



PLANNING COMMISSION MEETING

June 6, 2017
AGENDA

I. CALL TO ORDER – 7:00 p.m., Council Chambers

- A. ROLL CALL/ESTABLISHMENT OF QUORUM
- B. PLEDGE OF ALLEGIANCE

II. APPROVAL OF MINUTES

- A. May 2, 2017

III. PUBLIC COMMENT

Comment from the audience on any item not listed on the agenda for discussion or public hearing.

IV. PUBLIC HEARING

- A. **Proposed Ordinance No. 6642, Regulations of Marijuana related Businesses and Cooperatives within the City of Auburn**

Summary: Draft ordinance pertaining to the regulation of marijuana related businesses and marijuana cooperatives within the municipal limits.

V. OTHER BUSINESS

No other business was brought forward for discussion.

VI. COMMUNITY DEVELOPMENT REPORT

Update on Community Development Services activities.

VII. ADJOURNMENT

The City of Auburn Planning Commission is an eight member advisory body that provides recommendations to the Auburn City Council on the preparation of and amendments to land use plans and related codes such as zoning. Planning Commissioners are appointed by the Mayor and confirmed by the City Council.

Actions taken by the Planning Commission are not final decisions; they are in the form of recommendations to the City Council who must ultimately make the final decision.



May 2, 2017
MINUTES

I. CALL TO ORDER

Chair Judi Roland called the meeting to order at 7:00 p.m. in the Council Chambers located on the first floor of Auburn City Hall, 25 West Main Street, Auburn, WA.

a.) ROLL CALL/ESTABLISHMENT OF QUORUM

Planning Commission Members present were: Chair Judi Roland, Commissioner Mason, Commissioner Stephens, Commissioner Copple, Commissioner Moutzouris, and Commissioner Smith. Commissioner Shin and Commissioner Lee were excused.

Staff present included: City Attorney Dan Heid; Director of Community Development and Public Works Kevin Snyder; Assistant City Attorney Jessica Leiser; Assistant Director of Community Development Services Jeff Tate; and Administrative Assistant Tina Kriss.

Members of the public present: Kirk Edwards, Philip Dawdy, and David Osgood.

b.) PLEDGE OF ALLEGEANCE

II. APPROVAL OF MINUTES

A. April 4, 2017

Commissioner Copple moved and Commissioner Smith seconded to approve the minutes from the April 4, 2017 meeting minutes as written.

MOTION CARRIED UNANIMOUSLY. 6-0

III. PUBLIC COMMENT

There was no public present for comments.

IV. PUBLIC HEARING

No public hearing items were brought forward.

V. OTHER BUSINESS

A. Proposed Ordinance No. 6642, Regulations of Marijuana Related Business and Cooperatives within the City of Auburn

Assistant Director Tate provided background information on proposed Ordinance No. 6642. He reminded Commission that at the April 4, 2017 meeting the Commission asked staff to return to the next meeting (May 2, 2017) with additional information on the marijuana business regulation survey and to report on any actions taken by the Washington State Legislature during the 2017 legislative session.

Staff explained that the next steps are to hold a public hearing on draft Ordinance No. 6642 when the Commission is comfortable moving forward. Staff asked the Commission to consider a public hearing date of June 6, 2017 after holding tonight's discussion if the Commission feels they are ready to go forward.

Assistant Director Tate stated the marijuana business regulation survey remained open until today. An updated report was compiled today, May 2, 2017, staff distributed the current survey results. Mr. Tate explained that approximately four (4) additional responses were noted since providing the last survey report, March 21, 2017 and there was a slight variation to the results which were similar to the March 21, 2017 report.

Assistant City Attorney Jessica Leiser reported that the 2017 Washington State Legislature is in special session and based on information from the Association of Washington Cities (AWC) the special session is expected to run into July, 2017. Ms. Leiser stated, currently the budget appears to be the item moving forward and that of the marijuana bills introduced to the legislature, only one appears to have made it to the finish line, predominately housekeeping in nature. It is theoretically possible to see language that effects local marijuana regulations resurrected in the form of a substitute bill but because the focus is on the budget it is unlikely. She added, it is fair to say that at least for the next year we do have legislative certainty that the landscape will not change in the Washington State Legislature although rule making from the Washington State Liquor Cannabis Board (WSLCB) may take place but it does not appear that those rules will affect local regulations.

Staff reviewed additional proposed modifications to Ordinance No. 6642 based on the Planning Commission's March 21, 2017 recommendations.

1. Page 11 (5.20.250.B.4) – add to the business license chapter of city code a cross reference to ACC 18.59.110. ACC 18.59.110 is the section of the draft regulations that outlines when a public review meeting is required and the standards for how it is noticed and conducted.
2. Page 29 (18.04.120) – the prior version of draft Ordinance No. 6642 provided a new definition for "Game Arcade". Upon further review, Chapter 18.04 already utilizes and defines "Arcade". Rather than creating a new definition, staff proposes to modify the existing definition of "Arcade".
3. Page 33 (18.59.020.B) – adds language that a retail establishment no longer operating under a State or City license is grounds for determining that a retail establishment has lost its standing as one of the authorized retail activities.
4. Pages 34 – 35 (18.59.030.C) – for each of the 3 separation options, consolidate items #1 and #2 that distinguish between public and private schools. Also, add language that requires schools that are planned for construction be considered when applying the separation standards.
5. Page 35 (18.59.030.D) – clarify that a right-of-way line can be used when measuring distance under the separation requirements.
6. Page 35 (18.59.030.E) – moving this section to 18.59.090 because it does not pertain to separation requirements.
7. Pages 35 – 36 (18.59.050) – modify term for consistency with rest of chapter.

8. Pages 36 – 37 (18.59.060 and 18.59.060.G) – add a section related to “non-conforming uses.” Section G clarifies that legally established, existing uses are not “non-conforming uses” as that term is used in ACC 18.54.
9. Page 37 (18.59.090.B) – further clarify that existing producers and processors that are less than 4,000 square feet are legal conforming uses.
10. Page 38 (18.59.100) – clarify that the permitting milestone for the pre-application conference is that prior to submittal of a business license (as opposed to other types of licenses and permit applications).
11. Page 38 (18.59.110.A) – clarify that the public meeting requirements are also applicable to existing businesses seeking to relocate to a different tax parcel.
12. Page 38 (18.59.110.C) – clarify that the public review meeting must occur prior to submittal of a business license (as opposed to other types of licenses and permit applications).
13. Page 38 (18.59.110.E) – require that the subject matter of the meeting be included in the notification of the public meeting.
14. Page 39 (18.59.110.J) – clarify that all of the public meeting information must be submitted with the business license application (as opposed to other types of licenses and permit applications).

The Commission and staff discussed the public notification process for a Public Review Meeting under 18.59.110.A. and E. Staff explained that a public review meeting would be required and the meeting would need to be held in a publicly accessible location within one (1) mile of the proposed business site as proposed in the ordinance.

Staff also explained that the existing businesses do not need to reapply or renotece irrespective of the separation requirements as they would be considered, under proposed Ordinance No. 6642, to be legal, existing, and conforming.

A discussion was held as to which policies an existing or conforming marijuana business would be subject to. Staff explained that policies laid out under proposed Ordinance No. 6642 would be applied to new marijuana business activities but clarified it does not mean that existing businesses would not have to be subject to City of Auburn code such as public nuisances as an example. Under Auburn City Code, Chapter 8, Public Nuisances, if an existing business is contributing to a public nuisance the City would still have the ability to approach that business and seek resolution of that nuisance. The same would be true for City of Auburn zoning ordinances.

The Commission and staff discussed the City of Auburn legislative history of I-502 and the merging of the medical and recreational marijuana businesses within the State of Washington and how the WSLCB made the determination to move the allowance of two (2) marijuana retail licenses to four (4) for Auburn. Staff pointed out that as the WSLCB has a better understanding of what and where the needs are the state may increase the number of licenses at a future time.

Commissioner Mason asked if there were any additional statistics to show if the city has experienced any additional health risks to our youth, or negative impacts to the city's public health since legalizing and allowing marijuana retail businesses to

operate. Director Snyder stated that specific data from school districts and medical facilities has not been gathered and at this point in the process the data would be subjectively observational or antidotal verses factual.

Director Snyder stated that Assistant Police Chief Pierson provided information to the Commission at previous meetings addressing the legalization of marijuana and potential impacts. Assistant City Attorney Leiser explained that a link was provided to the Commission in the memorandum provided in the March 21, 2017 meeting packet to The Washington State Marijuana Impact Report by the Northwest High Intensity Drug Trafficking Area. Ms. Leiser stated the reports do not provide enough data and precision to the data collected to determine specific impacts to the community. Mr. Snyder stated that he will reach out to local folks to see if any other factual data is available and report to back to the Commission prior to the public hearing.

The Commission and staff discussed the current number of marijuana related businesses located in the City and the number allowed by the WSLCB. Director Snyder explained to the Commission that they are not under any legal obligation to recommend a specific number of licenses allowed in the City. He stated that the Commission, as part of their recommendation to City Council, can concur with staff's recommendations on the number of marijuana related businesses allowed, decide to recommend a specific number of licenses within the City, or can decline to recommend any number as part of their specific recommendation leaving it up to City Council.

Assistant Director Tate reported that the maps depicting options 1, 2, and 3 within proposed Ordinance No. 6642 continue to be refined to include parcel specific information. They will be transmitted to the Commission by May 12, 2017, several weeks prior to the public hearing if the Commission is comfortable with that timeline. The Commission concurred to hold the public hearing June 6, 2017 and asked staff to provide the maps ahead of the public hearing.

B. Planning Commission Rules and Procedures

Assistant Director of Community Development Services, Jeff Tate, reviewed the modifications to the proposed Rules and Procedures made per the recommendations of the Planning Commission at their April 4, 2017 meeting.

City Attorney Dan Heid recommended that under section XII.E. CONFLICT OF INTEREST, the word "heard" be changed to "reviewed" to read: "No member may participate in any decision if the member had not reviewed the staff reports and testimony presented at the hearing on the matter".

Commissioner Mason moved and Commissioner Moutzouris seconded to approve the 2017 amended Planning Commission Rules and Procedures as amended.

MOTION CARRIED UNANIMOUSLY. 6-0

C. Discussion on Planning Commission Email

Chair Roland asked if the Planning Commission could receive a formal Planning Commission email address through the City of Auburn. Assistant Director Tate stated staff is working on this request.

VI. COMMUNITY DEVELOPMENT REPORT

Assistant Director Tate reported that the 2015 Comprehensive Plan is being compiled into an e-book format making it more functional for those that want to review those documents electronically. A professional editor has finished with the document and electronic and hard copy versions will be provided to the Commission Members shortly.

At the May 1st, 2017 City Council Meeting Mayor Backus announced that the City of Auburn, Valley Cities Counseling, and the Auburn Food Bank will be opening day and night services for the homeless and underserved in Auburn at the end of May, 2017. The facility will be located at I Street NE and 26th Street NE. The property located at 915 26th Street NE, The Phoenix Rising Group Residence Facility common building, is proposed to be utilized to provide nighttime services. The property to the south across the street from the Phoenix Rising Group Residence Facility is proposed to be utilized to provide daytime services by adding a temporary, portable building that provides shelter and services.

Staff explained that Valley Cities Counseling owns the property, the Auburn Food Bank and Catholic Community Services will separately run the day and night services.

Director Snyder stated future conversations will continue to be held as the program continues to operate and provide an opportunity to assess the operations, needs, and ability to see what other partnerships become available. The Temporary Use Permit is approved for 24 months.

ADJOURNMENT

There being no further business to come before the Planning Commission, Chair Roland adjourned the meeting at 8:09 p.m.

**MARIJUANA RELATED BUSINESSES
DRAFT AMENDMENTS TO TITLES 5 AND 18 OF THE AUBURN CITY CODE
FILE NUMBERS ZOA17-0001 AND SEP17-0008
STAFF REPORT**

A. GENERAL INFORMATION:

Application Date: February 14, 2017

Issue Date: May 18, 2017

Public Hearing Date: June 6, 2017

Applicant: City of Auburn

Site Information: City-wide regulatory update

Project Description: Amendments to various chapters of the Auburn City Code that are intended to define marijuana related businesses, establish citing criteria, establish operational standards, and establish procedures for licensing and permitting marijuana related businesses.

Staff: Kevin Snyder, Director of Community Development and Public Works
Jeff Tate, Assistant Director of Community Development Services

B. FINDINGS OF FACT:

1. On September 16, 2013, the Auburn City Council adopted Resolution No. 4992 establishing a one year moratorium prohibiting the City from receiving and/or processing any application for any marijuana/cannabis related business in any and all zoning districts in the City of Auburn.
2. On September 4, 2014, the Auburn City Council adopted Ordinance No. 6525 amending certain Sections of the Auburn City Code relating to the enforcement of state regulations regarding the production, processing, and/or retail outlets and sales of marijuana and terminating the moratorium implemented pursuant to Resolution No. 4992.
3. Second Engrossed Second Substitute House Bill 2136 (2E2SHB 2136) (approved on June 30, 2015), and Second Substitute Senate Bill 5052 (2SSB 5052) (approved on April 24, 2015 [with partial veto]), revised state requirements for state marijuana regulations, including marijuana processors, producers, retailers, and cooperatives.
4. 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.

5. The City of Auburn adopted a moratorium, through Resolution No. 5194, prohibiting any new marijuana retailers not already in operation on January 4, 2016.
6. In a public hearing on February 16, 2016, and in comments 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.
7. 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.
8. The WSLCB has since indicated that the number of SB 5052 retail licenses within the City of Auburn may be increased in the future.
9. 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. Based upon — and in reliance on — that information, the City of Auburn amended its moratorium, through its Resolution No. 5215, so as to authorize the operation of [only] the two (2) marijuana retailers initially provided for by I-502.
10. The WSLCB continued to process and issue licenses to marijuana retailers intended to operate within the City of Auburn pursuant to SB 5052 despite the transmittal of Resolution No. 5215 to the WSLCB.
11. Because of WSLCB's continued processing and issuing of licenses for 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 positions of the WSLCB, the City of Auburn adopted its Ordinance No. 6595 on April 4, 2016, which ordinance prohibited all marijuana related activities within the City of Auburn.
12. The City Council approved Ordinance No. 6613 on August 15, 2016, which Ordinance indicated (consistent with a report by the Northwest High Intensity Drug Trafficking Area, a division of the Office of National Drug Control Policy) the need to protect public health, safety and welfare by minimizing societal effects and impacts of marijuana, such as 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.
13. Ordinance No. 6613 also indicated that the City desired 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.
14. Ordinance No. 6613 further noted that the Auburn City Code did not currently have specific provisions addressing a number of statutorily permitted marijuana provisions and/or uses.

15. Ordinance NO. 6613 noted that the provisions for marijuana cooperatives, marijuana researchers and marijuana transporters contained within SB 5052 went into effect July of 2016, and that marijuana cooperatives, marijuana researchers and marijuana transporters are not explicitly addressed by current code provisions.
16. Ordinance No. 6613 also indicated that 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.
17. Ordinance No. 6613 further indicated that 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, would provide greater safety, clarity, consistency, predictability and uniformity that will benefit Auburn businesses and residents.
18. Ordinance No. 6613 stated that 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.
19. Ordinance No. 6613 also stated that 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.
20. Ordinance No. 6613 further stated that the City Council desired 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.
21. Ordinance No. 6613 also stated that the City Council anticipated that it could develop and adopt appropriate controls for marijuana retail facilities prior to the expiration of the moratorium enacted hereby.
22. Ordinance No. 6613 identified the City Council's position that 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.
23. Ordinance No. 6613 also identified the Council's position that in the event permanent regulations are adopted prior to the expiration of the twelve (12) month moratorium established by the Ordinance, Ordinance No. 6613 could be repealed, terminating the moratorium.
24. On January 14, 2014, the Washington State Attorney General's Office issued its opinion (AGO No. 2014) that 1-502 does not preempt counties, cities, and towns from banning recreational marijuana within their jurisdictions and that local ordinances that do not expressly ban state licensed marijuana licensees from operating within the jurisdiction but make such operation impractical are valid if they properly exercise the local jurisdiction's police power.

25. Several state courts have issued decisions that approve and affirm the Attorney General's opinion that cities have the authority to regulate marijuana uses.
26. On May 20, 2015, the King County Superior Court issued its decision in *Greensun Group LLC v. City of Bellevue*, No. 14-2-29863-3 SEA, which decision is incorporated herein as if set forth in full. The court determined, inter alia, that "the City of Bellevue has the authority to regulate the location and density of marijuana retail outlets within its boundaries, including through the adoption and enforcement" of a requirement that a retail marijuana outlet cannot be located within 1,000 feet of another retail marijuana outlet; and that "the City has the authority to develop and apply processes for enforcing" a 1,000 foot separation requirement, including through use of a first-in-time determination based on the date and time of issuance of the state liquor control board license or conditional license, whichever is issued first.
27. With the passage of 2SSB 5052 and 2E2SHB 2136, and consistent with court decisions the City has the authority to regulate the location and density of marijuana production, processing, distribution, and retail sales within its boundaries.
28. The establishment and/or licensing of marijuana uses may allow new uses that are incompatible with nearby existing land uses and lead to erosion of community character and harmony.
29. The presence of large amounts of cash and/or marijuana makes retail outlets and other marijuana facilities a potential target of violent crime, including robberies and burglaries, thereby placing area residents, business owners, and others in danger of bodily harm, and increasing police enforcement risks and costs.
30. There may be other harmful secondary effects to public health, safety, morals, and welfare as a result of marijuana production, processing, distribution, and retail sales, which effects include but are not limited to loitering, odors, crime, and other behaviors that may be inconsistent with the character of the surrounding neighborhood.
31. It is critical to the public safety and economic vitality of the City to ensure the impacts of business obtaining a license from the WSLCB to produce, process, or sell marijuana are minimized.
32. The City Council deems it to be in the public interest to establish permanent regulations regarding where marijuana producers, processors, and retail uses may be located in the City of Auburn.
33. The City has a compelling interest in the protection of the health and safety of all its residents, as well as a compelling interest in ensuring that the goals and policies contained within the Comprehensive Plan and other policy/planning documents are fulfilled.
34. ACC 14.03.060, Legislative Non-Project Decisions, specifies that legislative non-project decisions made by the city council under its authority to establish policies and regulations are not classified as a "type" of project permit decision and that legislative non-project decisions include, but are not limited to amendments to the text and map of the comprehensive plan or development regulations.
35. The Planning Commission held work sessions on February 22, 2017, March 21, 2017, and April 4, 2017.

36. Pursuant to RCW 36.70A.106 the draft Ordinance No. 6642 was transmitted to the Washington State Department of Commerce on February 17, 2017. This transmittal initiated the 60 day state agency review period. The Washington State Department of Commerce provided confirmation of the transmittal on February 21, 2017. The 60 day state agency comment period expired on April 15, 2017. The City did not receive any state agency comments.
37. A SEPA non-project environmental checklist was prepared that evaluates the environmental impacts of draft Ordinance No. 6642.
38. A SEPA threshold determination of non-significance (DNS) was issued on May 12, 2017. The DNS was published in the Seattle Times on May 18, 2017. The DNS publication established a 15 day SEPA public comment period which expired at 5 pm on June 1, 2017. The SEPA notification also provided notice of the Planning Commission public hearing scheduled for June 6, 2017 at 7:00 pm in the City Council Chambers at 25 West Main Street, Auburn, WA 98001. The combined public notification provided public comment opportunity under both SEPA (project file SEP17-0008) and the Zoning Amendment Application (project file ZOA17-0001). As of the date of this transmittal, public comments on the proposal have not been received.
39. Title 18 of the Auburn City Code (ACC) includes Chapter 18.68, Amendments, which addresses amendments to Title 18, Zoning.

C. Discussion

1. As identified in Finding of Fact #12 the Auburn City Council enacted Ordinance No. 6613 on August 15, 2016. Ordinance 6613 established an immediate moratorium for a period of up to twelve (12) months which expires on August 14, 2017. Draft Ordinance No. 6642 has the effect of replacing the moratorium.
2. Staff initially presented draft Ordinance No. 6642 to the Planning Commission during an open public meeting the February 22, 2017 Planning Commission meeting. Draft Ordinance No. 6642 contains the following concepts:
 - a. Amendments to the list of allowed uses within each zoning designation to identify marijuana related businesses as either a permitted use or a prohibited use.
 - b. The addition of several new terms and definitions.
 - c. The creation of a new chapter of city code, Chapter 18.59, entitled Development Standards for Marijuana Related Businesses.
 - d. Establishing a limit on the number of marijuana retail businesses. The staff recommendation is to establish a limit of 3 retail businesses with a reduction to 2 retail businesses if one of the existing business ceases to legally operate. The upper limit allowed under Washington State Liquor and Cannabis Board (LCB) rules is 4 retail businesses. It is worth noting that absent a limitation established by the City of Auburn, LCB can administratively modify each jurisdictions limit without notice.
 - e. Establishing a geographic separation between marijuana related businesses and other types of uses and activities. The draft regulations include three options for Planning Commission consideration. Option 1 establishes a 1 mile separation requirement from a

- list of uses and activities (e.g. schools, parks, day care centers, etc.). Option 2 establishes a ½ mile separation from some types of uses and a ¼ mile separation from other types of uses. Option 3 establishes a ¼ mile separation from some types of uses and a 1,000 foot separation from other types of uses. LCB rules establish a 1,000 foot separation from a specific list of uses. All three options prepared by staff include the uses identified by LCB and supplement the list by adding private schools, private playgrounds, private recreation facilities, private parks, public trails, religious institutions, and transit centers or park-n-ride facilities operated by a sovereign nation.
- f. Establishing a limitation on the cumulative square footage of producers and processors within the City of Auburn. The square footage limitation is proposed to be 90,000 square feet.
 - g. Establishing a minimum square footage of 4,000 square feet for producers and processors.
 - h. Requiring that marijuana be grown indoors and prohibiting outdoor cultivation.
 - i. Establishing odor control requirements.
 - j. Establishing standards and procedures for how the City determines which marijuana retail businesses will qualify as one of the three allowed within the City.
 - k. Establishing standards for the City will view relocation, discontinuance and accidental destruction of existing businesses.
 - l. Requiring that new businesses incorporate Crime Prevention Through Environmental Design into their site.
 - m. Establishing land use standards for all marijuana businesses.
 - n. Outlining a public review process when considering the siting of a new marijuana business.
3. During the February 22, 2017 meeting the Planning Commission reviewed the ordinance and asked staff to provide the following additional information:
- a. A South King County “Heat Map” that was referenced by Assistant Police Chief William Pierson. On February 28, 2017 staff transmitted to the Planning Commission a memorandum that provided the referenced Heat Map. Additionally, on March 14, 2017 provided an additional series of maps with information about the health conditions in Auburn and South King County.
 - b. Sales tax information related retail marijuana activity. On March 14, 2017 staff transmitted to the Planning Commission a memorandum that provided information collected from the City Finance Department that documents the amount of sales tax revenue received in 2015 and 2016 that was generated from marijuana retail stores.
 - c. Analysis of properties owned by the school district but not used for school purposes (e.g. administrative offices, maintenance and operations facilities). On February 28, 2017 staff transmitted to the Planning Commission a memorandum that provided a list of properties owned by the school district that are not operated as schools.

- d. Identification of any known future school sites. On March 14, 2017 staff transmitted to the Planning Commission a memorandum that generally describes the desired location of future school sites in Auburn. Because the school district is currently engaged in an analysis of potential sites and is preparing to begin the process of acquiring property maps were not provided to the Planning Commission in order to avoid disrupting the District's process. However, the District did describe the general areas that they have interest in siting future schools and none of these areas are within 1 mile of the M-1, M-2 or C-3 zones (the zones in which the draft ordinance would permit marijuana related businesses).
- e. Data that provides information about the social impact of marijuana usage. On March 14, 2017 staff transmitted to the Planning Commission a memorandum that provided 3 web links to reports that describe various aspects of the effects of legalizing marijuana.
- f. Initiation of a public survey and an allowance that the Planning Commission review the survey questions in advance. On February 28, 2017 staff transmitted to the Planning Commission a memorandum of 11 draft survey questions along with a description of the polling outreach strategies. The listed outreach strategies included social media postings, email distribution lists, a press release, a city website announcement, and paid advertising. On March 14, 2017 staff transmitted to the Planning Commission a memorandum confirming that the poll had been activated on March 11, 2017 and that it would remain active until at least March 21, 2017.
- g. On March 21, 2017 staff presented the results of the poll to the Planning Commission. The report included the following information about how the public was made aware of the poll:
 - i. Posting an announcement on the City's Facebook and Twitter accounts on March 12, 2017 that included a link to the survey. There are 3,988 followers that were reached.
 - ii. Publishing a colored advertisement in the Auburn Reporter on March 17, 2017 with a link to the survey (important to note that this was a paid advertisement and not a traditional public notification in the legal section). The newspaper has a distribution of 23,942 recipients.
 - iii. Preparing and transmitting a formal press release to all local media.
 - iv. Posting a notice on the City's webpage.
 - v. Emailing the notification and link to the survey to all City email distribution lists. The email was delivered to 10,450 email addresses.
 - vi. Including the notification and link to the survey in the Mayor's weekly email newsletter. The Mayor's newsletter is sent to 3,230 email addresses.

On March 28, 2017, when the polling report was prepared and presented to the Planning Commission it had generated 75 responses. Of the 75 responses 42 (56%) had indicated that they believe the City should consider establishing requirements that are *additional* to those established by the State of Washington that recognize local concerns. The majority of respondents indicated that Producers, Processors, Retailers, Transporters, and Researchers should all be allowed marijuana related businesses in Auburn. The majority of respondents also indicated that there was not a need to place a limit on the number of each type of business in Auburn. The majority of respondents indicated that it was appropriate to establish rules that require that marijuana related businesses should be separated from other types of uses such as schools, churches, day care centers, parks and residential neighborhoods. When asked what distance

these types of uses should be separated from marijuana related businesses, the majority of respondents indicated “one mile”. Respondents expressed a general acceptance of allowing marijuana related businesses within industrial zones and heavy commercial zones, a mixed acceptance towards light commercial, neighborhood commercial and downtown zones, and resistance towards allowing these types of activities in residential zones.

4. On March 21, 2017 staff presented all of the information provided in both the February 28, 2017 and March 14, 2017 memorandum. After discussion, the Planning Commission made the following requests:
 - a. To keep the public poll open for at least one more week. As a result of the Planning Commission’s request, the poll remained open until May 2, 2017.
 - b. To know the cost of the ad in the Auburn Reporter. The \$202.65 cost of the advertisement was provided to the Planning Commission.
 - c. To modify the draft regulations to include “planned” schools that are identified in an adopted Capital Facilities Plan within the list of required separations.
 - d. To receive a report on any legislative actions taken during the 2017 State legislative session that may have an effect on local decision making.
 - e. To receive maps that provide more detailed information.
 - f. To work on code language that better protects legally established existing marijuana businesses.
5. On April 24, 2017 staff transmitted to the Planning Commission a memorandum that responded to several of the inquiries raised during the March 21, 2017 as well as a revised draft Ordinance No. 6642. The memorandum explained each of the modifications made to Ordinance No. 6642.
6. On May 2, 2017 the Planning Commission convened for its third public meeting to discuss draft Ordinance No. 6642. Staff provided a presentation and an overview of the April 24, 2017 transmittal memorandum. Of particular note, the following information was provided and modifications to Ordinance No. 6642 were described:
 - a. A revised summary report of the public poll was provided. 4 new responses had been between March 21, 2017 and May 2, 2017 bringing the total number of responses to 79. The 4 additional responses did not materially change the results to any of the survey questions.
 - b. Jessica Leiser, Assistant City Attorney, provided the Planning Commission with a briefing on legislative actions that occurred during the 2017 State legislative session that pertained to the regulation of marijuana businesses. Ms. Leiser’s reported that there were no substantive actions taken by the legislature.
 - c. The Planning Commission was informed that the more detailed maps were still being developed and that they would be transmitted to the Planning commission on May 12, 2017.

- d. Ordinance No. 6642 had been modified to include additional language in Title 5 (Business License regulations) that included a better cross reference between the zoning laws and business license regulations as they pertain to marijuana businesses.
 - e. Ordinance No. 6642 has been modified to add clarity regarding the effect that a business which loses its LCB license or state business license automatically loses its local city business license.
 - f. Ordinance No. 6642 has been modified to clarify that odor control standards apply to all marijuana related businesses.
 - g. Ordinance No. 6642 has been modified to clarify that marijuana related businesses legally established prior to the passage of the current ordinance are not classified as non-conforming uses and are instead classified as legal conforming uses.
 - h. Ordinance No. 6642 has been modified to clarify that an existing business wishing to relocate to another site is subject to all of the public notification requirements of any other new business.
7. On May 16, 2017 staff transmitted to the Planning Commission the updated, more detailed maps of each area where marijuana related businesses may be permitted under the 3 options presented in draft Ordinance No. 6642.

D. City Code Conclusions

1. Pursuant to Auburn City Code (ACC) Section 18.68.030 the following public process is applicable:

18.68.030 Public hearing process

A. Text Amendments. With the exception of purely administrative or procedural amendments, the planning commission shall conduct at least one public hearing on all amendments to this title. The planning commission shall make a recommendation to the city council who may or may not conduct a public hearing.

Comment:

The June 6, 2017 Planning Commission meeting will involve a public hearing on the proposed code amendments where a recommendation is made to the city council.

2. Pursuant to Auburn City Code (ACC) Section 18.68.040 the following public hearing notice requirement is applicable:

18.68.040 Public hearing notice requirements

A. Text Amendments.

1. Planning Commission. For text amendments that require a public hearing under ACC 18.68.030(A), notice of a public hearing shall be given by publication, in a newspaper of general circulation in the area, at least 10 days prior to the public hearing and by posting the notice in three general public locations.

2. City Council. Notice of a public hearing shall be given by publication, in a newspaper of general circulation in the area, prior to the public hearing and by posting the notice in three general public locations.

Comment:

The public hearing before the Planning Commission is scheduled for June 6, 2017, meeting the requirement under ACC 18.68.030. The public hearing notice was published in the Seattle Times, the City's official newspaper, on May 18, 2017 at least 10 days prior to the public hearing. The public hearing notice was also posted at City Hall (25 West Main Street), the Customer Service Center (One East Main Street), and on the City's website meeting the requirement for posting the notice in three general public locations.

3. Auburn City Code Chapter 18.68, Amendments, does not have specific decision criteria for text amendments to the zoning title. At a minimum, proposed text amendments are to be consistent with the City's Comprehensive Plan pursuant to RCW 36.70A.040.

Comment:

The Comprehensive Plan does not contain language specific to marijuana related activities.

The 2015 Core Comprehensive Plan Land Use Element Policy #14 seeks to ensure harmonious transition between land uses and zoning designation through the use of setbacks, vegetation, building orientation, and architectural design.

The 2015 Core Comprehensive Plan Land Use Element Policy #15 seeks to employ crime prevention through environmental design when designation communities and development proposals.

The 2017 Land Use Element Policy LU-42 states that legally established existing uses that may not conform with the underlying zone, but that are compatible with their surrounding uses, and are allowed to continue to evolve and operate without being classified as non-conforming uses.

Draft Ordinance No. 6642 has been developed in a manner that is consistent with the above adopted policies.

E. Policy Conclusions and Action Items

1. Draft Ordinance No. 6642 is a staff recommendation for revisions to the Auburn City Code that are necessary to establish definitions, procedures and standards related to the regulation of marijuana businesses within the City of Auburn.
2. While the entirety of draft Ordinance No. 6642 entails new regulatory policy that will govern marijuana related businesses in the future, there are a few key policy determinations that require consideration by the Planning Commission. They are as follows:
 - a. Number of retail marijuana businesses allowed within the City of Auburn (See ACC 18.59.020 at Page 33 of Ordinance No. 6642). Draft Ordinance No. 6642 establishes a limit of 3 retail businesses with a reduction to 2 retail businesses if one of the existing business ceases to legally operate. As previously mentioned, LCB has established a current limit of 4 retail businesses. LCB previously established a limit of 2 retail businesses in Auburn. While the staff recommendation includes a limit of 3 retail businesses, the Planning Commission will need to explore this limit when making its recommendation to City Council.
 - b. Requirements for separating marijuana related businesses from other types of land uses and activities (See ACC 18.59.030 at Pages 33 thru 35 of Ordinance No. 6642). Draft

Ordinance No. 6642 includes 3 options for Planning Commission consideration. All 3 of these options establish a more restrictive separation requirement than that which is included in WAC 355-14. The 3 maps that have been provided provide a general sense of the areas in the City where marijuana related activities could be considered. It is important to note that these maps are not regulatory maps. This is because real world conditions will continuously change which means the maps will become outdated as time goes on. For example, if a new day care center, park or school is developed in the future, there will be in effect on where a future marijuana related business may be located. The Planning Commission will need to discuss the merits of each option presented and either choose one of the three, or present a different option altogether.

- c. List of uses and activities that marijuana related businesses must be separated from (*See ACC 18.59.030 at Pages 33 thru 35 of Ordinance No. 6642*). As indicated above, the staff recommendation provided in draft Ordinance No. 6642 adds private schools, private playgrounds, private recreation facilities, private parks, public trails, religious institutions, and transit centers or park-n-ride facilities operated by a sovereign nation to the list included in WAC 355-14. The Planning Commission will need to discuss the appropriateness of expanding upon the LCB list.
- d. Legally established existing businesses (*See ACC 18.59.060 at Pages 36 thru 37 of Ordinance No. 6642*). Draft Ordinance No. 6642 contains language that intends to treat existing marijuana businesses (meaning, legally established prior to the adoption of Ordinance No. 6642) as legal, conforming uses – even if the individual business could not be permitted in the same location under Ordinance No. 6642. The purpose of this language is to ensure that these businesses are not classified as “legal non-conforming” businesses. Legal non-conforming businesses have greater difficulty in securing financing and insurance because legal non-conforming businesses may not rebuild if they are accidentally destroyed. The Planning Commission will need to evaluate whether this is an appropriate policy determination.
- e. Treatment of marijuana related businesses within each of the zoning designations (*See Pages 12 thru 29 of Ordinance No. 6642*). Draft Ordinance No. 6642 limits marijuana related businesses to the M-1 and M-2 industrial zones as well as the C-3 heavy commercial zone. It prohibits marijuana related businesses in all residential zones, all institutional and public zones, all light commercial zones, and within all of the various overlays and special purpose zones. The Planning Commission will need to determine if the approach prepared by staff is appropriate.
- f. Public review procedures (*See ACC 18.59.110 at Page 38 of Ordinance No. 6642*). Draft Ordinance No. 6642 includes a detailed list of public review requirements that a prospective marijuana related business must adhere to prior to submitting a Business License application to the City and/or prior to obtaining approval to operate within the City. The Planning Commission will need to determine the appropriateness of this process.

F. Staff Recommendation

The Planning Commission recommends approval to the City Council of the proposed zoning code text amendment as presented by staff based on the findings of fact and conclusions.

Exhibits

- Exhibit 1: Draft Ordinance No. 6642
- Exhibit 2: Determination of Non-Significance and Affidavit of Publication
- Exhibit 3: Public Hearing Notice
- Exhibit 4: Acknowledgment letter from Department of Commerce for 60-day State Review

ORDINANCE NO. 6 6 4 2

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING SECTIONS 5.20.250, 18.07.020, 18.09.020, 18.21.010, 18.21.020, 18.21.020, 18.21.030, 18.23.030, 18.29.050, 18.35.030, 18.42.020, 18.78.020, OF THE AUBURN CITY CODE, AND CREATING NEW SECTIONS 18.04.1001, 18.04.1003, 18.04.1005, 18.04.1007, 18.04.1009, 18.04.1011, 18.04.1013, 18.04.1015, 18.04.1017, 18.76.046 AND A NEW CHAPTER 18.59 OF THE AUBURN CITY CODE RELATING TO MARIJUANA BUSINESSES, AND REPEALING THE MORATORIUM ESTABLISHED BY ORDINANCE NO. 6613

WHEREAS, the voters of the State of Washington approved Initiative Measure No. 502 (I-502), in 2012, now codified within Chapters 46.04, 46.20, 46.21, 46.61 and 69.50 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, in relevant part, I-502 legalized the possession of small amounts of marijuana and marijuana-related products by persons 21 of age and older, and directed the (then) state Liquor Control Board to develop and implement rules to regulate and tax recreational marijuana producers, processors, and retailers; and

WHEREAS, marijuana is still classified as a schedule 1 controlled substance under federal law and crimes related to marijuana remain subject to prosecution under federal law; and

WHEREAS, on August 29, 2013, the United States Department of Justice, Office of the Attorney General, (DOJ) released updated guidance regarding marijuana enforcement. The guidance reiterates that DOJ is committed to using its limited investigative and prosecutorial resources to address the most significant threats to public safety related to marijuana crimes in "the most effective, consistent, and rational way." The guidance directs federal prosecutors to review potential marijuana-related charges

on a case-by-case basis and weigh all information and evidence, including whether the operation is demonstrably in compliance with a strong and effective state regulatory system and if the conduct at issue implicates one or more of eight stated federal enforcement priorities. The DOJ does not appear to differentiate application of its guidance between medical cannabis and recreational marijuana; and

WHEREAS, in a joint statement dated August 29, 2013, Governor Jay Inslee and Attorney General Bob Ferguson stated the following:

Today we received confirmation Washington's voter-approved marijuana law will be implemented. We received good news this morning when Attorney General Eric Holder told the governor the federal government would not pre-empt Washington and Colorado as the states implement a highly regulated legalized market for marijuana. Attorney General Holder made it clear the federal government will continue to enforce the federal Controlled Substance Act by focusing its enforcement on eight specific concerns, concerns, including the prevention of distribution to minors and the importance of keeping Washington-grown marijuana within our State's borders. We share those concerns and are confident our state initiative will be implemented as planned. We want to thank the Attorney General for working with the states on this and for finding a way that allows our initiative to move forward while maintaining a commitment to fighting illegal drugs. This reflects a balanced approach by the federal government that respects the states' interests in implementing these laws and recognizes the federal government's role in fighting illegal drugs and criminal activity.

WHEREAS, on September 16, 2013, the Auburn City Council adopted Resolution No. 4992 establishing a one (1) year moratorium prohibiting the City from receiving and/or processing any applications for any marijuana/cannabis related business in any and all zoning districts in the City of Auburn; and

WHEREAS, on October 16, 2013, the WSLCB adopted rules for applying for, obtaining, and maintaining licenses for the production, processing, and retailing of recreational marijuana. Under these rules, applicants will be required to identify a business location with their application submittals; and

WHEREAS, on September 2, 2014, the Auburn City Council passed Ordinance

No. 6525 amending certain Sections of the Auburn City Code relating to the enforcement of state regulations regarding the production, processing, and/or retail outlets and sales of marijuana and terminating the moratorium implemented pursuant to Resolution No. 4992 passed on September 16, 2013; and

WHEREAS, Second Engrossed Second Substitute House Bill 2136 (2E2SHB 2136)(approved on June 30, 2015), and Second Substitute Senate Bill 5052 (2SSB 5052) (approved on April 24, 2015 [with partial veto]), 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 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 comments 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, 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 may be increased in the future; 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 its Resolution No. 5215, so as to authorize the operation of [only] the two (2) marijuana retailers initially provided for by I-502; and

WHEREAS, other cities in Washington, such as - 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 intended to operate within the City of Auburn pursuant to SB 5052 despite the transmittal of Resolution No. 5215 to the WSLCB; and

WHEREAS, because of WSLCB's continued processing and issuing of licenses for 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 positions of the WSLCB, the City of Auburn adopted its Ordinance No. 6595 on April 4, 2016, which ordinance prohibited all marijuana related activities within the City of Auburn; and

WHEREAS, the City Council approved Ordinance No. 6613 on August 15, 2016, which Ordinance indicated (consistent with a report by the Northwest High Intensity Drug Trafficking Area, a division of the Office of National Drug Control Policy) the need to protect public health, safety and welfare by minimizing societal effects and impacts of marijuana, such as 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, Ordinance No. 6613 also indicated that the City desired 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, Ordinance No. 6613 further noted that the Auburn City Code did not currently have specific provisions addressing a number of statutorily permitted marijuana provisions and/or uses; and

WHEREAS, Ordinance NO. 6613 noted that the provisions for marijuana cooperatives, marijuana researchers and marijuana transporters contained within SB 5052 went into effect July of 2016, and that marijuana cooperatives, marijuana researchers and marijuana transporters are not explicitly addressed by current code provisions; and

WHEREAS, Ordinance No. 6613 also indicated that 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, Ordinance No. 6613 further indicated that 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, would provide greater safety, clarity, consistency, predictability and uniformity that will benefit Auburn businesses and residents; and

WHEREAS, Ordinance No. 6613 stated that 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, Ordinance No. 6613 also stated that 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, Ordinance No. 6613 further stated that the City Council desired 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, Ordinance No. 6613 also stated that the City Council anticipated that it could develop and adopt appropriate controls for marijuana retail facilities prior to the expiration of the moratorium enacted hereby; and

WHEREAS, Ordinance No. 6613 identified the City Council's position that 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, Ordinance No. 6613 also identified the Council's position that in the event permanent regulations are adopted prior to the expiration of the twelve (12) month moratorium established by the Ordinance, Ordinance No. 6613 could be repealed, terminating the moratorium; and

WHEREAS, on January 14, 2014, the Washington State Attorney General's Office issued its opinion (AGO No. 2014) that 1-502 does not preempt counties, cities, and towns from banning recreational marijuana within their jurisdictions and that local ordinances that do not expressly ban state licensed marijuana licensees from operating within the jurisdiction but make such operation impractical are valid if they properly exercise the local jurisdiction's police power; and

WHEREAS, several state courts have issued decisions that approve and affirm the Attorney General's opinion that cities have the authority to regulate marijuana uses; and

WHEREAS, on May 20, 2015, the King County Superior Court issued its decision in *Greensun Group LLC v. City of Bellevue*, No. 14-2-29863-3 SEA, which decision is incorporated herein as if set forth in full. The court determined, inter alia, that "the City of Bellevue has the authority to regulate the location and density of marijuana retail outlets within its boundaries, including through the adoption and enforcement" of a requirement that a retail marijuana outlet cannot be located within 1,000 feet of another retail marijuana outlet; and that "the City has the authority to develop and apply processes for enforcing" a 1,000 foot separation requirement, including through use of a first-in-time determination based on the date and time of issuance of the state liquor control board license or conditional license, whichever is issued first; and

WHEREAS, with the passage of 2SSB 5052 and 2E2SHB 2136, and consistent with court decisions the City has the authority to regulate the location and density of marijuana production, processing, distribution, and retail sales within its boundaries; and

WHEREAS, the establishment and/or licensing of marijuana uses may allow new uses that are incompatible with nearby existing land uses and lead to erosion of community character and harmony; and

WHEREAS, the presence of large amounts of cash and/or marijuana makes retail outlets and other marijuana facilities a potential target of violent crime, including robberies and burglaries, thereby placing area residents, business owners, and others in danger of bodily harm, and increasing police enforcement risks and costs; and

WHEREAS, there may be other harmful secondary effects to public health, safety, morals, and welfare as a result of marijuana production, processing, distribution, and retail sales, which effects include but are not limited to loitering, odors, crime, and other behaviors that may be inconsistent with the character of the surrounding neighborhood; and

WHEREAS, it is critical to the public safety and economic vitality of the City to ensure the impacts of business obtaining a license from the WSLCB to produce, process, or sell marijuana are minimized; and

WHEREAS, the City Council deems it to be in the public interest to establish permanent regulations regarding where marijuana producers, processors, and retail uses may be located in the City of Auburn; and

WHEREAS, the City has a compelling interest in the protection of the health and safety of all its residents, as well as a compelling interest in ensuring that the goals and policies contained within the Comprehensive Plan and other policy/planning documents are fulfilled; and

WHEREAS, ACC 14.03.060, Legislative Non-Project Decisions, specifies that legislative non-project decisions made by the city council under its authority to establish policies and regulations are not classified as a “type” of project permit decision and that legislative non-project decisions include, but are not limited to amendments to the text and map of the comprehensive plan or development regulations; and

WHEREAS, the Planning Commission held work sessions on **DATE** and conducted a properly noticed public hearing (s) on **DATE** for the proposed amendments to Title 18 (Zoning) of the Auburn City Code) contained herein; and

WHEREAS, the Planning Commission on a **TBD** motion voted to recommended **TBD** to the Auburn City Council; and

WHEREAS, the City Council finds that the proposed amendments were processed in accordance with applicable standards of Chapter 18.68, Amendments, of the Auburn City Code and are consistent with the Comprehensive Plan, enhance the public health, safety, and welfare, and are not contrary to the best interest of the residents, citizens, property owners and businesses of the City of Auburn; and

WHEREAS, the City of Auburn has complied with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Review Procedures, Chapter 16.06 ACC through issuance of **TBD on DATE**.

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. Repeal of Moratorium. That the moratorium specified in Sections 9 of Ordinance No. 6613 is automatically expired on the effective date of this Ordinance consistent with the applicable provision of Section 10 of Ordinance No. 6613 that specifies 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 3. Amendment to City Code. That Section 5.20.020 of the Auburn City Code be and the same hereby is amended 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 USC Section 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 Chapters 65.50 and 69.51A RCW and Chapter 314-55 WAC.

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 21 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 a 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.~~

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 WAC 314-55-104 and RCW 69.50.348, and (ii) shall have at least 4,000 square feet of building space utilized for its individual business, and the total square feet of all marijuana producers and processors 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 space 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 space 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 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.

4. Crime Prevention Through Environmental Design (CPTED) Review. Each application for a marijuana related business shall be required to complete a CPTED review by the Auburn Police Department and to implement any CPTED measure directed. Each applicant shall be required to provide certification of CPTED completion, as well as evidence of compliance with required CPTED measures.

5. Compliance with Zoning Code. Each application for a marijuana related business shall be required to provide certification that the proposed location complies with all applicable provisions of ACC 18.59.030 and 18.59.110. In the event that certification of compliance with the provisions of ACC 18.59.030 requires investigation of existing land uses within an adjoining municipality, the applicant shall provide documentation from the relevant municipality that the proposed location meets the requirements of ACC 18.59.030.

6. Release of Liability and Hold Harmless. Each application for a marijuana related business shall be required to provide an executed release in a form approved by the Auburn City Attorney's Office to the City of Auburn, for itself, its agents, officers, elected officials and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution or seizure of property, or liabilities of any kind that result from any arrest or prosecution for violations of federal or state law relating to operation or siting of a marijuana related use and business. Additionally, within the release document, the permittee of a marijuana use shall indemnify and hold harmless the City of Auburn and its agents, officers, elected officials, and employees from any claims, damages, or injuries brought by adjacent property owners or other third parties due to operations at the marijuana use and for any claims brought by any of the marijuana use's members, employees, agents, guests, or invitees for problems, injuries, damages, or liability of any kind that may arise out of the operation of the marijuana use.

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, including periodic CPTED review and compliance with required CPTED measures as directed by the Auburn Police Department.

2. Entry Prohibitions for Certain Persons. 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 Chapters 69.50 and 69.51A RCW, and Chapter 314-55 WAC, as applicable. (Ord. 6613 § 3, 2016.)

Section 4. Amendment to City Code. That Section 18.07.020 of the Auburn City Code be and the same hereby is amended to read as follows:.

Table 18.07.020

Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
A. Residential Uses.							
Accessory dwelling units	P	P	P	P	X ¹	X ¹	X ¹
Accessory use, residential	P	P	P	P	P	P	P
Adult family home	P	P	P	P	P	P	P
Bed and breakfast	P	P	P	P	P	P	P
Communal residence four or less individuals	P	P	P	P	P	P	P
Duplexes; provided, that minimum lot size of zoning designation is met and subject to compliance with Chapter 18.25 ACC (Infill Residential Development Standards)	X	X	A	P	P	P	X
Foster care homes	P	P	P	P	P	P	P
Group residence facilities (7 or more residents)	X	X	X	X	C	C	C
Group residence facilities (6 or fewer residents)	P	P	P	P	P	P	P

Table 18.07.020
Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
Keeping of animals ⁴	P ²	P ²	P ²	P ²	P ²	P ²	P ²
Multiple-family dwellings	X	X	X	X	A	P	P
Neighborhood recreational buildings and facilities owned and managed by the neighborhood homeowners' association	A ⁶	A ⁶	A ⁶	A ⁶	A ⁶	P	P
Use as dwelling units of (1) recreational vehicles that are not part of an approved recreational vehicle park, (2) boats, (3) automobiles, and (4) other vehicles	X	X	X	X	X	X	X
Renting of rooms, for lodging purposes only, to accommodate not more than two persons in addition to the family or owner occupied unit ⁸	P	P	P	P	P	P	P
Residential care facilities including but not limited to assisted living facilities, convalescent homes, continuing care retirement facilities	P	P	X	X	A	P	P
Single-family detached dwellings, new	P	P	P	P	P	P	X
Supportive housing, subject to the provisions of ACC 18.31.160	X	X	X	X	X	P	P
Swimming pools, tennis courts and similar outdoor recreation uses only accessory to residential or park uses	P	P	P	P	P	P	P
Townhouses (attached)	X	X	X	X	P	P	P
B. Commercial Uses.							
Commercial horse riding and bridle trails	A	X	X	X	X	X	X
Commercial retail, included as part of mixed-use development and not a home occupation in compliance with Chapter 18.60 ACC	X	X	X	X	A	A	A
Daycare, limited to a mini daycare center. Daycare center, preschool or nursery school may also be permitted but must be located on an arterial	X	A	A	A	A	A	A

Table 18.07.020
Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
Home-based daycare as regulated by RCW 35.63.185 and through receipt of approved city business license	P	P	P	P	P	P	P
Home occupations subject to compliance with Chapter 18.60 ACC	P	P	P	P	P	P	P
<u>Marijuana cooperative</u>	X	X	X	X	X	X	X
<u>Marijuana processor</u>	X	X	X	X	X	X	X
<u>Marijuana producer</u>	X	X	X	X	X	X	X
<u>Marijuana related businesses</u>	X	X	X	X	X	X	X
<u>Marijuana researcher</u>	X	X	X	X	X	X	X
<u>Marijuana retailer</u>	X	X	X	X	X	X	X
<u>Marijuana transporter business</u>	X	X	X	X	X	X	X
Mixed-use development ³	X	X	X	X	P	P	P
Nursing homes	X	X	X	X	C	C	C
Private country clubs and golf courses, excluding driving ranges	X	X	C	C	C	X	X
Privately owned and operated parks and playgrounds and not homeowners' association-owned recreational area	X	A	A	A	A	P	P
Professional offices, included as part of mixed-use development and not a home occupation in compliance with Chapter 18.60 ACC	X	X	X	X	A	A	A
C. Resource Uses.							
Agricultural enterprise: ⁷							
When 50 percent, or more, of the total site area is dedicated to active agricultural production during the growing season, and with 52 or less special events per calendar year	A ⁷	X	X	X	X	X	X

Table 18.07.020
Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
When less than 50 percent of the total site area is dedicated to active agricultural production during the growing season, or with more than 52 special events per calendar year	C ⁷	X	X	X	X	X	X
Agricultural type uses are permitted provided they are incidental and secondary to the single-family use:							
Agricultural crops and open field growing (commercial)	P	X	X	X	X	X	X
Barns, silos and related structures	P	X	X	X	X	X	X
Commercial greenhouses	P	X	X	X	X	X	X
Pasturing and grazing ⁴	P	X	X	X	X	X	X
Public and private stables ⁴	P	X	X	X	X	X	X
Roadside stands, for the sale of agricultural products raised on the premises. The stand cannot exceed 300 square feet in area and must meet the applicable setback requirements	P	X	X	X	X	X	X
Fish hatcheries	C	X	X	X	X	X	X
D. Government, Institutional, and Utility Uses.							
Civic, social and fraternal clubs	X	X	X	X	A	A	A
Government facilities	A	A	A	A	A	A	A
Hospitals (except animal hospitals)	X	X	X	X	X	C	C
Municipal parks and playgrounds	A	P	P	P	P	P	P
Museums	X	X	X	X	A	A	A
Religious institutions, less than one acre lot size	A	A	A	A	A	A	A
Religious institutions, one acre or larger lot size	C	C	C	C	C	C	C

Table 18.07.020

Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
Transmitting towers	C	C	C	C	C	C	C
Type 1-D wireless communication facility (see ACC 18.04.912(J))	P	P	P	P	P	P	P
Utility facilities and substations	C ⁵	C ⁵	C ⁵	C ⁵	C ⁵	C ⁵	C ⁵

1. An accessory dwelling unit may be permitted with an existing single-family residence pursuant to ACC 18.31.120.
 2. Please see the supplemental development standards for animals in ACC 18.31.220.
 3. Individual uses that make up a mixed-use development must be permitted within the zone. If a use making up part of a mixed-use development requires an administrative or conditional use permit, the individual use must apply for and receive the administrative or conditional use approval, as applicable.
 4. Proximity of pasture or livestock roaming area to wells, surface waters, and aquifer recharge zones is regulated by the King or Pierce County board of health, and property owners shall comply with the provisions of the King County board of health code.
 5. Excludes all public and private utility facilities addressed under ACC 18.02.040(E).
 6. Administrative use permit not required when approved as part of a subdivision or binding site plan.
 7. Agricultural enterprise uses are subject to supplemental development standards under ACC 18.31.210, Agricultural enterprises development standards.
 8. An owner occupant that rents to more than two persons but no more than four persons is required to obtain a city of Auburn rental housing business license and shall meet the standards of the International Property Maintenance Code.
- (Ord. 6600 § 9, 2016; Ord. 6565 § 2, 2015; Ord. 6560 § 9, 2015; Ord. 6477 § 8, 2013; Ord. 6369 § 2, 2011; Ord. 6363 § 3, 2011; Ord. 6269 § 3, 2009; Ord. 6245 § 5, 2009.)

Section 5. Amendment to City Code. That Section 18.09.020 of the Auburn City Code is hereby amended as follows:

18.09.020 Uses.

Permitted Use Table – Residential Zoning Designations

	Land Use	R-MHC Zone
A	Manufactured/Mobile home community	P
B	Residential accessory use	P
C	Manufactured/Mobile home community accessory use	P
D	Keeping of not more than six household pets. This limit shall not apply to birds, fish, or suckling young of pets.	P
E	Home-based daycare	P
F	Daycare limited to a mini daycare center, daycare center, or preschool/nursery school	A

<u>G</u>	<u>Marijuana cooperative</u>	<u>X</u>
<u>H</u>	<u>Marijuana processor</u>	<u>X</u>
<u>I</u>	<u>Marijuana producer</u>	<u>X</u>
<u>J</u>	<u>Marijuana related businesses</u>	<u>X</u>
<u>K</u>	<u>Marijuana researcher</u>	<u>X</u>
<u>L</u>	<u>Marijuana retailer</u>	<u>X</u>
<u>M</u>	<u>Marijuana transporter business</u>	<u>X</u>

P = Permitted Use

A = Use may be permitted in district when an administrative use permit has been issued pursuant to the provisions of Chapter 18.64 ACC.

C = Use may be permitted in district when a conditional use permit has been issued pursuant to the provisions of Chapter 18.64 ACC.

X = Prohibited

Also see ACC 18.02.120 for further rules on interpretation. (Ord. 6269 § 4, 2009; Ord. 6245 § 6, 2009.)

Section 6. Amendment to City Code. That Section 18.21.010 of the Auburn City Code be and the same hereby is amended to read as follows:

18.21.010 Lea Hill overlay.

A. Purpose. The purpose of this section is to provide for additional development standards to address the area commonly referred to as the Lea Hill annexation area, as annexed under city of Auburn Ordinance Nos. 5346 and 6121, and identified on the city of Auburn comprehensive zoning map. While the intent is that the development standards for zones in the Lea Hill annexation area will be similar to (if not the same as) corresponding zones in other areas of the city, some variations are needed to recognize previous development allowed by King County zoning. Unless otherwise provided for in this section, all other provisions and requirements of this title shall apply to properties within the Lea Hill overlay.

B. Development Standards – Lots Previously Approved.

1. For any residential lot that had received final plat approval, final short plat approval, or preliminary plat approval or that King County had received and determined the application complete for a preliminary plat or short plat, prior to the effective date of annexation into the city of Auburn, the development standards in the following table shall apply. The property owner/applicant shall be responsible to provide to the city evidence of these previous approvals.

2. Any further subdivision of any lot and its subsequent use must conform to the permitted uses and standards referenced in the applicable zoning chapters of this title, except as modified by this section. For farm animals, subsection E of this section or subsection 18.31.210 shall apply.

Zone	Min Lot Area (Sq. Ft.)	Min Lot Area (Sq. Ft. per Unit)	Min Lot Width (Ft.)	Max Lot Coverage (%)	Setbacks*				Building Height	
					Front (Ft.)	Rear (Ft.)	Side, Interior (Ft.)	Side, Street (Ft.)	Main (Ft.)	Accessory (Ft.)
R-1	8,000	N/A	35	35	20	5	5	10	35	35
R-5	2,500	N/A	30	35	10	5	5	10	35	16
R-7	2,500	6,000	30	35	10	5	5	10	35	16
R-10	2,500	4,300	30	40	10	5	5	10	35	35
R-16	2,500	2,700	30	55	10	5	5	10	35	35
R-20	2,500	2,175	30	55	10	5	5	10	35	35

* Garages and other similar structures with a vehicular access require a 20-foot setback from any street.

C. Prior King County Approvals. The city of Auburn will recognize the terms of any King County-approved plat, PUD, conditional use permit, contract rezone or similar contractual obligations that may have been approved prior to the effective date of the annexation of the subject property. The conditions of any project that was approved by King County shall be required to be fulfilled in the city of Auburn.

D. Planning Director Authorization. The planning director shall be authorized to interpret the language of any King County permit, plat or condition thereof and effectuate the implementation of same to the fullest extent possible. If there is a conflict between a previous King County approval and the Auburn regulation then the most restrictive provision shall apply as determined by the planning director.

E. Farm Animals.

1. For properties greater than an acre in the R-1, R-5 and R-7 zones, it is permissible to keep farm animals (excluding goats and swine in the R-5 and R-7 zones); provided, there shall not be more than one horse, cow, donkey or other similar large animal, or four small animals such as sheep, or 12 poultry, rabbits, or similar size animals per each acre of enclosed usable pasture or roaming area. This acreage requirement is in addition to the minimum lot size requirements of the zone. Property owners of more than an acre in the Lea Hill Overlay may choose to apply these standards or the standards in subsection 18.31.210.

2. Shelters provided for farm animals shall be constructed no closer than 50 feet from any adjoining lot and shall be 100 feet from any public street or alley. Any corral, exercise yard, or arena shall maintain a distance of 35 feet from any property line. This excludes pasture area.

3. For those properties that do not meet the requirements of subsection (E)(1) of this section, and farm animals were present prior to annexation, the farm animals may remain as legal nonconforming uses. In such case the number of farm animals allowed may be the same as what the county zoning provisions had allowed prior to the effective date of the annexation of the subject property.

F. Lot Averaging – R-1 Zone. It may be possible to subdivide land in the R-1 zone into lots smaller than 35,000 square feet if the property has a significant amount of non-buildable land due to steep slopes, wetlands or similar features that would be in the

public's best interest to maintain. The following regulations shall apply in situations where lot averaging is permitted or required:

1. At least 50 percent of the subdivision must be set aside as open space. Critical areas (i.e., steep slopes, wetlands) can count towards the 50 percent requirement. Maintenance of the open space tract or easement shall be the responsibility of the property owner and/or a homeowners' association.

2. The number of allowable lots in a subdivision shall be determined by multiplying the total number of acres in the subdivision by one. Any fraction shall be rounded to the nearest whole number with one-half being rounded up.

3. The minimum size of any lot shall be 8,000 square feet. For lots less than 35,000 square feet, the minimum lot width shall be consistent with the requirements of the R-5 zone (Chapter 18.07 ACC). All other applicable development standards related to the R-1 zone will continue to apply.

4. Lots within the subdivision shall be clustered so as to provide for continuity of open space within the subdivision and, where possible, with adjoining parcels.

5. Each lot within a subdivision shall illustrate a building area within which the house, accessory structures, and parking areas shall be constructed. The building area shall be exclusive of setbacks, non-buildable areas or any required buffers from the non-buildable areas. Any preliminary plat, final plat or short plat shall illustrate the building area for each lot. Any future construction will be limited to the identified building area.

6. A native growth protection easement or similar device, which may include provisions for the limited removal of vegetation and passive use of the easement, that perpetually protects the non-buildable areas must be recorded with the final plat or short plat.

G. All marijuana related businesses and marijuana cooperatives are prohibited land uses within the Lea Hill overlay. (Ord. 6369 § 3, 2011; Ord. 6245 § 13, 2009.)

Section 7. Amendment to City Code. That Section 18.21.020 of the Auburn City Code be and the same hereby is amended to read as follows:

18.21.020 West Hill overlay.

A. Purpose. The purpose of this section is to provide for additional development standards to address the area commonly referred to as the West Hill annexation area, as annexed under city of Auburn Ordinance No. 6122 and identified on the city of Auburn comprehensive zoning map. While the intent is that the development standards for zones in the West Hill annexation area will be similar to (if not the same as) corresponding zones in other areas of the city, some variations are needed to recognize previous development allowed by King County zoning. Unless otherwise provided for in this section, all other provisions and requirements of this title shall apply to properties within the West Hill overlay.

B. Development Standards – Lots Previously Approved.

1. For any residential lot that had received final plat approval, final short plat approval, preliminary plat approval or that King County had received and determined the application complete for a preliminary plat or short plat, prior to the effective date of annexation, the development standards in the following table shall apply. The property

owner/applicant **shall** be responsible to provide evidence of these previous approvals/decisions.

2. Any further subdivision of any **lot** and its subsequent **use** must conform to the **permitted uses** and standards referenced in the applicable zoning chapters of this title, except as modified by this section. For farm animals, subsection E of this section or subsection 18.31.210 **shall** apply.

Zone	Min Lot Area (Sq. Ft.)	Min Lot Area (Sq. Ft. per Unit)	Min Lot Width (Ft.)	Max Lot Coverage (%)	Setbacks*				Building Height	
					Front (Ft.)	Rear (Ft.)	Side, Interior (Ft.)	Side, Street (Ft.)	Main (Ft.)	Accessory (Ft.)
R-1	8,000	N/A	35	35	20	5	5	10	35	35
R-5	2,500	N/A	30	35	10	5	5	10	35	16
R-7	2,500	6,000	30	35	10	5	5	10	35	16

* Garages and other similar structures with a vehicular access require a 20-foot setback from any street.

C. **Prior King County Approvals.** The city of Auburn will recognize the terms of any King County-approved plat, PUD, conditional use permit, contract rezone or similar contractual obligations that may have been approved prior to the effective date of the annexation of the subject property. The conditions of any project that was approved by King County shall be required to be fulfilled in the city of Auburn.

D. **Planning Director Authorization.** The planning director shall be authorized to interpret the language of any King County permit, plat or condition thereof and effectuate the implementation of same to the fullest extent possible. If there is a conflict between a previous King County approval and the Auburn regulation, then the most restrictive provision shall apply as determined by the planning director.

E. **Farm Animals.**

1. For properties greater than an acre in the R-1, R-5 and R-7 **zones** within the West Hill overlay, it is permissible to keep farm animals (excluding goats and swine in the R-5 and R-7 **zones**); provided, there **shall** not be more than one horse, cow, donkey or other similar large animal, or four small animals such as sheep, or 12 poultry, rabbits, or similar size animals per each acre of enclosed usable pasture or roaming area. This acreage requirement is in addition to the minimum **lot** size requirements of the applicable **zone**. Property owners of more than an acre in the West Hill Overlay district may choose to apply these standards, or the standards in subsection 18.31.210.

2. Shelters provided for farm animals **shall** be constructed no closer than 50 feet from any adjoining **lot** and no closer than 100 feet from any **public street** or **alley**. Any corral, exercise **yard**, or arena **shall** maintain a distance of 35 feet from any property line. This excludes pasture areas.

3. For those properties that do not meet the requirements of subsection (E)(1) of this section, and farm animals were present prior to annexation, the farm animals **may** remain as legal **nonconforming uses**. In such case, the number of farm animals allowed **may** be the same as what the county zoning provisions had allowed prior to the effective date of the annexation of the subject property.

F. All marijuana related businesses and marijuana cooperatives are prohibited land uses within the West Hill overlay. (Ord. 6369 § 3, 2011; Ord. 6245 § 13, 2009.)

Section 8. Amendment to City Code. That Section 18.21.030 of the Auburn City Code be and the same hereby is amended to read as follows:

18.21.030 Urban separator overlay.

A. Purpose. The purpose of this section is to provide for additional development standards to address the area designated as urban separator in the city's comprehensive plan, as prescribed in the interlocal agreement between the city and King County approved under city of Auburn Resolution No. 4113 and identified on the city of Auburn comprehensive land use map. Unless otherwise provided for in this section, all other provisions and requirements of this title shall apply to properties within the urban separator overlay.

B. Development Standards. For property located within a designated urban separator, lot averaging shall be required. The regulations of ACC 18.21.010(F) shall apply in situations where lot averaging is used.

C. All marijuana related businesses and marijuana cooperatives are prohibited land uses within the Urban Separator Overlay. (Ord. 6369 § 3, 2011; Ord. 6245 § 13, 2009.)

Section 9. Amendment to City Code. That Section 18.23.030 of the Auburn City Code be and the same hereby is amended to read as follows:

18.23.030 Uses.

A. General Permit Requirements. Table 18.23.030 identifies the uses of land allowed in each commercial and industrial zone and the land use approval process required to establish each use.

B. Requirements for Certain Specific Land Uses. Where the last column in Table 18.23.030 ("Standards for Specific Land Uses") includes a reference to a code section number, the referenced section determines other requirements and standards applicable to the use regardless of whether it is permitted outright or requires an administrative or conditional use permit.

Table 18.23.030 Permitted, Administrative, Conditional and Prohibited Uses by Zone

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE									P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	Zoning Designation								Standards for Specific Land Uses
	C-N	C-1	C-2	C-3	C-4	M-1	EP	M-2	
INDUSTRIAL, MANUFACTURING AND PROCESSING, WHOLESALING									
Building contractor, light	X	X	X	P	X	P	X	P	

Table 18.23.030 Permitted, Administrative, Conditional and Prohibited Uses by Zone

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE									P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	Zoning Designation								Standards for Specific Land Uses
	C-N	C-1	C-2	C-3	C-4	M-1	EP	M-2	
Building contractor, heavy	X	X	X	X	X	A	X	P	
Manufacturing, assembling and packaging – Light intensity	X	X	X	P	X	P	P	P	ACC 18.31.180
Manufacturing, assembling and packaging – Medium intensity	X	X	X	A	X	P	A	P	ACC 18.31.180
Manufacturing, assembling and packaging – Heavy intensity	X	X	X	X	X	X	X	A	ACC 18.31.180
Marijuana processor	X	X	X	X	X	C	C	C	ACC 18.59
Marijuana producer	X	X	X	X	X	C	C	C	ACC 18.59
Marijuana researcher	X	X	X	X	X	C	C	C	ACC 18.59
Marijuana retailer	X	X	X	C	X	C	C	C	ACC 18.59
Marijuana transporter business	X	X	X	X	X	C	C	C	ACC 18.59
Outdoor storage, incidental to principal permitted use on property	X	X	X	P	X	P	P	P	ACC 18.57.020(A)
Storage – Personal household storage facility (mini-storage)	X	P	X	P	X	P	X	P	ACC 18.57.020(B)
Warehousing and distribution	X	X	X	X	X	P	P	C	ACC 18.57.020(C)
Warehousing and distribution, bonded and located within a designated foreign trade zone	X	X	X	P	X	P	P	P	
Wholesaling with on-site retail as an incidental use (coffee, bakery, e.g.)	X	X	X	P	X	P	P	P	
RECREATION, EDUCATION AND PUBLIC ASSEMBLY USES									
Commercial recreation facility, indoor	X	P	P	P	P	P	P	A	
Commercial recreation facility, outdoor	X	X	X	A	X	P	A	A	ACC 18.57.025(A)
Conference/convention facility	X	X	A	A	X	A	X	X	
Library, museum	X	A	A	A	X	A	P	X	
Meeting facility, public or private	A	P	P	P	X	A	P	A	
Movie theater, except drive-in	X	P	P	P	P	X	X	X	
Private school – Specialized education/training (for profit)	A	A	P	P	P	P	P	P	
Religious institutions, lot size less than one acre	A	P	P	P	A	A	A	A	

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Table 18.23.030 Permitted, Administrative, Conditional and Prohibited Uses by Zone

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE									P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	Zoning Designation								Standards for Specific Land Uses
	C-N	C-1	C-2	C-3	C-4	M-1	EP	M-2	
Religious institutions, lot size more than one acre	C	P	P	P	A	A	A	A	
Sexually oriented businesses	X	X	X	P	X	P	X	P	Chapter 18.74 ACC
Sports and entertainment assembly facility	X	X	A	A	X	A	X	A	
Studio – Art, dance, martial arts, music, etc.	P	P	P	P	P	P	A	A	

RESIDENTIAL

Caretaker apartment	X	P	P	P	X	P	P	P	
Live/work or work/live unit	X	P	P	P	P	P	P	X	
<u>Marijuana Cooperative</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
Multiple-family dwellings as part of a mixed-use development	X	P	P	P	P	P	P	X	ACC 18.57.030(A)
Multiple-family dwellings, stand-alone	X	X	X	X	X	X	X	X	ACC 18.57.030(B)
Nursing home, assisted living facility	X	P	P	P	C	X	X	X	
Senior housing	X	A	A	A	X	X	X	X	

RETAIL

Building and landscape materials sales	X	X	X	P	X	P	X	P	ACC 18.57.035(A)
Construction and heavy equipment sales and rental	X	X	X	X	X	A	X	P	
Convenience store	A	A	P	P	X	P	P	P	
Drive-through espresso stands	A	A	A	P	A	P	A	A	
Drive-through facility, including banks and restaurants	A	A	A	P	P	P	X	P	ACC 18.52.040
Entertainment, commercial	X	A	P	P	X	A	X	A	
Groceries, specialty food stores	P	P	P	P	P	P	P	X	ACC 18.57.035(B)
Nursery	X	X	X	P	A	P	X	P	ACC 18.57.035(C)
Outdoor displays and sales associated with a permitted use (auto/vehicle sales not included in this category)	P	P	P	P	P	P	P	P	ACC 18.57.035(D)
Restaurant, cafe, coffee shop	P	P	P	P	P	P	P	P	
Retail									
Community retail establishment	A	P	P	P	P	P	X	P	

Table 18.23.030 Permitted, Administrative, Conditional and Prohibited Uses by Zone

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE									P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	Zoning Designation								Standards for Specific Land Uses
	C-N	C-1	C-2	C-3	C-4	M-1	EP	M-2	
Neighborhood retail establishment	P	P	P	P	P	P	X	P	
Regional retail establishment	X	X	X	P	P	P	X	A	
Tasting room	P	P	P	P	P	P	P	P	
Tavern	P	P	X	P	P	P	X	A	
Wine production facility, small craft distillery, small craft brewery	A	P	P	P	P	P	P	P	

SERVICES

Animal daycare (excluding kennels and animal boarding)	A	A	A	P	A	P	X	P	ACC 18.57.040(A)
Animal sales and services (excluding kennels and veterinary clinics)	P	P	P	P	P	P	X	P	ACC 18.57.040(B)
Banking and related financial institutions, excluding drive-through facilities	P	P	P	P	P	P	P	P	
Catering service	P	P	P	P	A	P	A	P	
Daycare, including mini daycare, daycare center, preschools or nursery schools	A	P	P	P	P	P	P	X	
Dry cleaning and laundry service (personal)	P	P	P	P	P	P	P	P	
Equipment rental and leasing	X	X	X	P	X	P	X	P	
Kennel, animal boarding	X	X	X	A	X	A	X	A	ACC 18.57.040(C)
Government facilities, this excludes offices and related uses that are permitted outright	A	A	A	A	A	A	A	A	
Hospital	X	P	P	P	X	P	X	P	
Lodging – Hotel or motel	X	P	P	P	P	A	P	A	
Medical – Dental clinic	P	P	P	P	P	P	X	X	
Mortuary, funeral home, crematorium	A	P	X	P	X	P	X	X	
Personal service shops	P	P	P	P	P	P	X	X	
Pharmacies	P	P	P	P	P	X	X	X	
Print and copy shop	P	P	P	P	P	P	X	X	
Printing and publishing (of books, newspaper and other printed matter)	X	A	P	P	P	P	P	P	
Professional offices	P	P	P	P	P	P	P	P	
Repair service – Equipment, appliances	X	A	P	P	P	P	X	P	ACC 18.57.040(D)

Table 18.23.030 Permitted, Administrative, Conditional and Prohibited Uses by Zone

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE									P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	Zoning Designation								Standards for Specific Land Uses
	C-N	C-1	C-2	C-3	C-4	M-1	EP	M-2	
Veterinary clinic, animal hospital	A	P	P	P	P	P	X	X	

TRANSPORTATION, COMMUNICATIONS AND INFRASTRUCTURE

Ambulance, taxi, and specialized transportation facility	X	X	X	A	X	P	X	P	
Broadcasting studio	X	P	X	P	X	P	X	P	
Heliport	X	X	X	C	X	C	X	C	
Motor freight terminal ¹	X	X	X	X	X	X	X	X	See Footnote No. 1
Parking facility, public or commercial, surface	X	P	P	P	P	P	P	X	
Parking facility, public or commercial, structured	X	P	P	P	P	P	P	X	
Towing storage yard	X	X	X	X	X	A	X	P	ACC 18.57.045(A)
Utility transmission or distribution line or substation	A	A	A	A	A	A	A	A	
Wireless communication facility (WCF)	–	–	–	–	–	–	–	–	ACC 18.04.912, 18.31.100

VEHICLE SALES AND SERVICES

Automobile washes (automatic, full or self-service)	X	A	X	P	P	P	X	P	ACC 18.57.050(A)
Auto parts sales with installation services	X	A	A	P	P	P	X	P	
Auto/vehicle sales and rental	X	A	X	P	X	P	X	P	ACC 18.57.050(B)
Fueling station	X	A	A	P	P	P	X	P	ACC 18.57.050(C)
Mobile home, boat, or RV sales	X	X	X	P	X	P	X	P	
Vehicle services – Repair/body work	X	X	A	P	X	P	X	P	ACC 18.57.050(D)

OTHER

Any commercial use abutting a residential zone which has hours of operations outside of the following: Sunday: 9:00 a.m. to 10:00 p.m. or Monday – Saturday: 7:00 a.m. to 10:00 p.m.	A	A	A	A	A	A	A	A	
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(Ord. 6508 § 1, 2014; Ord. 6433 § 26, 2012.)

Section 10. Amendment to City Code. That Section 18.29.050 of the Auburn City Code be and the same hereby is amended to read as follows:

18.29.050 Use limitations.

Hereafter, all buildings, structures or properties may be used for any use, unless specifically prohibited herein. Ground floor retail, restaurants and/or office use is required for all building frontages facing Main Street. All uses shall be subject to review and approval by the director. The following uses are prohibited:

- A. Sexually oriented businesses as defined in Chapter 18.74 ACC.
- B. Taverns.
- C. All industrial uses as defined in the North American Industrial Classification System (1997 Edition), categories 48 – 49 (transportation), 31 – 33 (manufacturing) and 42 (wholesale).
- D. Outdoor storage of materials and equipment (except during active construction projects).
- E. New automobile maintenance and repair businesses.
- F. Work release facilities; secure community transition facilities.
- G. Wrecking yards.
- H. Solid waste transfer stations.
- I. Car washes.
- J. New gasoline stations.
- K. Street-level ministorage.
- L. Outdoor sales of vehicles, boats or equipment.
- M. Drive-in/drive-through facilities with direct vehicular driveway access onto Main Street.
- N. All Marijuana Related Businesses and Marijuana Cooperatives
- O. Other uses may be prohibited by the director if the use is determined to be inconsistent with the intent of this zone or is of the same general character of the other prohibited uses listed in this section. (Ord. 6071 § 6 [Exh. A], 2007.)

Section 11. Amendment to City Code. That Section 18.35.030 of the Auburn City Code be and the same hereby is amended to read as follows:

18.35.30 Uses.

- A. General permit requirements. Table 18.35.030 identifies the uses of land allowed in each special purpose zone and the planning permit required to establish each use.
- B. Requirements for certain specific land uses. Where the last column in Table 18.35.030 (“Standards for Specific Land Uses”) includes a section number, the referenced section determines other requirements and standards applicable to the use regardless of whether it is permitted outright or requires an administrative or conditional use permit.

Table 18.35.030 Permitted, Administrative, Conditional and Prohibited Uses by Zone

Permitted, Administrative, Conditional and Prohibited Uses by Zone					P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	Zoning Designations				Standards for Specific Land Uses
	RO	RO-H	P-1	I	

MARIJUANA RELATED BUSINESSES

<u>Marijuana processor</u>	X	X	X	X	
<u>Marijuana producer</u>	X	X	X	X	
<u>Marijuana researcher</u>	X	X	X	X	
<u>Marijuana retailer</u>	X	X	X	X	
<u>Marijuana transporter business</u>	X	X	X	X	

PUBLIC

Animal shelter, public	X	X	P	X	
Government facilities, this excludes offices and related uses that are permitted outright	A	A	P	P	
Municipal parks and playgrounds	P	P	P	P	

RECREATION, EDUCATION AND PUBLIC ASSEMBLY

Campgrounds and recreational vehicle parks, private	X	X	X	P	
Cemetery, public	X	X	P	A	
Cemetery, private	X	X	X	A	
College, university, public	X	X	A	A	
Commercial recreation facility – Indoor	X	X	X	P	
Commercial recreation facility – Outdoor	X	X	X	A	ACC 18.57.025(A)
Conference/convention facility	X	X	X	A	
Library, museum	X	X	P	P	
Meeting facility, public or private	A	A	P	P	
Private school – specialized education/training (for profit)	P	P	X	P	
Public schools (K-12) and related facilities	X	X	P	P	
Religious institutions, lot size less than one acre	A	P	X	P	
Religious institutions, lot size more than one acre	C	A	X	P	
Studio – Art, dance, martial arts, music, etc.	P	X	X	X	

RESIDENTIAL

Duplex	P (1)	X	X	A	
Home occupation	P	P	X	P	Chapter 18.60 ACC

Table 18.35.030 Permitted, Administrative, Conditional and Prohibited Uses by Zone

Permitted, Administrative, Conditional and Prohibited Uses by Zone					P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	Zoning Designations				Standards for Specific Land Uses
	RO	RO-H	P-1	I	
Live/work, work/live unit	A	P	X	A	
<u>Marijuana Cooperative</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
Multiple-family dwellings, stand-alone	P (2)	A (3)	X	A	
One detached single-family dwelling	P	X	X	X	
Nursing home, assisted living facility	A	A	X	P	
Senior housing	A	A	X	A	

RETAIL

Restaurant, cafe, coffee shop, excluding drive-through facilities	A	A	P	A	
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SERVICES

Banking and related financial institutions, excluding drive-through facilities (4)	P	P	X	X	
Daycare, including mini daycare, daycare center, preschools or nursery schools	A	P	X	P	
Home-based daycare	P	P	X	P	
Medical services – Clinic or urgent care (4)	P	P	X	X	
Mortuary, funeral home, crematorium	X	P	X	X	
Professional offices	P	P	X	A	
Personal service shops	P	P	X	X	
Pharmacies	X	P	X	X	

Notes:

1. Duplexes, 3,600 square feet of lot area per dwelling unit is required
2. Multi-family dwellings; provided that 2,400 square feet of lot area is provided for each dwelling unit
3. Multi-family dwellings; provided 1,200 square feet of lot area is provided for each dwelling unit. (Ord. 6269 § 28, 2009)
4. Permitted within a public college or university as an amenity or service provided to students. A stand-alone bank or medical services/clinic is not permitted.

(Ord. 6434 § 1, 2012.)

Section 12. Amendment to City Code. That Section 18.42.020 of the Auburn City Code be and the same hereby is amended to read as follows:

18.42.020 Establishment.

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Those areas previously annexed to the city for which no city zoning classification has been fixed or determined by ordinance are zoned UNC, unclassified use district. Unclassified zoned property shall assume the R-1 standards for permitted uses and development standards, provided that all marijuana related businesses and marijuana cooperatives shall be prohibited in the Unclassified Use District. (Ord. 4229 § 2, 1987.)

Section 13. Amendment to City Code. That Section 18.78.020 of the Auburn City Code be and the same hereby is amended to read as follows:

18.78.020 Permitted uses.

The permitted uses allowed in the Terrace View zoning district will be those as allowed within Chapter 18.30 ACC, C-3 Heavy Commercial District, as may be amended. The process to allow any use on the Terrace View property shall be as required by this title with the exception that apartments/multifamily units will be considered an outright permitted use and will not require an administrative use permit. Notwithstanding the foregoing, all marijuana related businesses and marijuana cooperatives shall not be permitted in any residential or non-residential portion of the Terrace View zoning district. (Ord. 6269 § 26, 2009; Ord. 5377 § 2, 2000.)

Section 14. Amendment to City Code. That Section 18.04.120 of the Auburn City Code be and the same hereby is amended to read as follows:

18.04.120 "Arcade".

"Arcade" includes any place of business having in excess of four mechanical amusement devices as defined in ACC 18.04.100. means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

Section 15. New Section to City Code. That a new Section 18.04.1001 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1001 "Child care center".

"Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under Chapter 170-295 of the Washington Administrative Code (WAC).

Section 16. New Section to City Code. That a new Section 18.04.1005 of the Auburn City Code be and the same hereby is created to read as follows

18.04.1005 "Marijuana" or "marihuana."

"Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not

include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

Section 17. New Section to City Code. That a new Section 18.04.1007 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1007 "Marijuana cooperative."

"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.

Section 18. New Section to City Code. That a new Section 18.04.1009 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1009 "Marijuana-infused products."

"Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana- infused products" does not include useable marijuana.

Section 19. New Section to City Code. That a new Section 18.04.1011 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1011 "Marijuana processor."

"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.

Section 20. New Section to City Code. That a new Section 18.04.1013 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1013 "Marijuana producer."

"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.

Section 21. New Section to City Code. That a new Section 18.04.1015 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1015 "Marijuana related business."

“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.

Section 22. New Section to City Code. That a new Section 18.04.1017 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1017 “Marijuana retailer.”

“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.

Section 23. New Section to City Code. That a new Section 18.04.1019 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1019 “Marijuana researcher.”

“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.

Section 24. New Section to City Code. That a new Section 18.04.1021 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1021 “Marijuana transporter.”

“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.

Section 25. New Section to City Code. That a new Section 18.04.1023 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1023 “Public or private park.”

“Public or private park” means an area of land for the enjoyment of the public or private parties, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a private for-profit entity, a non-profit entity, a homeowners’ association, city, county, state, federal government, sovereign nation or metropolitan park district. Public park does not include trails.

Section 26. New Section to City Code. That a new Section 18.04.1025 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1025 "Public or private playground."

"Public or private playground" means a public or private outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a private business, a non-profit entity, city, county, state, or federal government or sovereign nation.

Section 27. New Section to City Code. That a new Section 18.04.1027 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1027 "Public or private recreational center."

"Public or private recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a private business, charitable nonprofit organization, sovereign nation, city, county, state, or federal government.

Section 28. New Section to City Code. That a new Section 18.04.1029 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1029 "Public transit center."

"Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers

Section 29. New Section to City Code. That a new Section 18.76.046 of the Auburn City Code be and the same hereby is created to read as follows:

18.76.046 Marijuana related uses.

All marijuana related businesses and marijuana cooperatives shall not be permitted in any residential or non-residential portion of the Planned Unit Development.

Section 30. New Chapter to City Code. That a new Chapter 18.59 of the Auburn City Code be and the same hereby is created to read as follows:

Chapter 18.59

DEVELOPMENT STANDARDS FOR MARIJUANA RELATED BUSINESSES

Sections:

- 18.59.010 Purpose.
- 18.59.020 Maximum number of marijuana retail businesses.
- 18.59.030 Required geographic separation.

- 18.59.040 Marijuana required to be grown in a structure.
- 18.59.050 Required odor control for marijuana retail stores.
- 18.59.060 First-in-time – change in ownership, relocation and abandonment for marijuana retail stores.
- 18.59.070 Signage.
- 18.59.080 Security required.
- 18.59.090 Specific standards for marijuana processors, producers. research and transportation businesses.
- 18.59.100 Pre-application conference meeting required.
- 18.59.110 Public review meeting required.

18.59.010 Purpose.

The development standards contained in this Chapter are intended to address the substantive impacts that marijuana related businesses may have on all or a portion of the community by providing clear and objective development standards that will reduce or mitigate said impacts and provide, when appropriate, opportunities for public awareness and input prior to an application being made to the City. In addition, the development standards will provide the City, adjacent property owners (residential or non-residential) and adjacent business owners as well as the entire community the opportunity to be kept informed and aware through on-going reporting for those marijuana related businesses that successfully obtain appropriate approvals and authorizations to operate in the City of Auburn.

18.59.020 Maximum number of marijuana retail businesses.

A. The total maximum number of marijuana retail businesses operating within the City at any given time shall be limited to a maximum of three (3) properly licensed and permitted stores. For purposes of these regulations, these standards shall be considered in addition to the numeric allowances on these businesses specified now or in the future by the Washington State Liquor and Cannabis Board.

B. In the event that one (1) of the permitted three (3) marijuana retail businesses ceases to legally operate within the City, the maximum number of properly licensed and permitted stores shall be a maximum of two (2) stores. For purposes of this section, ceases to legally operate shall mean that the business has physically stopped operating at a specified addressed location in the City as confirmed and documented by the City or that it is no longer operating under a valid State or City license, provided that a legal change in business name or ownership or Washington State Unified Business Identifier (UBI) number shall not constitute cessation of business operation.

18.59.030 Required geographic separation.

Marijuana related businesses operating within the City shall be geographically separated as follows. For purposes of these regulations, these standards shall be considered in addition to those geographic siting standards specified by the Washington State Liquor and Cannabis Board:

A. A marijuana retailer authorized by the Washington State Liquor and Cannabis Board and the City to operate within the City shall be sited a minimum of one (1) mile from another similarly authorized marijuana business.

B. A marijuana retailer business shall be sited a minimum of 1,320 feet from any properties zoned and utilized for single-family residential or multi-family residential land uses.

C. All marijuana related businesses shall not be located within **REFER TO POTENTIAL OPTIONS BELOW** of the following uses or any use included in Chapter 314-55 WAC now or as hereafter amended:

OPTION 1:

5,280 feet (1 mile) for all of the following:

1. ~~Public Elementary or secondary school that is existing or that is planned and has a site specific location identified in an adopted Capital Facilities Plan;~~
2. ~~Privately operated school;~~
2. Public or private playgrounds inclusive of those located within a multi-family residential complex;
3. Public or private recreation center or facility;
4. Child care centers;
5. Public or private parks;
6. Public trails
7. Public transit centers;
8. Religious institutions;
9. Public libraries;
10. Any game arcade; and,
11. Transit center or park-and-ride facility operated by a sovereign nation on trust or non-trust designated properties

OPTION 2:

2,640 feet for:

3. ~~Public Elementary or secondary school that is existing or that is planned and has a site specific location identified in an adopted Capital Facilities Plan;~~
 4. ~~Privately operated school;~~
 2. Public or private playgrounds inclusive of those located within a multi-family residential complex;
 3. Public or private recreation center or facility;
 4. Child care centers;
 5. Public or private parks;
 6. Any game arcade; and,
- 1,320 feet for:
1. Public trails
 2. Public transit centers;

3. Religious institutions;
4. Public libraries;
5. Transit center or park-and-ride facility operated by a sovereign nation on trust or non-trust designated properties

OPTION 3:

1,320 feet for:

1. Public-Elementary or secondary school that is existing or that is planned and has a site specific location identified in an adopted Capital Facilities Plan;
2. ~~Privately operated school;~~
2. Public or private playgrounds inclusive of those located within a multi-family residential complex;
3. Public or private recreation center or facility;
4. Child care centers;
5. Public or private parks;
6. Any game arcade; and,

1,000 feet for:

1. Public trails
2. Public transit centers;
3. Religious institutions;
4. Public libraries;
5. Transit center or park-and-ride facility operated by a sovereign nation on trust or non-trust designated properties

D. Measurement. All separation requirements shall be measured as the shortest straight line distance from the property line or right of way line of the proposed business location to the property line or right of way line of the use specified in this section.

~~E. 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.~~

18.59.040 Marijuana required to be grown in a structure.

For all marijuana related businesses and marijuana cooperatives, marijuana shall be grown in a structure. Outdoor cultivation is prohibited in all instances.

18.59.050 Required odor control for marijuana ~~retail stores~~ related businesses.

Marijuana odor shall be contained within the ~~retail stores~~ marijuana related business so that odor from the marijuana cannot be detected by a person with a normal sense of smell from any abutting use or property. If marijuana odor can be smelled from

any abutting use or property, the marijuana **retailer related business** shall be required to implement measures, including but not limited to, the installation of the ventilation equipment necessary to contain the odor.

18.59.060 First-in-time – Change in ownership, relocation and abandonment for marijuana retail stores **– non-conforming uses**.

A. Areas where no retail marijuana uses are located. If two or more marijuana retail applicants seek licensing from the state and propose to locate within less than one (1) mile of each other, the City shall consider the entity that is licensed first by the State Liquor and Cannabis Board to be the "first- in-time" applicant who is entitled to site the retail use. First-in-time determinations will be based on the date and time of the state-issued license or conditional license, whichever is issued first. The Director or designee shall make the first-in-time determination.

B. First-in-time determinations are location-specific and do not transfer or apply to a new property or site, unless the new site is within the same tax parcel.

C. Ownership. The status of a first-in-time determination is not affected by changes in ownership.

D. Relocation. Relocation of a retail store to a new property voids any first- in-time determination previously made as to the vacated property. The determination shall become void on the date the property is vacated. Applicants who may have been previously denied a license due to a first- in-time determination at the vacated property may submit a new application after the prior first-in-time determination becomes void.

E. Discontinuance. If an existing marijuana retail use is discontinued or abandoned for a period of six (6) months with the intention of abandoning that use, then the property shall forfeit first-in-time status. For purposes of this Section, discontinuance shall not mean a legal change in business name or ownership or Washington State Unified Business Identifier (UBI) number. Discontinuance of a licensed retail use for a period of six (6) months or greater constitutes a prima facie intent to abandon the retail use. Intent to abandon may be rebutted by submitting documentation adequate to rebut the presumption. Documentation rebutting the presumption of intent to abandon includes but is not limited to:

1. State licensing review or administrative appeal; or
2. Review of building, land use, other required development permits or approvals; or
3. Correspondence or other documentation from insurance provider demonstrating an intent to reestablish the use after either a partial or full loss or disruption of the use.

4. The Director shall determine whether a retail use has been discontinued, abandoned, or voided, whether in connection with an application for an administrative conditional use permit or as otherwise appropriate.

F. Accidental Destruction. First-in-time status or cessation is not affected when a structure containing a state-licensed retail outlet is damaged by fire or other causes beyond the control of the owner or licensee; provided all necessary local, regional, state or other permits and approvals are successfully obtained and redevelopment commences within twelve (12) months from the documented date of the accidental destruction or the

licensee provides documentation demonstrating why redevelopment cannot commence within twelve (12 months), provided that redevelopment is completed within twenty-four (24) months of the documented date of accidental destruction.

G. Marijuana related businesses that had lawfully obtained all State and local approvals prior to the adoption of these rules shall be considered legal conforming uses even if the business is unable to meet the standards for geographic separations and square footage requirements outlined in this Chapter.

18.59.070 Signage.

All marijuana related businesses shall comply with applicable sign regulations and standards as specified in Chapter 18.56 (Signs) as may be amended.

18.59.080 Security required.

In addition to the security requirements in chapter 315-55 WAC, during non-business hours, all marijuana producers, processors, and retailers shall store all marijuana concentrates, useable marijuana, marijuana-infused products, and cash in a safe or in a substantially constructed and locked cabinet. The safe or cabinet shall be incorporated into the building structure or securely attached thereto. For useable marijuana products that must be kept refrigerated or frozen, these products may be stored in a locked refrigerator or freezer container in a manner approved by the Director, provided the container is affixed to the building structure.

18.59.090 Specific standards for marijuana producers, processors, research and transportation businesses.

A. Marijuana production and processing facilities shall comply with the following provisions:

1. Marijuana production, processing research and transportation facilities shall be ventilated so that the odor from the marijuana cannot be detected by a person with a normal sense of smell from any adjoining use or property;

2. A screened and secured loading dock, approved by the Director shall be required. The objective of this requirement is to provide a secure, visual screen from the public right-of-way and adjoining properties, and prevent the escape of odors when delivering or transferring marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products.

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, and shall be classified as a fully legal conforming use, at its current location even though it did not have at least 4,000 square feet of building utilized for its individual business.

18.59.100 Pre-application conference meeting required.

A minimum of one (1) pre-application conference meeting with the City of Auburn and other relevant parties including but not limited to the Valley Regional Fire Authority shall be conducted prior to the submittal of a formal **business license** application for all marijuana related businesses within the City.

18.59.110 Public review meeting required.

A. A minimum of one (1) public review meeting shall be conducted by applicant for any marijuana related business in the City. The purpose of the Public Review Meeting is to allow adjacent property owners (residential and non-residential) and adjacent business owners an opportunity to become familiar with the proposal and to identify any associated issues. The Public Review Meeting is intended to assist in producing applications that are responsive to the concerns of adjacent property owners (residential and non-residential) and adjacent business owners and to reduce the likelihood of delays and appeals. The City expects an applicant to take into consideration the reasonable concerns and recommendations of these parties when preparing an application. The City expects these parties to work with the applicant to provide reasonable concerns and recommendations. **The requirements of this Section shall apply to new businesses as well as businesses that are seeking to relocate to a different tax parcel.**

B. Prior to submittal of an application for any marijuana related business, the applicant shall provide an opportunity to meet with adjacent property owners (residential or non-residential) and adjacent businesses owners within whose boundaries the site for the proposed marijuana related business is located or within the notice radius to review the proposal. The applicant shall not be required to hold more than one Public Review Meeting provided such meeting is held within six (6) months prior to submitting an application for one (1) specific site.

C. Public Review Meetings shall occur prior to submitting a formal **business license** application to the City of Auburn.

D. Public Review Meetings shall occur after the required pre-application conference with the City of Auburn.

E. The applicant shall hold a public review meeting in a publicly accessible location within one (1) mile of the proposed business site, provided that if no such place is immediately available, the applicant may submit a written request to the Director proposing an alternate meeting location and the Director may approve said location, in writing. The meeting starting time selected shall be limited to a weekday evening after 6:00 p.m. or a weekend at any reasonable time and shall not occur on a national holiday. The meeting shall be held at a location open to the public and in compliance with the Americans with Disabilities Act (ADA). A portable sign at least 22 inches x 28 inches in size with minimum two (2) inch lettering shall be placed at the main entrance of the building where the meeting will take place at least one (1) hour prior to the meeting. Such sign will announce the meeting, **subject matter of the meeting**, and announce that the meeting is open to the public and that interested persons are invited to attend. This sign shall be removed by the applicant upon conclusion of the meeting.

F. The applicant shall send by regular mail a written notice announcing the Public Review Meeting to the Director, property owners pursuant to the most current

public records of the King County Assessor's Office or Pierce County Assessor's Office within 1,320 feet on all sides of the property involved in the anticipated application and to all current businesses registered with the City of Auburn within 1,320 feet on all sides of the property involved in the anticipated application. At the request of the applicant, and upon payment of the applicable fee, the City will provide the required mailing lists for property owners and/or registered businesses.

G. Not less than twenty (20) calendar days prior to the Public Review Meeting, the applicant shall post a notice on the property which is subject of the proposed application. The notice shall be posted within fifty (50) feet of an adjoining public right-of-way in a manner that can be read from the right-of-way. The notice shall state that the site may be subject to a proposed marijuana related business, the type of marijuana related business in sufficient detail for a reasonable person to ascertain the nature and type of business, the name of the applicant and the applicant's telephone number and electronic mail address where the applicant can be reached for additional information. The site shall remain posted until the conclusion of the Public Review Meeting.

H. At the Public Review Meeting, the applicant shall describe the proposed application to persons in attendance. The attendees may identify any issues that they believe should be addressed in the proposed application and recommend that those issues be submitted for City consideration and analysis.

I. At the Public Review Meeting, the applicant shall take notes of the discussion on the proposed application.

J. To comply with this section, an applicant shall submit the following information with the **business license** application:

1. A copy of the notice sent to surrounding property owners pursuant to Section 18.59.110 (F).

2. A copy of the mailing list used to send out meeting notices pursuant to Section 18.59.110.(G).

3. A written statement and clear photographs containing the information posted on the property pursuant to Section 18.59.110 (G)

4. A notarized affidavit of mailing and posting notices.

5. Copies of written materials and 8.5-inch x 11 inch size plans presented at the Public Review Meeting.

6. Typed notes of the meeting, including the meeting date, time, and location, the name and address of those attending, and a summary of oral and written comments received.

K. If responses to the meeting notice were not received by the applicant and no one attended the Public Review Meeting or persons in attendance made no comments, the applicant shall submit evidence as indicated above, with the notes reflecting the absence of comment, attendance, or both.

L. Failure of a property owner or business owner to receive notice shall not invalidate the Public Review Meeting proceedings.

Section 31. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 32. 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 33. 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:

Daniel B. Heid, City Attorney

Ordinance No. 6642
May 12, 2017 (Planning Commission Hearing 6/6/17)
Page 40

PUBLISHED: _____

DRAFT

**NOTICE OF APPLICATION (NOA)
NOTICE OF PUBLIC HEARING (NOH) and
DETERMINATION OF NON-SIGNIFICANCE (DNS)
Zoning Code Amendments to Title 18 of the Auburn City Code:
Marijuana Related Businesses
ZOA17-0001 & SEP17-0008**

Proposal: Zoning Code Amendment to Chapters 18.04, 18.07, 18.09, 18.21, 18.23, 18.29, 18.35, 18.42, 18.78 and creation of new Chapter 18.59 of the Auburn City Code as it relates to the standards, requirements, and procedures for marijuana related businesses. The full text of the amendments is available on the City's Public Notice webpage at www.auburnwa.gov/landuse, by contacting the Staff contact listed below, or at the City of Auburn Permit Center, 1 East Main St., 2nd Floor, Customer Service Center, Auburn, WA 98001.

Location: City Wide

Notice of Application: February 14, 2017

File No.: SEP17-0008
ZOA17-0001

Proponent: City of Auburn Community Development & Public Works Dept.
25 W Main ST
Auburn, WA 98001

Studies/Plans Submitted With Application:

- Draft Code Amendment Language

Other Permits, Plans, and Approvals Needed:

- Planning Commission Recommendation
- City Council Adoption of Ordinance

Statement of Consistency and List of Applicable Development Regulations: This proposal is subject to and shall be consistent with the Auburn City Code, Comprehensive Plan, and Engineering Design and Construction Standards.

Lead Agency: City of Auburn

The lead agency for this proposal has determined that it does not have probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

Public Comment Period: This may be your only opportunity to comment on the proposal. All persons may comment on this application. This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 15 days from the date issued below. Comments must be in writing and submitted by 5:00 pm on **June 1, 2017** to the mailing address of 25 W Main St., Auburn, WA, 98001. Any person wishing to become a party of record, shall include in their comments that they wish to receive notice of and participate in any hearings, if relevant, and request a copy of decisions once made.

Any person aggrieved of the City's determination may file an appeal with the Auburn City Clerk at 25 West Main Street, Auburn, WA 98001- 4998 within 14 days of the close of the comment period, or by 5:00 p.m. on **June 15, 2017**.

For questions regarding this project, please contact Jeff Tate, Assistant Director of Community Development, at jtate@auburnwa.gov or 253-804-5036.

Public Hearing: A public hearing before the City of Auburn Planning Commission on the proposed amendments will be held on **June 6, 2017** at **7:00PM** in the City Council Chambers at 25 West Main St., Auburn, WA 98001.

RESPONSIBLE OFFICIAL:	Jeff Tate
POSITION/TITLE:	Assistant Director, Community Dev. & Public Works Dept.
ADDRESS:	25 West Main Street Auburn, Washington 98001 (253) 931-3090

DATE ISSUED: **May 12, 2017** SIGNATURE: **[Signature on File]**

Note: This determination does not constitute approval of the proposal. Approval of the proposal can only be made by the legislative or administrative body vested with that authority. The proposal is required to meet all applicable regulations.

REQUEST TO PUBLISH

Please publish the following Notice in the Seattle Times on **May 18, 2017**.

Bill the City of Auburn: City of Auburn
 ATTN: City Clerk
 25 West Main ST
 Auburn, WA. 98001

An "Affidavit of Publication" is requested for this billing. Thank you.

Please publish below the line only.

CITY OF AUBURN

The City of Auburn is issuing a **NOTICE OF APPLICATION (NOA)/NOTICE OF PUBLIC HEARING (NOH) and DETERMINATION OF NON-SIGNIFICANCE (DNS) - Zoning Code Amendment to Chapters 18.04, 18.07, 18.09, 18.21, 18.23, 18.29, 18.35, 18.42, 18.78 and creation of new Chapter 18.59 of the Auburn City Code as they relate to the standards, requirements, and procedures for marijuana related businesses – ZOA17-0001 and SEP17-0008. Proposal:** Amendments to the above referenced Chapters and Sections of Title 18 of the Auburn City Code (ACC) – the Zoning Code. These amendments pertain to the standards, requirements, and procedures for establishing marijuana related businesses within the City of Auburn. The full text of the amendments is available on the City's Public Notice webpage at www.auburnwa.gov/landuse, by contacting the Staff contact listed below, or at the City of Auburn Permit Center, 1 East Main St., 2nd Floor, Customer Service Center, Auburn, WA 98001. **Location:** City Wide **Notice of Application:** February 14, 2017 **File No.:** SEP17-0008, ZOA17-0001 **Proponent:** City of Auburn Community Development & Public Works Dept., 25 W Main ST, Auburn, WA 98001 **Studies/Plans Submitted With Application:** - Draft Code Amendment Language **Other Permits, Plans, and Approvals Needed:** - Planning Commission Recommendation - City Council Adoption of Ordinance **Statement of Consistency and List of Applicable Development Regulations:** This proposal is subject to and shall be consistent with the Auburn City Code, Comprehensive Plan, and Engineering Design and Construction Standards. **Lead Agency:** City of Auburn. The lead agency for this proposal has determined that it does not have probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request. **Public Comment Period:** This may be your only opportunity to comment on the proposal. All persons may comment on this application. This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 15 days from the date issued below. Comments must be in writing and submitted by 5:00 pm on **June 1, 2017** to the mailing address of 25 W Main St., Auburn, WA, 98001. Any person wishing to become a party of record, shall include in their comments that they wish to receive notice of and participate in any hearings, if relevant, and request a copy of decisions once made. Any person aggrieved of the City's determination may file an appeal with the Auburn City Clerk at 25 West Main Street, Auburn, WA 98001- 4998 within 14 days of the close of the comment period, or by 5:00 p.m. on **June 15, 2017**. For questions regarding this project, please contact Jeff Tate, Assistant Director of Community Development, at jtate@auburnwa.gov or 253-804-5036. **Public Hearing:** A public hearing before the City of Auburn Planning Commission on the proposed amendments will be held on **June 6, 2017 at 7:00PM** in the City Council Chambers at 25 West Main St., Auburn, WA 98001.



STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

February 21, 2017

Kevin Snyder
Community Development and Public Works Director
City of Auburn
25 W Main Street
Auburn, Washington 98001-4998

Dear Mr. Snyder:

Thank you for sending the Washington State Department of Commerce (Commerce) the following materials as required under RCW 36.70A.106. Please keep this letter as documentation that you have met this procedural requirement.

City of Auburn - Proposed Ordinance No. 6642 relating to marijuana businesses and repealing the moratorium established by Ordinance No. 6613. These materials were received on February 17, 2017 and processed with the Material ID # 23404.

We have forwarded a copy of this notice to other state agencies.

If this submitted material is an adopted amendment, then please keep this letter as documentation that you have met the procedural requirement under RCW 36.70A.106.

If you have submitted this material as a draft amendment, then final adoption may occur no earlier than sixty days following the date of receipt by Commerce. Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Dave Andersen (509) 434-4491 or Paul Johnson (360) 725-3048.

Sincerely,

Review Team
Growth Management Services