



PLANNING COMMISSION MEETING

March 7, 2017
AGENDA

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

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

II. APPROVAL OF MINUTES

- A. February 22, 2017

III. PUBLIC COMMENT

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

IV. PUBLIC HEARING

- A. **Ordinance No. 6644, ZOA16-0004 - Amending the Residential Uses allowed in the C-1 zone, and Development Standards for Mixed-Use Developments**

Summary: Amending the list of allowed Residential uses in the C-1, Light Commercial zoning district, and amending the development standards for mixed-use developments.

V. OTHER BUSINESS

- A. **Discussion of Mixed Use Zone* (Gouk)**

Summary: Discuss options for allowed uses in the Mixed Use Zone and the development regulations that govern those uses.

- B. **Temporary Uses, Mobile Vendors and Food Trucks – Draft Code Changes* (Tate)**

Summary: Discuss ZOA16-0008, draft code changes to temporary uses, mobile vendors, and food trucks.

- C. **Discussion of Open Space Zone* (Teague)**

Summary: Discuss options for allowed uses in the Open Space Zone and the development regulations that govern those uses.

- D. **Modification of Rules and Procedures* (Tate)**

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.



SPECIAL PLANNING COMMISSION

February 22, 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 Moutzouris, Vice-Chair Copple, Commissioner Shin, and Commissioner Smith.

Staff present included: City Attorney Heid, Assistant Police Chief Pierson; Director of Community Development & Public Works Kevin Snyder, Assistant Director of Community Development Services Jeff Tate, Assistant City Attorney Jessica Leiser; Planning Services Manager Jeff Dixon, Senior Planner Dustin Lawrence, Senior Planner Thaniel Gouk; and Office Assistant Jennifer Oliver.

Members of the public present: Craig Kruger, Michelle Bode, Arne Nelson, Kirk Edwards, Philip Dawdy, and Tim Edwards.

b.) PLEDGE OF ALLEGEANCE

II. APPROVAL OF MINUTES

A. February 7, 2017

The Commission pointed out a scrivener's error in the Agenda. The date of the APPROVAL OF MINUTES is noted as January 7, 2017 and needs to be amended to state February 7, 2017.

Commissioner Copple moved and Commissioner Stephens seconded to approve the minutes from the February 7, 2017 meeting as written and amend the Agenda, APPROVAL OF MINUTES with the date of February 7, 2017.

MOTION CARRIED UNANIMOUSLY. 8-0

III. PUBLIC COMMENT

There was no public present for comments.

IV. OTHER BUSINESS

A. Discussion of C1, Light Commercial Code Changes

Senior Planner Thaniel Gouk presented the staff report on the C1, Light Commercial Code Changes and staff reviewed the proposed code amendment changes. The definition for "mixed use development" was updated to clarify that horizontal and vertical development is included in mixed use development and the language throughout the amendment has been updated to show consistency with this update. Staff explained that per the recommendations provided by the Commission at their

January 4th meeting, the proposed amendments include addressing the allowed uses in the C-1 zone, recognizing that several projects were vested and allowed to have residential development in the C-1 zone, they are noted as permitted uses in the amendment rather than legal non-conforming. Staff reviewed other amendments which provide general cleanup and of several zoning text inconsistencies.

The Commission and staff discussed the reason for calling out the ground floor uses in detail. Staff explained that this was previously noted in the code and provides clarity on the types of uses you would want or not want to have in a residential development. By providing this information it also assists folks who are looking to lease property when they are aware of the allowed use.

The Commission and staff discussed how the definition for work-live and live-work would be incorporated within the amendments.

With no further questions from the Commission, the Commission and staff agreed to bring back this item at the March 7, 2017 meeting for Public Hearing.

B. Proposed Ordinance No. 6642, Regulations of Marijuana related Businesses within the Municipal Limits of the City of Auburn

Director of Community Development and Public Works, Kevin Snyder, provided an overview of draft Ordinance No. 6642 regarding the regulation of marijuana related businesses in the City of Auburn. City staff members involved in working on and drafting the proposed ordinance were introduced.

Staff pointed out that this is an introduction to the draft ordinance and the intent is to provide an overview and work with the Commission to answer any questions and concerns as needed. Staff reminded the Commission that they received an updated draft Ordinance No. 6642 which included amendments to Sections 5.20.250 and several Sections of Title 18 of Auburn City Code. A hard copy of the updated draft Ordinance No. 6642 (Version No. 2, February 22, 2017 – Auburn Planning Commission) was provided to the Commissioners.

Director Snyder provided a PowerPoint presentation and explained that the city previously passed Ordinance No. 6525 on September 2, 2014 and Ordinance No. 6613 on August 15, 2016. An overview of Ordinance No. 6525 and No. 6613 was provided. Staff reviewed the current number of retailers, and producers/processors located within the city.

Staff reviewed the proposed zoning district limitations for marijuana related businesses and cooperatives under proposed Ordinance No. 6642 and the new proposed definition for Chapter 18.04. The proposed development standards for Marijuana Related Businesses under Chapter 18.59 was discussed. Staff explained proposed Ordinance No. 6642 would allow a maximum of 3 retailers, and provide a proposed maximum square footage of marijuana processors / producers. Staff opened a discussion on a public review process.

The Commission thanked staff for providing the current status of retailers, producers / processors and code enforcements activity within the city.

The Commission and staff reviewed map Options 1, 2, and 3 showing the geographic spacing effects or separation requirements of a marijuana business.

The Commission and staff discussed future school locations and if the separation requirements of these future locations would be noted within the map, Assistant Director Tate explained that the draft language for required geographic separation within proposed Ordinance No. 6642 does not apply to future uses, only to existing facilities.

Commissioner Lee asked if there would be a consideration within the required geographic separation for known land dedicated for future schools by a school district. In answer to the question, Director Snyder explained that the Commission could, in their recommendation to City Council, modify proposed Ordinance No. 6642 to include property that has been purchased for the development of future schools to satisfy the required geographic separation. The Commission and staff discussed possible language that could be included for properties that the school district owns that are not intended for future school development such as their bus barn. As requested by the Commission, staff will work on language for the ordinance and the identification of these properties.

The Commission and staff discussed the current vesting of retail marijuana related businesses and the language provided in proposed Auburn City Code Section 18.59.060 E. (Discontinuance). Staff explained that according to this section 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.

The Commission and staff discussed the current number of retailers and the allowed number under state law. Staff explained how the licenses under I-502 were allocated and the methodology the state used for allocating those licenses and the later changes made by revised state requirements for state marijuana regulations, including marijuana processors, producers, retailers, and cooperatives.

A discussion was held regarding the precinct majority support by the citizens of Auburn regarding marijuana. City Attorney Heid reported that approximately fifty-five percent of the vote was in support of legalizing marijuana. The Commission and staff discussed marijuana related issues regarding minors and health risks within Auburn, King County, and the nation as a whole.

The Commission and staff discussed the polling of citizens of the City of Auburn to determine their thoughts related to marijuana related businesses. After discussion the Commission expressed their desire to conduct an on-line citywide poll to get community feedback on the city's regulation of marijuana.

After discussing draft Ordinance No. 6642, the Commission requested the following information from staff:

- Sales Tax Information for Marijuana Retail Stores (within the city and nationally)
- School district property issues and future school district sites for the inclusion in geographic separation options
- Social impact data – national or regional or local depending on available
- Draft polling questions and the polling process
- Heat Map for Vulnerability Issues for South King County

The Commission and staff discussed holding another work session on March 21st to continue to discuss the polling process and questions for the poll along with other information staff will provide per the request by the Commission. Prior to the March 7, 2017 meeting staff agreed to forward any other requested information that has been compiled to the Commission for discussion.

V. COMMUNITY DEVELOPMENT REPORT

The Commission and staff discussed various activities within the city and the status of those projects and activities.

VI. ADJOURNMENT

There being no further business to come before the Planning Commission, Chair Roland adjourned the meeting at 8:43 p.m.



MEMORANDUM

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

FROM: Thaniel Gouk, Senior Planner, Comm. Development & Public Works Dept.

DATE: February 27, 2017

RE: Ordinance No. 6644 – Amending the Residential Uses allowed in the C-1 zone, and Development Standards for Mixed-Use Developments

Background / Summary:

On February 22, 2017, Staff presented draft code language to the Planning Commission pertaining to changes to the development regulations for mixed-use developments. This presentation also included the proposed amendments to the list of allowed Residential uses in the C-1 zoning district, which the Planning Commission had previously recommended to the City Council.

The proposed changes to the mixed-use development standards include clarifying language and terminology, removing redundant code requirements, and other minor changes / updates. The previously reviewed and recommended changes to the C-1 zone remain the same.

Current Action:

Attached for the Planning Commission's consideration is draft Ordinance 6644. Staff recommends the Commission recommend approval of the Ordinance, as proposed, to the City Council.

Attached Exhibits:

Two exhibits are attached, the first is a clean version of the proposed amendments (**Exhibit A**), the second is the draft proposed Ordinance 6644 (**Exhibit B**).

EXHIBIT A

Item 1:

Amend the zoning code definition for “mixed-use development”:

18.04.625 Mixed-use development. “Mixed-use development” means a single unified development that incorporates the planned integration of two or more different land uses consisting of some combination of office, light industrial, hotel, retail, entertainment, public uses, along with residential uses. Mixed-use development may be vertically oriented in one or more buildings, or horizontally distributed on a development site. When horizontally distributed, the different uses may be constructed concurrently and in separate phases, and should incorporate common and/or complementary features and/or elements such as pedestrian walkways, access driveways, parking areas, architectural themes, or other techniques that provide integration between uses on the site.

Item 2:

List of Residential uses allowed in the C-1 zone, previously discussed and recommended for change by the Planning Commission at the November 9, 2016 hearing.

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	
RESIDENTIAL									
Caretaker apartment	X	P	P	P	X	P	P	P	
Live/work	X	X	P	P	P	P	P	X	
Work/live unit	X	P	P	P	P	P	P	X	
Multiple-family dwellings as part of a mixed-use development ²	X	X	P	P	P	P	P	X	ACC 18.57.030
Multiple-family dwellings, stand-alone	X	X	X	X	X	X	X	X	
Nursing home, assisted living facility	X	P	P	P	C	X	X	X	
Senior housing ²	X	X	A	A	X	X	X	X	

² Any mixed-use development or senior housing project vested prior to Resolution No. 5187 (December 7, 2015) are an outright permitted use in the C-1 zone. Subsequently if a non-residential use within a vested mixed-use development changes, then the non-residential use shall maintain a minimum of 10 percent of the cumulative building ground floor square footage consisting

of the uses permitted outright, administratively, or conditionally, listed under "Recreation, Education, and Public Assembly", "Retail", or "Services" of the C-1 zone.

Item 3:**Proposed amendments for mixed-use developments.****18.57.030 Mixed-Use Development.**

A. All zones where permitted.

1. Multiple-family dwellings shall only occur concurrent with or subsequent to the development and construction of the nonresidential components of the mixed-use development;

2. Vertical mixed-use.

a. Mixed-use development comprised of a maximum of one building on a development site shall have a minimum of 50 percent of the ground floor comprised of one or more of the uses permitted outright, administratively, or conditionally, listed under "Recreation, Education, and Public Assembly", "Retail", or "Services" in Table 18.23.030; provided, that uses normal and incidental to the building, including, but not limited to, interior entrance areas, elevators, waiting/lobby areas, mechanical rooms, mail areas, garbage/recycling/compost storage areas, and vehicle parking areas located on the ground floor shall occupy a maximum of 50 percent of the ground floor space.

3. Horizontal mixed-use.

a. Mixed-use development comprised of two or more buildings shall have a minimum of 25 percent of the cumulative building ground floor square footage comprised of one or more of the uses permitted outright, administratively, or conditionally, listed under "Recreation, Education, and Public Assembly", "Retail", or "Services" in Table 18.23.030; provided, that uses normal and incidental to the building, including, but not limited to, interior entrance areas, elevators, waiting/lobby areas, mechanical rooms, mail areas, garbage/recycling/compost storage areas, and vehicle parking areas located on the ground floor shall not be included in this 25 percent requirement.

b. Mixed-use development comprised of two or more buildings (horizontal mixed-use) shall be arranged with the required non-residential building(s) located adjacent to the public street or private street and the multi-family located behind. For a corner lot or through lot, the non-residential building(s) shall be located adjacent to higher classification street.

B. C-2 and C-4 Zones.

1. Vertical mixed-use development is required. 2. All other requirements of Subsection A of this section shall apply.

C. C-3 Zone.

1. 1,200 square feet of lot area is required for each dwelling unit.

2. All other requirements of Subsection A of this section shall apply.

D. M-1 Zone.

1. Vertical mixed-use development is required.

2. Ground floor uses shall be comprised of one or more of the uses permitted outright, administratively, or conditionally, listed under "Retail" or "Services" in Table 18.23.030. All other requirements of Subsection A of this section shall apply.

E. EP Zone.

1. The multiple-family development incorporates sustainable design and green building practices and qualifies to be built green certified.

2. All other requirements of Subsection A of this section shall apply.

EXHIBIT B**ORDINANCE NO. 6 6 4 4**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING SECTIONS 18.04.625, 18.23.030, AND 18.57.035, OF THE CITY CODE, RELATING TO THE RESIDENTIAL USES ALLOWED IN THE C-1, LIGHT COMMERCIAL ZONING DISTRICT, AND DEVELOPMENT STANDARDS FOR MIXED-USE DEVELOPMENT

WHEREAS, the City Council established a one-year moratorium, commencing on December 7, 2015, under Resolution No. 5187, for accepting or processing applications, permits, or other approvals for residential uses within the C-1, Light Commercial zoning district; and,

WHEREAS, Resolution No. 5187 directed the Planning Commission and City Staff to review and determine which uses listed under “Residential” in ACC Table 18.23.030 are appropriate within the C-1 zone; and,

WHEREAS, the Planning Commission discussed and determined which Residential uses were appropriate in the C-1 zone at the October 4, 2016 Planning Commission meeting; and,

WHEREAS, the Planning Commission held a public hearing on the proposed amendments at the November 9, 2016 Planning Commission meeting, and made a recommendation of the amendments to the City Council; and,

WHEREAS, a private application for a zoning text amendment was processed by City Staff, culminating in issuance of a Determination of Nonsignificance (DNS) on November 17, 2016. This private amendment request was proposing to amend a section of code the Planning Commission had recommended to be removed, specifically relating to the uses allowed to satisfy the non-residential component of a previously approved mixed-use development; and,

WHEREAS, the timing of this private application triggered a need for the City Council to extend the moratorium established under Resolution No. 5187; and,

WHEREAS, the City Council extended the moratorium for an additional six months under Resolution No. 5258, commencing on December 5, 2016; and,

WHEREAS, City Staff presented further amendments to address the private application request along with further amendments to the development standards for mixed-use developments to the Planning Commission at the January 4, 2017 and February 22 Planning Commission meetings; and,

WHEREAS, the Planning Commission held a public hearing on the proposed amendments at the March 7, 2017 Planning Commission meeting, and made a recommendation of the amendments to the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO

ORDAIN as follows:

Section 1. Amendment to City Code. That Section 18.04.625 of the Auburn City Code be and the same hereby is amended to read as follows:

18.04.625 Mixed-use development.

"Mixed-use development" means a single unified development that incorporates the planned integration of two or more different land uses consisting of some combination of office, light industrial, hotel, retail, entertainment, public uses, along with ~~and~~ residential uses. Mixed-use development may be vertically oriented in one or more buildings, or ~~geographically~~ horizontally distributed on a development site. When ~~geographically~~ horizontally distributed, the different uses may be constructed concurrently and ~~or~~ in separate phases, and should incorporate common and/or complementary features and/or elements such as pedestrian walkways, access driveways, parking areas, architectural themes, or other techniques that provide integration between uses on the site.

Section 2. Amendment to City Code. That Section 18.23.020 of the Auburn City Code be and the same hereby is amended to read as follows:

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

P = Permitted A = Administrative C = Conditional Use X = Not Permitted									
LAND USE	Zoning Designation								Standards for Specific Land Uses
	C-N	C-1	C-2	C-3	C-4	M-1	EP	M-2	
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)
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	

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

P = Permitted A = Administrative C = Conditional Use X = Not Permitted									
LAND USE	Zoning Designation								Standards for Specific Land Uses
	C-N	C-1	C-2	C-3	C-4	M-1	EP	M-2	
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	
Other uses may be permitted by the planning director or designee if the use is determined to be consistent with the intent of the zone and is of the same general character of the uses permitted. See ACC 18.02.120(C) (6), Unclassified Uses.	P	P	P	P	P	P	P	P	

¹ Any motor freight terminal, as defined by ACC 18.04.635, in existence as of the effective date of the ordinance codified in this section, is an outright permitted use in the M-1 and M-2 zone. Any maintenance, alterations and additions to an existing motor freight terminal which are consistent with ACC 18.23.040, Development standards, are allowed.

² Any mixed-use development or senior housing project vested prior to Resolution No. 5187 (December 7, 2015) are an outright permitted use in the C-1 zone. Subsequently if a non-residential use within a vested mixed-use development changes, then the non-residential use shall maintain a minimum of 10 percent of the cumulative building ground floor square footage consisting of the uses permitted outright, administratively, or conditionally, listed under "Recreation, Education, and Public Assembly", "Retail", or "Services" of the C-1 zone.

Section 3. Amendment to City Code. That Section 18.57.030 of the Auburn City Code be and the same hereby is amended to read as follows:

18.57.030 ~~Residential~~Mixed-Use Development.

~~A. Multiple-Family Dwellings as Part of a Mixed-Use Development.~~

~~1. C-1 Zone. Multiple-family dwelling as part of a mixed-use development is allowed; provided, that compliance to all of the following is demonstrated:~~

A. All zones where permitted.

~~a1.~~ Multiple-family dwellings shall only occur concurrent with or subsequent to the development and construction of the nonresidential components of the mixed-use development;

~~b. Applications for mixed-use development inclusive of multiple-family residential dwellings shall include transportation and traffic analyses appropriate to the type and scale of the proposed development based on the concurrent determination of the planning director and city engineer. The planning director and city engineer may require the analysis to address, including, but not limited to, a.m. or p.m. traffic impacts; and/or area circulation planning for motorized and nonmotorized modes of travel and connectivity; and/or transportation demand management (TDM) strategies;~~

~~e. Applications for the mixed-use development inclusive of multifamily residential dwellings shall include written and plan information demonstrating compliance to applicable design standards for mixed-use development contained in the city of Auburn multifamily and mixed-use design standards;~~

~~d. Applications for the mixed-use development inclusive of multifamily residential dwellings shall comply, as applicable, with the neighborhood review meeting requirements of ACC 18.02.130 (Neighborhood review meeting);~~

e2. Vertical mixed-use.

a. Mixed-use development comprised of a maximum of one building on a development site shall have a minimum of 50 percent of the ground floor comprised of one or more of the uses permitted outright, administratively, or conditionally, listed under "Recreation, Education, and Public Assembly", "Retail", or "Services"~~commercial retail, entertainment or office uses that are permitted outright or conditionally~~ in Table 18.23.030; provided, that uses normal and incidental to the building, including, but not limited to, interior entrance areas, elevators, and associated waiting/lobby areas, mechanical rooms, mail areas, and garbage/recycling/compost storage areas, and vehicle parking areas located, ~~may be allowed on the ground floor, except that non-street frontage vehicle garages located on the ground floor together with all other normal and incidental uses~~ shall occupy a maximum of 50 percent of the ground floor space; ~~or.~~

~~f. Mixed-use development that is geographically distributed on a development site amongst two buildings shall have a minimum of 25 percent of the cumulative building ground floor square footage comprised of one or more commercial retail, entertainment or office uses that are permitted outright or conditionally; or~~

§3. Horizontal mixed-use.

a. Mixed-use development ~~that has~~ comprised of two or more ~~than two~~ buildings shall have a minimum of 25 percentage of the cumulative building ground floor square footage comprised of one or more of the uses permitted outright, administratively, or conditionally, listed under "Recreation, Education, and Public Assembly", "Retail", or "Services" ~~commercial—retail, entertainment, or office~~ in Table 18.23.030; provided, that uses normal and incidental to the building, including, but not limited to, interior entrance areas, elevators, waiting/lobby areas, mechanical rooms, mail areas, garbage/recycling/compost storage areas, and vehicle parking areas located on the ground floor shall not be included in this 25 percent requirement. ~~uses that are permitted outright or conditionally as follows:~~

i. ~~For three buildings, 20 percent of the cumulative building ground floor square footage.~~

ii. ~~For four buildings, 15 percent of the cumulative building ground floor square footage.~~

iii. ~~For five or more buildings, 10 percent of the cumulative building ground floor square footage.~~

h. ~~A project proponent may select to set aside a nonresidential building pad(s), meeting the percentage requirements above, for future development, provided that the site plan for the development must identify the general location for the building(s), associated parking areas, drive aisles, landscaping areas, and utility locations. During the interim period~~

~~that the nonresidential site(s) remains undeveloped, it must be maintained as a landscaped area meeting the requirements of Chapter 18.50 ACC.~~

b. Mixed-use development comprised of two or more buildings (horizontal mixed-use) shall be arranged with the required non-residential building(s) located adjacent to the public street or private street and the multi-family located behind. For a corner lot or through lot, the non-residential building(s) shall be located adjacent to higher classification street.

~~2~~B. C-2 and C-4 Zones.

1. Vertical mixed-use development is required. ~~Multiple-family dwellings are permitted as part of a mixed-use development provided they are:~~

2. All other requirements of Subsection A of this section shall apply.

~~a. Located in a multi-story building the ground floor of which must contain a permitted use listed in Table 18.23.030, "Permitted, Administrative, Conditional and Prohibited Uses by Zone." No density limitations shall apply.~~

~~3~~C. C-3 Zone.

1. ~~Multiple-family dwellings are permitted as part of a mixed-use development provided~~ 1,200 square feet of lot area is ~~provided~~ required for each dwelling unit.

2. All other requirements of Subsection A of this section shall apply.

~~4. C-4 Zone. Multiple-family dwellings are permitted provided they are:~~

~~a. Located in a multi-story building and the ground floor must contain a permitted use or combination of uses, other than parking facility.~~

~~b. An exception to this ground floor commercial requirement is allowed for uses accessory to the upper story residential at a rate of 1,500 square feet of area per upper story of residential. The ground floor areas accessory to the upper story residential may include, but are not limited to, entry space, lobby, hallway, mail areas. The 1,500 square feet of upper floor area does not include exiting required to meet applicable building and fire codes.~~

5D. M-1 Zone.

1. Vertical mixed-use development is required. ~~Multiple-family dwellings are permitted as part of a mixed-use development, provided they are:~~

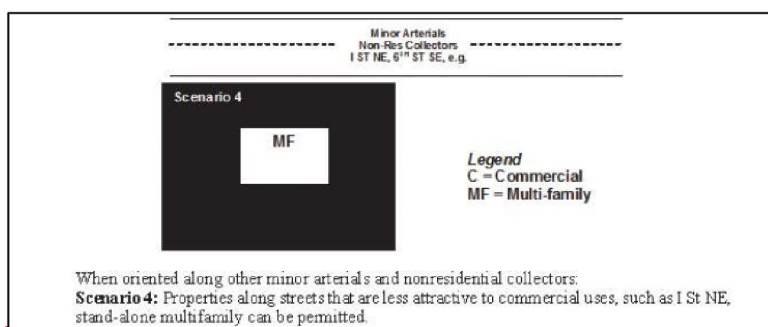
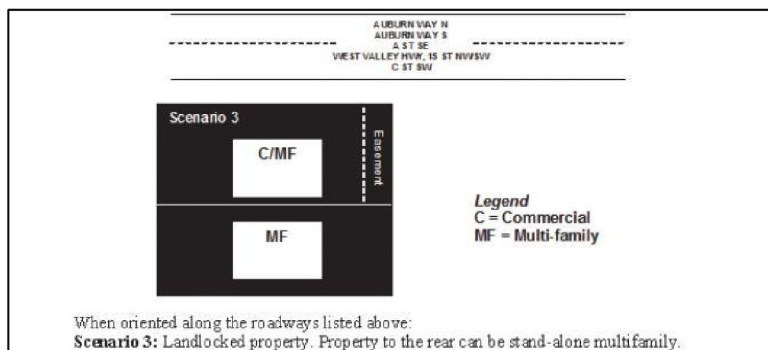
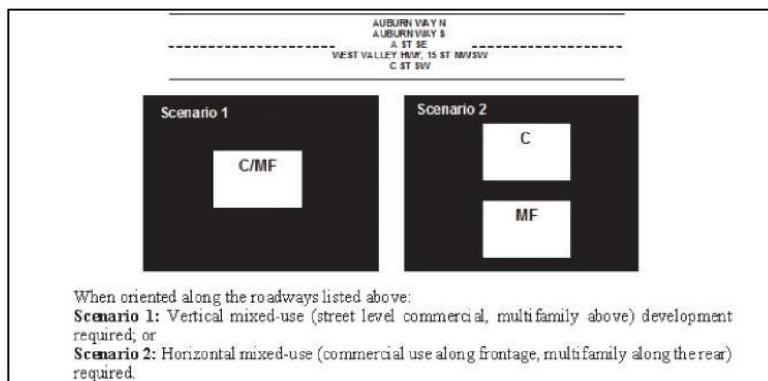
2. Ground floor uses shall be comprised of one or more of the uses permitted outright, administratively, or conditionally, listed under "Retail" or "Services" in Table 18.23.030. All other requirements of Subsection A of this section shall apply.

~~a. Located in a multi-story building the ground floor of which must contain one of the retail or service uses listed in Table 18.23.030, "Permitted, Administrative, Conditional and Prohibited Uses by Zone." The ground floor may contain entrance and lobby areas which serve the dwellings.~~

~~B. Multiple-Family Dwellings, Stand-Alone.~~~~1. C-3 Zone. Multiple-family dwellings are permitted provided:~~

~~a. One thousand two hundred square feet of lot area is provided for each dwelling unit; and~~

~~b. The multiple-family development is arranged in the following manner based on its orientation to a public roadway (Scenarios 1 through 4):~~

~~2E. EP Zone. Multiple-family dwellings are permitted provided:~~

a1. The multiple-family development incorporates sustainable design and green building practices and qualifies to be built green certified.

2. All other requirements of Subsection A of this section shall apply.

Section 4. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 5. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, 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 6. 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

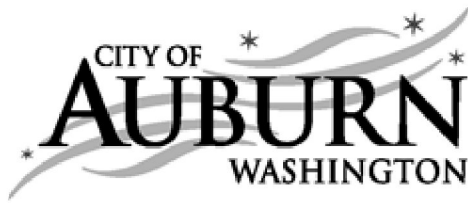
ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

Published: _____



MEMORANDUM

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

FROM: Thaniel Gouk, Senior Planner

DATE: February 1, 2017

RE: Mixed Use Residential (MUR) Zone

Background

Policies in the 2014 Comprehensive Plan created a new Mixed Use Residential land use designation. Based on the designation criteria in the plan, mixed use is an appropriate designation for areas already developed as high density residential, areas adjacent to the Multi-Family designation, or areas adjacent to the Residential Transition designation. The purpose of the designation is to create amenity-rich, well-served environments for living and working that proactively address the potential impacts of higher intensity uses and address land use compatibility.

Best Practices

Communities across the country have adopted a similar approach to mixed use zoning as a way of managing growth. Thriving neighborhoods and business districts are supported by a mix of transportation alternatives, infrastructure, services and amenities that offset the potential impacts of higher intensity development. Successful implementation of mixed use zoning involves an examination of site planning, building form, and uses to achieve policy goals.

Site planning is important in mixed use development to ensure the creation of a pedestrian-friendly environment. One advantage of a mixed use environment is a reduction in auto-oriented trips because people can shop, dine, and take care of errands without a car near their home or work place. This is only possible when the mixed use district is designed to support pedestrian travel. In addition to providing places to go, great pedestrian environments provide safe, comfortable options for getting to those places. People are protected from traffic with wide, landscaped sidewalks. Parking is located in structures and/or behind buildings to minimize curb cuts where cars must cross the sidewalk. Block sizes are small and feature public plazas and pathways that allow walkers to take multiple, direct paths. Features such as weather protection, benches, street trees, and attractive frontages ensure pedestrian comfort.

It is essential in mixed use districts that building form accommodates ground floor retail uses that provide the places for people to go, but as the market develops the space needs to be flexible enough to accommodate other uses. The 2014 article "Designing at the Ground Level"¹ addresses the components

¹ Benjamin Grant. June 2014. ["Designing at the Ground Level."](#) The Urbanist. Issue 543. (Exhibit 1)

of creating a flexible, viable, ground floor space such as: height, depth, frontage, parking, building heights and types, and planning for utilities. Sometimes setting requirements for ground floor retail creates a chicken-and-the-egg issue. Ground floor retail relies on active foot traffic, but often there needs to be a critical mass of shops and restaurants to draw people to them. Building a retail space does not guarantee that it will be filled. Attention to building form increases the likelihood of creating usable space that can be used in the interim while the market for retail uses develops.

Clearly, some flexibility of use is important to the success of mixed use environments in the short and long term. Once the ground floor retail space is developed it needs an active use even if that use is temporary, does not directly serve the district, or provides non-retail use. What is important is that use brings people into the district and provides a different use than what is located above it. Uses accessory to the use above should be avoided. If a variety of people are coming and going from the district, and it has been well designed to support mixed use, the district should convert to ground floor retail when the market is right.

Mixed Use in Nearby Jurisdictions

Communities near Auburn are also planning for mixed use development, although the approaches vary. Many of these communities concentrate their mixed use zoning in or near the city center or another targeted area for growth. Like many of these communities Auburn has already established mixed use zoning in its downtown, and the purpose and intent of that zone is different than for the Mixed Use Residential (MUR). Although the MUR zone will provide a different variation on mixed use, it is good to understand how different jurisdictions apply uses and development standards to create vibrant mixed use communities.

Bonney Lake

Bonney Lake has a Commercial-Mixed Use zone and a High Intensity Residential zone that allows vertical or horizontal mixed use² and a Downtown zone that allows vertical mixed use. Mixed uses are not required in any of the zones, but the Downtown zone does distinguish between uses allowed on the ground floor and uses allowed on upper floors. Allowed ground floor uses include small retail, personal services, and eating and drinking establishments. There are district standards for design character and live-work units are allowed.

Puyallup

Puyallup has two major areas of mixed use zoning, Downtown and South Hill, both designated regional growth centers with specific subarea plans. In general, the various mixed use zones support vertical and horizontal mixed use projects as well as stand-alone commercial and residential uses. Master site-planning is used to achieve mixed use standards and accomplish site planning goals.

Sumner

Sumner requires mixed use development in its Central Business District, Urban Village, and Mixed Use Development zones. The Mixed Use Development zone is primarily a high-intensity residential zone with housing up to 40 units per acre, but requires ground floor commercial uses on designated streets. Ground-related residential development is allowed to front on non-designated streets.

² Vertical mixed uses refers to a mix of uses within a building, typically with ground floor commercial development and upper floor office or residential uses. Horizontal mixed uses refers to a mix of two or more use types on a single parcel without sharing a building.

Kent

Mixed use is required in Kent’s downtown zones, with residential-only development allowed as a conditional use. Kent also applies a mixed-use overlay, which allows mixed use in the Community Commercial and General Commercial zones.

Federal Way

Several commercial districts in Federal Way require that residential buildings contain ground floor commercial development including office, retail, or entertainment uses. Depending on the zone, the commercial space must span 40-60% of the frontage with a minimum depth of 15 ft.

Sumner

The Planned Mixed Use overlay is not a zone but it requires additional public process and design review to ensure compatibility of mixed use development with the surrounding residential neighborhood.

Mixed Use Approach for Auburn

Auburn currently allows mixed use in a variety of zones. Mixed use is allowed in the R-10, R-16, and R-20 residential zones, and all of the commercial and industrial zones except for the M-2 Heavy Industrial Zone. Vertical mixed use is required for residential development in the C-2, C-4, and M-1 zones, which have a standard for ground floor commercial development. Residential development in the C-1 zone was historically allowed, however, is currently under a moratorium and under review by the Planning Commission.

Although the existing C-4 zone is applied in only a limited area in Auburn, it shares many similarities with the intent of the new MUR Zone:

C-4, Mixed-Use Commercial Zone. The intent of the C-4 zone is to provide for a pedestrian-oriented mix of retail, office, and limited multiple-family residential uses. This classification is also intended to allow flexibility in design and the combination of uses that is responsive to market demands. The uses enumerated in this classification anticipate a mix of multiple-family residential, retail, and office uses that are coordinated through a site-specific planning process. The multiple-family residential must be located in a multi-story building; the ground floor of which must contain a permitted use or combination of uses, other than parking, as listed in this chapter. Certain heavy commercial uses permitted in other commercial classifications are not permitted in this zone because of the potential for conflicts with multifamily residential uses, in order to achieve a quality of environment that is conducive to this mix of uses.

The intent and purpose of the C-4 zone contains many of the features that are desirable in the MUR zone, including: pedestrian-orientation, flexibility in design, emphasis on site planning, required ground floor commercial development requirement, and a limitation on heavy commercial uses to prevent land use incompatibility. One major difference is that the emphasis of the C-4 is on retail and office uses, with limited residential. In the proposed MUR zone, the emphasis is on high-intensity residential with supportive commercial uses.

The C-4 zone can be used as a template for the MUR zone, with variations applied to distinguish the zones where they differ in character and intent. Thought has already gone into what is needed to make similar features such as site plan review, pedestrian-oriented design, and mixed uses work in the local environment. When applicable standards are working well and can be applied across multiple zones, it also improves predictability and usability for project proponents.

Uses

Allowed uses are one area where the MUR zone will need to clearly distinguish itself from the C-4 zone. The existing C-4 zone allows mixed use development but is oriented toward commercial uses rather than residential. Comprehensive Plan policies describe the MUR zone as areas developed or reserved for multiple family dwellings. Policies also support live-work units, adaptive reuse (particularly of historic properties), and consideration of multiple methods for determining how mixed use objectives are achieved.

Given these differences, the MUR zone is proposed to apply a similar set of uses as allowed in the C-4 zone, but with the following changes:

- Prohibit large commercial uses such as recreation facilities, movie theatres, nurseries, etc. These types of large commercial uses are not appropriate in mostly residential areas. The commercial development in the MUR zone should ideally be oriented to people who live in the area.
- Prohibit drive-thru uses, which encourage an auto-oriented environment.
- No free-standing commercial pads, as these tend to encourage single-uses.
- Upper floor uses should be limited to residential uses and uses accessory to residential (such as leasing offices, workout facilities).
- A wide variety of ground floor uses are allowed to encourage activity and use of the non-residential space. As the neighborhood grows, market demands for ground floor commercial space will shape the types of uses available there.

Development Standards

Development standards in the C-4 zone have already been designed for mixed use development. They anticipate an urban environment with few limitations on lot size, coverage, or setbacks. Maximum height is 75 ft., which feasibly allows 5-over-1 development³, a common mixed-use building type (five stories of residential or office development over one floor of retail).

Comprehensive Plan policies direct the development of standards for the MUR zone:

Development regulations should include density bonuses and flexible development standards to incentivize innovative site and building design, incorporation of open space and public art, non-motorized connectivity to parks and commercial areas, proximity to transit services, supplemental natural resource protection, supplemental use of CPTED, and supplemental use of low impact development techniques.

and:

Establish intensity limitations such as floor area ratios, density, building height, coverage ratios, setbacks, and other standards.

and:

Densities may range from 20 to 24 units per acre.

Based on the policies in the Comprehensive Plan, the MUR Zone should apply similar standards with the following changes:

- Establish density standards in the range of 20-24 units per acre. Since the MUR zone is intended as a high intensity residential zone, the minimum density should be established at 12 units per acre. For reference the minimum density in the R-16 zone is 12 units per acre and the minimum density in the R-20 zone is 15 units per acre. With a base density of 18, the maximum density is then established

through the Flexible Development Alternatives in ACC 18.49 at 24-27 units per acre. These limits are added through a note on the land use table because the commercial development standards table does not include residential density standards. Adding residential density to the commercial development standards would require the city to establish such a standard for all the commercial zones in Auburn.

- Remove the front and street-side setback standards to encourage pedestrian orientation. These should be reduced to zero so the building is set right up to the sidewalk to encourage pedestrian activity and interaction. Setbacks from the street encourage parking between the building and the street, which reduces pedestrian safety and accessibility.
- Apply the Flexible Development Alternatives in ACC 18.49 to build in incentives for innovative site and building design, open space, public art, non-motorized connections, use of CPTED, use of low impact development (LID) techniques, and supplemental natural resource protection. This section already sets up a comprehensive system for addressing these issues. Creating an alternative system for the MUR Zone does not make sense. However, if there are overall issues with the usability of the Flexible Development Alternatives code, it should be docketed for review (to date the Flexible Development Alternatives have not been utilized).
- Consider a policy change to remove the reference to floor area ratios in the policy. From a practical standpoint the density limitation will control the size of buildings in this zone. At a density of 20-24 units per acre with required first floor commercial development, the maximum developable FAR is only going to be about .5 or .6 FAR. This could allow some fairly intense development, but is really a minimum standard for regulating by FAR.

The review of best practices suggested that there are some basic standards that make mixed use environments more successful, adaptable, and useful. ACC 18.57.030 already contains a set of standards for mixed-use/multi-family developments by zone (see the proposed C-1 zoning amendments). This draft presents an overhaul of that section of code that would apply one set of mixed use standards city wide, with other details and variations specified by zone.³ These standards would require:

- That non-commercial portions of mixed-use developments be developed at the same time or prior to the residential portions.
- Establish standards for the minimum areas required for the non-commercial portions of the development.

For the MUR zone, vertical mixed use would be required.

Citywide Development Standards

Auburn applies citywide development standards for subjects such as fences, landscaping, lighting, signage, and other site development standards. There is no proposed change to these standards, but they will need to be applied to the MUR zone.

³ City staff is also working on changes to the C-1 zone that affect several of the same sections of code that the MUR zone would amend, in particular ACC 18.57.030.

Design Guidelines

The Multi-family and Mixed Use Design Guidelines already contain provisions needed for the MUR zone:

- Pedestrian-oriented design standards to ensure a safe, lively, and active environment.
- Design standards that address site planning, including the proper relationship between the building and the street or other publicly accessible areas to ensure safety and comfort.
- Design standards that address the location of parking (in the back, underbuilding, or structured parking to limit interference with the pedestrian street environment) as well as pedestrian and landscaping features that make it safe and comfortable for people to access residential and commercial uses from the parking.

Conclusion

Staff proposes to bring back the text of the proposed amendments for creating the Mixed Use Residential zone to the Planning Commission at the March meeting.

EXHIBIT 1

MIXED-USE ARTICLE

(FOOTNOTE 3)

Designing at Ground Level

An emphasis on human scale — and on creating a great ground floor — are essential to good urbanism.

Benjamin Grant

Urbanist Article June 3, 2014



"The ballet of the good city sidewalk never repeats itself from place to place, and in any one place is always replete with new improvisations." —Jane Jacobs
Active Space photo by David Baker Architects

The image is probably the most widely shared touchstone in planning: An urban building with apartments upstairs and a café on the ground floor. For any planner who came of age after *The Death and Life of Great American Cities*, this image encapsulates the field. Density. Mixed use. Pedestrian orientation. Human scale. Eyes on the street. The "Third Place." Name your urbanist maxim, it's in this picture.

For many planners, it is this image that first unlocked the idea of urbanism. Most of us have conjured it up repeatedly to explain the magic of cities to relatives, dates, dentists or party guests. But all too often it ends there. We rarely subject this image to much scrutiny, perhaps because it's so useful, and because achieving anything resembling it has consumed the careers of a generation of planners.

It took the Jane Jacobs generation to rescue the ground floor from insignificance, and to reassert the value of social, civic and economic encounter at street level. Today's planners, architects and entrepreneurs stand on the shoulders of giants. They take for granted that urbanism happens at street level, and they view the interaction of building and street as a medium for creative experimentation. They are, on the whole, less concerned about height, mass and the skyline than the preceding generation. If human scale is honored, "density" and "high-rise" are not the dirty words they once were.

In the American city, a new and long-absent facility of the public realm has taken hold. Its geography is uneven, it fruits inequitably distributed, but from pop-up shops to graffiti walls to maker spaces, it is growing. We may well look back on this period as the time when the urban project stopped recovering from the 20th century and started inventing the 21st.

Why is the ground floor so important?

Public life is the essence of urbanism. The city's ability to facilitate movement, commerce, democracy, innovation and creativity resides in the currents and eddies of human beings at the boundary of public and private space, where homes, jobs, shops and civic buildings touch streets, parks and plazas.

In a good urban neighborhood, the ground floors of the buildings work symbiotically with the surrounding sidewalks and public spaces. Together they provide a continuous network of pathways and experiences that are active, safe, comfortable and engaging. The ground-floor café (and retail more generally) is but one of many good ways for buildings to meet the street. After all, even a coffee-crazed town like San Francisco can't have a café — or even retail — in every building. A good city requires solutions as varied as its fabric and its people and must constantly invent new ones.



In Paris, the sidewalk café is an institution, one of many ways the ground floor is activated in this famously walkable city. But making a great ground floor isn't as simple as putting in a café. Photo by Metamirst

After a half-century of misguided obeisance to the needs of automobiles, we have begun the long process of reclaiming our cities' streets for people. This issue of *The Urbanist* is devoted to the building side of that symbiosis. Because as it turns out, making the ground floor of urban buildings work is quite a tricky problem, and one that is far from resolved. It is tangled in tensions between policies and markets, cars and people, codes and desires.

New ways of living, working and socializing have generated new policies and different, more adaptable spaces. A roll-up door can turn a street side loft within a parking podium from residence to store, to production space and back. Today's designers, builders, artists and entrepreneurs, steeped in urbanism, are blurring the lines among uses and the spaces they inhabit — and getting away with it.

A brief history of the ground floor

Ground floor retail has its origins in the homes of urban artisans in medieval and Roman cities. Where fortifications put space at a premium, the family home was often above the family workshop, and business was conducted through an opening onto the street.

By the late 18th century, workshops were giving way to factories, and, in Paris and London, plate glass and gaslight helped create the urban storefront as we know it — a space for shopping, not making. In the 19th century, the era of the flâneur, the street itself was reinvented as a genteel public space, and grand tree lined boulevards played host to a fashionable parade of shopping, self-presentation and spectacle.

Modernist architects like Le Corbusier were suspicious of commerce, and found the tight, clamorous spaces of the 19th-century city oppressively filthy and congested. They sought to “free the ground plane” by raising their towers on stilt-like pilotis, so that citizens might wander through a new species of park-like city at their ease, never channeled into something as vulgar as a street. These architects peeled apart the city's mixture, and in doing so they created separate sectors for offices, factories and homes, and built pedestrian sky bridges over sweeping expressways. The intended spaces of discovery became spaces of desolation.

In the mid-to-late 20th century, the car was king. In subdivisions, shopping malls, housing projects and office complexes, inward looking, single-use environments were the norm. For nearly half a century, urban development in the U.S. got an almost total pass from pedestrian considerations, leaving a legacy of blank walls, narrow or non-existent sidewalks and dead spaces.

In the 1960s, critics like Jane Jacobs and architects like Oscar Newman and Jan Gehl began investigating exactly what it was that made traditional urbanism (then under attack) work so well. They zeroed in on the interaction of building edges, public streets, and social interaction, creating some of the classic analyses in urban design. Their efforts revolutionized urban design, and their emphasis on the human scale — once dismissed as quaint and unscientific — has become planning orthodoxy.

Today, walkable streets enlivened by active uses are a widely shared priority, critical to supporting transit, reducing carbon emissions and tackling chronic diseases. But bringing streets to life – especially outside city centers – can be quite a challenge.

Planning and regulating the ground floor

Planning policies often look to manage the use and design of the ground floor to support the public realm. Here are some of the things they can control:

Height

The height of a ground floor has a major impact on its performance. Good retail spaces usually need a 15-18-foot ground floor. (David Baker Architects has been advocating for 20 feet; see pp. 10). A higher ground floor allows adequate space for residential stoops raised a half level, mechanically stacked parking, or ground floor lofts, workshop space or open lobbies.

Depth

Depth is also important. It is not uncommon for retail tenants or brokers to demand spaces 40 feet deep. Retail depth is often in tension with the need to provide parking behind.

Frontage

Policies may stipulate the minimum frontage that must be occupied by active uses, or minimum frontage of transparent glass. They may also define maximum frontages for exposed parking, utility functions or a single user. A single large user such as a big-box retailer may be required to provide “in-line” storefronts.

Parking

Parking is the single biggest driver of ground-floor design and a major factor in the economics of development. Planning codes typically regulate the amount of parking and may also address its placement and design treatment (by limiting its exposure to the street, for example).

Building heights and building types

Building heights are shaped by the interaction of planning and building codes. The most common multifamily building types put up to five stories of wood-frame construction atop a concrete parking and retail podium. Height limits of 40, 50 or 60 feet often resulted in a cramped 10-foot ground floor with three to five 10-foot stories above. Five additional feet — now permitted by the California building code and increasingly by local zoning codes — adds enough room for a more generous ground floor without adding a story overall.

Utilities and other challenges

Numerous other features must fit into ground floor frontages. These include electrical transformers, fireplugs, ventilation systems, loading docks and trash rooms. When combined with entrances and auto access, there is often little frontage left to work with.

Use

Many cities encourage or require “active uses” in the ground floor of new buildings, which varies from an outright requirement for retail, to broader definitions that include residential doorways. Parking is often the major ground floor use, but policies frequently require that it be hidden. New use categories, like PDR (production/ distribution/repair) as well as co-working, and mixed production and retail have been codified in recent years. —B.G.



The Proxy

Project in Hayes Valley, by envelope A+D, exemplifies the success of experiments in iterative development. Photo courtesy envelope A+D.



Simple transformations have been achieved throughout New York with such easily attainable tools as bright paint and inexpensive furniture — and an openness to change. Photo by Noah Christman.

Making retail work: The market problem

Just because planners allow, or even require, ground floor retail spaces, does not mean there will be ground-floor retail. Retailers, who live and die according to foot traffic, visibility and neighboring stores, are very sensitive to both location and quality of their spaces and they are well aware that if you build it, customers won't automatically come.

Planners don't create cafes (or restaurants or grocery stores) and for the most part, neither do developers. Entrepreneurs do. It is true that a building without a storefront will never contain a store. On the other hand, the world is full of empty storefronts. The weakness of ground-floor retail in mixed-use construction is so notorious that developers routinely write it off, assuming no revenue at all.

Very often, unoccupied retail space is inhabited as inexpensive office space, by social service agencies, nonprofits, and the like. Some of these – say a clinic or employment center, might work well in a storefront. Others opt to simply lower the Venetian blinds and function as an office. We tend to focus on and remember the zones of gathering and shopping in our cities while often forgetting the quiet (and much more numerous) back streets that sustain them. In trying to create great urban places, both planners and the public tend to want to over-supply retail space. Most urban ground floors, even in Manhattan (shown above) or Paris, serve a single use. The foot traffic and buying power of a whole district is then channeled into supporting a lively street life in limited area — given walkable streets and sufficient density.

In today's white-hot San Francisco, ground-floor retail has pretty good prospects, and businesses can and do make use of all kinds of spaces, from the 12- foot frontages along Hayes Street to Active Space on 18th and Treat Streets, which houses a thriving café in just 99 square feet. But elsewhere, ground floor space often sits empty, a planner's aspiration that never bore fruit.

In downtown San Jose, where empty ground floors are common, the challenge of implementing the right storefront strategy was highlighted in a recent debate over whether to allow office uses in ground floor retail spaces. Ground-floor office space does little to engage the street, but one could argue that some use is preferable to none at all.

So do we build for the market that exists, or for the market we hope will one day exist? The cost of empty retail space is simply folded into the cost of the space upstairs. But urban districts take time to mature and once they do, demand can change dramatically in a short time. Sometimes all it takes is one amazing business to totally transform a place — and a market.

But how to figure out what that business is? Trying things out on a temporary basis can often yield long-term solutions. If you want to shift the way a space is perceived, make something interesting happen there and pack it full of people. A market, after all, is only the aggregate of people's assumptions and experiences — things that can be engaged and shaped.

Long before taco trucks became a global phenomenon, they were simply a cheap way to create a mobile storefront. Many developed semi-fixed locations, enlivened by loyal patrons. Lately, food truck gatherings like San Francisco's "Off the Grid" have joined farmers' markets, shipping containers and pop-up shops as part of a suite of solutions that create instant, low-risk critical mass. These tactical approaches are increasingly being deployed to enliven public space in advance of conventional development projects.



Retail along 8th Street keeps things lively at San Francisco's 8th & Howard/ SOMA Studios, which has 162 units of affordable housing. SOMA Studios designed by David Baker Architects, photo by Brian Rose

Ground floor code reforms in San Francisco

In recent years, San Francisco, with the help of advocacy groups like Livable City, has revised significant portions of the planning code, with a focus on making the ground floor work for pedestrians. They include:

- No parking required in transit-oriented housing.
- Minimum ground floor heights were increased to as much as 17 feet.
- Transit-oriented districts were allowed a 5-foot height bonus within the ground floor.
- Active uses required to a depth of 25 feet from the street frontage.
- Ground floor parking must be 25 feet from the street frontage.

- Parking on upper floors must have level floors, minimum floor-to-floor heights and other features to ensure they can be converted to other uses in the future.
- Stackers and other space-efficient parking solutions are permitted as-of right.
- Neighborhood Commercial zoning was loosened to allow for limited production. Prescriptive limits on equipment and facilities were replaced with performance standards for noise, odors etc.
- PDR zoning was loosened to allow limited retail sales onsite.



One South Market is the first new residential tower in downtown San Jose to be built since the recession. When initial designs gave short shrift to ground floor retail spaces, SPUR worked with city officials, the San Jose Downtown Association and other advocates to support deeper, better-equipped retail spaces and limit exposed parking. The result is increased retail demand and street life much akin to the daily rhythm of the city's Paseo de San Antonio (pictured). Photo by Sergio Ruiz.

San Francisco's ground floor: An urban design success story

San Francisco has made major strides over the past decade in its treatment of the ground floor. Planning policies, the development industry and local communities have all begun to crack the code on urbanism, and in structures both new and old, street life is thriving. Although perennial tensions around the pace and shape of growth have again come to the fore, one thing seems certain: The urban design quality of the current development boom is vastly improved.

In recent years, San Francisco has modified its zoning code in a variety of ways to improve how new buildings engage the street. A lot of these changes were facilitated by a sea change in regulations, markets, and public culture on the issue of parking, which is generally the single biggest driver of ground floor design. Today, some housing is being built without any dedicated parking, a prospect that seemed radical a decade ago. It's not that parking is no longer valued but that street life is valued more.

Zoning came into being to separate "noxious" industrial uses from residences, even as industry was already leaving American cities for the suburbs and the developing world. The later revival of city life in America depended in part on repurposing the city from production to consumption, as a playground for shopping, dining and entertainment. But recent years have seen a surprising return of urban production.

With scarce land being converted to office and high-end residential, “Production, Distribution and Repair” (or PDR), is a zoning designation meant to protect critical light-industrial functions and the jobs they provide. This has corresponded with a rise in new kinds of businesses, combining artisanal and craft production, digitally-enabled fabrication and prototyping, and small-scale service and retail. Taken together, these new uses have significant implications for the texture of the city as encountered at the ground floor. Far from being a noxious use, production has become an amenity.

Recent reforms to the zoning code have increased the flexibility in combining production and retail in San Francisco. Small retail outlets are now allowed in PDR space (Heath Ceramics is one notable example), and production is now permitted in neighborhood commercial districts, with performance standards to address noise, odors or other potential nuisances.

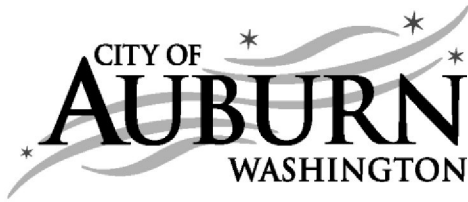
More and more people can work anywhere, and a great many of them choose to do so in cities, among other people. Cafés are packed with mobile workers on laptops, blurring the line in both time and space between the workplace, the public realm and the third place of public social interaction. Co-working spaces, which combine social interaction with office facilities and business support, often with a deliberate connection to the street, are a significant new land use category.

Architects, designers, planners and entrepreneurs are adapting to these changes with new, hybrid forms. More than ever, the basics of good urbanism — generous spaces, active uses, limits on the impact of cars — are locked into policy, while the program at street level is open-ended, flexible and hybridized.

Elsewhere, the story is not so upbeat. In much of the region, life at street level remains an aspiration, and it is often compromised by deference to the automobile in both markets and regulations. In communities where the café in the ground floor has struggled to find traction, the flexible models being pioneered in San Francisco could be a valuable export.

About the Authors:

Benjamin Grant is SPUR’s Public Realm and Urban Design Program Manager



MEMORANDUM

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

FROM: Jeff Tate, Assistant Director, Community Development Services

DATE: January 31, 2017

RE: Temporary Uses, Mobile Vendors and Food Trucks
ZOA16-0008 – Draft Code Amendments

Background:

On December 9, 2016 staff provided an introductory presentation on temporary uses, mobile vendors and food trucks and concepts that were being considered in the preparation of draft code amendments for Planning Commission consideration. Under cover of this memo are two sets of draft code amendments – amendments to Chapter 18.46A (Temporary Uses) and amendments to Chapter 5.20 (business licensing).

Chapter 18.46A is a land use regulation that is under the review authority of the Planning Commission. Chapter 5.20 is a business license regulation (that is not a land use regulation) and is therefore not under the review authority of the Planning Commission. Chapter 5.20 amendments are provided to the Planning Commission in order to help illustrate how mobile vendors and food trucks are proposed to be regulated. Ultimately, the public hearing and Planning Commission recommendation will be limited to those elements that are land use regulations.

Chapter 18.46A Draft Amendment Highlights (subject to Planning Commission review):

1. General Code Reorganization. Several of the proposed code amendments are intended to make the temporary use provisions easier to read and understand. Examples include utilizing a table format to display Type I and Type II temporary uses, simplifying the language that explains review timeframes, and eliminating language that is confusing.
2. Expanding the list of exempt activities. New exempt activities include mobile vendors and food trucks, portable storage containers for moving, storage containers associated with an active construction activity, and clarifying that a temporary use permit is not required if a right-of-way use permit is also required.
3. Temporary fencing. Clarify that the only time a temporary use permit is required for temporary fencing is when the fencing blocks parking and drive aisles that were required as part of the development approval. Current code requires all temporary fencing proposals to be reviewed under a temporary use permit.
4. Living within an RV during home construction. Add a new allowance that permits a property owner to live in an RV while their home is under construction or reconstruction. Current code does not allow someone to live in an RV while constructing or rehabilitating their home.

5. Tents and membrane structures. Clarify that a temporary use permit is only required once the tent structure exceeds 200 square feet. This clarification allows tents smaller than 200 square feet to be exempted in the same manner as a permanent stick built structure.
6. Personal storage containers. Allow for personal storage containers to be placed on residential or commercial properties for up to 6 months. Current codes limits placement of containers for no more than 12 weeks. Extending this allowance is consistent with other temporary use timeframes.
7. Stormwater compliance. Clarify that temporary gravel parking lots must comply with the City's stormwater standards.
8. Gravel parking lots. Clarify that temporary gravel parking lots may be permitted as part of phased construction plans.

Chapter 5.20 Draft Amendment Highlights (not subject to Planning Commission review):

1. Creation of new section on Mobile Vendors and Food Trucks.
2. Exempt Mobile Vendors and Food Trucks from having to obtain a City business license if they are operating on private property for 72 hours or less during a 365 day period.
3. Require that Mobile Vendors and Food Trucks obtain a City business license if they intend to operate more than 72 hours.
4. Require that Mobile Vendors and Food Trucks obtain all land use approvals of the underlying zone if they remain in the same location for more than one year.
5. Clarify that Mobile Vendors and Food Trucks located within the public right of way must obtain a right of way use permit.
6. Establish minimum standards for all Mobile Vendors and Food Trucks that govern location, garbage and recycling management, and fire and health requirements.

Exhibit A

Draft Amendments to 18.46A

Chapter 18.46A TEMPORARY USES

Sections:

- 18.46A.010 Intent.
- 18.46A.020 Permit approval required.
- 18.46A.030 Application and review for temporary use permits.
- 18.46A.040 Appeals of decisions.
- 18.46A.050 Exemptions.
- 18.46A.060 Coordination with other city codes.
- 18.46A.070 General and specific temporary use permits.
- 18.46A.080 Approval criteria.
- 18.46A.090 Performance standards.
- 18.46A.100 Time limitation.
- 18.46A.110 Limitation on activity.
- 18.46A.120 Permit revocation.
- 18.46A.130 Removal of temporary uses.
- 18.46A.140 Assurance device.

18.46A.010 Intent of Temporary Uses.

A. It is the intent of this chapter to provide an administrative approval process whereby the city may ~~permit~~ authorize uses to locate within the city on an interim basis without requiring full compliance with the development standards for the applicable zoning district, or by which the city may allow seasonal or transient uses not otherwise permitted in the zoning district.

B. It is not the intent of this chapter to provide a means to circumvent the strict application of the permitted administrative, conditional, and prohibited uses as established elsewhere in this title for the city's zoning districts. Time limits are to be strictly enforced, unless otherwise modified by the planning director or designee.

C. This chapter addresses only those temporary uses located on public or private property outside of public rights-of-way. Uses located in public rights-of-way shall be in accordance with ACC Title 12. (STREETS, SIDEWALKS AND PUBLIC WORKS) (Ord. 6268 § 2, 2009.)

18.46A.020 Permit approval required.

A. For the purposes of this chapter, “temporary use” shall mean a short-term or interim activity or purpose for which land or premises or a building thereon is designed, arranged, intended, or for which it is occupied, maintained, let, or leased; and where such use is not in full compliance with the applicable development standards of this title and/or is not otherwise ~~allowed~~permitted in the applicable zoning district.

B. No temporary use shall be ~~allowed~~permitted within the city except in accordance with the provisions of this chapter. A temporary use permit is required for temporary uses except those specifically exempted pursuant to ACC 18.46A.050. The maximum allowable duration of specific temporary uses shall be 180 calendar days, or as established in the provisions for general and specific temporary use permits in ACC 18.46A.070 together with the extension provisions of ACC 18.46A.100.

C. There shall be two types of temporary use permits identified as a Type I temporary use permit and a Type II temporary use permit.

D. A property owner or an authorized representative of the property owner or a person, business or organization desiring to use a property for a use consistent with this chapter may apply for a temporary use permit. An applicant for a temporary use permit shall provide written evidence of property owner authorization to use the property for the intended temporary use.

E. The planning director or designee may approve permits for temporary uses and structures, with conditions to ensure compatibility and mitigate negative impacts.

F. The planning director or designee may authorize a temporary use permit for a use not specifically listed in the currently adopted use regulations; provided, that it is compatible with the purpose and intent of applicable chapters and sections of this title and the specific zoning district in which it will be located.

G. The planning director or designee may require other reviews or permits including but not limited to environmental review as a prerequisite to issuance of a temporary use permit or as a condition of approval for a temporary use permit. (Ord. 6268 § 2, 2009.)

18.46A.030 Application and review for temporary use permits.

A. Temporary use permit applications shall be processed as either a Type I or Type II permit as listed in ~~–A Type I temporary use permit shall be used to authorize the temporary uses listed in ACC 18.46A.070(A). Type II temporary use permit shall be used to authorize the temporary uses listed in ACC 18.46A.070(B).~~

B. The application for a temporary use permit shall be submitted on forms obtained from Department of Community Development and Public Works ~~the planning and development department~~ and shall be accompanied by ~~include~~ applicable filing fees and submittal requirements. The application shall contain all the information required by the city. The department shall verify that the application is consistent with the requirements of this chapter including but not limited to the irrevocable, signed and notarized statement specified in ACC 18.46A.130(C), and that the application contains proof of a legitimate business, if applicable, as evidenced by documentation demonstrating the business has obtained, or will obtain prior to commencing the use, a city of Auburn business license and any other required government licenses or approvals. A temporary use that commences without required application review and approval shall be deemed to be in violation of this chapter and subject to the city's processes and standards for code compliance.

C. Temporary use permits shall be administratively processed and reviewed and not subject to a public hearing, unless a written decision on a temporary use permit is appealed to the city of Auburn hearing examiner.

D. Processing of general and specific Type I and II Temporary Use Permits. Type I and II temporary use permit decisions shall be processed in accordance with the applicable provisions of ACC Title 14 and in accordance with the following:

	<u>Type I</u>	<u>Type II</u>
<u>Decision Timeframe</u>	<u>Within 30 calendar days of the date the application is deemed complete</u> ness <u>determined*</u>	<u>Within 50 calendar days of the date the application</u> completeness <u>is deemed complete</u> terminated <u>and following the public comment period*</u>
<u>Notice of Application Required</u>	<u>No</u>	<u>Yes</u>

*Note: The planning director or designee may extend the decision-making process upon a written determination transmitted to an applicant of the need for more information or other city permits or licenses or other agency licenses or permits. In this instance, a Type I or Type II temporary use permit may be issued following receipt and review of the additional information or receipt of written evidence of other city or agency permits, ~~or~~ licenses, or approvals as applicable. (Ord. 6287 § 2, 2010; Ord. 6268 § 2, 2009.)

~~1. Type I temporary use permit decisions shall be processed in accordance with the applicable provisions of ACC Title 14; provided, that a decision approving, approving with conditions or denying the application shall be issued within 30 calendar days of the date of application completeness determination. The planning director or designee may extend the decision-making upon a written determination transmitted to an applicant of the need for more information or other city permits or licenses or other agency licenses or permits. In this instance, a Type I temporary use permit may be issued following receipt and review of the additional information or receipt of written evidence of other city or agency permits or licenses, as applicable.~~

~~2. A notice of application in accordance with the provisions of ACC Title 14, as amended, shall not be required for Type I temporary use permits. A written decision shall be issued to the applicant, property owner if not the same as the property owner, other city departments, as applicable, and other interested parties or agencies that have previously requested to be notified.~~

~~E. Processing of Type II Temporary Use Permits.~~

~~1. Type II temporary use permit decisions shall be processed in accordance with the applicable provisions of ACC Title 14; provided, that a decision approving, approving with conditions or denying the application shall be issued within 50 calendar days of the date of application completeness determination. The planning director or designee may extend the decision-making upon a written determination transmitted to an applicant of the need for more information or other city permits or licenses or other agency licenses or permits. In this instance, a Type II temporary use permit may be issued following receipt and review of the additional information or receipt of written evidence of other city or agency permits or licenses, as applicable.~~

~~2. A notice of application in accordance with the provisions of ACC Title 14, as amended, shall be required for Type II temporary use permits. A decision on a Type II temporary use permit shall not be issued until after the public comment period expires, wherein the city solicits comments regarding impacts to the neighborhood or community. (Ord. 6287 § 2, 2010; Ord. 6268 § 2, 2009.)~~

18.46A.040 Appeals of decisions.

Appeals of administrative decisions issued under the provisions of this chapter shall be made to the city of Auburn hearing examiner in accordance with the provisions of Chapter 2.46 ~~ACC~~, and Chapter 18.70 ACC, as amended. Appeals of the hearing examiner decision may be appealed in accordance with applicable provisions of Chapter 2.46 ~~ACC~~ and 18.70, ACC (Ord. 6442 § 20, 2012; Ord. 6268 § 2, 2009.)

18.46A.050 Temporary Use Exemptions.

The following activities are exempt from the permit requirements of this chapter, but shall comply with other substantive requirements of this chapter, unless specifically noted otherwise:

A. Garage sales and yard sales; provided, that the following are complied with:

1. Sales last no longer than three days;
2. Sales are conducted on the owner's property. Multiple-family sales are permitted if they are held on the property of no more than three contiguous properties of the participants;
3. Signs shall comply with Chapter 18.56 ACC (Signs), as applicable, and must be removed within 24 hours of completion of the sale;

B. City-sponsored events and activities;

C. Uses regulated or exempted by Chapter 18.60 ACC (Home Occupations);

D. Fireworks stands operating under a permit issued by the city of Auburn and the fire marshal's office;

E. The placement of uses and structures in response to a proclamation of civil emergency pursuant to ACC 2.75.070 to provide emergency services to individual citizens or property owners or businesses;

F. City improvement projects pursuant to ACC 18.02.040(E) when the temporary use location, activity and duration is specifically identified in the City approval;

G. Temporary offices, construction staging, equipment storage and other similar activities on a site upon which public buildings or structures are being constructed, remodeled or otherwise modified;

H. Temporary offices, construction trailers, construction staging, equipment storage, storage containers, and other similar activities on a site upon which the City of Auburn has issued a development permit and approved the location, activity, and duration of such temporary use activities.

IH. On a residential property that already has a permitted single-family residence, the use of one recreational vehicle for temporary living when not associated with active construction of a single-family dwelling shall be allowed for not more than fifteen (15) calendar days in any calendar year; provided, that the director may grant extensions utilizing the provisions of ACC 18.46A.100(B) for up to an additional 15 days. Use of one recreational vehicle on a property with a single-family residence for more than 15 calendar days in any calendar year, plus an additional period of up to 15 days if extended by the director, shall be considered prima facie evidence of being detrimental to the neighborhood. Recreational vehicles that are utilized for temporary living shall be registered with the city of Auburn, without fee, prior to starting in order to monitor compliance with the 15-day limitation(s). (Ord. 6565 § 3, 2015; Ord. 6268 § 2, 2009.)

J. Mobile Vendors and Food Trucks pursuant to ACC 5.20.260.

K. Placement of portable storage containers that facilitate household moving from one location to another for no greater than 30 days per year, provided they are located on private property and that they are placed on an approved hard surface;

18.46A.060 Coordination with other city codes.

A. Any temporary use otherwise regulated by ACC Title 5, ~~beyond any required general business or solicitor's license, is not~~ subject to the provisions of this chapter unless otherwise noted. ~~However, any license issued under ACC Title 5 shall be consistent with the use regulations of the remainder of this title and any condition or other permit required by this title shall be required.~~

B. A Temporary Use Permit shall not be required for events that occur entirely within a public right of way and that are subject to the review and approval of a Right of Way use permit. For events or activities that are located in both the public right of way and on abutting private property, a Right of Way use permit and Temporary Use Permit shall be required. ~~Any licensed solicitor who, while selling or offering goods, wares, merchandise or anything of value, displays, advertises, or offers such goods to the passing public while standing on any property, street or public way or any other place not used and licensed by such person as a permanent place of business shall secure in addition to the solicitor's license a temporary use permit pursuant to this chapter. (Ord. 6268 § 2, 2009.)~~

18.46A.070 General and specific temporary use permits.

A. General Type I and Type II Temporary Use Permits. In accordance with ACC 18.46A.030, the planning director or designee may approve the following general Type I and Type II temporary uses and structures:

Type I

For All Zoning Districts

- a. Temporary use of land to conduct nonprofit events of up to six calendar days or less, where the events are of a kind not typically used by the sponsor at the location or site of the event;
- b. Temporary fencing for public or private uses ~~for four weeks or less per year~~ located within non-residential or multifamily parking lots -where the fencing will restrict vehicular circulation or displace required parking spaces;
- c. Temporary use of privately owned property for temporary offices, construction trailers, materials storage, equipment storage or vehicle parking essential to and only in conjunction with the construction or building of public buildings, structures, road, or utility improvements.

For Residential Zoning Districts

- a. Temporary modular sales and leasing offices for on-site residential development properties;
- b. Placement of tents, canopies, or membrane structures that are larger than 200 square feet in size for up to two weeks per year that meet setbacks of the underlying zone;
- c. On-site temporary caretaker trailers for private or nonprofit residential construction;
- d. Living within a recreational vehicle as a temporary dwelling unit on property when a building permit to construct a permanent single-family residential dwelling unit has been issued and construction activity remains active.
- e. Placement of a personal storage container for no more than six months per year.

For Non-Residential Zoning Districts

- a. Commercial carnivals, circuses and shows;
- b. Temporary sales and leasing offices for on-site commercial or industrial development properties;
- c. On-site temporary caretaker trailers for commercial, industrial or institutional construction sites;
- d. Temporary changes of uses and associated temporary structures for four weeks or less per year;
- e. Placement of commercial storage containers for no more than ~~three weeks per year~~ six months per year;
- f. Special events such as a weekend sales event or outdoor concert causing temporary impacts to public rights-of-way or potential increased need for public services; The City may issue an annual permit for a

series of events over a calendar year. Additional events not included in the annual event permit may be approved individually.

g. Holiday-related seasonal sales lots along with their associated temporary structures subject to compliance with the following:

- i. Applicant demonstrates written proof of property owner permission for use of the subject property;
- ii. Adequate off-street parking is provided and does not impede vehicle maneuvering;
- iii. The use will not interfere with adequate vision clearance, as governed by the city of Auburn engineering design standards, as amended;
- iv. The use will not obstruct pedestrian access on public rights-of-way;
- v. Signage shall comply with the city's signage regulations;
- vi. Compliance to conditions required by the building official and fire marshal for minimum building, fire and life safety codes;
- vii. Adequate provisions for trash disposal and sanitary facilities are provided;

h. Agricultural seasonal sale of produce subject to compliance with the following:

- i. Demonstrates written proof of property owner permission for use of the subject property;
- ii. Adequate off-street parking is provided and does not impede vehicle maneuvering;
- iii. The use will not interfere with adequate vision clearance, as governed by the city of Auburn engineering design standards, as amended;
- iv. The use will not obstruct pedestrian access on public rights-of-way;
- v. Signage shall comply with the city's signage regulations;
- vi. Compliance to conditions required by the building official and fire marshal for minimum building, fire and life safety codes;
- vii. Adequate provisions for trash disposal and sanitary facilities are provided.

Type II

For All Zoning Districts

a. Temporary use of land in order to conduct a nonprofit event for seven calendar days or more in any such event;

b. Temporary storage of buildings and structures not permanently affixed or constructed or otherwise permanently situated on a property for up to six months;

For Residential Zoning Districts

a. Placement of tents, canopies, or membrane structures that are larger than 200 square feet in size for greater than two weeks per year that meet setbacks of the underlying zone;

~~b. Placement of personal use storage containers for greater than three weeks but no more than 12 weeks per year;~~

~~b.~~ Off-site temporary construction trailers and offices and storage areas for construction materials and equipment for residential construction;

~~d.~~ Temporary use of the following equipment on private property essential to and only in conjunction with the construction or building by the city, another public agency or a private party of a road, bridge, ramp, dock, and/or jetty in proximity to the approved construction site:

- i. Portable asphalt or concrete mixing plants;
- ii. Portable concrete batching plants;
- iii. Portable rock crushing plants;

For Non-Residential Zoning Districts

a. Off-site temporary construction trailers and offices and storage areas for construction materials and equipment for commercial, industrial or institutional construction;

~~b. Temporary mobile sales for the sale of plants, flowers, books, crafts, produce, beverages, food, and other similar items in a single location for more than two hours per day; Mobile vending and food trucks are exempt in accordance with ACC 5.20.260.~~

~~b.~~ Temporary trailer or prefabricated building. The planning director or designee may approve, approve with conditions or deny a temporary trailer or prefabricated building for use on any commercial or industrial zoned property within the city as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, providing that the applicant demonstrates compliance with the following criteria in addition to the approval criteria specified in ACC 18.46A.080:

- i. The temporary structure shall be located within the boundaries of the parcel of land on which it is located;
- ii. The temporary structure is in conformance with all applicable building and fire codes;
- iii. The property to be used for a temporary structure shall already be developed;
- iv. There exists adequate and safe ingress and egress when combined with the other uses of the property;
- v. There exists adequate sight distance;

- vi. There exists adequate parking for the customers or users of the temporary use in conformance with the city's parking standards, as applicable;
- vii. The use will pose no hazard to pedestrians in the area of the use;
- viii. The use will not create adverse off-site impacts including noise, odors, vibrations, glare or lights which will affect the adjoining uses in accordance with the provisions of ACC 18.31.180;
- ix. The use can adequately be served by sewer or septic system and water, if applicable; and
- x. The length of time that the temporary building will be used is the maximum needed to address the hardship but no longer than one year, unless otherwise extended by the planning director or designee.

~~1. For all zoning districts:~~

- ~~a. Temporary use of land to conduct nonprofit events of up to six calendar days or less, where the events are of a kind not typically used by the sponsor at the location or site of the event;~~
- ~~b. Temporary parking facilities for private uses for four weeks or less per year;~~
- ~~c. Temporary fencing for public or private uses for four weeks or less per year;~~
- ~~d. Temporary use of privately owned property for temporary offices, construction trailers, materials storage, equipment storage or vehicle parking essential to and only in conjunction with the construction or building of public buildings, structures, road, or utility improvements.~~

~~2. For residential zoning districts:~~

- ~~a. Temporary modular sales and leasing offices for on-site residential development properties;~~
- ~~b. Placement of tents, canopies, or membrane structures for zero to two weeks per year that meet setbacks of the underlying zone;~~
- ~~c. Placement of portable moving and storage containers for no greater than three weeks per year;~~
- ~~d. On-site temporary caretaker trailers for private or nonprofit residential construction;~~

- e. ~~On-site temporary construction trailers and offices and storage areas for construction materials and equipment for private or nonprofit residential construction;~~
- f. ~~Special events such as a community block party, neighborhood parade or similar event involving multiple properties and causing temporary impacts to public rights-of-way or potential increased need for public services;~~
- g. ~~Living within a recreational vehicle as a temporary dwelling unit on property when a building permit to construct a permanent single-family residential dwelling unit has been issued and construction activity remains active.~~

3. ~~For nonresidential zoning districts:~~

- a. ~~Commercial carnivals, circuses and shows;~~
- b. ~~Temporary sales and leasing offices for on-site commercial or industrial development properties;~~
- c. ~~On-site temporary construction trailers and offices and storage areas for construction materials and equipment for commercial, industrial or institutional construction;~~
- d. ~~On-site temporary caretaker trailers for commercial, industrial or institutional construction sites;~~
- e. ~~Temporary changes of uses and associated temporary structures for four weeks or less per year;~~
- f. ~~Temporary mobile sales for the sale of plants, flowers, books, crafts, produce, beverages, food, and other similar items in a single location for no more than two hours per day;~~
- g. ~~Placement of commercial storage containers for no more than three weeks per year;~~
- h. ~~Special events such as a weekend sales event or outdoor concert causing temporary impacts to public rights-of-way or potential increased need for public services;~~
- i. ~~Holiday-related seasonal sales lots along with their associated temporary structures subject to compliance with the following:~~

- ~~i. Applicant demonstrates written proof of property owner permission for use of the subject property;~~
- ~~ii. Adequate off-street parking is provided;~~
- ~~iii. The use will not interfere with adequate vision clearance, as governed by the city of Auburn engineering design standards, as amended;~~
- ~~iv. The use will not obstruct pedestrian access on public rights-of-way;~~
- ~~v. Signage shall comply with the city's signage regulations;~~
- ~~vi. Compliance to conditions required by the building official and fire marshal for minimum building, fire and life safety codes;~~
- ~~vii. Adequate provisions for trash disposal and sanitary facilities are provided;~~

~~j. Agricultural seasonal sale of produce subject to compliance with the following:~~

- ~~i. Demonstrates written proof of property owner permission for use of the subject property;~~
- ~~ii. Adequate off-street parking is provided;~~
- ~~iii. The use will not interfere with adequate vision clearance, as governed by the city of Auburn engineering design standards, as amended;~~
- ~~iv. The use will not obstruct pedestrian access on public rights-of-way;~~
- ~~v. Signage shall comply with the city's signage regulations;~~
- ~~vi. Compliance to conditions required by the building official and fire marshal for minimum building, fire and life safety codes;~~
- ~~vii. Adequate provisions for trash disposal and sanitary facilities are provided.~~

~~B. General Type II Temporary Use Permits. In accordance with ACC 18.46A.030, the planning director or designee may approve the following general Type II temporary uses and structures:~~

1. For all zoning districts:

- a. Temporary use of land in order to conduct a nonprofit event for seven calendar days or more in any such event;
- b. Temporary storage of buildings and structures not permanently affixed or constructed or otherwise permanently situated on a property;
- c. Temporary parking facilities for private uses for greater than four weeks per year;
- d. Temporary fencing for public or private uses for greater than four weeks per year.

2. For residential zoning districts:

- a. Placement of tents, canopies, or membrane structures for greater than two weeks per year that meet setbacks of the underlying zone;
- b. Placement of personal use storage containers for greater than three weeks but no more than 12 weeks per year;
- c. Off-site temporary construction trailers and offices and storage areas for construction materials and equipment for residential construction;
- d. Temporary use of the following equipment on private property essential to and only in conjunction with the construction or building by the city, another public agency or a private party of a road, bridge, ramp, dock, and/or jetty in proximity to the approved construction site:
 - i. Portable asphalt or concrete mixing plants;
 - ii. Portable concrete batching plants;
 - iii. Portable rock crushing plants;
 - iv. Accessory equipment essential to the use of the aforementioned plants.

3. For nonresidential zoning districts:

~~a. Off-site temporary construction trailers and offices and storage areas for construction materials and equipment for commercial, industrial or institutional construction;~~

~~b. Temporary mobile sales for the sale of plants, flowers, books, crafts, produce, beverages, food, and other similar items in a single location for more than two hours per day;~~

~~c. Temporary changes of uses and associated temporary structures for more than four weeks per year;~~

~~d. Temporary trailer or prefabricated building. The planning director or designee may approve, approve with conditions or deny a temporary trailer or prefabricated building for use on any real commercial or industrial zoned property within the city as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, providing that the applicant demonstrates compliance with the following criteria in addition to the approval criteria specified in ACC 18.46A.080:~~

~~i. The temporary structure shall be located within the boundaries of the parcel of land on which it is located;~~

~~ii. The temporary structure is in conformance with all applicable building and fire codes;~~

~~iii. The property to be used for a temporary structure shall already be developed;~~

~~iv. There exists adequate and safe ingress and egress when combined with the other uses of the property;~~

~~v. There exists adequate sight distance;~~

~~vi. There exists adequate parking for the customers or users of the temporary use in conformance with the city's parking standards, as applicable;~~

~~vii. The use will pose no hazard to pedestrians in the area of the use;~~

~~viii. The use will not create adverse off-site impacts including noise, odors, vibrations, glare or lights which will affect the adjoining uses in accordance with the provisions of ACC 18.31.180;~~

~~ix. The use can adequately be served by sewer or septic system and water, if applicable; and~~

~~x. The length of time that the temporary building will be used is the maximum needed to address the hardship but no longer than one year, unless otherwise extended by the planning director or designee.~~

~~B~~C. Specific Type I Temporary Use Permit – Temporary Gravel Parking Facilities.

1. In accordance with ACC 18.46A.030, the planning director or designee may issue a Type I temporary use permit for a temporary gravel parking facility that serves municipal purposes on land owned or leased by the City of Auburn, King or Pierce Counties, or the State of Washington. The planning director or designee may issue a temporary use permit for a period up to 12 months if the planning director or designee finds it is consistent with the following criteria in addition to the approval criteria specified in ACC 18.46A.080:

- a. The use will not result in significant drainage or other adverse impacts;
- b. The gravel parking area is not required for the purposes of meeting the current minimum off-street parking requirements.

2. The planning director or designee may grant additional extensions to the initial 12-month validity period if he/she finds that such extension is warranted and that the temporary use is still in compliance with all applicable approval criteria.

3. Gravel parking lots approved as part of a development permit to facilitate construction or other purposes identified in a construction phasing plan do not require a temporary use permit and shall be removed prior to the issuance of a certificate of occupancy or final inspection.

4. All gravel parking lots shall meet the stormwater management requirements in ACC 13.48.

~~C~~D. Specific Type I Temporary Use Permit – Site Specific Unforeseen/Emergency Situations.

1. In accordance with ACC 18.46A.030, the planning director or designee may approve, approve with conditions or deny a request for approval of an unforeseen/emergency situation(s) for a residential, commercial, industrial or institutional building if the planning director or designee finds it is consistent with the following criteria in addition to the approval criteria specified in ACC 18.46A.080:

- a. The need for the use is the direct result of a casualty loss resulting from damage or destruction by the elements, including but not limited to earthquake or fire or windstorm or flood, or by human cause of a structure or facility previously occupied on the premises for which the permit is sought;
- b. There exists adequate and safe vehicular ingress and egress when combined with the other uses of the property;
- c. There exists adequate off-street or shared parking for the temporary use;
- d. The use will pose no hazard to pedestrians in the area of the use;
- e. The use will not create adverse off-site impacts including noise, odors, vibrations, glare or lights which will affect adjoining use, pursuant to ACC 18.31.180 and 18.46A.090;
- f. The use can be adequately served by sewer or septic system and water, if applicable;
- g. The length of time that the temporary building will be used is the maximum needed to address the hardship but no longer than one year, unless otherwise extended by the planning director or designee.

DE. Specific Type II Temporary Use Permit – Transitional Uses.

1. Existing agricultural and associated uses, which are not permitted outright, may continue provided there are no new structures built in excess of 2,000 square feet, or the use is expanded five acres or less, unless a temporary use permit is issued. In accordance with ACC 18.46A.030, the planning director or designee may issue a Type II temporary use permit if he/she finds it is consistent with the following criteria in addition to the approval criteria specified in ACC 18.46A.080:

- a. The use must be compatible or sufficient mitigating measures available to make it compatible with adjacent permitted uses;
 - b. The use cannot be a detriment to adjacent permitted uses;
 - c. The use will not result in significant adverse impacts to the area.
2. The planning director or designee may establish a longer validity period than that specified in ACC 18.46A.100 for a temporary use permit for the transitional uses specified herein.
3. Upon encroachment of permitted uses into the area authorized for a transitional use under a temporary use permit, the planning director or designee may review the temporary use permit to determine if such use is no longer compatible with the permitted uses and should be abated.

EF. Specific Type II Temporary Use Permit – Homeless Encampment. In accordance with ACC 18.46A.030, the planning director or designee may issue a Type II temporary and revocable use permit for a homeless encampment subject to the following criteria and requirements:

1. Procedural Approval.

- a. The sponsoring agency shall notify the city of the proposed homeless encampment a minimum of 30 days in advance of the proposed date of establishment for the homeless encampment and at least 14 days before submittal of the temporary use permit. The advance notification shall contain the following information:
 - i. The date the homeless encampment will encamp;
 - ii. The length of the encampment;
 - iii. The maximum number of residents proposed; and
 - iv. The host location.
 - b. The sponsoring agency shall conduct at least one public informational meeting within, or as close to, the neighborhood where the proposed homeless encampment will be located, a minimum of two weeks prior to the submittal of the temporary use permit application. The time and location of the meeting shall be agreed upon between the city and sponsoring agency in advance. All property owners within 1,000 feet of the proposed

homeless encampment shall be notified at least 14 days in advance of the meeting by the sponsoring agency. Proof of mailing shall be provided to the director of Department of Community Development and Public Works~~planning and development~~.

c. The temporary use permit application shall be accompanied by a hold harmless agreement whereby the host agency and sponsoring agency agree to indemnify the city of Auburn for, and hold it harmless from, all damages that may result from the operation of the homeless encampment by such permit grantee and shall pay all damages for which the permit grantee or the city of Auburn shall be held liable as the result of injuries suffered by any person, association or corporation by reason of the operation of the homeless encampment; provided, that in case any claim is filed with the city of Auburn or any suit or action is instituted against said city by reason of any such damage or injury, the city council shall promptly cause written notice thereof to be given to the grantee and the grantee shall have the right to defend any such suit or action.

2. Site Criteria.

a. If the sponsoring agency is not the host agency of the site, the sponsoring agency shall submit a written agreement from the host agency allowing the homeless encampment.

b. The property must be sufficient in size to accommodate tents and necessary on-site facilities, including, but not limited to, the following:

i. Sanitary portable toilets in the number required to meet capacity guidelines;

ii. Hand washing stations by the toilets and by the food areas;

iii. Refuse receptacles;

iv. Food tent and security tent.

c. The host and sponsoring agencies shall provide an adequate water source to the homeless encampment, as approved by the provider as appropriate or other water service.

d. No homeless encampment shall be located within a critical area or its buffer as defined under Chapter 16.10 ACC.

- e. No permanent structures will be constructed for the homeless encampment.
- f. No more than 100 residents shall be allowed. The city may further limit the number of residents as site conditions dictate.
- g. Adequate on-site parking shall be provided for the homeless encampment. No off-site parking will be allowed. The number of vehicles used by homeless encampment residents shall be provided. If the homeless encampment is located on site with another use, it shall be demonstrated that the homeless encampment parking will not create a shortage of code-required on-site parking for the other uses on the property.
- h. The homeless encampment shall be within a quarter mile of a bus stop with seven days per week service, whenever possible. If not located within a quarter mile of a bus stop, the sponsoring agency must demonstrate the ability for residents to obtain access to the nearest public transportation stop (such as carpools or shuttle buses).
- i. The homeless encampment shall be adequately buffered and screened from adjacent right-of-way and residential properties. Screening shall be a minimum height of six feet and may include, but is not limited to, a combination of fencing, landscaping, or the placement of the homeless encampment behind buildings. The type of screening shall be approved by the city.
- j. All sanitary portable toilets shall be screened from adjacent properties and rights-of-way. The type of screening shall be approved by the city and may include, but is not limited to, a combination of fencing and/or landscaping.
- k. The sponsoring agency shall be responsible for the cleanup of the homeless encampment site within seven calendar days of the encampment's termination.

3. Security.

- a. An operations and security plan for the homeless encampment shall be submitted and approved by the city.
- b. The host agency shall provide to all residents of the homeless encampment a code of conduct for living at the homeless encampment. A copy of the code of conduct shall be submitted to the city at the time of application.

c. All homeless encampment residents must sign an agreement to abide by the code of conduct and failure to do so shall result in the noncompliant resident's immediate and permanent expulsion from the property.

d. The sponsoring agency shall keep a log of all people who stay overnight in the encampment, including names and birth dates, and dates of stay.

e. The sponsoring agency shall take all reasonable and legal steps to obtain verifiable identification, such as a driver's license, government-issued identification card, military identification or passport from prospective and existing encampment residents.

f. The sponsoring agency will use identification to obtain sex offender and warrant checks from the Pierce County or King County sheriff's office or relevant local police department.

i. If said warrant and sex offender checks reveal either: (A) an existing or outstanding warrant from any jurisdiction in the United States for the arrest of the individual who is the subject of the check; or (B) the subject of the check is a sex offender, required to register with the county sheriff or their county of residence pursuant to RCW 9A.44.130, then the sponsoring agency will reject the subject of the check for residency to homeless encampment or eject the subject of the check if that person is already a homeless encampment resident.

ii. The sponsoring agency shall immediately contact the Auburn police department if the reason for rejection or ejection of an individual from the homeless encampment is an active warrant, is due to the individual being a sex offender required to register and/or if, in the opinion of the on-duty executive committee member or the on-duty security staff, the rejected/ejected person is a potential threat to the community.

g. The sponsoring agency shall self-police and self-manage its residents and prohibit alcohol, drugs, weapons, fighting, and abuse of any kind, littering or disturbing neighbors while located on the property.

h. The sponsoring agency will appoint an executive committee member to serve on-duty at all times to serve as a point of contact for city of Auburn police and will orient the police as to how the security operates. The names of the on-duty executive committee members will

be posted daily in the security tent. The city shall provide contact numbers of nonemergency personnel, which shall be posted at the security tent.

4. Timing.

- a. The maximum continuous duration of a homeless encampment shall be 90 days. Citywide, the total maximum number of days homeless encampments may operate in the city shall not exceed 180 days in any 24-month period (e.g., two homeless encampments each operating 90 days (maximum 180 days total) may be allowed in a 24-month period).
- b. No more than one homeless encampment may be located in the city at any time.

5. Health and Safety.

- a. All temporary structures within the homeless encampment shall conform to all building codes.
- b. The homeless encampment shall conform to the following fire requirements:
 - i. Material used as roof covering and walls shall be of flame retardant material.
 - ii. There shall be no open fires for cooking or heating.
 - iii. No heating appliances within the individual tents are allowed unless the appliance is designed and licensed for that purpose.
 - iv. No cooking appliances other than microwave appliances are allowed.
 - v. An adequate number and appropriate rating of fire extinguishers shall be provided as approved by the fire department.
 - vi. Adequate access for fire and emergency medical apparatus shall be provided. This shall be determined by the fire department.
 - vii. Adequate separation between tents and other structures shall be maintained as determined by the fire department.

viii. Electrical service shall be in accordance with recognized and accepted practice; electrical cords are not to be strung together and any cords used must be approved for exterior use.

c. The sponsoring and host agencies shall permit inspections by Auburn staff and the King County health department at reasonable times without prior notice for compliance with the conditions of this permit.

6. Termination. If the sponsoring agency fails to take action against a resident who violates the terms and conditions of this permit, it may result in immediate termination of the permit. If the city learns of uncontrolled violence or acts of undisciplined violence by residents of the encampment and the sponsoring agency has not adequately addressed the situation, the temporary use permit may be immediately terminated. (Ord. 6565 § 4, 2015; Ord. 6287 § 2, 2010; Ord. 6268 § 2, 2009.)

18.46A.080 Approval criteria.

The planning director or designee may approve, or modify and approve, an application for a temporary use permit if all of the application satisfies all of the following criteria:

A. The temporary use will not be materially detrimental to the public health, safety or welfare, nor injurious to property or improvements in the immediate vicinity;

B. The temporary use is compatible with the purpose and intent of this title, and the specific zoning district in which it will be located;

C. The temporary use is compatible in intensity and appearance with existing land uses in the immediate vicinity;

D. Structures proposed in association with a temporary use permit will comply with the applicable setback and vision clearance area requirements, and with applicable provisions of the building and fire codes;

E. Adequate parking is available to serve the temporary use and, if applicable, the temporary use does not occupy required off-street parking areas for adjacent or nearby uses;

F. Hours of operation of the temporary use are specified;

G. The temporary use can comply with applicable provisions of ACC 18.46A.090;

H. The impacts associated with the temporary use can be mitigated through the application of conditions of approval, as applicable. (Ord. 6268 § 2, 2009.)

18.46A.090 Performance standards.

The planning director or designee shall require compliance to the following performance standards for all authorized temporary use permits and may approve, or modify and approve, an application for a temporary use permit if the application satisfies all of the following criteria:

A. Temporary uses shall, at all times, comply with all local, state or federal standards and regulations, as applicable, pertinent to the type of temporary use being conducted;

B. Temporary uses shall obtain and maintain all other local, state and federal required permits and licenses prior to and during the authorization period for a temporary use;

C. Temporary uses shall comply, as applicable, with the performance standards specified in ACC 18.31.180;

D. Temporary uses shall not generate life safety hazards. Specific mitigating conditions may be required by the planning director or designee. (Ord. 6268 § 2, 2009.)

18.46A.100 Time limitation.

A. A temporary use is valid for up to 180 calendar days from the effective date of the permit, unless otherwise noted herein; provided, however, that the applicant may request, and/or the planning director or designee may establish, a shorter time frame in the written decision based on factors including but not limited to the nature of the temporary use, impacts associated with the temporary use or its proximity to residentially zoned areas of the city.

B. The planning director or designee may grant additional time extensions upon the applicant satisfactorily demonstrating continued compliance with all conditions of permit approval. Extensions may be granted following the submittal of a written request by the holder of the temporary use permit a minimum of 30 calendar days prior to the expiration date of the original and/or extended temporary use permit; provided, that permit holders for permits that are valid 30 calendar days or less shall only be required to submit a written extension request two calendar days before expiration. (Ord. 6268 § 2, 2009.)

18.46A.110 Limitation on activity.

A property owner or other holder of a temporary use permit may not be allowed to file additional temporary use permits for a use on the same site if the planning director or designee determines that the use has become permanent in nature either by the period of use or the extent of on-site improvements. (Ord. 6268 § 2, 2009.)

18.46A.120 Permit revocation.

The planning director or designee may immediately revoke permit authorization of a temporary use should it be found that such use has failed to comply with any of the conditions of the permit authorization or any of the performance standards specified in ACC 18.46A.090 or applicable building and fire codes, is in violation of any state or federal rules and regulations or any other applicable codes, standards or regulations of the Auburn City Code. (Ord. 6268 § 2, 2009.)

18.46A.130 Removal of temporary uses.

A. Upon the expiration of the temporary use permit, the applicant shall immediately discontinue the temporary use. Within 15 calendar days of the expiration of the temporary permit, the applicant shall remove any temporary structures associated with the temporary use. The planning director or designee may extend the timeframe for removal of temporary structures upon written request containing adequate justification for this extension and a specific timeframe for the permanent removal of the temporary use.

B. If a temporary use is not removed as required by the temporary use permit or within any extension timeframe authorized by the planning director or designee, the city shall initiate code compliance proceedings in accordance with Chapter 1.25 ACC (Civil Penalties for Violations), as amended.

C. Prior to the approval of a Type I or Type II temporary use permit, the applicant shall submit to the city an irrevocable, signed and notarized statement from the applicant and property owner, if applicable, granting the city permission to summarily enter the applicant's property with reasonable notice and abate the temporary use, and all physical evidence of that use if it has not been removed as required by the terms of the permit. The statement shall also indicate that the applicant will reimburse the city for any expenses incurred in abating a temporary use under the authority of this chapter. Abatement actions shall be conducted in accordance with the provisions of Chapter 1.25 ACC (Civil Penalties for Violations), as amended. (Ord. 6268 § 2, 2009.)

18.46A.140 Compliance Assurance device.

The planning director or designee may require the submittal of a cash or surety bond as a condition of approval to assure compliance with applicable provisions of the Auburn City Code and the temporary use permit, as

approved. In appropriate circumstances, the planning director may require a reasonable performance of maintenance assurance device, in a form acceptable to the finance department, to assure compliance with the provisions of this title. If at the end of this time period such temporary use or structure is not removed or discontinued, said cash or surety bond shall be forfeited. (Ord. 6268 § 2, 2009.)

Exhibit B

Draft Amendments to 5.20

II. Specific Businesses

Chapter 5.20 INDIVIDUAL LICENSE REGULATIONS

Sections:

- 5.20.010 Chapter purpose and scope.
- 5.20.020 Definitions – General.
- 5.20.030 License required – Fee – Term – Notices – Exemptions.
- 5.20.040 License application – Required – Form.
- 5.20.050 License application – Approval or disapproval procedure.
- 5.20.060 License – Display – Nontransferability – Responsibility.
- 5.20.070 License – Revocation.
- 5.20.080 Violation – Penalty.
- 5.20.100 Ambulance businesses.
- 5.20.110 Amusement devices.
- 5.20.120 Auto races.
- 5.20.130 Cabarets.
- 5.20.140 Carnivals, circuses and shows.
- 5.20.150 Dances.
- 5.20.160 Fire extinguisher servicing businesses.
- 5.20.170 Massage businesses, health salons and public bathhouses.
- 5.20.180 Merchant patrol and private detective businesses.
- 5.20.190 Motor vehicle wrecker businesses.
- 5.20.200 Outdoor musical entertainment.
- 5.20.210 Pawnbroker and secondhand dealer businesses.
- 5.20.220 Solicitors.
- 5.20.230 Taxicab businesses – Provisions adopted by reference.
- 5.20.240 Tow truck business.
- 5.20.250 Marijuana related activities.
- 5.20.260 Mobile Vendors and Food Trucks

5.20.010 Chapter purpose and scope.

This chapter provides license requirements for certain business activities. This chapter does not repeal, abrogate, annul or in any way impair or interfere with the existing provision of other laws or ordinances, except those specifically repealed by the ordinance codified in this chapter.

5.20.020 Definitions – General.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given in this section.

A. “Business” is any enterprise, profession or activity conducted by any person or persons including, but not limited to, deliberation, education, instruction, worship, entertainment, amusement, drinking, dining or awaiting transportation on any premises in the city, or anywhere else within its jurisdiction.

B. “License” as used generally in this chapter includes respectively the words “permit” or “permittee,” or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this chapter or other law or ordinance.

C. “Person” includes individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or corporations, or any officer, agent, employee, factor or any kind of personal representative of any thereof, in any capacity, acting either for himself, or any other person, under either personal appointment or pursuant to the law.

D. “Premises” includes all lands, structures and places, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

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

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

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

Type	Fee		Term
	Initial	Renewal	
Ambulance Services License			
Business	No Fee	No Fee	1/1 – 12/31
Attendant	No Fee	No Fee	1/1 – 12/31

Type	Fee		Term
	Initial	Renewal	
Amusement Device License			
1 to 4	\$40.00	\$20.00	1/1 – 12/31
5 or more	\$70.00	\$20.00	1/1 – 12/31
Auto Races License			
	\$70.00	\$20.00	1/1 – 12/31
Cabaret License			
	\$50.00	\$20.00	1/1 – 12/31
Carnivals, Circuses, Shows, etc., Licenses			
Carnival/circus	\$70.00	\$20.00	1/1 – 12/31
Theater	\$70.00	\$20.00	1/1 – 12/31
Show/exhibition	\$70.00	\$20.00	1/1 – 12/31
Public amusement	\$70.00	\$20.00	1/1 – 12/31
Dance License			
	\$50.00	\$20.00	1/1 – 12/31
Fire Extinguisher			
Without testing	\$30.00	\$20.00	1/1 – 12/31
With testing	\$45.00	\$20.00	1/1 – 12/31
Fireworks Stands License			
	\$70.00	\$20.00	Noon 6/28 to Noon 7/6
(Regulation of fireworks stands under Chapter <u>8.24</u> ACC)			
Massage Business, Health Salon, Public Bathhouse License			
Business	\$85.00	\$20.00	1/1 – 12/31
Attendant	\$85.00	\$20.00	1/1 – 12/31

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

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

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

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

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

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

5.20.040 License application – Required – Form.

A. Every person required to have a license under the provisions of this chapter shall submit an application for such license to the business license clerk. The application shall be a written statement upon a form provided by the business license clerk.

B. Whenever a license cannot be issued at the time the application for the same is made, the business license clerk shall issue a receipt to the applicant for the money paid in advance subject to the following conditions: Such receipt shall not be construed as the approval of the business license clerk for the issuance of a license, nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this chapter.

5.20.050 License application – Approval or disapproval procedure.

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

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

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

1. Ambulance services license: Valley Regional Fire Authority and police department;
2. Amusement device license: police (four or under) and community development and public works and police (five or more);
3. Auto races license: Valley Regional Fire Authority, community development and public works, and police departments;
4. Cabaret licenses: Valley Regional Fire Authority and police departments;
5. Carnivals, circuses, shows, etc., licenses: Valley Regional Fire Authority, community development and public works, and police departments;
6. Dance licenses: Valley Regional Fire Authority and police department;
7. Fire extinguisher service licenses: Valley Regional Fire Authority;
8. Massage business, health salon, etc., licenses: community development and public works, police departments and appropriate county health department;
9. Merchant patrol and private detective licenses: police department;
10. Motor vehicle wreckers licenses: community development and public works and police departments and Valley Regional Fire Authority;
11. Outdoor musical entertainment licenses: community development and public works and police departments and Valley Regional Fire Authority;
12. Pawnbrokers/secondhand dealers licenses: police department;
13. Solicitor license: police department;
14. Tow truck business license: Valley Regional Fire Authority, community development and public works and police departments;

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

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

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

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

2. When the issuance is denied and any action instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused unless a license is issued pursuant to a judgment ordering the same.

5.20.060 License – Display – Nontransferability – Responsibility.

A. Upon receipt of the license the license shall be retained on premises where it may be inspected at any time, or shall be carried, as appropriate.

B. No license issued under the provisions of this chapter shall be transferable or assignable.

C. The agents or other representatives of nonresidents who are doing business in this city shall be personally responsible for the compliance of their principals and the businesses they represent with this chapter.

5.20.070 License – Revocation.

A. Any license issued under the provisions of this chapter may be revoked by the police chief and/or building official for any reason if the further operation thereof would be detrimental to public peace, health or welfare, or the violation of any federal or state law or any ordinance or regulation of the city. The city clerk or the director of community development and public works shall cause to be served upon such parties as may be deemed to be interested therein such reasonable notice as may be determined to be proper of intention to revoke such license.

B. Where deemed necessary to prevent further detriment to public peace, health or welfare, or violation of any federal or state law or any city ordinance or regulation the police chief or building official may immediately revoke any license issued under the provisions of this chapter.

C. Whenever any such license is revoked, the licensee may within 15 days from date of action file written notice of appeal to the city's director of community development and public works. Action of the director of community development and public works may be appealed within 15 days from date of action to the hearing examiner and action of the hearing examiner shall be conclusive and not subject to review. (Ord. 6532 § 8, 2014; Ord. 4012 § 2, 1984.)

5.20.080 Violation – Penalty.

Any violation of the provisions of this chapter is punishable in accordance with ACC 5.15.110.

5.20.260 Mobile Vendors and Food Trucks

A. Definitions

1. "Mobile Vendors" means any motorized or non-motorized vehicle, trailer, kiosk, pushcart, stand, display, blanket, ground covering or other device designed to be portable and not permanently attached to the ground from which food and/or goods are peddled, vended, sold, served, displayed, offered for sale or given away.

2. "Food Truck" is a large mobile vehicle equipped to cook and sell food. Food trucks typically contain onboard power, refrigeration, food preparation facilities and space for up to four employees.

B. License Application

1. Exemptions. Mobile Vendors or Food Trucks operating 3 days or less within a 365-day period and that are not parked in the same location for more than 72 hours are exempt from the requirement to obtain a business license. A King County Health Permit is required even if exempt from the requirement to obtain a City business license and the mobile vending or food truck shall comply with all rules and regulations in the Auburn Municipal Code.

2. City Business License Required. Any Mobile Vendor or Food Truck operating for more than three calendar days in 365-day period is required to obtain a business license.

3. Permanent Operation. Mobile Vendors and Food Trucks operating in a fixed location for a year or more are required to obtain all appropriate land use approval(s) that are required within the zoning designation in which it is located and shall comply with all applicable zoning and development standards in the Auburn Municipal Code.

3. Operating in the City right-of-way. Mobile Vendors and Food Trucks that desire to operate in the public right-of-way such as along streets or sidewalks shall obtain a right-of-way use permit in addition to a City business license unless exempt based on the criteria in #1 above.

C. License Regulations

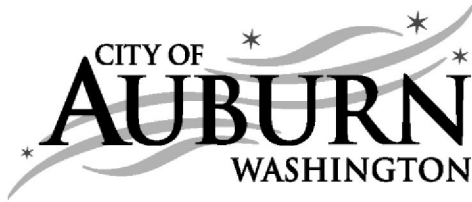
1. Zoning Districts. Mobile Vendors and Food Trucks may only operate in non-residential, multi-family, or mixed-use zoning districts. Mobile vendors and food trucks are prohibited from operating in residential zoning districts or within 50' of any residentially zoned property.

2. Vending location. Mobile Vendors and Food Trucks on private property shall be parked in a designated parking spot or other location used for parking that will not negatively impact vehicular and pedestrian circulation or safety. Mobile Vendors and Food Trucks may be placed in other locations that do not disrupt vehicular or pedestrian circulation. Any Mobile Vendors or food truck operating in the public right-of-way shall be in an officially designated parking stall in accordance with a right-of-way use permit.

3. Garbage, recycling, and composting. Mobile Vendors and Food Trucks shall provide sufficient garbage, recycling, and composting receptacles to accommodate all refuse generated by the operation. Mobile Vendors and Food Trucks that are sited in the same location for less than one year must meet the garbage, recycling and composting provisions established in Title 15. Mobile Vendors and Food Trucks that are sited in the same location for more than one year must meet the garbage, recycling and composting provisions established in Title 15 and Title 18.

4. Use of liquid petroleum gas (propane) or an open flame (wood or charcoal). A permit from the Valley Regional Fire Authority is required for the use of propane or an open flame.

See ACC 5.20.250(A).



Memorandum

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

From: Alexandria Teague, Planner II Community Development Services
With support by Lisa Grueter, BERK Consulting

Date: January 25, 2017

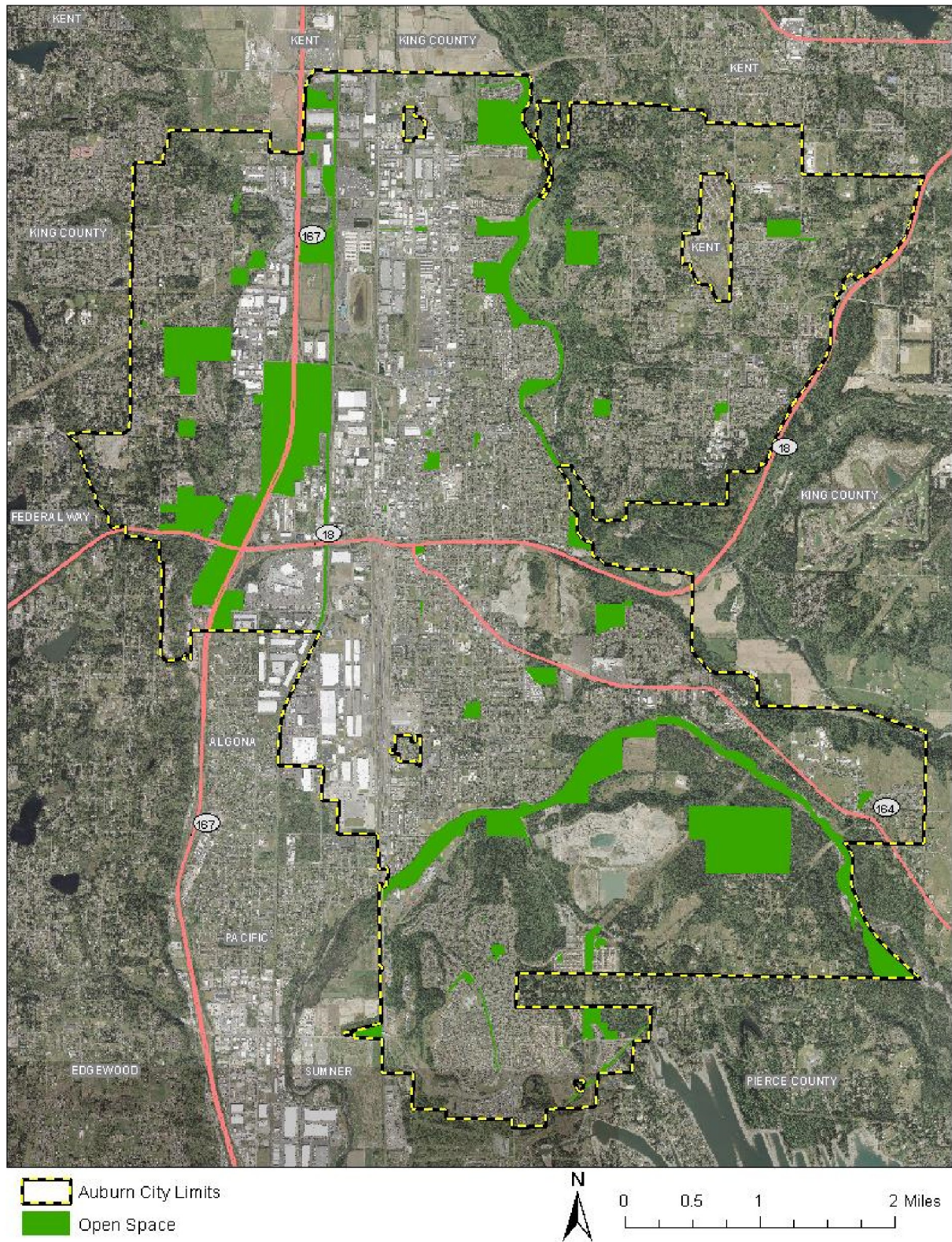
Re: Open Space Zone: Proposed Code

1.0 Background

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". Under the existing city code structure, each Comprehensive Plan land use designation is implemented by at least one zoning district (zone) that addresses the allowed uses and the zoning development standards. Currently, there is no implementing Open Space zone in the Auburn City Code. The City intends to create an Open Space zone that is consistent with the overall description of the Open Space land use designation that is provided in the City's Comprehensive Plan. A map depicting Open Space designated parcels appears below on the following page.

Planning Commission has previously received and reviewed two memorandums regarding the creation of an Open Space zone. The first memorandum titled "Open Space Zone: Background, Options, and Recommendations" was reviewed by Planning Commission on December 6, 2016. This memorandum provided background and analysis of the City of Auburn's Open Space land use designation, and some issues and options for implementing the Open Space zone, including examples of other jurisdictions' open space zoning code language. The second memorandum titled "Open Space Zone: Supplemental Responses to Planning Commission Questions", was reviewed by Planning Commission on January 4, 2017. This memorandum included the general difference between comprehensive plan land use designations and zoning districts, and further described the ownership and number of parcels currently designated open space.

Exhibit 1. Open Space Land Use Designation Map



In the February 7, 2016 Planning Commission meeting, staff is requesting that Planning Commission discuss the proposed (1) intent statement for Open Space zone, (2) allowed uses for the Open Space zone, and (3) zoning development standards for the Open Space zone.

2.0 Proposed Open Space Zone Intent Statement

Within Auburn City Code Title 18 – Zoning (the Zoning Code) an intent statement is provided for each zoning district. The purpose of an intent statement is described in Auburn City Code Section 18.02.070 “Establishment of zones”:

“C. The intent statement for each zone set forth in this title shall be used to guide the application of the zones to all lands in the city of Auburn. The intent statements shall guide interpretation and application of land use regulations within the zones, and any change to the range of allowed uses within each zone through amendment to this title.”

The intent statement for each zoning district must be consistent with the overall description of its corresponding land use designation. As proposed, the Open Space zone intent statement is consistent with the description of the Open Space land use designation.

Exhibit 2. Comprehensive Plan Description and Zone Intent

Comprehensive Plan Open Space Description	Proposed Open Space Zone Intent Statement
This category shall be applied to areas which are owned by a public entity and managed in a largely undeveloped character. It includes parks, watersheds, shoreline areas, significant wildlife habitats, storm drainage ponds, utility corridors with public access, and areas with significant development restrictions.	The OS zone is intended to provide for land uses that tend to be managed in a largely undeveloped character, including passive parks, watersheds, natural and urban conservancy shoreline areas, significant wildlife habitats, large stormwater detention ponds or floodplain ponds, utility corridors with public access, and areas with significant development restrictions. Park lands included in the Open Space zone tends to be predominately passive in character and with relatively fewer developed facilities than parks included in the Institutional zone. Private sites containing critical areas or shorelines may be included.

3.0 Proposed Open Space Zone Uses

Each zoning district features a zone use table which establishes whether specific use is allowed in a zone and whether that use is allowed as a permitted, administrative, or conditional use. Zone use tables also indicate which uses are prohibited. The range of allowed uses within a zone must be consistent with the intent statement of that zone.

The proposed range of allowed uses provided below are consistent with the intent statement of the Open Space zone. The allowed uses includes those that are generally lower in intensity. All uses, including both allowed and prohibited uses are excerpted and summarized below. The non-summarized version of the proposed Open Space zone code language is included in Attachment A. Definitions of terms are included in Attachment B to assist in interpreting the proposed Open Space zone code.

Exhibit 3. Summary of Allowed and Prohibited Uses

Allowed	Prohibited*
<u>Permitted</u> • Municipal parks and playgrounds • Campgrounds • One detached single family dwelling • Home occupations • Home based day care • Other uses determined consistent with intent of zone and other uses permitted	• Animal shelter, public • Recreational vehicle parks, private • Cemetery, public • Cemetery, private • College, university, public • Commercial recreation facility – Indoor • Conference/convention facility • Private school – specialized education/training (for profit)
<u>Administrative</u> • Library, museum • Meeting facility, public or private • Utility facilities, substations, utility transmission or distribution line • Daycare, including mini daycare, daycare center, preschools or nursery schools	• Public schools (K-12) and related facilities • Religious institutions, lot size less than one acre • Religious institutions, lot size more than one acre • Studio – Art, dance, martial arts, music, etc. • Duplex • Live/work, work/live unit
<u>Conditional</u> • Government facilities • Commercial recreation facility – Outdoor	• Multiple-family dwellings, stand-alone • Nursing home, assisted living facility • Senior housing • Restaurant, cafe, coffee shop, excluding drive-through facilities • Banking and related financial institutions, excluding drive-through facilities • Medical services – Clinic or urgent care • Mortuary, funeral home, crematorium • Personal service shops • Pharmacies

*As discussed at the Planning Commission meeting on December 6, 2016, the City may consider redesignating cemeteries and some active and “monument” parks to the Institutional land use designation; that would happen during the City’s annual amendment cycle, which allows for amendments to the Comprehensive Plan Map, and is not further addressed here.

4.0 Proposed Development Standards

The aforementioned allowed uses are generally subject to zoning development standards. Zoning development standards are specified for each zoning district, and commonly prescribe the required setbacks, height, site coverage, building layout, site design, and other related features of land use.

The proposed zoning development standards for the Open Space zone focus on limiting the intensity of uses in terms of height, coverage, and impervious area given the intent of the zone for environmentally sensitive or passive uses:

- Maximum height: 35 feet
- Setbacks:
 - Front: 20 feet
 - Side – Interior: 5 feet

- Side – Corner: 10 feet
- Rear: 25 feet
- Maximum Lot coverage (by buildings): 5%
- Maximum Impervious area: 10% hard surface

To illustrate the dimensions of the coverage and impervious standards, the following table indicates the results at different property sizes. For very small open space properties, the coverage and impervious area would be similar to that of a small residential lot. The coverage on a 5-acre lot would allow a modest improvement area. At 50 acres, the potential building and impervious area are larger but would be perceived as a small amount of improvement compared to the much larger undisturbed area. City stormwater standards will apply.

Exhibit 4. Illustration of Coverage and Impervious Standards

	1-Acre	5-Acre	10-Acre	25-Acre	50 Acres
Lot Coverage (5%)	2,178	10,890	21,780	54,450	108,900
Impervious Area (10%)	4,356	21,780	43,560	108,900	217,800

Source: BERK Consulting 2017

5.0 Next Steps

Following the February Planning Commission meeting, depending on Planning Commission's discussion, staff will revise the proposed code language for the Open Space zone and either continue the discussion on the proposed code language in the March Planning Commission meeting, or schedule a public hearing on the proposed code language. Open Space designated land property owners will be contacted about the hearing.

ATTACHMENTS

A – Proposed Open Space Zone Code

B – Excerpt of Key Definitions from Auburn City Code

ATTACHMENT A – Proposed Open Space Zone Code

18.02.070 Establishment of zones.

A. The city is divided into the following classes of zones:

1. RC, residential conservancy zone (one dwelling unit per four acres);
2. R-1, residential zone (one dwelling unit per acre);
3. R-5, residential zone (five dwelling units per acre);
4. R-7, residential zone (seven dwelling units per acre);
5. R-10, residential zone (10 dwelling units per acre);
6. R-16, residential zone (16 dwelling units per acre);
7. R-20, residential zone (20 dwelling units per acre);
8. RMHC, manufactured/mobile home community zone;
9. RO, residential office zone and RO-H, residential office-hospital zone;
10. C-N, neighborhood shopping zone;
11. C-1, light commercial zone;
12. C-2, central business zone;
13. C-3, heavy commercial zone;
14. M-1, light industrial zone;
15. M-2, heavy industrial zone;
16. BP, business park zone;
17. LF, airport landing field zone;
18. P-1, public use zone;
19. UNC, unclassified use zone;

20. I, institutional use zone;

21. EP, environmental park zone;

22. DUC, downtown urban center zone.

23. OS, open space zone.

B. The zones set out in subsection A of this section are established as the designations, locations, and boundaries thereof as set forth and indicated on the zoning map.

C. The intent statement for each zone set forth in this title shall be used to guide the application of the zones to all lands in the city of Auburn. The intent statements shall guide interpretation and application of land use regulations within the zones, and any change to the range of allowed uses within each zone through amendment to this title.

Chapter 18.35 SPECIAL PURPOSE ZONES

Sections:

18.35.010 Purpose.

18.35.020 Intent of special purpose zones.

18.35.030 Uses.

18.35.040 Development standards.

18.35.050 Additional development standards for both the RO and RO-H zones.

18.35.010 Purpose.

This chapter lists the land uses that may be allowed within the residential office, residential office-hospital, public use, institutional, and open space zones established by ACC 18.02.070 (Establishment of zones), determines the type of land use approval required for each use, and provides basic development standards for site layout and building size.

18.35.020 Intent of special purpose zones.

A. General. This section describes the intent for each of the city's special purpose zones. These intent statements may be used to guide the interpretation of the regulations associated with each zone.

B. RO and RO-H Residential Office and Residential Office-Hospital Zone. The RO and RO-H is intended primarily to accommodate small-scale business and professional offices, medical and dental clinics, and banks and similar financial institutions at locations where they are compatible with residential uses. Some retail and

personal services may be permitted if supplemental to the other uses allowed in the zone. This zone is intended for those areas that are in transition from residential to commercial uses along arterials or near the hospital. Conversion of residential uses to commercial uses is geared towards encouraging adaptive re-use of existing single-family structures that continue to appear in accord with the single-family residential character. The RO-H designation is to be used exclusively for the hospital area, located in the vicinity of 2nd Street NE and Auburn Avenue, and is intended to be used for medical and related uses and those uses compatible with the medical community.

C. P-1 Public Use Zone. The P-1 zone is intended to provide for the appropriate location and development of public uses that serve the cultural, educational, recreational, and public service needs of the community.

D. I Institutional Zone. The I zone is intended to provide an area wherein educational, governmental, theological, recreational, cultural and other public and quasi-public uses may be allowed to develop. It is further intended these areas be significant in scope which will allow a combination of uses which may not be permitted outright within other zones. This district is not intended to include those smaller or singular public uses which are consistent with and permitted in other zones.

E. OS Open Space Zone. The OS zone is intended to provide for land uses that tend to be managed in a largely undeveloped character, including passive parks, watersheds, natural and urban conservancy shoreline areas, significant wildlife habitats, large stormwater detention ponds or floodplain ponds, utility corridors with public access, and areas with significant development restrictions. Park lands included in the Open Space zone tends to be predominately passive in character and with relatively fewer developed facilities than parks included in the Institutional zone. Private sites containing critical areas or shorelines may be included.

18.35.030 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	<u>OS</u>	

PUBLIC

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

RECREATION, EDUCATION AND PUBLIC ASSEMBLY

Campgrounds and recreational vehicle parks, private	X	X	X	P	<u>P</u>	
Recreational vehicle parks, private	X	X	X	P	<u>X</u>	
Cemetery, public	X	X	P	A	<u>X</u>	
Cemetery, private	X	X	X	A	<u>X</u>	
College, university, public	X	X	A	A	<u>X</u>	
Commercial recreation facility – Indoor	X	X	X	P	<u>X</u>	
Commercial recreation facility – Outdoor	X	X	X	A	<u>C</u>	ACC 18.57.025(A)
Conference/convention facility	X	X	X	A	<u>X</u>	
Library, museum	X	X	P	P	<u>A</u>	
Meeting facility, public or private	A	A	P	P	<u>A</u>	

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	<u>OS</u>	
Private school – specialized education/training (for profit)	P	P	X	P	<u>X</u>	
Public schools (K-12) and related facilities	X	X	P	P	<u>X</u>	
Religious institutions, lot size less than one acre	A	P	X	P	<u>X</u>	
Religious institutions, lot size more than one acre	C	A	X	P	<u>X</u>	
Studio – Art, dance, martial arts, music, etc.	P	X	X	X	<u>X</u>	

RESIDENTIAL

Duplex	P (1)	X	X	A	<u>X</u>	
Home occupation	P	P	X	P	<u>P</u>	Chapter 18.60 ACC
Live/work, work/live unit	A	P	X	A	<u>X</u>	
Multiple-family dwellings, stand-alone	P (2)	A (3)	X	A	<u>X</u>	
One detached single-family dwelling	P	X	X	X	<u>P (5)</u>	
Nursing home, assisted living facility	A	A	X	P	<u>X</u>	
Senior housing	A	A	X	A	<u>X</u>	

RETAIL

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	<u>OS</u>	
Restaurant, cafe, coffee shop, excluding drive-through facilities	A	A	P	A	<u>X</u>	

SERVICES

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

TRANSPORTATION, COMMUNICATIONS AND INFRASTRUCTURE

<u>Utility facilities, substations, utility transmission or distribution line</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>A</u>	<u>See ACC 18.02.040(E)</u>
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OTHER USES THAT ARE NOT LISTED

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	<u>OS</u>	
<u>Other uses may be permitted by the planning director or designee if the use is determined to be consistent with the intent of the zone and is of the same general character of the uses permitted.</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	

Notes:

1. Duplexes, 3,600 square feet of lot area per dwelling unit is required.
2. Multifamily dwellings; provided, that 2,400 square feet of lot area is provided for each dwelling unit.
3. Multifamily dwellings; provided 1,200 square feet of lot area is provided for each dwelling unit.
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.
5. One single-family detached dwelling unit per existing legal lot. No residential subdivisions permitted in the open space zone.

18.35.040 Development standards.

Hereafter, no use shall be conducted and no building, structure and appurtenance shall be erected, relocated, remodeled, reconstructed, altered or enlarged unless in compliance with the requirements in Table 18.35.040 (RO, RO-H, P-1, I, OS Zone Development Standards) and in compliance with the provisions of this title, and then only after securing all permits and approvals required hereby. These standards may be modified through either an administrative variance or variance, subject to the procedures of Chapter 18.70 ACC.

Table 18.35.040 RO, RO-H, P-1, I Zone Development Standards

Development Feature	Requirement by Zones				
	RO Residential Office	RO-H Residential Office-Hospital	P-1 Public Use	I Institutional	<u>OS Open Space</u>
Minimum lot area	7,200 sf	None	None	6,000 sf	<u>None</u>
Minimum lot width, depth	50 ft, 80 ft	None	None	60 ft, 80 ft	<u>None</u>
Maximum lot coverage	55 percent (1)	None	None	35 percent	<u>5 percent</u>
Maximum impervious area	NA	NA	NA	NA	<u>10 percent (7)</u>
Setbacks	<i>Minimum setbacks required for primary structures. See ACC 18.31.070 for exceptions to these requirements.</i>				
Front	20 ft (2)	10 ft	20 ft	20 ft	<u>20 ft</u>
Side – Interior	5 ft	None	5 ft (4)	5 ft	<u>5 ft</u>
Side – Corner	10 ft	10 ft	10 ft	10 ft	<u>10 ft</u>
Rear	25 ft (3)	None	25 ft	25 ft	<u>25 ft</u>
Accessory structure(s)	See note (5) below	NA	NA	See note (5) below	
Height limit	<i>Maximum allowable height of structures. See ACC 18.31.030 (Height limitations – Exceptions) for height limit exceptions.</i>				
Maximum height	35 ft	65 ft	45 ft	45 ft (6)	<u>35 ft</u>
Fences and hedges	See Chapter 18.31 ACC				
Landscaping	See Chapter 18.50 ACC				
Parking	See Chapter 18.52 ACC				

Table 18.35.040 RO, RO-H, P-1, I Zone Development Standards

Development Feature	Requirement by Zones				
	RO Residential Office	RO-H Residential Office-Hospital	P-1 Public Use	I Institutional	<u>OS Open Space</u>
Signs	See Chapter 18.56 ACC				
Lighting	See Chapter 18.55 ACC				
Nonconforming structures, land and uses	See Chapter 18.54 ACC				

Notes:

1. New single-family residential or conversions of single-family residences to commercial uses with additions greater than a total or cumulative area of 200 square feet on the property since the adoption of Ordinance No. 6231, then the maximum lot coverage is 35 percent.
2. New single-family residential or conversions of single-family residences to commercial uses with additions of 200 square feet or less, then the front yard setback is 10 feet.
3. New single-family residential or conversions of single-family residences to commercial uses with additions of 200 square feet or less, then the rear yard setback is 15 feet.
4. A 25-foot setback is required when adjacent to a residential zone.
5. Accessory structures shall meet all the required setbacks of the zone with the exception that the rear yard setback may be reduced to five feet; provided, that any structure with a vehicle entrance from a street (public or private) or public alley shall be set back a minimum of 20 feet.
6. Maximum building height for residential dwellings: 30 feet. Accessory buildings to residential dwellings: 16 feet.
7. Maximum impervious area includes all hard surfaces per Auburn City Code 13.48.010(J).

18.35.050 Additional development standards for both the RO and RO-H zones.

- A. All uses shall be conducted entirely within an enclosed structure, except noncommercial municipal automobile parking facilities in the RO-H zone.
- B. There shall be no outside storage of materials allowed.
- C. Refuse cans, containers or dumpsters shall be screened from the view of adjoining properties.
- D. No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities, shall be permitted, unless clearly incidental and secondary to a permitted use. On-site hazardous waste treatment and storage facilities shall be subject to the state siting criteria (Chapter 70.105 RCW).
- E. Any new construction, including additions and alterations, within the RO district shall utilize similar bulk, scale, and architectural and landscape elements of the existing site structure or those of the neighborhood in which the property is located. A site plan and building elevation plans shall be prepared by the applicant which address compliance with the requirements as outlined in this subsection. The plans shall be approved by the planning director or designee prior to the issuance of any building permits.

The planning director and the public works director or designees may deviate from the development standards under ACC 18.35.040 up to 10 percent, for example, reduce rear yard setback by one and one-half feet, to address unusual circumstances for conversions of single-family residential uses to nonresidential uses.

ATTACHMENT B – Excerpt of Key Definitions from Auburn City Code

18.04.025 Administrative use.

“Administrative use” means a use permitted in a zone only after review and approval by the planning director or designee. Administrative uses are those which typically have some potential for impacts to neighboring properties, but which may be permitted within a zone following review by the city to establish conditions mitigating impacts of the use and to assure compatibility with other uses in the zone.

18.04.200 Building height.

“Height of building” means the vertical distance measured from the finished grade to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs. If a structure has none of the above features then the height shall be measured from the finished grade to the highest portion of the structure. See Figure 18.04.200. (Ord. 6245 § 3, 2009; Ord. 4229 § 2, 1987.)

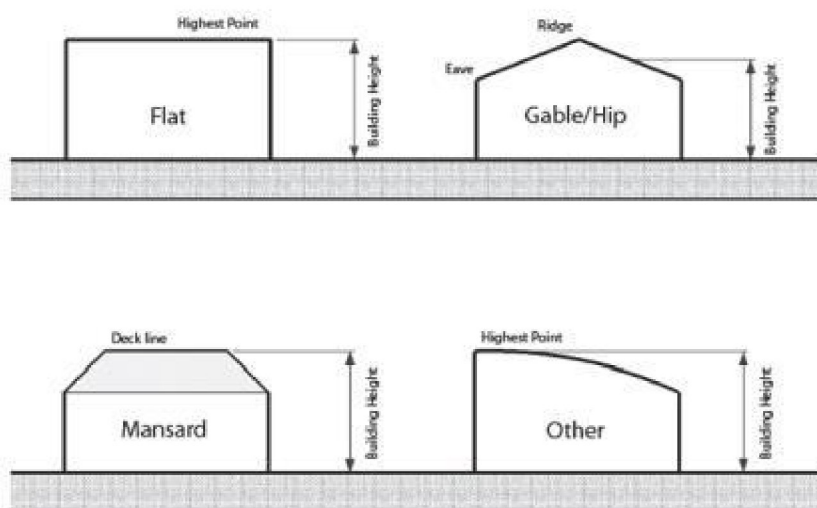


Figure 18.04.200 Building Height

18.04.260 Conditional use.

“Conditional use” means a use permitted in a zone only after review and approval by the hearing examiner. Conditional uses are such that they may be compatible only on certain conditions in specific locations in a zone, or if the site is regulated in a certain manner in order to achieve the purposes of this title.

18.04.310 Development standards.

“Development standards” means regulations pertaining to setbacks, landscaping, height, site coverage, signs, building layout, site design and related features of land use.

18.04.550 Lot coverage.

“Lot coverage” means that percentage of the plot or lot area covered by all buildings including accessory buildings and uses. Coverage is determined by measuring along a horizontal plane from the outermost edge of eaves, cornices, overhangs, or areas covered by a weathertight roof. The first two feet of an eave overhang will, however, not be used in the lot coverage calculation. See Figure 18.04.550.

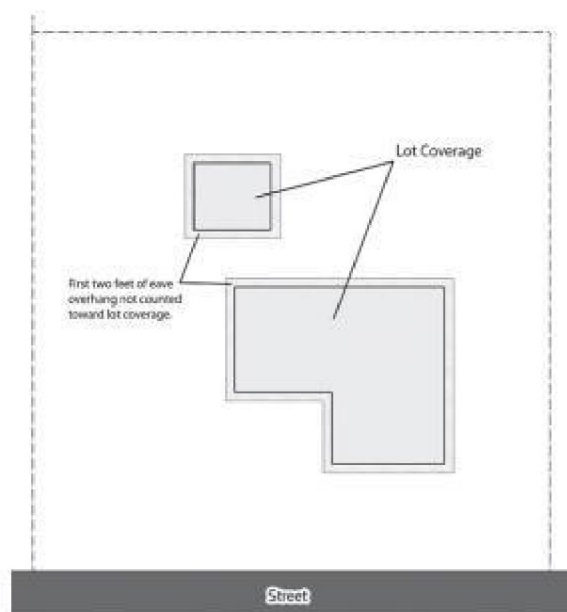


Figure 18.04.550 Lot Coverage

18.04.696 Permitted use.

“Permitted use” means a land use that is allowed outright within a zone.

18.04.752 Prohibited use.

“Prohibited use” means any use which is not specifically enumerated or interpreted by the city as allowable in that zone. Any use not specifically listed as a permitted, administrative, conditional, or accessory use is prohibited, except those determined to be unclassified and permitted by the planning director pursuant to ACC 18.02.120(C)(6). Any prohibited use is illegal.

18.04.497 Impervious surface.

“Impervious surface” means a hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A hard surface which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development.

18.04.810 Setback.

“Setback” means the distance between a lot line and the corresponding parallel setback line.

13.48.010(J) Hard surface.

“Hard Surface” means an impervious surface, a permeable pavement, or a vegetated roof.

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

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. The term of office of each officer shall run until the subsequent election.
3. The vacancy of the Chair or Vice-Chair during his or her term of office shall be filled for the remaining term of office by the Mayor and confirmed by the City Council. The Chair would be replaced by the Vice-Chair or the Vice-Chair would be elected by the vote of the Planning Commission.

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.
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.
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, from a vote on the motion, that member shall so advise the Chair and, if there is no objection to the abstention, shall remove and absent himself/herself from the 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.

8. 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.

9. 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.

10. 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. CONFLICT OF INTEREST:

- A. 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.
 - (1) No member of the Planning Commission may use his or her position to secure special privileges or exemptions for himself, herself, or others.
 - (2) 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.
 - (3) 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.
 - (4) 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.

- (5) 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.

B. 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:

1. 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.
2. Members shall avoid drawing conclusions regarding decisions until after the public hearing is closed.
3. Members shall avoid participating in decisions which affect their or any family member's property, personal or business interest, or organization.
4. 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.
5. 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 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.

XII. 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.