



PLANNING COMMISSION MEETING

May 2, 2017
AGENDA

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

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

II. APROVAL OF MINUTES

- A. April 4, 2017

III. PUBLIC COMMENT

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

IV. PUBLIC HEARING

No public hearing items were brought forward.

V. OTHER BUSINESS

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

Summary: Review and discuss with City staff a draft ordinance pertaining to the regulation of marijuana related businesses and marijuana cooperatives within the municipal limits.

- B. **Planning Commission Rules and Procedures* (Tate)**

Summary: Consider annual amendments to Planning Commission's Rules and Procedures.

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.



April 4, 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 Lee, Commissioner Stephens, Commissioner Copple, Commissioner Moutzouris, and Commissioner Smith. Commissioner Shin was excused.

Staff present included: City Attorney Dan Heid, Assistant Director of Community Development Services Jeff Tate, Planner II Alex Teague, and Administrative Assistant Tina Kriss.

Members of the public present: Turan Wright representing the Washington State Food Truck Association.

b.) PLEDGE OF ALLEGEANCE

II. APPROVAL OF MINUTES

A. March 21, 2017

A Commissioner pointed out that the Approval of Minutes motion to approve the minutes needs to be revised to indicate Commissioner Copple moved and Commissioner Lee seconded to approve the minutes from the March 21, 2017 meeting.

Commissioner Copple moved and Commissioner Lee seconded to approve the minutes from the March 21, 2017 meeting as corrected.

MOTION CARRIED UNANIMOUSLY. 7-0

III. PUBLIC COMMENT

There was no public present for comments.

IV. PUBLIC HEARING

A. Temporary Uses, Mobile Vendors, and Food Trucks

Assistant Director Tate presented the staff report Temporary Uses, Mobile Vendors, and Food Trucks, file No. ZOA16-0008. Staff explained that this item has been scheduled for Public Hearing this evening but staff is still waiting for a response to the state agency review and the public comment that is out for the State Environmental Policy Act (S.E.P.A.). Staff asked the Commission if they would hold

the public hearing and open the record for testimony and close the public testimony and leave the record open in order to engage more members of the community, complete the state agency review, and complete the SEPA process. The Commission concurred.

Chair Roland opened the Public Hearing on Temporary Uses, Mobile Vendors, and Food Trucks (ZOA16-0008) at 7:18 p.m.

Assistant Director Tate explained modifications of the draft amendments based on the feedback provided by the Commission at their March 7, 2017 meeting.

- On Page 6 of the Chapter 18.46A draft amendments, under section ACC 18.46.A.050.K, the timeframe for exempt portable storage containers has been increased from 30 days to 60 days.
- On Pages 8 and 9 of the Chapter 5.20 draft amendments, under section ACC 5.20.260.B new section 1.b has been added to specifically exempt vendors from a City business license when they are set up in conjunction with a city sponsored event such as the Auburn International Farmers Market.

The Commission and staff discussed the approval process to have large tents on your property for weddings and other events. Staff explained that a Temporary Use Permit is required which assists the city in their review of the fire ratings for the tent products and the ability to be assured the tents are designed appropriately for ingress and egress for emergencies and the site location of the tent.

In answer to a question from the Commission, staff reviewed the difference between temporary storage containers that requires a temporary use permit or building permit.

Chair Roland invited the public forward for public testimony:

Turan Wright, 130 F Street SE, Auburn

Mr. Wright stated he is before the Commission on behalf of the Washington State Food Truck Association. Mr. Wright stated that the Advance No Parking Notification Sign requirement of 48 hours should be reduced to 24 hours or after another food truck vacates space the previous day, whichever is appropriate. Mr. Wright also informed the Commission that in Seattle and Tacoma other vendors in the food truck industry are working together to post signage notifying the public to keep the space clear during a specific timeframe that food trucks occupy the parking space.

Assistant Director Tate explained that there are two primary examples of where food truck policy comes up: 1). Food trucks established on private property; and 2). Food trucks located on the public right-of-way, the street. The second instance is where notification requirements or signage would be required in order to reserve a space in a public street for a private party or vendor. The current proposed regulations under ZOA16-0008 pertain to private property only, not the city right-of-way.

Staff stated that while the comments by Mr. Wright are valid staff will bring the comments to the City Engineer who oversees the permitting process for activity

within the city right-of-way. Currently staff is not proposing changes to the process within the City right-of-way as those do not fall under the responsibility of Community Development services which oversees the permitting and licensing of everything that happens on private property.

Staff explained that an application has been received for food trucks within the public right-of-way and believes the comments regarding the Advance No Parking Notification may have been generated from that application. Mr. Tate stated this is not dismissing the comments by Mr. Wright and at the close of the public hearing he will meet with Mr. Wright discuss his comments.

The Commission and staff discussed the requirements of the public right-of-way and management of those regulations by the City engineer.

With no other testimony from the public, Chair Roland closed the public testimony portion of the public hearing on the Temporary Uses, Mobile Vendors, and Food Trucks (ZOA16-0008) at 7:27 p.m. left the record open in order to complete the additional outreach and environmental review procedures.

OTHER BUSINESS

A. Open Space Zoning District

Alex Teague, Planner II, stated the City of Auburn adopted a new Comprehensive Plan at the end of 2015 that includes a new land use map designation of "Open Space". At the March 7, 2017 meeting staff reviewed the proposed zoning code that provides the allowed uses and zoning development standards and the Commission requested additional information from staff. Ms. Teague reviewed the following information; the acreage of each of the privately owned (non-governmental agency) parcels; former and current land use designations of the "other public" parcels (specifically, the parcels owned by the Muckleshoot Indian Tribe (MIT) and within the MIT reservations boundary); and, former and current land use designations of privately owned parcels.

The Commission and staff reviewed the properties that are designated "Open Space" based on the 2015 Comprehensive Plan and the Commission expressed their concern in providing notice to the property owners that would have the Open Space land use map designation and proposed changes to the allowed uses and zoning development standards.

Staff informed the Commission that prior to the public hearing each of the land owners will receive a Notice of Public Hearing informing the property owner that the City is proposing new land uses and development standards for the Open Space designation for their property. Each property owner be provided notice of the public hearing and at the public hearing be able to make public comment.

After reviewing the Muckleshoot Indian Tribe (M.I.T.) properties the Commission asked what jurisdiction do those properties fall under. Staff explained that the properties are either owned by the MIT or held in trust by the Federal Government on the tribe's behalf, currently not under the jurisdiction of the City of Auburn. Staff pointed out that although the land may not be under the jurisdiction of Auburn at this

time property ownership changes when bought and sold so providing land use designation zoning uses and development standards would provide clarity for any changes in ownership in the future.

The Commission and staff discussed the Segale mining property which also has property designated as a special planning area per Auburn's Comprehensive Plan. Staff pointed out that a subarea plan has not been adopted but will be during the subarea planning process in the future. Staff reported that as part of the reclamation plan by the State Department of Natural Resources for the Segale property, the plan indicates a future use of residential after reclamation.

The Commission and staff discussed the options if a property owner would like to change their Open Space designation. Staff explained that annually requests can be made by private parties to change their land use designation during the annual Comprehensive Plan Amendments.

Staff stated that moving forward the next steps would be to hold a public hearing on the proposed Open Space Zoning District to receive public comment on the proposed code language for the allowed uses and the zoning development standards. Staff also clarified that the land use designations were adopted as part of the Comprehensive Plan Amendments of 2015 and are currently in place, no map changes are being made but what is being proposed by staff is a need to identify what types of uses and intensity of uses are allowed on the properties. Prior to the 2015 Comprehensive Plan Amendments where the open space land use designations were adopted and great deal of analysis was conducted for these properties identifying the constraints that existed for these properties, from shoreline regulations to critical area regulations. The goal is to provide the rules that apply to these properties, addressing the allowed uses and zoning development standards.

A. Planning Commission Rules and Procedures* (Tate)

Assistant Director Tate reviewed the proposed updates of the Planning Commission Rules and Procedures as requested by the Planning Commission at their March 21, 2017 meeting. Staff noted that language was added to section X.3. PUBLIC HEARINGS, Testimony of Proponent, if applicable; the additions provide a 3-minute time limit and the protocol for testimony. Staff pointed out that this process has already been in practice at the Planning Commission public hearings but it is now included in the Rules and Procedures and allows the Chair to have flexibility to modify the timeframe if so warranted.

Staff pointed out language was added to XI. Conduct. The language was taken from other jurisdictions and previously reviewed by the Planning Commission at the last meeting and incorporated into the Rules and Procedures.

After reviewing the proposed amendments, the Commission asked for the following updates:

- X.3. PUBLIC HEARINGS, Testimony of Proponent, if applicable. Change the word address to addressed, "All remarks will be addressed to the Commission as a whole".

- X.5. PUBLIC HEARINGS: Questions of staff or persons presenting testimony. Add the following sentence: Questions by Planning Commission members, intended for persons who have presented, shall be directed through the Chair, and questions shall be relevant to their testimony”.
- III.2. ELECTION OF OFFICERS: Clarify that the election of officers shall take place once each year at the Commission’s first regular meeting of each calendar year or soon thereafter as practical.
- III.3. ELECTION OF OFFICERS: Remove the first sentence as it is addressed in other sections. Clarify that it would be the Planning Commission that would re-elect the Chair or Vice-Chair for a vacancy of the elected position.
- X.9.D. PUBLIC HEARINGS: Provide language to clarify that if a member intends to abstain from an issue they provide notice that they are abstaining prior to any discussion or participation on the subject matter or as soon thereafter as the member perceives a need to abstain.
- XII.2. CONFLICT OF INTEREST: In the 2nd to the last paragraph, clarify the language that states No member may participate in any decision if the member had not heard the testimony presented at the hearing on the matter. Such member may, however, listen to the recording of the hearing and review the staff report provided as part of the record to satisfy this requirement.

Staff will work on the updates to the Rules and Procedures and bring the draft back to the Commission at the next meeting.

V. COMMUNITY DEVELOPMENT REPORT

Assistant Director Tate reported that the Planning Commission recommendations for the modification to the C-1 commercial zoning designation, Ordinance No. 6644, will be introduced to City Council at Study Session on April 10, 2017 with the intention to bring it before City Council for action on April 17th, 2017.

The City received the building permit application for the brewery off Main Street, GEAUX BREWING. The intention is for the brewery is to open May 23, 2017.

Staff reported that Marshalls has moved from The Outlet Collection to a Covington location and Dave & Buster’s has begun the permit process to occupy the former Marshall’s space. The Dave and Buster’s in Auburn will be the first location placed in Washington State; they are a nationwide establishment where folks can and eat, drink and play/watch sports all in one facility, it includes billiards and bowling. The permits were applied for as a landlord improvement for the pre-work by The Outlet Collection. Staff expects to receive applications by Dave & Buster’s Inc. shortly.

Assistant Director Tate reported that the City’s 2017 façade improvement program has been approved by council. The program allows downtown business owners to apply for grant money for improvements to a building to improve the appearance, the applicant provides a portion of the cost of the improvements. Staff reviewed several projects that

have been funded and are proposed to be funded by the façade improvement grant program.

Staff distributed the materials provided by Sound Transit in early March, 2017, at their open house regarding the Auburn Station Access Improvements Project. The materials provide an overview and status of the project.

Assistant Director Tate stated that at the May 2nd, 2017 meeting staff will bring back to the Commission activities from the state legislature regarding marijuana for discussion.

VI. ADJOURNMENT

There being no further business to come before the Planning Commission, Chair Roland adjourned the meeting at 9:15 p.m.



MEMORANDUM

TO: Judi Roland, Chair, Planning Commission
Ron Copple, Vice-Chair, Planning Commission
Planning Commission Members

FROM: Jeff Tate, Assistant Director of Community Development

DATE: April 24, 2017

RE: Ordinance No. 6642 – Marijuana Regulations
Follow Up to March 21, 2017 Planning Commission Discussion

During the March 21, 2017 Planning Commission meeting staff provided a presentation on draft Ordinance 6642 which outlines several potential code amendments that regulate marijuana related activities. During the meeting Planning Commission requested that staff add Ordinance No. 6642 to the Planning Commission's May 2, 2017 agenda for further discussion. In particular, the Planning Commission wanted to understand any actions taken by the Washington State Legislature during the 2017 legislative session. Jessica Leiser will provide an update during the May 2, 2017 Planning Commission meeting.

Additionally, based on the Planning Commission's March 21, 2017 discussion, staff has proposed additional modifications to draft Ordinance No. 6642. These modifications are highlighted in turquoise under cover of this memo. They are also described as follows:

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).

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
<u>Marijuana processor</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>ACC 18.59</u>
<u>Marijuana producer</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>ACC 18.59</u>
<u>Marijuana researcher</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>ACC 18.59</u>
<u>Marijuana retailer</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>ACC 18.59</u>
<u>Marijuana transporter business</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>ACC 18.59</u>
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	

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>	X	X	X	X	
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.

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

PUBLISHED: _____

CITY OF AUBURN

PLANNING COMMISSION

RULES OF PROCEDURE

ADOPTED NOVEMBER, 1983
REVISED NOVEMBER, 1988
UPDATED APRIL, 2000
REVISED FEBRUARY, 2007
REVISED APRIL 2, 2013
REVISED MARCH 8, 2016
REVISED **month, date, 2017**

PLANNING COMMISSION - RULES OF PROCEDURE

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CITY OF AUBURN PLANNING COMMISSION

RULES OF PROCEDURE

We, the members of the Planning Commission of the City of Auburn, do hereby adopt, publish, and declare the following Rules of Procedure:

I. NAME:

The official name of the City of Auburn advisory planning agency shall be "The City of Auburn Planning Commission." The membership and terms of office of the members of the Planning Commission shall be as provided in Chapter 2.45 of the Auburn City Code (ACC).

II. MEETINGS:

1. All meetings will be held at the Auburn City Hall, Auburn, Washington, unless otherwise directed by the Secretary or Chair of the Planning Commission.
2. Regular meetings shall be held on the Tuesday following the first Monday of each month, and shall be open to the public. The meeting shall convene at 7:00 P.M. unless otherwise directed by the Secretary or the Chair.
3. If the first Monday of the month is a legal holiday, the regular meeting shall be held on the following Wednesday. If a regular meeting day (Tuesday) falls on a legal holiday or on the November General Election, the Commission will convene on the following Wednesday.
4. Special meetings of the Planning Commission shall be at the call of the Chair. Special meetings of the Planning Commission may also be called by any three members of the Commission. A minimum notice of 24 hours shall be provided for special meetings in accordance with State law.
5. If no matters over which the Planning Commission has jurisdiction are pending upon its calendar, a meeting may be canceled at the notice of the Secretary or Chair provided at least 24 hours in advance.
6. Except as modified by these rules of procedure, Robert's Rules of Order, Newly Revised, most current version, shall govern the conduct of the meetings.

7. Meetings of the Planning Commission shall be conducted in conformity with the requirements of the Washington State Open Public Meetings Act, Chapter 42.30 of the Revised Code of Washington (RCW). Executive sessions can only be held in accordance with the provisions of Section 42.30.110 RCW.
8. The Planning Commission may conduct business in closed session as allowed in conformity with Section 42.30.140 RCW.
9. An agenda shall be prepared in advance of every regular and special meeting of the Planning Commission. Meeting agendas and materials on items on an agenda for a regular meeting shall be provided to members of the Planning Commission not less than five (5) days in advance of the regular meeting. Meeting agendas and materials on items on an agenda for a special meeting shall be provided to members of the Planning Commission as promptly in advance of the meeting as can reasonably be accomplished.

III. ELECTION OF OFFICERS:

1. The officers of the Commission shall consist of a Chair and Vice Chair elected from the appointed members of the Commission and such other officers as the Commission may, by the majority vote, approve and appoint.
2. The election of officers shall take place once each year at the Commission's first regular meeting of each calendar year, or as soon thereafter as possible. The term of office of each officer shall run until the subsequent election.
3. If the Chair or Vice-Chair vacates their position mid term, the Planning Commission will re-elect officers at their next scheduled meeting and as their first order of business. If it is the Chair position that has been vacated, the Vice-Chair will administer the election proceedings.

IV. CHAIR:

1. The Chair shall preside over the meetings of the Commission and may exercise all the powers usually incident of the office. The Chair shall be considered as a member of the Commission and have the full right to have his/her own vote recorded in all deliberations of the Commission. Unless stated otherwise, the Chair's vote shall be considered to be affirmative for the motion.

2. The Chair shall have power to create temporary committees of one or more members. Standing committees of the Commission shall be created at the direction of the Commission and appointed by the Chair. Standing or temporary committees may be charged with such duties, examinations, investigations and inquiries relative to one or more subjects of interest to the Commission. No standing or temporary committee shall have the power to commit the Commission to the endorsement of any plan or program without the approval at the regular or special meeting of the Commission.
3. The Vice Chair shall in the absence of the Chair, perform all the duties incumbent upon the Chair.
4. In the event of the absence of the Chair and Vice Chair, the senior member of the Commission present shall act as Chair for that meeting or may delegate the responsibility to another member.

V. SECRETARY:

The Planning and Development Director ("Director"), or his/her appointee, shall act as the Secretary for the Planning Commission and shall keep a record of all meetings of the Commission and its committees. These records shall be retained at the Planning and Development Department.

All public hearings shall be electronically recorded verbatim and may be transcribed upon request of the Director, City Attorney, the majority of the Commission, or City Council. Transcriptions may be requested by other parties, in which case, the costs of transcription shall be borne by the requesting party.

VI. QUORUM:

A simple majority of the appointed members shall constitute a quorum for the transaction of business. A simple majority vote of the quorum present shall be sufficient to take action on the matters before the Commission; provided that if at any time during the meeting, a quorum is no longer present, the meeting may only continue for the time and duration necessary to fix a time for adjournment, adjourn, recess or take measures to obtain a quorum.

VII. ABSENCE OF MEMBERS:

In the event of a member being absent for two (2) consecutive regular meetings, or being absent from 25% of the regular meetings during any calendar year, without being excused by the Chair, the Chair may request that the Mayor ask for his or her resignation. To be excused, members must inform the planning commission's secretary in advance if they cannot attend a scheduled meeting.

VIII. ACTIONS DEFINED:

The rules of the Commission impose different requirements according to the type of action before the Commission.

1. Legislative actions are those which affect broad classes of people of the whole City. These actions include adopting, amending, or revising comprehensive, community, or neighborhood plans, or other land use planning documents or the adoption of area wide zoning ordinances or the adoption of a zoning ordinance amendment that is area wide in significance.
2. Quasi-judicial actions of the Planning Commission are those actions which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions include actions that would otherwise be administrative or legislative if applied more widely or city-wide, rather than affecting one or a small number of persons or properties. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of general or area-wide significance.
3. Organizational actions are those actions related to the organization and operation of the Commission. Such actions include adoption of rules, directions to staff, approval of reports, election of officers, etc.

IX. AGENDA:

An agenda shall be prepared for each meeting consisting of the following order of business:

1. CALL TO ORDER
 - a) Roll Call/Establishment of Quorum
 - b) Pledge of Allegiance
2. Approval of Minutes
3. Public Comment
4. Public Hearings
5. Other Business Items as Appropriate
6. Community Development Report
7. Adjournment

Additional items may be added to the agenda by the Planning Commission. The Chair shall have the discretion to amend the order of business.

X. PUBLIC HEARINGS:

The procedure for conducting all public hearings will be as follows:

1. Chair opens the public hearing and establishes whether the proponent, if applicable, is in attendance.
2. Staff Report.
3. Testimony of Proponent, if applicable. Persons addressing the Commission, who are not specifically scheduled on the agenda, will be requested to step up to the podium, give their name and address for the record, and limit their remarks to three (3) minutes, in addition to filling out the speaker sign in sheet available at the Secretary's desk. All remarks will be addressed to the Commission as a whole. The Secretary shall serve as timekeeper. The Presiding Officer may make exceptions to the time restrictions of persons addressing the Council when warranted, in the discretion of the Presiding Officer.
4. Chair calls for other testimony, either for or against. Testimony must be called for three times. The Chair shall have the discretion to set time limits on individual public testimony.
5. Questions of staff or persons presenting testimony. Questions by Planning Commissioners that are intended for persons who have provided testimony shall be directed through the Chair. Questions to persons who have provided testimony shall be relevant to the testimony that was provided.
6. Chair closes public hearing.
7. A public hearing may be reopened by motion to accept additional testimony.
8. Deliberation.
9. Voting:
 - A. Any member, including the Chair, not voting or not voting in an audible voice shall be recorded as voting in favor of the motion.
 - B. The Chair, Secretary, or upon request from a Commission member, may take a roll call vote.
 - C. It is the responsibility of each member of the Planning Commission to vote when requested on a matter before the full Commission. However, a member may abstain from discussion

and voting on a question because of a stated conflict of interest or appearance of fairness.

- D. If any member of the Planning Commission wishes to abstain, or has disclosed a conflict of interest and must abstain from a vote on the motion, that member shall so advise the Chair and, if there is no objection to the abstention, shall physically remove and absent himself/herself from the meeting/hearing, all deliberations, and considerations of the motion, and shall have no further participation in the matter. Such advice shall be given prior to any discussion or participation on the subject matter or as soon thereafter as the member perceives a need to abstain, provided that, prior to the time that a member gives advice of an intent to abstain from an issue, the member shall confer with the City Attorney to determine if the basis for the member's intended abstention conforms to the requirements hereof. If the intended abstention can be anticipated in advance, the conference with the City Attorney should occur prior to the meeting at which the subject matter would be coming before the Planning Commission. If that cannot be done, the member should advise the Chair that he/she has an "abstention question" that he/she would want to review with the City Attorney, in which case, a brief recess would be afforded the member for that purpose before proceeding further.
- E. If a tie vote exists, after recording the Chair's vote, the motion fails. However, a motion for denial that fails on a tie vote shall not be considered an approval.

9. Continuing an Item:

If the Commission wishes to continue a public hearing item, the Chair should open the public hearing, solicit testimony, and request a motion from the Commission to continue the public hearing item to a time, place, and date certain. If any matter is tabled or postponed without establishing a date, time, and place certain, the matter shall be scheduled for a hearing pursuant to Auburn City Code (ACC) Section 18.68.040 before the matter may be considered again.

10. Findings of Fact:

The Commission should adopt findings of fact and conclusions for actions taken involving public hearing items. The findings and conclusions may be approved by any one of the following methods:

- A. The Commission may adopt in whole, in part, or with amendments, the written findings prepared by staff. Motions to

approve the staff recommendations shall be deemed to incorporate such findings and conclusions unless otherwise indicated. Such findings and conclusions do not have to be read in order to be deemed a part of the record.

- B. The motion to take action may adopt oral finding statements made by Commission members or staff during the hearing or deliberation.
- C. The motion to take an action may direct that additional written findings and conclusions be developed based on the hearing and deliberation of the Commission.
- D. Findings and conclusions may be approved or amended at any time by the Planning Commission, but all such actions shall be based on the record of the matter at hand.

11. Order of Hearings:

Normally the order of hearings shall be as published in the agenda. However, the Chair in order to avoid unnecessary inconvenience to people wishing to testify, or the late arrival of a proponent, may change the order as may be necessary to facilitate the meeting. If the proponent does not appear at the public hearing, the Planning Commission may continue the public hearing until the next meeting in order to ensure adequate consideration of the proposal. However, in such case the Chair shall take whatever testimony that may be given before accepting a motion to continue pursuant to Section (8).

XI. CONDUCT:

- 1. These rules are intended to promote an orderly system of holding a public meeting and hearing, to give persons an opportunity to be heard and to ensure that individuals are not embarrassed by exercising their right of free speech.
- 2. Any person making personal, impertinent or slanderous remarks while addressing the Commission shall be barred from further audience participation by the Presiding Officer, unless permission to continue is granted by a majority vote of the Commission.
- 3. No comments shall be made from any other location, and anyone making "out of order" comments shall be subject to removal from the meeting.
- 4. Demonstrations, applause, other disruptive behavior, or other audience participation during or at the conclusion of anyone's presentation are

prohibited. It is distracting to the Commission, the audience, and persons testifying.

XII. CONFLICT OF INTEREST:

1. Any member of the Commission who in his or her opinion has an interest in any matter before the Commission that would tend to prejudice his or her actions shall publicly indicate, step down and leave the meeting room until the matter is disposed. A member need only be excused from legislative or organizational action if the potential conflict of interest is direct and substantial.
 - A. No member of the Planning Commission may use his or her position to secure special privileges or exemptions for himself, herself, or others.
 - B. No member of the Planning Commission may, directly or indirectly, give or receive or agree to receive any compensation, gift, reward, or gratuity from a source except the employing municipality, for a matter connected with or related to the officer's services as such an officer unless otherwise provided for by law.
 - C. No member of the Planning Commission may accept employment or engage in business or professional activity that the officer might reasonably expect would require or induce him or her by reason of his or her official position to disclose confidential information acquired by reason of his or her official position.
 - D. No member of the Planning Commission may disclose confidential information gained by reason of the officer's position, nor may the officer otherwise use such information for his or her personal gain or benefit.
 - E. No member of the Planning Commission may take any action that is prohibited by Chapter 42.23 RCW or any other statutes identifying conflicts of interest.

2. Appearance of Fairness:

Commission members shall strive to follow, in good faith, the Appearance of Fairness Doctrine as established under Washington State Law as it applies to quasi-judicial decisions (RCW 42.36) even for legislative actions before the Commission. The doctrine includes but is not limited to the following:

- A. Members shall avoid communicating in respect to any proposal with any interested parties, other than staff, outside of public hearings. Written communication from an interested party to a member may be permitted provided that such communication is made part of the record.
- B. Members shall avoid drawing conclusions regarding decisions until after the public hearing is closed.
- C. Members shall avoid participating in decisions which affect their or any family member's property, personal or business interest, or organization.
- D. Members shall avoid participating in decisions in which a preconceived bias or conclusion has been formed in the mind of the member prior to the hearing.
- E. If any concern relating to Items 1 through 4 should arise, the affected member shall declare at the start of the public hearing on the matter, the extent of such concern and whether the member's decision has been influenced. If the member has been influenced, or if the extent of the concern is significant, the member shall be excused by the Chair from the meeting room and his vote recorded as an abstention.

If, under these rules, a quorum would be excused from the meeting, the Chair in order to establish a quorum, shall under the rule of necessity, permit sufficient members (beginning with those who are least affected by these rules) to participate in the decision.

No member may participate in any decision if the member had not heard the **staff reports and** testimony presented at the hearing on the matter. Such member may, however, listen to the recording of the hearing in order to satisfy this requirement.

These rules are intended to be consistent with RCW 42.36. In the case of any conflict, RCW 42.36 or applicable case law shall govern.

XIII. AMENDMENT:

The Rules of Procedure may be amended at any regular meeting of the Commission by a majority vote of the entire membership. The proposed amendment should be presented in writing at a preceding regular meeting.