive plans; and

WHEREAS, the City Council finds that the proposed amendment is in conformity with state law, to wit: RCW 36.70A.130.

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

Section 1. Amendment to City Code. That Section 14.22.020 of the Auburn City Code be and the same hereby is amended to read as follows:

14.22.020 Comprehensive plan adopted.

The city of Auburn comprehensive plan, as amended in April 1995 to comply with the Growth Management Act and as may subsequently be amended thereafter, consisting of the following elements, is hereby adopted by reference.

A. Chapters of the Comprehensive Plan.

~~Introduction.~~

- ~~1. Plan Background.~~ Core Comprehensive Plan
- ~~2. General Planning Approach.~~ The Land Use Element
- ~~3. Land Use.~~ The Housing Element
- ~~4. Housing.~~ The Capital Facilities Element
- ~~5. Capital Facilities.~~ The Utilities Element
- ~~6. Private Utilities.~~ The Transportation Element
- ~~7. Transportation.~~ The Economic Development Element
- ~~8. Economic Development.~~ The Parks and Recreation Element
- ~~9. The Environment.~~
- ~~10. Historic Preservation.~~
- ~~11. Parks, Recreation and Open Space.~~
- ~~12. Urban Design.~~
- ~~13. Unincorporated Areas and Annexation.~~
- ~~14. Comprehensive Plan Map.~~
- ~~15. Implementation.~~

Appendix A – Auburn Community Vision Report

Appendix B – Auburn Housing Needs and Characteristics Assessment

Appendix C – Auburn Housing Element Checklist

Appendix D – Auburn Health Impact Assessment
Appendix E – Auburn Public Participation Plan
Appendix F.1 – King County Buildable Lands Analysis
Appendix F.2 – Pierce County Buildable Lands Analysis
Appendix G – Auburn Airport Master Plan
Appendix H – Auburn Community Profile
Appendix I – Auburn Greenhouse Gas Inventory
Appendix J – Parks, Arts & Recreation Open Space Plan

B. Additional Elements/Documents of the Comprehensive Plan, that are incorporated by reference.

1. Comprehensive Transportation Plan.
2. Capital Facilities Plan.
- ~~3. Parks and Recreation Plan.~~
- ~~43. Shorelines Management Program.~~
- ~~54. Comprehensive Water Plan (2009).~~
- ~~65. Comprehensive Sewer Plan (2009).~~
- ~~76. Comprehensive Drainage Plan (2009).~~
- ~~87. Auburn Downtown Plan (May 2001).~~
- ~~98. Lakeland Hills Plan (1988).~~
- ~~109. Auburn Adventist Academy Plan (1991).~~

~~110.~~ Auburn North Business Area Plan (1992). (Ord. 6329 § 1, 2010; Ord. 6172 § 1, 2008.)

Section 2. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions 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 thereof to any person or circumstance shall 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 shall 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

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "Daniel B. Heid", written over a horizontal line.

Daniel B. Heid, City Attorney

Published: _____



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6613

Date:

August 10, 2016

Department:

City Council

Attachments:

[Ord 6613](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:**

This ordinance would allow, under limited circumstances, marijuana related businesses, including retailers, producers and processors, to operate within the City of Auburn. Marijuana related businesses or activities that are not specifically authorized in this ordinance would (still) be prohibited by a moratorium. The moratorium includes a work plan for review of ongoing issues. It may be that other changes to the ordinance and other limitations or accommodations for marijuana related businesses and activities could come out of the Planning Commission and City Council review consistent with the work plan.

In the meantime, the ordinance imposes a limitation on the number of retail establishments, limiting them to not more than two such businesses within the City, provided that where more than two such businesses have been licensed or have received permits from the City related to their business, they may continue even though that exceeds the limitation of two such businesses for the City. However, the ordinance also provides that if any of those businesses leave or cease operation, the limitation on the number of retail businesses reverts to two (2).

There is also a limitation on the total square footage - up to 90,000 ft.² for producers and processors operating within the City, and an individual minimum limitation on the size of such operations of 4000 ft.². Businesses that are currently operating or licensed to operate within the City that have less than the 4000 ft.² minimum would be allowed to continue operation at their initial location. At any change in the location or additional businesses would need to meet the 4000 minimum square foot requirement.

The ordinance also includes specific reference to statutory and regulatory provisions relating to use of organic solvents. When not used in conformity with required procedures and protocols, use of organic solvents can create hazards for the city.

Reviewed by Council Committees:

Councilmember:

Staff: Heid

Meeting Date: August 15, 2016

Item Number: ORD.D

ORDINANCE NO. 6 6 1 3

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, CREATING A NEW SECTION, 5.20.250, OF THE AUBURN CITY CODE AND AMENDING SECTIONS 1.04.060, 1.25.010, 5.20.030, 5.20.050 AND 9.22.030 OF THE AUBURN CITY CODE RELATED TO MARIJUANA RELATED BUSINESSES AND ACTIVITIES, AND IMPOSING A MORATORIUM ON MARIJUANA RELATED ACTIVITIES AS IDENTIFIED HEREWITH

WHEREAS, the voters of the State of Washington approved Initiative Measure No. 502 (I-502), in 2012, now codified within Chapters 69.50, 46.04, 46.20, 46.21 and 46.61 of the Revised Code of Washington (RCW), which initiative decriminalized possession and use of certain amounts of marijuana and marijuana paraphernalia, and authorized promulgation of regulations and issuance of licenses by the Washington State Liquor and Cannabis Board (WSLCB) for the production, processing and retailing of marijuana; and

WHEREAS, pursuant to Section 13 of I-502, the City of Auburn was initially allocated a maximum of two (2) marijuana retailers licensed by the WSLCB; and

WHEREAS, Second Engrossed Substitute House Bill 2136 and Senate Bill 5052 (SB 5052), adopted on April 24, 2015, revised state requirements for state marijuana regulations, including marijuana processors, producers, retailers, and cooperatives; and

WHEREAS, the WSLCB notified the City of Auburn on September 23, 2015, that pursuant to SB 5052 it would not limit the number of marijuana retailers licensed within the City of Auburn to only those allocated per I-502; and

WHEREAS, the WSLCB notified the City of Auburn on March 8, 2016, that it would increase the number of marijuana retailers licensed within the City of Auburn to the two (2) authorized by I-502 and identified as the Stash Box and Evergreen Market, AND an additional two (2) Priority 1 applicants for licenses under SB 5052 ; and

WHEREAS, the WSLCB has since indicated that the number of SB 5052

retail licenses within the City of Auburn (presently two [2]) may be increased in the future; and

WHEREAS, the City of Auburn adopted a moratorium, through Resolution No. 5194, prohibiting any new marijuana retailers not already in operation on January 4, 2016; and

WHEREAS, in a public hearing on February 16, 2016, and in comment to City elected officials, including social media posts, Auburn residents voiced concern for any marijuana retailers in excess of the initial two (2) originally approved by I-502; and

WHEREAS, WSLCB then notified the City of Auburn on March 8, 2016, that marijuana retailers, including the Evergreen Market, that were licensed using the I-502 lottery are not allowed to move out of the jurisdictions where they are licensed; and

WHEREAS, based upon – and in reliance on – that information, the City of Auburn amended its moratorium, through Resolution No. 5215, to authorize the operation of the two (2) marijuana retailers initially provided for by I-502; and

WHEREAS, other cities, including Everett, Renton and Vancouver have adopted restrictions on the number of licensed retailers to conform to initial I-502 approved caps; and

WHEREAS, the WSLCB continued to process and issue licenses to marijuana retailers within the City of Auburn pursuant to SB 5052 despite transmittal of Resolution No. 5215 to the WSLCB; and

WHEREAS, because of the continued processing and issuing of WSLCB licenses of retail marijuana businesses, and because new retail marijuana businesses continued to engage in activities contrary to the City's moratoria, and in response to the inconsistent, conflicting, and uncooperative position of the WSLCB, the City of Auburn adopted Ordinance No. 6595 on April 4, 2016, which ordinance prohibited all marijuana related activities within the City of Auburn ; and

WHEREAS, consistent with a report by the Northwest High Intensity Drug

Trafficking Area, a division of the Office of National Drug Control Policy, Ordinance No. 6595 protects public health, safety and welfare by minimizing societal effects of marijuana, including a 122% increase in fatality motor vehicle accidents involving the use of marijuana between 2010 and 2014 and a 312% increase in contacts to the Washington Poison Center for intoxication calls pertaining to youth consumption of marijuana, and other increases on demands for public services such as fire and police presence; and

WHEREAS, despite the City's transmittal of Ordinance No. 6595 to the WSLCB, the WSLCB has continued to process and issue licenses to marijuana retailers within the City of Auburn pursuant to SB 5052; and

WHEREAS, the City of Auburn has been forced to expend significant resources to enforce Resolution No. 5194, Resolution No. 5215 and Ordinance No. 6595, due to WSLCB's continued issuance of marijuana retailer licenses pursuant to SB 5052; and

WHEREAS, the City desires to provide greater clarity as to permitted and prohibited marijuana retailers within the City of Auburn, avoid onerous enforcement proceedings, improve voluntary compliance with local laws pertaining to marijuana activities, facilitate improved cooperation with the WSLCB, and protect the public health, safety and welfare while remaining cognizant of the approval of I-502 by voters within the City of Auburn; and

WHEREAS, the incorporation of marijuana retailers into the City's business licensing requirements will provide greater clarity, consistency, predictability and uniformity that will benefit Auburn businesses and residents; and

WHEREAS, in a public hearing on February 16, 2016, and in comment to City elected officials, including social media posts, Auburn residents have not expressed objection to, or concern over, licensed marijuana processors or producers operating within the City of Auburn; and

WHEREAS, the revisions to state requirements for marijuana processors and producers included in SB 5052 were minimal and have not resulted in a

noticeable increase in police and fire calls within the City of Auburn; and

WHEREAS, marijuana processors and producers are not accessed by the general public and, consequently, result in impacts to the surrounding community that are different than the impacts created by marijuana retailers and are properly addressed through development and consideration of zoning provisions, as is evidenced in other cities in Washington, including Vancouver and Spokane Valley; and

WHEREAS, the Planning Commission of the City of Auburn has held and conducted various public meetings and workshops to address marijuana production, processing, and retailing, and subsequent zoning requirements for licensed marijuana processors and producers is expected; and

WHEREAS, the WSLCB continues to license marijuana processors and producers within the City of Auburn; and

WHEREAS, the incorporation of marijuana processors and producers into the city's business licensing requirements will provide greater clarity, consistency, predictability and uniformity that will benefit Auburn businesses and residents; and

WHEREAS, the City desires to better align the regulation of licensed marijuana processors and producers with the expressed preference of its residents, improve voluntary compliance with local laws pertaining to marijuana activities, facilitate improved cooperation with the WSLCB and protect the public health, safety and welfare while remaining cognizant of the approval of I-502 by voters within the City of Auburn; and

WHEREAS, issues related to the schedule I classification of marijuana in the Controlled Substances Act of 1970 and clinical and trial research on marijuana's potential therapeutic effects warrant review of how or whether this should be addressed in the Auburn City Code; and

WHEREAS, existing marijuana retailers, approved and licensed under I-502, within the City as well as others within neighboring communities can provide adequate access to marijuana for medicinal purposes; and

WHEREAS, Article XI, Section 11 of the Washington State Constitution provides that any city may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws; and

WHEREAS, the City has all powers possible under the Constitution and not specifically denied to it; and

WHEREAS, the Washington Attorney General, through Opinion 2014-02, has advised that I-502 left in place the normal powers of local governments to regulate marijuana related businesses within their jurisdictions; and

WHEREAS, the Washington Supreme Court also upheld city authority to prohibit medical marijuana related land uses within their jurisdictions in *Cannabis Action Coalition v. City of Kent*; and

WHEREAS, the City's right to exact license fees through business licensing requirements has been upheld by the Washington Supreme Court in *Diamond Parking, Inc. v. City of Seattle*, *City of Port Angeles v. Hadsell*, and *World Wide Video, Inc. v. City of Tukwila*; and

WHEREAS, ACC 5.10.040(A) requires any person desiring to establish or undertake any activity, occupation, trade, pursuit, profession or other matter with a physical presence in the City, whether operated with the object of profit or operated not for profit, to first apply for, and obtain a business license; and

WHEREAS, the City code does not currently include business licensing requirements for marijuana related businesses; and

WHEREAS, amendment of the City code to provide business licensing requirements for marijuana related businesses will improve voluntary compliance with local laws pertaining to marijuana activities, facilitate improved cooperation with the WSLCB and protect the public health, safety and welfare while remaining cognizant of the approval of I-502 by voters within the City of Auburn; and

WHEREAS, the Auburn City Code does not currently have specific provisions addressing the number of statutorily permitted marijuana provisions and/or uses; and

WHEREAS, the provisions for marijuana cooperatives, marijuana researchers and marijuana transporters contained within SB 5052 go into effect July, 2016; and

WHEREAS, marijuana cooperatives, marijuana researchers and marijuana transporters are not explicitly addressed by current code provisions; and

WHEREAS, the impacts and effects of marijuana cooperatives, marijuana researchers and marijuana transporters on Auburn and the Auburn community are unknown and deserving of study and review; and

WHEREAS, the inclusion of the prohibition of marijuana cooperatives, marijuana researchers and marijuana transporters in the City's business licensing requirements, pending review and potential amendment of the City Code, will provide greater safety, clarity, consistency, predictability and uniformity that will benefit Auburn businesses and residents; and

WHEREAS it would be advantageous for the City of Auburn to have a thorough review made of the impacts and effects of marijuana cooperatives, marijuana researchers and marijuana transporters; and

WHEREAS, Sections 35A.63.220 and 36.70A.390 of the Revised Code of Washington (RCW) authorize the City Council to adopt an immediate moratorium for a period of up to twelve (12) months if a public hearing on the proposal is held within at least sixty (60) days of its adoption and a work plan is developed for related studies providing for the moratorium period; and

WHEREAS, the City Council desires to impose a moratorium for an initial term of twelve (12) months on the acceptance and/or processing of any permit or applications, for or related to any marijuana related activities, including, but not limited to, licensing, permitting, siting, making structural or building improvements, or operating any new marijuana activities; and any other marijuana uses or activities that are not expressly provided by the City Code regulations addressed herein; and

WHEREAS, the City Council anticipates that it can develop and adopt appropriate controls for marijuana retail facilities prior to the expiration of the moratorium enacted hereby; and

WHEREAS it would be advantageous for the City of Auburn to have a thorough review made of the alternatives and options available to it for regulation of marijuana related uses and activities; and

WHEREAS, in the event permanent regulations are adopted prior to the expiration of the twelve (12) month moratorium established by this Ordinance this Ordinance may be repealed, terminating the moratorium.

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

Section 1. Recitals Adopted. That the City Council hereby adopts the recitals contained in this Ordinance as Findings of Facts and Conclusions, as appropriate given the context of each recital and incorporates said recitals herein by this reference.

Section 2. Replacement of Prior Ordinance. That this Ordinance replaces and supersedes Ordinance No. 6595.

Section 3. Creating a New Section of the City Code. That a new Section, 5.20.250, of the Auburn City Code is hereby created to read as follows:

5.20.250 Marijuana Related Activities.

A. Definitions,

1. "Marijuana cooperative" means up to four qualifying patients, as defined by RCW 69.51A.010(19), who share responsibility for acquiring and supplying the resources needed to produce and process marijuana, including tetrahydrocannabinols or cannabimimetic agents, only for the medical use of members of the cooperative and not for profit. At least until a thorough review of land use and code enforcement issues by the planning commission and the city council, and possible amendment to the city code, marijuana cooperatives shall not be permitted within the city of Auburn .

2. "Marijuana related business" means a person or entity engaged in

for-profit activity that includes the possession, cultivation, production, processing, distribution, dispensation, or sale of tetrahydrocannabinols or cannabimimetic agents, as defined by the controlled substances act, codified at 21 U.S.C. § 812, including marijuana retailers, marijuana processors, and marijuana producers, as defined herein.

a. "Marijuana processor" means any person or entity licensed by the Washington state liquor and cannabis board to process, package, and label marijuana concentrates, including tetrahydrocannabinols or cannabimimetic agents, in accordance with the provisions of RCW chapters 65.50 and 69.51a and WAC chapter 314-55.

b. "Marijuana producer" means any person or entity licensed by the Washington state liquor and cannabis board to produce marijuana, including tetrahydrocannabinols or cannabimimetic agents, for wholesale to marijuana processors and other marijuana producers pursuant to RCW 69.50.325.

c. "Marijuana retailer" means any person or entity established for the purpose of making marijuana concentrates, usable marijuana and marijuana-infused products, including tetrahydrocannabinols or cannabimimetic agents, available for sale to adults aged twenty-one and over.

d. "Marijuana researcher" is a position licensed by the Washington state liquor and cannabis board that permits a licensee to produce, process, and possess marijuana for the limited research purposes set forth in RCW 69.50.372. at least until a thorough review of land use and code enforcement issues by the planning commission and the city council, and possible amendment to the city code, marijuana researcher businesses shall not be permitted within the city of Auburn.

e. "Marijuana transporter" is a position licensed by the Washington state liquor and cannabis board pursuant to WAC 314-55-310 that allows a licensee to physically transport or deliver marijuana, marijuana concentrates, and marijuana-infused products between licensed marijuana businesses within Washington state. at least until a thorough review of land use and code enforcement issues by the planning commission and the city council, and possible amendment to the city code, marijuana transporter businesses shall not be permitted within the city of Auburn.

B. License application – qualification – requirements to apply. in addition to the information required to be included with an application form pursuant to ACC 5.10.040(a), an application for a license for marijuana related business shall also include:

1. License – each application for a marijuana related business shall be accompanied by a current, valid license to operate as a marijuana producer or marijuana processor issued by the Washington state liquor and cannabis board, or a current, valid license to operate as a marijuana retailer awarded by the Washington state liquor and cannabis board on the basis of I-502 lottery selection. even if permitted or licensed by and/or registered with the Washington state liquor and cannabis board, marijuana cooperatives, marijuana researchers

and marijuana transporters are not qualified or entitled to operate within the city of Auburn or to apply for a permit or business license within the city of Auburn.¹

a. The maximum number of licensed marijuana retailers authorized and allowed to operate in the city of Auburn shall not exceed two (2), provided that a marijuana retailer licensed by the Washington state liquor and cannabis board may be allowed to operate within the city even if it constitutes more than two (2) such businesses, if :

(1) the business was engaged in lawfully licensed business at a time when the city did not have a moratorium or a ban prohibiting such activity,

or

(2) the business applied to the city for permits or approvals patently related to its intended marijuana retailers business at a time when the city did not have a moratorium or a ban prohibiting such activity,

and

(3) the business operation is at a location approved by the city.

It is further provided, that if any such licensed marijuana retail business ceases to operate within the city, the number of authorized marijuana retail businesses would be reduced to a number not exceeding two (2).

For the purposes hereof, the mayor or designee shall be authorized to determine whether a marijuana retailer was engaged in lawfully licensed business at a time when the city did not have a moratorium or a ban prohibiting such activity, or the whether such business applied to the city for permits or approvals related to its intended business operations at a time when the city did not have a moratorium or a ban prohibiting such activity

b. Any marijuana producer or marijuana processors operating within the city (i) shall strictly comply with all industrial, health and safety codes, including but not limited to section 314.55.104 WAC and section 69.50.348 RCW, and (ii) shall have at least 4,000 square feet of building utilized for its individual business, and the total square feet of all marijuana producers and processor in the city shall not exceed 90,000 square feet of building space; provided that any such business that was licensed and existing prior to August 1, 2016, that did not have at least 4,000 square feet of building utilized for its individual business may continue operating at its current location even though it did not have at least 4,000 square feet of building utilized for its individual business.

2. Security requirements – each application for a marijuana related business shall be accompanied by documentation of compliance with the security requirements of WAC 314-55-083 (2) and (3).

3. Fingerprints – Each application for a marijuana related business or

¹ See Section 5.20.250 ACC.

renewal shall be accompanied by a complete set of fingerprints of all managers and owners of the business, utilizing fingerprint forms as prescribed by the chief of police.

C. License regulations.

1. Access by city officials – all city officials shall have free access to marijuana related businesses licensed under the provisions of this chapter for the purposes of inspecting and enforcing compliance with the provisions of this chapter.

2. Entry prohibitions for certain person – It is unlawful for the owner, proprietor, manager, or person in charge of any marijuana related business licensed under the provisions of this chapter, or for any employee of said place, to allow entry or admission to any person under the age of 21 years of age, any lewd or dissolute person, any drunken or boisterous person, or any person under the influence of any intoxicant.

3. Law enforcement officers entry right – It is unlawful for the owner, proprietor, manager or person in charge of any marijuana related business licensed under the provisions of this chapter to refuse admission to any peace officer of the city or of the state, or any officer of the united states government charged with the duty of enforcing the police laws of the united states. said officers shall have free access at all times to any marijuana related businesses licensed under the provisions of this chapter.

4. Operation regulations – All marijuana, including tetrahydrocannabinols or cannabimimetic agents, equipment and all cultivation, processing, production, storage or sales shall be conducted entirely inside buildings. any perimeter fencing intended for security purposes shall meet the requirements of the city of Auburn and of the state of Washington applicable thereto.

5. State statute compliance – All marijuana related businesses licensed under the provisions of this chapter shall also comply with RCW chapters 69.50 and 69.51A, and WAC chapter 314-55, as applicable.

Section 4. Amendment to City Code. That section 1.04.060 of

the Auburn City Code is hereby amended as follows:

1.04.060 Conflict of ordinances with state or federal law.

A. All ordinances and city code provisions, and regulations therein, shall not be in conflict with all other regulations and/or requirements of state and federal law, insofar as not permitting or allowing any action, use or conduct which is in violation of or prohibited by any state or federal laws, regulations or codes. Any such provisions that cannot be implemented or enforced because of provisions of state or federal law, or that cannot be reconciled with any state or federal law, shall be deemed to be in conflict therewith. Any provisions of city ordinances or of the city code deemed by the city council to be in conflict with

state or federal law shall be null and void. The provisions of this section do not allow any action, use or conduct which is in violation of any local, state or federal laws, regulations, codes and/or ordinances, and the city is not authorized to permit, or license such action, use or conduct.

~~B. Any action, use or conduct which is not permitted or allowed is prohibited. It is provided, however, that the provisions of this subsection B do not apply to any person or persons who has/have a valid, lawful license issued by the state of Washington to produce, process or sell marijuana, marijuana concentrates, usable marijuana and/or marijuana infused products and is acting in full conformity with the requirements of the state of Washington related to such license pursuant to RCW 69.50.301 through 69.50.369, and WAC 314.55.005 through 314.55.540. In such instances, the state of Washington, not the city, is the permitting and licensing entity. It is provided, however, that this provision does not preclude the city from taking enforcement action in instances where conduct or activity that is licensed or permitted under RCW 69.50.301 through 69.50.369, and WAC 314.55.005 through 314.55.540, occurs within the city of Auburn but is not in compliance with or violates the requirements of such state licensing or permitting. For the purposes of this section only, the provisions of RCW 69.50.325 through 69.50.369 and WAC 314.55.515 through 314.55.535 are hereby adopted by reference and incorporated herein.~~

C. Except as provided by ACC 5.20.250 and 9.22.010, no action, activity, business or enterprise shall be allowed or permitted to be conducted within the city of Auburn that is in violation of state or federal law. (Ord. 6525 § 2, 2014; Ord. 6416 § 3, 2012.)

Section 5. Amendment to City Code.

That section 1.25.010 of

the Auburn City Code is hereby amended as follows:

1.25.010 Purpose.

It is the purpose of this chapter to generally provide civil penalties for non-fire code violations of ACC Titles 1, 5, 8, 10, 12, 13, 15, 16, 17 and 18, all standards, regulations and procedures adopted pursuant to those titles, and the terms and conditions of any permit or approval issued pursuant to those titles which do not involve imminent danger to the public health, safety and welfare of persons or property, and such other code provisions as are specified. Criminal penalties provided in this code for non-fire violation of ACC Titles 1, 5, 8, 10, 12, 13, 15, 16, 17 and 18, and all standards, regulations and procedures adopted pursuant to those titles, and the terms and conditions of any permit or approval issued pursuant to those titles whether contained in chapter 1.24 ACC or in the individual titles are superseded to the extent provided herein. It is the intent of this chapter to permit a timely and efficient means of enforcement, to establish definitions, monetary penalties for violations and a hearing process before the court of limited jurisdiction authorized to hear cases of the city as assigned in the

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ACC or as otherwise provided by law. (Ord. 6429 § 1, 2012; Ord. 5966 § 1, 2006; Ord. 5837 § 1, 2004; Ord. 5677 § 2, 2002; Ord. 5667 § 1, 2002; Ord. 5246 § 1 (Exh. B), 1999; Ord. 5212 § 1 (Exh. B), 1999; Ord. 4460 § 1, 1991.)

Section 6. Amendment to City Code.

That section 5.20.030 of

the Auburn City Code is hereby amended as follows:

5.20.030 License required – Fee – Term – Notices – Exemptions.

A. It is unlawful for any person, firm or corporation to engage in any business as provided in this chapter within the city limits without first obtaining a license pursuant to the provisions of this chapter.

B. The fee licensing under the provisions of this chapter shall be as follows:

Type	Fee		Term
	Initial	Renewal	
Ambulance Services License			
Business	No Fee	No Fee	1/1 – 12/31
Attendant	No Fee	No Fee	1/1 – 12/31
Amusement Device License			
1 to 4	\$40.00	\$20.00	1/1 – 12/31
5 or more	\$70.00	\$20.00	1/1 – 12/31
Auto Races License	\$70.00	\$20.00	1/1 – 12/31
Cabaret License	\$50.00	\$20.00	1/1 – 12/31
Carnivals, Circuses, Shows, etc., Licenses			
Carnival/circus	\$70.00	\$20.00	1/1 – 12/31
Theater	\$70.00	\$20.00	1/1 – 12/31
Show/exhibition	\$70.00	\$20.00	1/1 – 12/31
Public amusement	\$70.00	\$20.00	1/1 – 12/31
Dance License	\$50.00	\$20.00	1/1 – 12/31
Fire Extinguisher			
Without testing	\$30.00	\$20.00	1/1 – 12/31
With testing	\$45.00	\$20.00	1/1 – 12/31
Fireworks Stands License	\$70.00	\$20.00	Noon 6/28 to Noon 7/6
(Regulation of fireworks stands under Chapter 8.24 ACC)			
Massage Business, Health Salon, Public Bathhouse License			
Business	\$85.00	\$20.00	1/1 – 12/31

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Type	Fee		Term
	Initial	Renewal	
Attendant	\$85.00	\$20.00	1/1 – 12/31
Merchant Patrol, Private Detective License			
Merchant patrol agency	\$55.00	\$20.00	1/1 – 12/31
Patrolman	\$55.00	\$20.00	1/1 – 12/31
Detective agency	\$55.00	\$20.00	1/1 – 12/31
Detective	\$55.00	\$20.00	1/1 – 12/31
Motor Vehicle Wreckers License	\$70.00	\$20.00	1/1 – 12/31
Outdoor Musical Entertainment License			
	\$85.00/Event		1/1 – 12/31
Pawnbrokers/Secondhand Dealers License			
	\$40.00	\$20.00	1/1 – 12/31
Solicitor License			
Master	\$40.00	\$20.00	1/1 – 12/31
Agent	\$40.00	\$20.00	1/1 – 12/31
Individual	\$40.00	\$20.00	1/1 – 12/31
Taxicab License – Requires King County license only to operate in Auburn			
Tow Truck Business License			
Business	\$60.00	\$20.00	1/1 – 12/31
Driver	\$40.00	\$20.00	1/1 – 12/31
Marijuana Related Businesses	<u>\$500.00</u>	<u>\$500.00</u>	1/1 – 12/31

Provided, that for the 2010 calendar year only, the renewal fee for business licenses for the period July 1, 2010, to December 31, 2010, shall be one-half of the specified renewal fees.

C. A duplicate license shall be issued by the business license clerk, as designated by the mayor, to replace any license previously issued which has been lost, stolen, defaced or destroyed, upon the filing of an affidavit attesting to such fact and the paying to the business license clerk of a fee of \$1.00.

D. Any notice required by this chapter to be mailed to any licensee shall be sent by ordinary mail, addressed to the address of the licensee shown by the records of the business license clerk or, if no such address is shown, to such address as the business license clerk is able to ascertain by reasonable effort. Failure of the licensee to receive such mailed notice shall not release the licensee from any fee or penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this chapter.

E. This section grants an exemption from paying a fee for any licenses required under the provisions of this chapter to bona fide nonprofit, charitable, religious, or philanthropic persons or organizations.

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1. Any person or organization claiming the exemptions of this section shall file with the business license clerk an affidavit setting forth facts sufficient to show the application of this section and the right to such exemption.

2. Persons or organizations required to be licensed by the state of Washington, wherein the state has preempted the field of endeavor of any such persons or organizations, shall not be required to obtain a license from the city under the provisions of this title; provided however, any such persons or organizations doing business within the city limits of the city shall carry the state license on his or her person at all times when doing business within the city, and shall exhibit such state license whenever he or she is requested to do so by any police officer or any person who asks to see the same.

~~F. For the 2010 calendar year only, individual license renewals shall be valid for the period July 1, 2010, to December 31, 2010, subject to the payment of one half of the specified renewal fee. For the 2011 calendar year and subsequent calendar years, individual license renewals shall be for the period January 1st through December 31st. (Ord. 6309 § 4, 2010; Ord. 5897 § 7, 2005; Ord. 4012 § 2, 1984.)~~

Section 7. Amendment to City Code. That section 5.20.050 of

the Auburn City Code is hereby amended as follows:

5.20.050 License application – Approval or disapproval procedure.

The business license staff person shall collect all license fees and shall issue licenses in the name of the city to all persons qualified under the provisions of this chapter and shall:

A. Adopt all forms and prescribe the information required to implement this chapter;

B. Submit all applications, to department heads as listed below for their endorsements as to compliance by applicant with all city regulations which they have the duty of enforcing:

1. Ambulance services license: Valley Regional Fire Authority and police department;

2. Amusement device license: police (four or under) and community development and public works and police (five or more);

3. Auto races license: Valley Regional Fire Authority, community development and public works, , and police departments;

4. Cabaret licenses: Valley Regional Fire Authority and police departments;

5. Carnivals, circuses, shows, etc., licenses: Valley Regional Fire Authority, community development and public works, and police departments;

6. Dance licenses: Valley Regional Fire Authority and police department;

7. Fire extinguisher service licenses: Valley Regional Fire Authority;

8. Massage business, health salon, etc., licenses: community

development and public works, police departments and appropriate County health department;

9. Merchant patrol and private detective licenses: police department;

10. Motor vehicle wreckers licenses: community development and public works and police departments and Valley Regional Fire Authority;

11. Outdoor musical entertainment licenses: community development and public works and police departments and Valley Regional Fire Authority;

12. Pawnbrokers/secondhand dealers licenses: police department;

13. Solicitor license: police department;

14. Tow truck business license: Valley Regional Fire Authority, community development and public works and police departments;

15. Marijuana related business license: community development and public works, police and utilities departments, and Valley Regional Fire Authority.

C. Notify any applicant of the acceptance or rejection of his/her application and shall, upon denial of any license state in writing the reasons therefor, the process for appeal and deliver them to the applicant.

D. Deny any application for license upon written findings that the granting would be detrimental to the public peace, health or welfare:

1. Whenever any such license is denied the applicant may within 15 calendar days from date of action, file written notice of appeal to the city's director of community development and public works. Action of the city's director of community development and public works may be appealed 15 calendar days from date of action to the hearing examiner, and action of the hearing examiner shall be conclusive and not subject to review.

2. When the issuance is denied and any action instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused unless a license is issued pursuant to a judgment ordering the same. (Ord. 6532 § 7, 2014; Ord. 5897 § 9, 2005; Ord. 4012 § 2, 1984.)

Section 8. Amendment to City Code.

That section 9.22.030 of

the Auburn City Code is hereby amended as follows:

9.22.030 Drug paraphernalia – Definitions.

Except as authorized under United States Code (USC) Title 21: the Controlled Substances Act, and except as authorized by the Revised Code of Washington under RCW 69.50.301 through 69.50.369, as As—used in this chapter, “drug paraphernalia” means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling,

smoking, or otherwise introducing into the human body a controlled substance. It includes, but is not limited to:

A. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

B. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

C. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;

D. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

E. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

F. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;

G. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

H. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

I. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;

J. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;

K. Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body;

L. A device "designed primarily for" such smoking or ingestion set forth in this section is a device which has been fabricated, constructed, altered, adjusted or marked especially for use in the smoking, ingestion or consumption of marijuana, hashish, hashish oil, cocaine or any other "controlled substance," and is peculiarly adapted to such purposes by virtue of a distinctive feature or combination of features associated with drug paraphernalia, notwithstanding the fact that it might also be possible to use such device for some other purpose. Paraphernalia includes, but is not limited to, the following items or devices:

1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
2. Water pipes;
3. Carburetion tubes and devices;
4. Smoking and carburetion masks;

5. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
6. Miniature cocaine spoons and cocaine vials;
7. Chamber pipes;
8. Carburetor pipes;
9. A smokable pipe which contains a heating unit, whether the device is known as an "electric pipe" or otherwise;
10. Air-driven pipes;
11. Chillums;
12. A device constructed so as to prevent the escape of smoke into the air and to channel smoke into a chamber where it may be accumulated to permit inhalation or ingestion of larger quantities of smoke than would otherwise be possible, whether the device is known as a "bong" or otherwise;
13. A device constructed so as to permit the simultaneous mixing and ingestion of smoke and nitrous oxide or other compressed gas, whether the device is known as a "buzz bomb" or otherwise;
14. A canister, container or other device with a tube, nozzle or other similar arrangement attached thereto so constructed as to permit the forcing of smoke accumulated therein into the user's lungs under pressure, whether the device is known as a "power hitter" or otherwise;
15. A device for holding a marijuana cigarette, whether the device is known as a "roach clip" or otherwise;
16. A spoon for ingestion of a controlled substance through the nose;
17. A straw or tube for ingestion of a controlled substance through the nose or mouth;
18. A smokable pipe constructed with a receptacle or container in which water or other liquid may be placed into which smoke passes and is cooled in the process of being inhaled or ingested;
19. Ice pipes or chillers. (Ord. 6300 § 1, 2010.)

Section 9. Moratorium. Pursuant to the provisions of sections 35A.63.220 and 36.70A.390 RCW, the moratorium established by this Ordinance prohibits the acceptance or processing of any permits or applications, for or related to any marijuana related activities, including, but not limited to, licensing, permitting, siting, making structural or building improvements for such an activity, or operating any new marijuana activities; and any other marijuana uses or activities that are not expressly provided by the City Code regulations addressed

herein.

Section 10. Term of Moratorium. The moratorium imposed by this Ordinance shall become effective on the effective date hereof, and shall continue in effect for an initial period of one year, unless repealed, extended or modified by the City Council after subsequent public hearing(s) and entry of appropriate findings of fact pursuant to RCW 35A.63.220, provided that the moratorium shall automatically expire upon the effective date of zoning and land use regulations adopted by the City Council to address the implementation of the State's licensing of any marijuana/cannabis related business to be located in the City of Auburn.

Section 11. Work Plan. The following work plan is adopted to address the issues involving marijuana/cannabis related business regulations:

A. The City of Auburn Planning Commission shall be authorized and directed to hold public hearings and public meetings to fully receive and consider statements, testimony, positions and other documentation or evidence related to the issue of marijuana/cannabis related businesses, including, but not limited to, regulations related to the number of allowed retail businesses, and including but not limited to marijuana cooperatives, marijuana researchers and marijuana transporters.

B. The Planning Commission and City staff are authorized and directed to review the experiences of other jurisdictions, the status of legal cases, and statistical data, information, studies and other evidence compiled by other municipalities, of adverse impacts of such marijuana/cannabis related businesses, and to review State and Federal law and regulations and the regulations, ordinances and codes adopted and implemented by other municipalities to address marijuana/cannabis related business land uses, and any other information that is pertinent to consideration of marijuana/cannabis related businesses, including, but not limited to, regulations related to the number of allowed retail businesses.

C. The City of Auburn Planning Commission shall work with City staff and the citizenry of the City to develop proposals for regulation of marijuana/cannabis related business land uses and zoning considerations,

to be forwarded in their recommendations to the City Council for inclusion in ordinances and ultimate adoption as a part of the City Code of the City of Auburn, including regulations related to the number of allowed retail businesses.

D. The Mayor, in consultation with the City Attorney, Community Development and Public Works Director, the Police Chief, the Human Resources and Risk Management Director and other staff, shall periodically advise and report to the City Council as to the status of hearings, meetings and information development regarding activities of the Planning Commission and City staff relative to the evaluation, consideration and development of regulations concerning marijuana/cannabis related land uses, including, but not limited to, regulations related to the number of allowed retail businesses, with such reports to be scheduled approximately every six (6) months or as appropriate throughout the period of the moratorium and any extensions thereof, until adoption of a comprehensive ordinance as developed, relating to marijuana/cannabis related business land uses becoming effective in conjunction with the termination of the moratorium referred to in this Ordinance.

Section 12. Public Hearing. A public hearing shall be scheduled for 7:00 p.m. or as soon thereafter as the matter may be heard, on the 19th day of September, 2016, in City Council Chambers, 25 West Main Street, Auburn, Washington 98001, to hear and consider the comments and testimony of those wishing to speak at such public hearing regarding the moratorium.

Section 13. Ordinance to be Transmitted to State. Pursuant to RCW 36.70A.106, a copy of this Ordinance shall be transmitted to the Washington State Department of Commerce. A copy of this Ordinance shall also be transmitted to the Washington State Liquor and Cannabis Board.

Section 14. Implementation. That the Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

Section 15. Severability. That 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 thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 16. Effective date. This Ordinance shall be in full force and effect five (5) days after publication, at which time the provisions of Ordinance No. 6595 shall be superseded and replaced insofar as inconsistent herewith.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

Published: _____



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6615

Date:

August 9, 2016

Department:

Community Development & [Ord 6615](#)
Public Works

Attachments:**Budget Impact:**

\$0

Administrative Recommendation:

City Council to adopt Ordinance No. 6615

Background Summary:

On a periodic basis City of Auburn Code Enforcement staff bring forward to City Council requests to adopt a resolution that authorizes abatement action to occur on private properties where initial code enforcement actions have not been responded to. On several occasions City Council has asked staff why Council action is required and if there are options for expediting abatement actions and enhancing the efficiency of the overall abatement process. Ordinance 6615 modifies seeks to modify several chapters of Auburn City Code that are intended to both modify the City's code enforcement abatement procedures as well as improve several standards that pertain to management of vegetation and vacant structures. The vegetation and vacant structure amendments are combined with the abatement procedures because most abatement actions are related to these two matters. While there are a number of code changes proposed, the following list is provided that highlights and summarizes the effect of the overall package of amendments:

1. Simplification of the methods to notify a property owner of a violation.
2. Establishing a higher burden on the City for notifying a property owner of a potential abatement action.
3. Establishing that an enforcement lien placed on property shall be of equal rank with state, county and municipal taxes.
4. Clarify that it is a violation to allow solid waste to remain uncontained on private property.

5. Declare that a violation of City Code constitutes a public nuisance. This allows abatement authority and procedures to apply to any violation of City Code.

6. Establish an administrative process for abatement of public nuisances and vegetation violations. The process identifies the authority under which abatement action can occur, the method of serving a property owner notice of the City's intent to abate, an appeal process that utilizes the existing Hearing Examiner process, authority for the City to seek cost recovery, and the range of costs that may be recouped (including administrative costs incurred as a result of inspections, preparation of notices, contracts for performing the abatement, filing fees, legal fees, etc.).

7. The abatement process described in the amendments to Chapter 8.12 are then repeated in Chapter 8.20.

8. Clarification in Chapter 12.36 that it is the responsibility of an abutting landowner to maintain the vegetation that is located in the landscape strips that are within the right of way.

9. Creation of a new chapter in the City building code – Chapter 15.20 – which elaborates on certain provisions of the International Property Maintenance Code (IPMC). The IPMC is already adopted by the City of Auburn however there are provisions of the Auburn City Code that should be used instead of what is stated in the IPMC. For example, the IPMC establishes an appeal process that is different than the City's appeal process. The draft amendments seek to clarify that the City procedures are to be used instead of the IPMC procedures.

10. The draft amendments also seek to modify the IPMC "boarding" standard which allows the windows and doors on vacant structures to be boarded for up to one year. The draft amendments limit boarding to 30 days when a product such as plywood is used and allows up to one year if a clear product is used. This is included because wood presents an image of blight and it precludes law enforcement from being able to see inside of a vacant structure that is harboring nefarious activity. Clear products mitigate these problems.

11. The draft amendments include a vacant property registration program that requires the owners of vacant property to inform and register their property with the City. The registration process allows the City to understand who is responsible for addressing issues that occur at the property and it establishes requirements for how the property is to be managed while it is vacant. The registration program exempts properties that are rental homes (that have a valid business license) and residences that are used part time.

City Council discussed the draft amendments during their August 8, 2016 Study Session and authorized Ordinance 6615 to move forward for Council action.

Reviewed by Council Committees:

Other: Legal and Planning

Councilmember:

Staff: Snyder

Meeting Date: August 15, 2016

Item Number: ORD.E

ORDINANCE NO. 6 6 1 5

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, CREATING A NEW CHAPTER 15.20 OF THE AUBURN CITY CODE [PROPERTY MAINTENANCE CODE], AND NEW SECTIONS 8.12.100, 8.20.060, 8.20.070, OF THE CITY CODE AND AMENDING SECTIONS 1.25.030, 1.25.050, 1.25.065, 8.08.080, 8.12.020, 8.12.070, 8.12.080, 8.12.090, 8.20.030, 8.20.040, 8.20.050, 12.36.050 AND 15.06.010 OF THE AUBURN CITY CODE AND REPEALING SECTION 1.25.070 OF THE AUBURN CITY CODE RELATING TO NUISANCE ABATEMENT

WHEREAS, the current provisions of the Auburn city code include strategies and methodologies for abating certain types of nuisances; and

WHEREAS, because there are different types of nuisances that need to be considered in abatement actions, as well as different approaches that work better for some nuisances than others, a review of these factors has been made to consolidate abatement approaches and to assist the city in the ability to effectively abate nuisances.

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

Section 1. New Chapter to City Code. That a new Chapter 15.20 of the Auburn City Code be and the same hereby is created to read as follows:

Chapter 15.20
Property Maintenance Code

Sections:

- | | |
|-----------|---|
| 15.20.010 | Adoption of International Property Maintenance Code. |
| 15.20.020 | Appendices adopted. |
| 15.20.030 | Section 103 amended – Department of property maintenance inspection |
| 15.20.040 | Section 107 amended – Notices and orders |
| 15.20.050 | Section 110 amended – Demolition |
| 15.20.060 | Section 111 amended – Means of appeal |
| 15.20.070 | Section 112 amended – Stop work order |

15.20.010 Adoption of International Property Maintenance Code.

The 2015 International Property Maintenance Code is adopted as the property maintenance code of the city; provided, that the amendments, deletions and additions

thereto as provided in this chapter shall govern over the published provisions of the International Property Maintenance Code.¹ A copy of the International Property Maintenance Code shall be on file in the office of the city clerk.

15.20.020 Appendices adopted.

International Property Maintenance Code Appendix Chapter A, Boarding Standard, is hereby adopted. A copy of the International Property Maintenance Code Appendix Chapter A, Boarding Standard, shall be on file in the office of the city clerk.

15.20.030 Section 103.1 amended

Section 103.1 of the International Property Maintenance Code is amended to read as follows:

103.1 General Department of property maintenance inspection. The department of community development and public works is responsible for implementation and enforcement of the International Property Maintenance Code. ~~property maintenance inspection is hereby created and the executive official in charge thereof shall be known as the code official.~~

15.20.040 Sections 107.2 and 107.3 amended

Sections 107.2 and 107.3 of the International Property Maintenance Code are amended to read as follows:

107.2-Form Notices and orders. Such notice prescribed in Section 107.1 shall be in accordance with the provisions of Chapter 1.25 regarding the form of notices ~~all of the following:~~

- ~~1. Be in Writing.~~
- ~~2. Include a description of the real estate sufficient for identification.~~
- ~~3. Include a statement of the violation or violations and why the notice is being issued.~~
- ~~4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.~~
- ~~5. Inform the property owner or owners's authorized agent of the right to appeal.~~
- ~~6. Include a statement of the right to file a lien in accordance with Section 406.3.~~

107.3 Method of service. ~~Such a~~ Notices shall be deemed to be property served if delivered in accordance with the provisions of Chapter 1.25 regarding the method of services of notices ~~a copy thereof is:~~

¹ For the purposes hereof, where the International Property Maintenance Code references the code official, that shall refer to and be construed to mean the building official as used in the city code. Unless the context clearly indicates otherwise, the terms "code official" and "building official" shall be synonymous.

- ~~1. Delivered personally;~~
~~2. Sent by certified or first class mail addressed to the last known address;~~
or
~~3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.~~

15.20.050 Section 110 amended – Demolition.

International Property Maintenance Code Section 110.1 is amended to read as follows:

Section 110.1 General. The code official shall order the owner or owner's authorized agent of any premises upon which is located any structure, which in the code official's or owner's authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two (2) years, the code official shall order the owner or owner's authorized agent to demolish and remove such structure, or board up until future repair. Unless the code official determines that other measures are appropriate based on the circumstances, Boarding—boarding the building up for future repair shall comply with appendix A and the structure shall not extend beyond one year, unless approved by the building official remain boarded beyond thirty (30) days, except where a non-opaque material is used that provides the same level of security as provided by the requirements of Appendix A, the boarding may remain in place for no more than one year. Timeframe extensions may be approved by the code official.

15.20.060 Section 111 amended – Means of appeal

Section 111 of the International Property Maintenance Code is deleted in its entirety and is replaced with the following:

111 Means of appeal. Any person directly affected by a decision of the code official or a notice or order issued under the international property maintenance code shall have the right to appeal the decision, notice, or order, accept notices to correct and the notices described in section 107. The means for appealing shall be that provided in ACC 15.07.130, as hereafter amended.

15.20.070 Sections 112.2 and 112.4 amended – Stop Work Order.

Sections 112.2 and 112.4 of the International Property Maintenance Code are amended to read as follows:

112.2 Issuance. The provisions of Auburn City Code Chapter 1.25 regarding stop work orders shall govern the issuance of a stop work order under this code~~A stop work order shall be in writing and shall be given to the owner of the property, to the owner's authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.~~

112.4 Failure to comply. The provisions of Auburn City Code Chapter 1.25 shall govern the enforcement of stop work orders and the penalty for failing to comply with an order~~Any person who shall continue any work after having been served with a stop work order except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars.~~

15.20.080 Vacant property registration.

A. The Vacant Property Registration program is hereby established. All properties shall register their property with the City as a vacant property when it remains vacant for more than thirty (30) days. Failure to register a vacant property shall constitute a violation that is punishable under the terms and procedures of Chapter 1.25. This section shall not apply to properties that are the subject of a current rental business license issued pursuant to ACC 5.22 or are inhabited by the property owner part-time.

B. In addition to registration, vacant properties shall be managed as follows:

1. The property must be kept free of code violations.
2. The structure and property must remain secure from unauthorized access.

All doors and windows must be in place and remain locked. Broken doors and windows must be repaired or replaced consistent with all provisions of Title 15.

3. The roof, flashing, rain gutters, and down spouts must be present and functional.

4. Exterior lighting, consistent with the requirements of this code, shall remain functional and shall be set on a timer to provide nighttime illumination.

5. Water service shall be disconnected.

6. All vegetation shall be maintained consistent with Auburn City Code. Additionally, shrubs, ground covers, vines, and trees must be kept trimmed and not encroach into the public right-of-way or onto other neighboring properties.

7. The exterior appearance of all structures shall be kept clean and in good condition, consistent with section 304 of this code. Tarps are not allowed as a means of securing or screening damaged, degraded or moss covered roofs, doors, windows or walls, except as a temporary measure prior to a permanent repair or replacement.

8. Appropriate winterization measures shall be taken to ensure that the structure and property is not further degraded due to extended periods of cold and/or wet weather.

9. Gas, electrical, and plumbing fixtures shall be maintained in a condition that is safe and that avoids risk to public health and safety.

10. A notice shall be placed in a visible location on the property that indicates who the property is registered to and must include contact information for the responsible party.

11. The property must be registered with the City of Auburn Police Department trespass program.

C. The provisions of this section can be applied retroactively. Vacant properties and structures existing on the date of adoption of this section are not vested.

Section 2. New Section to City Code. That a New Section 8.12.100 of the Auburn City Code be and the same hereby created to read as follows:

8.12.100 Summary abatement.

A. Abatement. Whenever any violation of this code poses an imminent threat to the health, safety, or welfare of persons or property, or to the environment, the director of the department of community development and public works, or designee, may summarily and without prior notice order the condition abated. The city, or its agents, may enter upon property and abate the condition to the extent necessary to remedy the immediate threat.

Actions taken to abate imminently dangerous violations may include but are not limited to repair, removal or demolition of the condition creating the danger and/or the restriction from use or occupancy of the property on which the dangerous condition exists or any other abatement action determined by the city to be necessary.

B. Notice. Whenever the director determines that summary abatement is justified the city shall attempt to provide notice to the property owner as to the violation and the need for immediate abatement. If the property owner cannot be located or the owner fails to take prompt appropriate action to abate the violation, the city may proceed to take abatement action authorized in this chapter without further notice or right to a prior hearing.

Regardless of any prior notice, the city shall provide written notice of such abatement to the person responsible for the violation as soon as reasonably possible after the abatement. If the person responsible for the violation is a tenant, notice of such abatement shall also be given to the landlord or owner of the property where the violation is occurring. In addition to the items listed in ACC 1.25(C)(1-4), the notice shall include the reason for the summary abatement, a description of the abatement, and the right to appeal the city's action in the manner described for an appeal in ACC 8.12.080. The notice shall be served according to the service requirements of ACC 8.12.080.

C. Appeal. The abatement may be appealed in the manner described in ACC 8.12.080. No right of action shall lie against the city or its agents, officers, or employees for actions reasonably taken to prevent or cure any such immediate threats, or the failure to take such actions.

D. Cost Recovery. The necessary and reasonable charges and costs of summary abatement, including legal and administrative costs and charges, shall be collected according to ACC 8.12.080, unless the property owner, tenant, or person responsible for the violation prevails in an appeal.

Section 3. New Section to City Code. That a New Section 8.20. 060 of the Auburn City Code be and the same hereby created to read as follows:

8.20.060 Appeal of abatement determination

A. Request of an Appeal. Notices of abatement may be appealed to the director of the department of community development and public works within ten (10) calendar days of the date of mailing or service. The appeal may contest the determination that a violation exists and the reasonableness of the corrective action ordered. An appeal shall be filed by providing a written request to and shall contain the address that is the subject of the violation, the property owner's name, phone number, and address, and a description of the reason(s) for contesting the abatement.

B. Notice of meeting. If an appeal is properly and timely filed, the director shall set a meeting for a date within thirty (30) calendar days of the date the city received the request for an appeal. The notice of hearing shall contain the file number of the case, the date & place of the meeting, and a statement of who may participate in the appeal. The notice shall be placed in the mail at least 10 calendar days prior to the date of the meeting and sent to the last known address of the property owner and to the subject property.

C. Meeting. At the appeal meeting, the property owner may submit a written document to the director or make an oral statement providing any facts and reasons supporting the person's position. Any written document may be provided to the director prior to the meeting date. The director may reasonably limit the extent of comments at the meeting to facilitate the orderly and timely conduct of the meeting. A code enforcement officer shall be present at the meeting to answer questions and the director shall electronically record the meeting. The property owner shall have the burden of proof by a preponderance of the evidence that a violation has not occurred at the subject property and/or that the corrective action is unreasonable.

D. Ruling. In response to an appeal, the mayor may rescind the abatement notice, affirm it, or may modify the notice. Additionally, the mayor may vacate or reduce any penalties pending, or previously imposed, for any violations related to the nuisance that is the subject of the abatement. If previously imposed penalties are vacated or reduced, any liens for those amounts shall be released or modified accordingly as well.

E. Continuances – Communication of the Ruling. The director may continue the meeting if he or she is unable to hear all the statements, or for other good cause. If the meeting is continued, announcement of the new time, date and location of the next meeting is sufficient and no further notice of the meeting need be given by the city.

After the appeal meeting, the director will issue its final determination, in writing, within ten (10) calendar days of the meeting. The determination shall be sent by certified mail, return receipt requested, or served, to the property owner's last known address.

F. Stay. The timely filing of an appeal shall stay the abatement during the pendency of the appeal, but an appeal does not lift or stay a stop work order. Monetary penalties shall accrue during the appeal period unless the appellant prevails on appeal. In addition to ruling upon the issues presented by the appellant, the director may vacate or reduce any penalties pending, or previously imposed, for any violations related to the vegetation nuisance that is the subject of the abatement. If previously imposed penalties

are vacated or reduced, any liens for those amounts shall be released or modified accordingly.

If the examiner denies the appellant's request for relief, the appellant shall pay the hearing fee as set forth in the city of Auburn fee schedule within 14 calendar days of the hearing. Failure to pay the fee shall be a cost of the abatement subject to cost recovery under this section.

Section 4. New Section to City Code. That a New Section 8.20.070 of the Auburn City Code be and the same hereby created to read as follows:

8.20.070 No city liability for violations

It is the specific intent of this chapter to place the obligation of complying with its requirements upon the property owner or owners and no provisions nor term used in this chapter is intended to impose any duty whatsoever upon the City or any of its officers and employees, for whom the implementation or enforcement of this chapter shall be discretionary and not mandatory.

Nothing contained in this chapter is intended to be, nor shall be, construed to create or form the basis for any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from the failure of a property owner to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this chapter, or by reason of any action or inaction on the part of the City related in any manner to the enforcement of this chapter by its officers, employees or agents.

Section 5. Amendment to City Code. That Section 1.25.030 of the Auburn City Code be and the same hereby is amended to read as follows:

1.25.030 Notice to correct violation.

A. Authority to Issue.

1. Whenever the code enforcement official or other authorized enforcement official, or his/her designee, determines that a violation is occurring or has occurred, he/she may issue a notice to correct the violation, in a form pursuant to subsection C of this section, to the property owner(s) and/or tenant(s) and/or to any person(s) causing or allowing or participating in the violation.

2. If a notice to correct the violation has been issued, the code enforcement official shall require the violation to be corrected within one to 15 working days from the issuance of the notice to correct. The length of time to correct shall be determined, in the sole discretion of the code enforcement official or other authorized enforcement official, or his/her designee, by the scope of violation, the history of prior violations by the same persons and/or at the same location and method needed to correct violation. All violations, in any event, shall be corrected expediently.

B. Receipt of Correction Notice.

1. Upon receipt of notice to correct violation, the violator shall either correct the violation or ask the code enforcement official for a reconsideration of the notice to correct within the time frame set out in subsection (B)(3) of this section.

2. If the violator corrects the violation, the code enforcement official shall close the violation file and notify violator of compliance.

3. The property owner and/or tenant may request reconsideration of the notice to correct violation by the code enforcement official. This request must be made in writing prior to the date on which corrections are to be completed as specified in the notice. The code enforcement official shall respond to the request for reconsideration, if timely received, no later than seven calendar days from the date the request for reconsideration was received. The code enforcement official may amend the notice (i) to correct the notice, (ii) for good cause to allow for a longer time to correct the violation, (iii) to amend the scope of violation, or (iv) to rescind the notice. A stay of the time allowed for correction shall be in effect from the date that a request for reconsideration was received, if timely received, until the date a response to the request for reconsideration is sent.

4. If the violator corrects the violation pursuant to the reconsideration determination, the code enforcement official shall close the violation file and notify the violator of compliance.

C. Content. The notice to correct violation shall contain the following:

1. The name and address of the property owner and/or tenant and/or other person to whom the notice to correct violation is directed; and

2. The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and

3. A description of the violation and a reference to the Auburn City Code or related provision, standard, regulation, procedure or permit which has been violated; and

4. A statement of the action required to be taken to correct the violation as determined by the code enforcement official and a date or time by which correction is to be completed; and

5. A statement that the property owner and/or tenant may request a reconsideration of the notice to correct violation by the code enforcement official and the procedures required for such request; and

6. A statement that the consequences of failing to correct the violation may result in monetary penalties and/or other enforcement requirements; and

7. A statement that the person to whom the notice to correct violation is directed shall inform the code enforcement official of the correction so an inspector can be sent to the violation premises to confirm the correction.

D. Service of Notice. The code enforcement official shall cause the notice to correct violation to be served on the person(s) to whom it is directed by personal service or by mailing a copy of the notice to correct violation both by regular mail and by certified mail, postage prepaid, return receipt requested, to such person(s) at his/her last known address. If the person's address is unknown, service shall be completed by mailing the notice to the address of the most recent payer of the property tax for the property, as shown in the county's records, and by posting a copy of the notice to correct violation conspicuously on the affected property or structure.

E. Extension. Upon written request received prior to the correction date or time, the code enforcement official may extend the date set for correction for good cause. The code enforcement official may consider but is not limited to the consideration of substantial completion of the necessary correction or unforeseeable circumstances which render completion impossible by the date established as good cause.

F. Repeat Violations. Notwithstanding the above provisions, in the case of a repeat violation, the code enforcement official or other authorized enforcement official, or his/her designee, may issue a notice of infraction regardless of whether a notice to correct violation has been issued. For the purposes hereof, "repeat violation" means that the same person or property has been the subject of one or more notice to correct violation within the preceding 12 months. (Ord. 5966 § 3, 2006; Ord. 5677 § 2, 2002; Ord. 5246 § 1 (Exh. B), 1999; Ord. 5212 § 1 (Exh. B), 1999; Ord. 4460 § 1, 1991.)

Section 6. Amendment to City Code. That Section 1.25.050 of the Auburn City Code be and the same hereby is amended to read as follows:

1.25.050 Penalties for infractions.

Unless otherwise specifically provided in connection with particular sections, chapters or titles of the city code, noncriminal violations of the city code shall be infractions and shall carry a maximum penalty of \$250.00. Each day, location, violator and incident shall constitute a separate civil infraction. In addition to this amount, a court of competent jurisdiction may order a person found to have committed a civil infraction to pay restitution, including the city's reasonable enforcement and abatement costs.

It is provided, however, that if the same violator has been found, in any court of competent jurisdiction, to have previously committed an infraction violation for the same or similar conduct three or more separate times, with the infraction violations occurring at the same location and involving the same or similar sections of ACC Titles 5, 6, 8, 10, 12, 13, 15, 16, 17 or 18, or other similar code(s), any further violations shall constitute misdemeanors, punishable as provided in ACC 1.24.010. For the purposes hereof, it shall be prima facie evidence that the same violator has previously been found to have committed any infraction if a certified copy of the judgment, docket or other court document showing that such violation was found committed is filed with the court. (Ord. 5837 § 2, 2004; Ord. 5677 § 2, 2002.)

Section 7. Amendment to City Code. That Section 1.25.065 of the Auburn City Code be and the same hereby is amended to read as follows:

1.25.065 Additional penalty and enforcement provisions.

A. Civil Penalty. In addition to any other enforcement actions available to the city, if the code enforcement official determines that a violation has not been corrected pursuant to ACC 1.25.030 within the time specified in the notice to correct violation, he/she is authorized to impose a civil penalty against the property owner on whose property the violation exists, and/or the person in possession of the property, and/or the person otherwise causing or responsible for the violation. The penalty shall be up to

\$500.00 for the first day and \$100.00 per day for each additional full day the violation continues. Each day on which a violation or failure continues shall constitute a separate violation. If unpaid within 14 calendar days of becoming effective, each penalty shall constitute a lien against the property of equal rank with state, county, and municipal taxes.

B. Notice of Penalty. The penalty shall be imposed by serving a notice of penalty. Service of the notice shall be made upon all persons identified in the notice either personally or by mailing a copy of such order by certified mail, postage prepaid, return receipt requested. If an address for mailed service cannot be ascertained, service shall be accomplished by posting a copy of the notice conspicuously on the affected property or structure. The initial penalty shall be effective and the recurring daily penalty shall commence on the date service is effective. Service by certified mail shall be effective five calendar days after the date of postmark, unless U.S. postal records show actual receipt prior to that date. If service is by personal service, service shall be deemed effective immediately. If service is made by posting, service shall be effective on the third day following the day the notice is posted. Recurring penalties shall become effective every 24 hours after midnight of the effective date of the initial penalty, if the violation is not corrected.

The notice shall contain all the information required to be placed in a notice to correct violation, under ACC 1.25.030, and in addition the following:

1. The amount of the initial penalty and the amount of the per day penalty for each day the violation(s) continues, and, if applicable, the conditions on which assessment of such civil penalty is contingent.

2. A statement that the recurring penalty accrues each day automatically, without further notice.

3. The procedure for appealing the penalty, as described in this chapter.

4. That if the penalties are unpaid within 10 days of when they become effective, they shall become a lien on the property that shall be of equal rank with state, county and municipal taxes.

C. Withdrawal. The code enforcement officer may withdraw a notice of penalty if compliance is achieved, as determined by the officer, within 14 calendar days of the service date of the notice. The officer shall not withdraw a notice of penalty if it is the second notice issued by the officer to the same person for the same or similar violation committed within six months.

D. Continued Duty to Correct. Payment of a penalty pursuant to this chapter does not relieve a person of the duty to correct the violation as ordered by the enforcement officer. Correction of the violation does not relieve a person of the obligation to pay the penalty assessed, unless dismissed, withdrawn, or modified by the hearing examiner or the code enforcement officer.

E. Appeal of Notice of Penalty.

1. An assessed civil penalty may be appealed to the city hearing examiner within 14 calendar days of the penalty's effective date, in the same manner as determinations of the building official are appealed under ACC 15.07.130. After the 14-day period, penalties shall be final and binding. The hearing examiner may grant an extension of time for filing an appeal if the person establishes that he/she did not receive

the notice of penalty due to good cause. The burden of proving such good cause circumstances is on the person making the claim.

2. The appeal shall be processed and the hearing conducted according to the provisions of ACC 15.07.130 and the provisions of that section are adopted by reference for the purpose of this chapter. The person appealing may appeal either the determination that a violation exists or the amount of the civil penalty imposed, or both. The person appealing may appeal all penalties that are not final and binding. The hearing examiner has the authority to affirm, dismiss, or modify the civil penalty. The city shall have the burden of proving by a preponderance of the evidence the commission of a violation. If the hearing examiner finds that a violation was not committed at the time the notice of penalty was issued, the examiner shall dismiss all penalties before him/her that were imposed for the alleged violation and the city shall dismiss all additional penalties, whether effective or final, that were imposed for the alleged violation.

3. The civil penalties for a continuing violation shall not continue to accrue pending determination of the appeal; however, the hearing examiner may impose a daily monetary penalty, to a maximum of \$100.00 per day, from the date of service of the notice of penalty if the hearing examiner finds that the appeal is frivolous or intended solely to delay compliance. An appeal does not lift or stay a notice to correct violation.

4. A person is precluded from appealing a penalty if the hearing examiner finds that it has determined in a prior appeal all the issues of fact and law raised by the person appealing.

5. At his/her discretion, the hearing examiner may consolidate appeals of penalties imposed on the same property for the same violations.

F. Cost Recovery and Lien.

1. Any monetary penalty imposed under this chapter constitutes a personal obligation of the person served the notice of penalty. The city attorney is authorized to collect the monetary penalty by use of appropriate legal remedies, the seeking of which shall neither stay nor terminate the accrual of additional per day penalties so long as the violation continues.

2. The city may authorize the use of collection agencies to recover monetary penalties, in which case the cost of the collection process shall be assessed in addition to the monetary penalty.

3. Once civil penalties are effective and due, pursuant to this section, the code enforcement officer may file a lien with the county auditor on the property where the violation exists for the amount of the unpaid civil penalties. The lien shall be of equal rank with state, county and municipal taxes. The claim of lien shall contain the following:

- a. The authority for imposing a civil penalty;
- b. A brief description of the civil penalty imposed, including the violations charged and the duration thereof;
- c. A legal description of the property to be charged with the lien;
- d. The name of the known or reputed owner; and
- e. The amount, including lawful and reasonable costs, for which the lien is claimed. (Ord. 6328 § 4, 2010.)

Section 8. Amendment to City Code. That Section 8.08.080 of the Auburn City Code be and the same hereby is amended to read as follows:

8.08.080 Containers – Required.

A. All persons accumulating garbage in the city shall place and accumulate the same in a micro-can, cart, detachable container, drop-box container, or such other collection container that is approved by the city's solid waste service provider(s). Recyclables may be accumulated, for collection by the city service provider(s), in recycling carts or recycling containers, or such other collection container that is approved by the city's current service provider(s). Compostables may initially be accumulated for collection by the city service provider(s) in compostables carts and, once such cart is full, in such other collection container that is approved by the city's current service provider(s) for overflow volumes. It is a violation of this chapter for any persons who accumulate garbage to maintain garbage and recyclables upon their property uncontained in a city-approved collection container without a permit issued according to ACC 8.08.090.

B. It is the duty of the owner of any dwelling, flat, apartment house or mobile home park to furnish or to see that his/her tenants have adequate garbage service and are adequately supplied with such cans/containers.

C. It is the duty of the property owner of a commercial building to see that his/her tenants have adequate garbage service and are adequately supplied with such cans/containers.

D. All single-family residential garbage shall be placed in a service provider-provided micro-can or wheeled cart. In all cases, customers shall have at least one rigid container as their primary garbage container. Plastic bags or garbage cans may be used for overflow volumes of garbage, but not as a customer's primary container, and may be subject to an additional service charge or fee. All containers shall be packed so that the contents of the container will dump out rapidly when the container is inverted. Containers shall be located at their appropriate storage location as required in ACC Title 18, Zoning, except on the day of scheduled pickup.

E. All multifamily and commercial customer garbage shall be placed in a service provider-provided micro-can, wheeled cart, detachable container or drop-box container. Micro-cans, wheeled carts and detachable containers shall be packed so that the contents of the container will dump out rapidly when the container is inverted. All containers shall be located in conformance with the requirements set forth in ACC Title 18, Zoning.

F. Garbage containers and other approved containers shall not weigh more than the weight limits set forth in their respective definitions in ACC 8.08.030, Definitions. Garbage containers shall not be overloaded beyond the point where covers can be securely replaced. Single-family residential customers shall place all garbage carts, micro-cans, recycling carts, compostables carts or other approved containers at curbside on a public street or private road as provided in ACC 8.08.100, Containers – Set-out of containers – Anti-scavenging. (Ord. 6367 § 3, 2011; Ord. 6160 § 1, 2008; Ord. 6139 § 1, 2007; Ord. 6069 § 1, 2006; Ord. 6054 § 1, 2006; Ord. 5968 § 1, 2006; Ord. 5622 § 1, 2001; Ord. 5243 § 1, 1999; Ord. 5212 § 1 (Exh. D), 1999; Ord. 4500 § 2, 1991.)

Section 9. Amendment to City Code. That Section 8.12.020 of the Auburn City Code be and the same hereby is amended to read as follows:

8.12.020 Nuisances affecting public health and safety.

Acts or omissions, places, conditions and things or uses that injure or endanger the safety, health, welfare, comfort or general well being of the general public or the environment, are declared to be public nuisances. Public nuisances include, but are not limited to, the following:

A. The erecting, maintaining, using, placing, depositing, causing, allowing, leaving, or permitting to be or remain in or upon any private lot, building, structure, or premises, or in or upon any street, avenue, alley, park, parkway, or other public or private place in the city, any one or more of the following places, conditions, things or acts to the prejudice, danger, or annoyance of others or that interfere with safe travel;

B. Privies, vaults, cesspools, sumps, pits, wells or cisterns or like places which are not securely protected from insects, rodents, or other pests;

C. Filthy, littered or trash-covered premises, including all buildings and structures thereon and areas adjacent thereto;

D. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire, metal, articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all other trash or abandoned material unless the same are kept in covered bins or metal receptacles approved by the city; provided, that any such receptacles approved by the King County or Pierce County health officer or designee shall be deemed approved by the city;

E. Trash, litter, rags, debris, accumulations of empty barrels, boxes, crates, packing cases, mattresses, bedding, excelsior, packing hay, straw, or other packing material, lumber not neatly piled, or other material, which provides harborage for insects, rodents, or other pests;

F. Any unsightly and dangerous building, billboard or structure, as determined by the city building official;

G. All places used or maintained as junkyards or dumping grounds, or for the wrecking, disassembling, repair or rebuilding of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out wrecked or abandoned automobiles, trucks, tractors or machinery of any kind or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places are kept or maintained so as to provide harborage for insects, rodents or other pests, excluding properly zoned and licensed wrecking yards, junkyards or machinery being used;

H. Garbage disposed of in any manner other than provided in the solid waste code (Chapter 8.08 ACC);

I. Garbage cans which are not impervious to rodent gnawing or do not have tight-fitting lids;

J. Any putrid, unsound or unwholesome bones, meat, hides, skins or the whole or any part of any dead animal, fish or fowl, butchers' trimmings or offal, or any waste, vegetable or animal matter in any quantity, garbage, human excreta or other

offensive substance; provided, nothing in this subsection shall prevent the temporary retention of waste in a manner approved by the mayor or designee;

K. Blackberry vines or any tall grass or weeds which are infested with insects, rodent or other pests;

L. Grass clippings, cut brush or cut weeds which may create an insect or rodent harborage;

M. Nests, colonies, hives or apiaries of bees, Africanized honey bees, yellow jacket, hornets or wasps which are not in full compliance with Chapter 15.60 RCW or Chapter 16-602 WAC, or which are not in full compliance with the city's zoning and land use codes or with the city's business licensing and registration codes;

N. Any accumulation of combustible, explosive or flammable substances which are stored in a way that poses a threat or danger to life or property;

O. Ditches, holes, pits, accumulations of debris, dirt or construction materials or other materials, or breaks in impervious surface in any public right-of-way, or any other condition that obstructs or interferes with safe pedestrian or vehicular travel on or along said right-of-way; and

P. Failure, after reasonable notice, to restore a city street, sidewalk or related infrastructure facility to city standards after having destroyed, disrupted or adversely impacted such street, sidewalk or related infrastructure facility from its use for safe public travel;

Q. It is also a public nuisance to store, keep or allow junk to accumulate unless within a building or outdoor storage yard; provided further, that the building and/or outdoor storage yard must otherwise meet all other applicable requirements of the city including allowing for the storage of junk. For the purposes hereof, "junk" means old, unusable or discarded appliances, furniture, scrap wood, paper, cardboard, glass, demolition debris, rubber, metal, equipment, tires, machinery, toys, building materials (except for materials being used for an immediate construction project on the premises), woody debris, batteries, barrels, cans, motor vehicle parts, rags or similar items. The term junk also includes travel trailers, boats and boat trailers, truck campers, utility trailers, tent trailers or similar vehicles that are in disrepair, in an obvious state of abandonment, or that cannot legally be operated on public streets, roads or highways. The term junk does not include recyclable items that are associated with a permitted recycling industry; provided, that the indiscriminate storage of recyclables in areas not otherwise allowed for storage will be considered junk and a public nuisance.

R. Any and all other violations of the provisions of titles 1, 5, 8, 12, 13, 15, 16, 17, 18, and 20 of the Auburn City Code. (Ord. 5837 § 5, 2004; Ord. 5747 § 1, 2003; Ord. 2904 § 1, 1976; 1957 code § 7.04.280.)

Section 10. Amendment to City Code. That Section 8.12.070 of the Auburn City Code be and the same hereby is amended to read as follows:

8.12.070 Maintaining or permitting nuisance.

Every person who commits or maintains a public nuisance, for which no special punishment is prescribed, or who willfully omits or refuses to perform any legal duty relating to the removal of such nuisance, and every person who lets or permits to be used

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any building or boat or portion thereof, knowing that it is intended to be or is being used for committing or maintaining any such nuisance, is guilty of a violation of this code and is punishable in accordance with ACC 1.25.040. (Ord. 6461§ 1, 2013; Ord. 5747 § 1, 2003; 1957 code § 7.04.340.)

Section 11. Amendment to City Code. That Section 8.12.080 of the Auburn City Code be and the same hereby is amended to read as follows:

8.12.080 Abatement by city – Costs liability.

A. Abatement. Notwithstanding the existence or use of any other remedy, the city may order the abatement of any nuisance, or seek legal or equitable relief to enjoin or abate any nuisance. If within three-ten (10) calendar days after service of receiving a proper notice in writing for the abatement of any nuisance detrimental to health and welfare of the public, or source of filth as hereinabove defined, such notice to be signed by the director of community development and public works, or designee, mayor or designee, the person owning, occupying or controlling such premises fails, neglects or refuses to remove the same, such nuisance may be repaired, demolished, remedied, removed or abated by order of the director mayor or designee. The director, or designee, may seek judicial process as he or she deems necessary to effect the repair, demolition, remedy, removal, or abatement of such nuisance. and

B. Service. The director shall cause the notice of abatement to be served on the property owner(s) and/or tenant(s) and to any person(s) causing or allowing or participating in the violation. The notice shall be served by personal service or by mailing a copy of the notice by certified mail, postage prepaid, return receipt requested, to such person(s) at his/her last known address, and by posting a copy of the notice conspicuously on the property.

C. Appeal.

1. Notices of abatement may be appealed to the hearing examiner within 10 calendar days of the date of mailing or service. The appeal may contest the determination that a violation exists and the reasonableness of the corrective action ordered. An appeal shall be filed by providing a written request to the City Clerk. The application shall contain the following:

- a. The address that is the subject of the violation.
- b. The person's name, phone number, and address.
- c. A brief description of the legal interest the person has in the real or personal property to be abated.
- d. The reason(s) supporting reversal, modification, or limitation of the proposed abatement, together with any material facts that support those reason(s).
- e. A description of the relief sought.
- a-f. Signatures of the person(s) submitting the application.

A fee is not required to be paid to file an appeal, unless the examiner denies the appellant any relief regarding the abatement, in which case the fee is that fee set forth in the city of Auburn fee schedule.

2. If an appeal is properly and timely filed, the examiner shall set a date, time, and place for the hearing of the appeal. Such date shall be within 30 calendar days of the date the city received the request for an appeal. Written notice of the time and place of the hearing shall be given at least 7 calendar days prior to the date of the hearing to each appellant by either causing a copy of such notice to be delivered to the appellant personally or by mailing a copy, postage prepaid, to the address shown on the appeal.

3. The effect of failure to appeal, the scope of the hearing, the hearing procedures, the conduct of the hearing, the right to review of the appeal, limitations of the examiner's authority, and the form and effective date of the examiner's decision shall all be governed by the provisions in ACC 15.07.130, as hereafter amended.

The property owner shall have the burden of proof by a preponderance of the evidence that a violation has not occurred at the subject property and/or that the corrective action is unreasonable.

4. The timely filing of an appeal shall stay the abatement during the pendency of the appeal, but an appeal does not lift or stay a stop work order. Monetary penalties shall accrue during the appeal period unless the appellant prevails on appeal. In addition to ruling upon the issues presented by the appellant, the examiner may vacate or reduce any penalties pending, or previously imposed, for any violations related to the nuisance that is the subject of the abatement. If previously imposed penalties are vacated or reduced, any liens for those amounts shall be released or modified accordingly as well.

If the examiner denies the appellant's request for relief, the appellant shall pay the hearing fee as set forth in the city of Auburn fee schedule within 14 calendar days of the hearing. Failure to pay the fee shall be a cost of the abatement subject to cost recovery under this section.

D. Cost recovery -- Lien. The person on whom such notice for the removal of same was served, in addition to incurring the any penalty provided, shall become indebted to the city for the damages, and legal and administrative costs and charges incurred by the city in the repair, demolition, remedy, removal, or abatement of such nuisance.

The city shall bill its costs to the person(s) obligated to perform the work under the notice of failure to correct a violation, an order to stop work or an order of a court, which costs shall become due and payable 30 calendar days after the date of the bill.

If unpaid after 30 calendar days, such costs and charges are to be recovered by a civil action brought by the city against the person so served with such notice, which action the mayor or designee is authorized to bring for and on behalf of the city. The mayor or designee is also authorized to file a lien against the property on which the nuisance was abated, whether pursuant to this chapter or by other legal process, or on the adjacent property where the nuisance was located on public property or on public right-of-way and where the nuisance was caused by or on behalf of the owner of the adjacent property. The lien shall be in the amount of the city's damages and costs in abating the nuisance, including administrative and legal costs, the amount of relocation assistance advanced under RCW 59.18.085, in the costs of enforcing the lien, the amount of all outstanding penalties, and all allowable interest. In any such abatement by the city, the city shall also be entitled to interest accruing at the rate of 12 percent per annum from the time of the expenditure of funds by the city for such abatement. The amount of unpaid civil penalties

shall constitute a lien against the property that shall be of equal rank with state, county and municipal taxes.

For purposes of this section "administrative costs" shall include, but are not limited to, recording and filing fees, personnel costs incurred in the inspection of the property, preparation of notices, contracts, and other documents necessary for performing the abatement and providing law enforcement during the abatement. In this section, "legal costs" shall include, but not be limited to, attorney fees, expert witness fees, recording and filing fees, and personnel costs incurred in preparing contracts, and notices necessary for performing the abatement.

E. Special assessment. Additionally, the mayor may levy a special assessment on the property on which the nuisance was abated for the amount of the city's damages and costs in abating the nuisance, unless previously paid, and to contract with the county treasurer to collect the assessment pursuant to RCW 84.56.035, including interest at such rates as provided in RCW 84.56.020, as now or hereafter amended. The finance director shall certify to the county treasurer the city's costs, charges, and damages. The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 15 calendar days after the assessment is placed upon the assessment roll.

F. Salvage -- Any salvage value proceeds resulting from the abatement of the property shall first be applied to the costs of abatement. Any remaining such monies shall be paid to the property owner as shown on the last equalized assessment roll.

G. Obstruction with work prohibited. No person shall obstruct, impede or interfere with the city, its employees or agents, or any person who owns, or holds any interest or estate in any property in the performance of any necessary act, preliminary or incidental to carrying out the requirements of this section. A violation of this provision shall constitute a misdemeanor, and shall be punishable as provided by ACC 1.24.010. (Ord. 6328 § 2, 2010; Ord. 5837 § 6, 2004; Ord. 5747 § 1, 2003; 1957 code § 7.04.330.)

Section 12. Amendment to City Code. That Section 8.12.090 of the Auburn City Code be and the same hereby is amended to read as follows:

8.12.090 Abatement order.

The magistrate before whom there may be pending any proceeding for a violation of maintaining or permitting a nuisance, except as defined hereinabove, shall, in addition to any fine or other punishment which it may impose for such violation, order the defendant to abate such nuisance abated and all property unlawfully used in the maintenance thereof destroyed by the chief of police at the cost of the defendant. (Ord. 5747 § 1, 2003; 1957 code § 7.04.350.)

Section 13. Amendment to City Code. That Section 8.20.030 of the Auburn City Code be and the same hereby is amended to read as follows:

8.20.030 Violation – Penalty.

The code enforcement official, or his designee, pursuant to the provisions of Chapter 1.25 ACC, is authorized and empowered to notify the owner of any ~~open or vacant~~ private property within the city or the agent of such owner to properly cut and remove all grass, weeds, ~~and brush~~ and other vegetation growing in violation of ACC 8.20.010 and 8.20.020 which is dangerous to public health, safety and welfare. The notice shall be sent in the same manner, containing the same contents, and to the same individuals or entities as is required by ACC 1.25.030, as hereafter amended, for notices to correct a violation. A violation of any of the provisions of this chapter by any person, firm or corporation shall be a civil infraction or subject to a civil penalty, punishable in accordance with Chapter 1.25 ACC, except where the violation is designated as a misdemeanor as provided in ACC 1.25.050.

For purposes of this chapter, a person's property shall include any landscape strip, also known as the parking strip, planting area or planting strip, which is the ground area situated between a roadway edge and the sidewalk, or if there is no sidewalk, the right of way line. (Ord. 6328 § 3, 2010; Ord. 5837 § 7, 2004; Ord. 5747 § 3, 2003; Ord. 4504 § 10, 1991; Ord. 4040 § 2, 1985.)

Section 14. Amendment to City Code. That Section 8.20.040 of the Auburn City Code be and the same hereby is amended to read as follows:

8.20.040 Removal – City action.

Upon the failure, neglect or refusal of any owner or agent so notified to properly cut and dispose of grass, weeds ~~and brush~~, and any other vegetation dangerous to the public health, safety or welfare within the time specified in the notice provided in ACC 8.20.030, the code enforcement official is authorized and empowered to ~~pay for the disposing of~~ abate such grass, weeds, ~~and brush, and vegetation~~ and to order its disposal by the city. At least ten (10) calendar days prior to abating the nuisance, the code enforcement official shall notify the property owner of the intended abatement. The notice shall be sent in the same manner and to the same individuals as provided in 8.20.030. The notice shall include a statement that the property owner shall be responsible for the costs of the abatement, which shall be a lien upon the property if unpaid, that the property owner may appeal the abatement determination pursuant to ACC 8.20.080 of this ordinance, and the procedures for making such appeal. (Ord. 5747 § 3, 2003; Ord. 4504 § 11, 1991; Ord. 4040 § 3, 1985.)

Section 15. Amendment to City Code. That Section 8.20.050 of the Auburn City Code be and the same hereby is amended to read as follows:

8.20.050 Removal – Cost – Payment.

When the city has effected the removal of said grass, weeds, ~~or brush~~ or vegetation, a code enforcement officer shall render a statement covering the costs of such abatement, including all of the city's expenses, which may include the time of the officer to arrange for and accomplish the abatement, and mail the bill to the property

owner at both the last known address and the address listed in the county's property tax records. The cost of such abatement shall be a lien upon the property that is of equal rank with state, county, and municipal taxes. If the property owner fails to pay such bill, or if the owner cannot be found, the officer may cause a lien to be filed against the property. The lien shall be in similar form, be filed with the same county office, filed within the same time and manner, and be enforced and foreclosed in the same way as state law provides for the foreclosure of labor and material liens. Additionally, the city may refer to a collection agency the abatement costs, which shall include the collection agency fee, and any penalty assessed pursuant to Chapter 1.25 ACC shall include the abatement costscity's actual costs. The provisions of this chapter relative to the recovery of abatement costs are not exclusive, and all other rights or remedies of the city, or any citizen thereof, relative to recovering abatement costs are to remain in full force and effect. (Ord. 5747 § 3, 2003; Ord. 4504 § 12, 1991; Ord. 4040 § 4, 1985.)

Section 16. Amendment to City Code. That Section 12.36.050 of the Auburn City Code be and the same hereby is amended to read as follows:

12.36.050 Nuisances – Designated.

Trees, shrubs or vegetation or parts thereof which so overhang any sidewalk or street or which are growing thereon in such manner as to obstruct or impair the free and full use of the sidewalk or street by the public are public nuisances. ~~Grass, weeds, shrubs, bushes, trees or vegetation growing or which has grown and died upon any property and which is a fire hazard or a menace to public health, safety or welfare are likewise public nuisances.~~ It is the duty of the owner of the property wherein or whereon any such nuisances exist to abate the nuisances by destroying, removing or trimming the growth. (1957 code § 8.15.040.)

Section 17. Amendment to City Code. That Section 15.06.010 of the Auburn City Code be and the same hereby is amended to read as follows:

15.06.010 International codes adopted.

There is adopted by reference, upon the effective date of the ordinance codified in this chapter and upon filing with the city clerk one copy thereof, the following described chapters of the Washington Administrative Code, International Codes and standards, and Uniform Plumbing Code and standards together with appendix chapters, amendments, deletions and additions as set forth in this section or in the appropriate chapters in this code.

A. International Building Code adopted. The 2015 edition of the International Building Code, as published by the International Code Council, as adopted and hereafter amended by the State Building Code Council in Chapter 51-50 WAC, is adopted by reference with amendments, deletions and additions thereto as provided in Chapter 15.08A ACC, Building Code.

B. International Residential Code adopted. The 2015 edition of the International Residential Code, as published by the International Code Council, as

adopted and hereafter amended by the State Building Code Council in Chapter 51-51 WAC is adopted by reference, including Chapter 11, "Energy Efficiency," Chapters 25 through 33, "Plumbing," and Chapters 34 through 43, "Electrical."

C. International Mechanical Code adopted. The 2015 edition of the International Mechanical Code, as published by the International Code Council, as adopted and hereafter amended by the State Building Code Council in Chapter 51-52 WAC, is adopted by reference.

D. International Fire Code adopted. The 2015 edition of the International Fire Code, as published by the International Code Council, as adopted and hereafter amended by the State Building Code Council in Chapter 51-54A WAC, is adopted by reference with amendments, deletions and additions thereto as provided in ACC Chapter 15.36A Fire Code.

E. National Fuel Gas Code (NFPA 54) adopted. The 2015 edition of ANSI Z223.1/ NFPA 54 National Fuel Gas Code, as published by NFPA, as adopted and hereafter amended by the State Building Code Council in Chapter 51-52 WAC, is adopted by reference.

F. Liquefied Petroleum Gas Code (NFPA 58) adopted. The 2015 edition of the Liquefied Petroleum Gas Code, as published by NFPA, as adopted and hereafter amended by the State Building Code Council in Chapter 51-52 WAC, is adopted by reference.

G. International Fuel Gas Code adopted. The 2015 edition of the International Fuel Gas Code, as published by the International Code Council, as adopted and hereafter amended by the State Building Code Council in Chapter 51-52 WAC, is adopted by reference.

H. Uniform Plumbing Code adopted. The 2015 edition of the Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials, as adopted and hereafter amended by the State Building Code Council in Chapter 51-56 WAC, is adopted by reference, including Chapter 12, "Fuel Piping," Chapter 15, "Firestop Protection," Appendix A, "Recommended Rules for Sizing the Water Supply System," Appendix B, "Explanatory Notes on Combination Waste and Vent Systems," Appendix C, "Alternate Plumbing Systems," Appendix I, "Installation Standards," and those requirements of the Uniform Plumbing Code relating to venting and combustion air of fuel-fired appliances as found in Chapter 5 and those portions of the code addressing building sewers.

I. International Energy Conservation Code adopted. The 2015 edition of the International Energy Conservation Code, as published by the International Code Council, as amended by the State Building Code Council in Chapters 51-11C and 51-11R. The most current Washington State Energy Code as established under Chapter 19.27A RCW (most recently amended in 2012). The Washington State Energy Code, as adopted and hereafter amended by the State Building Code Council in Chapters 51-11C and 51-11R WAC, is adopted.

J. International Property Maintenance Code adopted. The 2015 edition of the International Property Maintenance Code, as published by the International Code Council, ~~excluding Chapter 1, Section 111, "Means of Appeal,"~~ is adopted by reference subject to the exceptions and conditions of Chapter 15.20.

K. International Swimming Pool and Spa Code adopted. The 2015 edition of the International Property Management Code, as published by the International Code Council, excluding Chapter 4, "Public Swimming Pools," Chapter 5, "Public Spas and Public Exercise Spas," and Chapter 6, "Aquatic Recreation Facilities," is adopted by reference.

L. International Existing Building Code adopted. The 2015 edition of the International Existing Building Code, as published by the International Code Council, and hereafter amended by the State Building Code Council in Chapter 51-50-480101, is adopted.

M. International Green Construction Code adopted. The 2015 edition of the International Green Construction Code, as published by the International Code Council is adopted by reference, as an optional reference for developers who choose to utilize elements of the code for guidance.

Section 18. Repeal of Section in City Code. That Section 1.25.070 of the Auburn City Code be and the same hereby is repealed.

Section 19. Repeal of Section 111 of the International Property Maintenance Code. That Section 111 of the 2015 International Property Maintenance Code be and the same hereby is repealed.

Section 20. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 21. 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 thereof to any person or circumstance shall not affect the validity of the remainder of this Ordinance, or the validity of its application to other persons or circumstances.

Section 22. Effective date. This Ordinance shall take effect and be in force five days from and after its passage, approval, and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

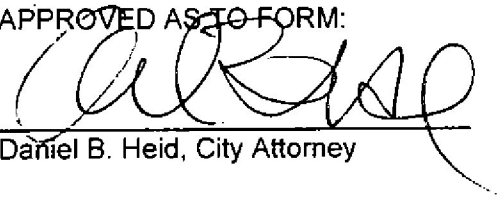
CITY OF AUBURN

ATTEST:

NANCY BACKUS, MAYOR

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

Published: _____

TEXT OF REPEALED CODE SECTION

1.25.070 Abatement.

A. Abatement by City. The city may perform the abatement required upon noncompliance with the terms of an order of the court.

1. The city may utilize city employees or a private contractor under city direction to accomplish the abatement. The city, its employees and agents using lawful means are expressly authorized to enter upon the property of the violator for such purposes.

2. The city shall bill its costs, including incidental expenses, of abating the violation to the person(s) obligated to perform the work under the notice of failure to correct a violation, an order to cease activity or an order of the court, which costs shall become due and payable 30 days after the date of the bill. The term "incidental expenses" shall include, but not be limited to, personnel costs, both direct and indirect, including attorney's fees incurred by the city; costs incurred in documenting the violation; the actual expenses and costs to the city in the preparation of notices, specifications and contracts, and in inspecting the work; and the cost of any required printing and mailing.

B. Obstruction with Work Prohibited. No person shall obstruct, impede or interfere with the city, its employees or agents, or any person who owns, or holds any interest or estate in any property in the performance of any necessary act, preliminary or incidental to carrying out the requirements of this section. A violation of this provision shall constitute a misdemeanor, and shall be punishable as provided by ACC 1.24.010.

C. Report to City Council and Hearing on Cost of Abatement. In the event the person(s) responsible fails to pay within the 30-day period set forth in subsection (A)(2) of this section, the enforcement official shall prepare a written itemized report to the city council showing the cost of abatement, including rehabilitation, demolition, restoration or repair of such property, including such salvage value relating thereto plus the amount of any outstanding penalties.

1. A copy of the report and a notice of the time and date when the report shall be heard by the city council shall be served on the person responsible for payment at least five days prior to the hearing before the city council.

2. The city council shall review the report and such other information on the matter as it receives and deems relevant at the hearing. The city council shall confirm or revise the amounts in the report, authorize collection of that amount or, in the case of a debt owed by a property owner, authorize placement of an assessment lien on the property as provided herein.

D. Assessment Lien. Following the hearing and authorization by the city council, the city clerk shall certify to the county treasurer the confirmed amount. The county treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates as provided in RCW 84.56.020, as now or hereafter amended, for delinquent taxes, and when collected to be deposited to the credit of the general fund or other appropriate fund of the city. The lien shall be of equal rank with the state, county and municipal taxes.

E. The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 15 calendar days after the assessment is placed upon the assessment roll. (Ord. 5966 § 5, 2006; Ord. 5677 § 2, 2002.) 1.25.070 Abatement.

A. Abatement by City. The city may perform the abatement required upon noncompliance with the terms of an order of the court.

1. The city may utilize city employees or a private contractor under city direction to accomplish the abatement. The city, its employees and agents using lawful means are expressly authorized to enter upon the property of the violator for such purposes.

2. The city shall bill its costs, including incidental expenses, of abating the violation to the person(s) obligated to perform the work under the notice of failure to correct a violation, an order to cease activity or an order of the court, which costs shall become due and payable 30 days after the date of the bill. The term "incidental expenses" shall include, but not be limited to, personnel costs, both direct and indirect, including attorney's fees incurred by the city; costs incurred in documenting the violation; the actual expenses and costs to the city in the preparation of notices, specifications and contracts, and in inspecting the work; and the cost of any required printing and mailing.

B. Obstruction with Work Prohibited. No person shall obstruct, impede or interfere with the city, its employees or agents, or any person who owns, or holds any interest or estate in any property in the performance of any necessary act, preliminary or incidental to carrying out the requirements of this section. A violation of this provision shall constitute a misdemeanor, and shall be punishable as provided by ACC 1.24.010.

C. Report to City Council and Hearing on Cost of Abatement. In the event the person(s) responsible fails to pay within the 30-day period set forth in subsection (A)(2) of this section, the enforcement official shall prepare a written itemized report to the city council showing the cost of abatement, including rehabilitation, demolition, restoration or repair of such property, including such salvage value relating thereto plus the amount of any outstanding penalties.

1. A copy of the report and a notice of the time and date when the report shall be heard by the city council shall be served on the person responsible for payment at least five days prior to the hearing before the city council.

2. The city council shall review the report and such other information on the matter as it receives and deems relevant at the hearing. The city council shall confirm or revise the amounts in the report, authorize collection of that amount or, in the case of a debt owed by a property owner, authorize placement of an assessment lien on the property as provided herein.

D. Assessment Lien. Following the hearing and authorization by the city council, the city clerk shall certify to the county treasurer the confirmed amount. The county treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates as provided in RCW 84.56.020, as now or hereafter amended, for delinquent taxes, and when collected to be deposited to the credit of the general fund or other appropriate fund of the city. The lien shall be of equal rank with the state, county and municipal taxes.

E. The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 15 calendar days after the assessment is placed upon the assessment roll. (Ord. 5966 § 5, 2006; Ord. 5677 § 2, 2002.)