



SPECIAL PLANNING COMMISSION MEETING

February 22, 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. January 7, 2017

III. PUBLIC COMMENT

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

IV. PUBLIC HEARING

No public hearing items were brought forward.

V. OTHER BUSINESS

A. Discussion of C1, Light Commercial Code Changes* (Gouk)

Summary: Discuss further proposed code amendments to the allowed residential uses and development standards of the C-1, Light Commercial Zoning District.

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

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

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.



DRAFT
PLANNING COMMISSION

February 7, 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 Lee, Commissioner Stephens, and Commissioner Moutzouris, and Commissioner Smith, Vice-Chair Copple and Commissioner Shin. Commissioner Mason arrived after the Approval of Minutes.

Staff present included: City Attorney Dan Heid, Assistant Director of Community Development Jeff Tate, and Planning Administrative Assistant Tina Kriss.

Members of the public present: Jeff Oliphant.

b.) PLEDGE OF ALLEGEANCE

II. APPROVAL OF MINUTES

A. January 4, 2017

Commissioner Stephens moved and Commissioner Lee seconded to approve the minutes from the January 4, 2017 meeting as written.

MOTION CARRIED UNANIMOUSLY. 7-0

III. PUBLIC COMMENT

There was no public present for comments.

IV. PUBLIC HEARING

A. Citizen Initiated Proposed Code Amendment – DUC Map Amendment

Assistant Director Tate presented the staff report on the proposed DUC Map Amendment to amend the "Pedestrian Street" map that is incorporated into the City of Auburn Design Standards for the Downtown Urban Center zone. On November 8, 2016 an applicant submitted a request to change a portion of the west side of Auburn Avenue between Main Street and 1st Street NE from a Pedestrian I classification to a Pedestrian II classification. Staff informed the Commission that since transmitting the original materials for the meeting, which included conditions, the applicant and staff met to work through and refine the conditions for the mutual benefit of the applicant and city. The updated modified staff conditions were distributed to the Commission.

Assistant Director Tate explained that if approved, the vacant former Key Bank building at 15 Auburn Avenue NE would change from a Pedestrian I to Pedestrian II classification. The effect of this change focuses on what the allowed ground floor uses are in a building. Pedestrian I classification allows ground-floor uses that are retail, restaurant, and personal services. A Pedestrian II classification allows for the same uses but also allows for office and residential use to be located on a ground floor. The amendment would allow the vacant building to be utilized for office uses and particular medical types uses.

Assistant Director Tate stated that the building has been vacant for some time despite efforts to lease the building. Staff explained that they do not believe this request conflicts with adopted downtown urban center policies or objectives and the range of allowable uses will continue to ensure a harmonious transition from Main Street to the regional hospital facility. A discussion was held with the Commission on the Pedestrian I and II classification and parking challenges.

Chair Roland opened the public hearing at 7:13 p.m. on ZOA16-0008, DUC Map amendment.

Jeff Oliphant, PO Box 1294, Auburn

Mr. Oliphant thanked the Commission for their time and explained that the vacant old Key Bank building/property was originally purchased just before construction began at Auburn Professional Plaza and was not incorporated into the overall plan at Auburn Professional Plaza because it was purchased later.

Mr. Oliphant stated he has been involved in retail development in the Washington and California area for years and finding retail tenants for the ground floor retail space at Auburn Professional Plaza has been difficult, until Multicare leased space the building sat vacant for 7 years. He stated that prospective tenants felt the lack of projected retail revenue and staff overhead costs deterred them from leasing unless the landlord paid for improvements and supplemented the tenants cost. Recently Gosanko's Chocolate leased ground floor space, the tenant improvements paid by the landlord with the cost equal to 10 years of rent. Mr. Oliphant stated he believes there is not a great demand for retail space in the downtown urban center which has made it difficult for occupancy at One Main Professional Plaza. He stated the same would be true for the vacant, old Key Bank building.

Mr. Oliphant explained that the old Key Bank building is off a commuter street which has heavy traffic, less pedestrian traffic and minimal parking. These conditions are not beneficial for leasing or using retail space. If a Pedestrian

II classification were allowed it would provide for medical uses. Recently Wound Care & Hyperbaric Services occupied space at One Professional Plaza, the lease was possible because it met the requirement of having a doctor within 250' at the emergency room in Multicare Hospital.

In working to lease the space out at the vacant Key Bank building discussions have been held with folks interested in medical space but these conversations halted because the space is retail and limits medical use. In an effort to resume these discussions a Pedestrian II classification is needed to allow medical uses.

The Commission asked if the property could be developed as a multi-story building with ground floor parking. Staff explained that the current parking around the surface of the building can be utilized and does not believe it would benefit the developer to utilize the space with ground floor parking and such a small footprint. Mr. Oliphant explained that he is unsure if the building will be improved and used or taken down and rebuilt, as his team considered options for developing the property a multi-story approach with ground floor parking was considered along with other options but none of them were beneficial or cost effective.

The Commission and staff discussed the access points of the property and if the access points would change, staff explained that the access points would not be changed.

The Commission and staff discussed the Pedestrian I and II designations and if there were any other designations proposed for the DUC. Staff explained there is only a Pedestrian I and II designation and no other designations. Staff discussed other options instead of a third designation.

With no other questions from the Commission, Chair Roland closed the public hearing on ZOA16-0008, DUC Map amendment at 7:40 p.m. and the Commission deliberated.

Commissioner Copple moved and Commissioner Moutzouris seconded to approve ZOA16-0006, Citizen Initiated Proposed Code Amendment – DUC Map Amendment with the updated modified conditions provided by staff on February 7, 2017.

MOTION CARRIED UNANIMOUSLY. 8-0

V. OTHER BUSINESS

A. Election of Officers

Chair Roland called for nominations for the Election of Chairperson for the City of Auburn 2017 Planning Commission.

Commissioner Copple and Commissioner Lee nominated Commissioner Roland as the Chairperson. No other Commissioners were nominated.

By majority vote of Commissioners, 8-0, Commissioner Roland was elected as the Auburn Planning Commission Chairperson for 2017.

Chair Roland called for nominations for the Election of Vice-Chairperson of the 2017 Auburn Planning Commission.

Commissioner Mason and Commissioner Smith nominated Commissioner Copple as the Vice-Chairperson. No other Commissioners were nominated.

By majority vote of Commissioners, 8-0, Commissioner Copple was elected as the Auburn Planning Commission Vice-Chairperson for 2017.

B. Modification of Rules and Procedures

Assistant Director Tate provided background information on the Planning Commission Rules and Procedures; last revised March 8, 2016. He explained that each year the Planning Commission has an opportunity to review and revise the Rules and Procedures.

Staff introduced information that was distributed to the Commissioners to provide examples of language from other jurisdictions regarding conduct at Planning Commission meetings.

Mr. Tate explained that previously a discussion held with the Commission regarding circumstances where there may be a disruptive situation or audience member at future meetings and how best to control the decorum. The Commission and staff discussed different options to provide orderly conduct at meetings and the Commission thought that it would be beneficial to maintain continuity between the Council and Planning Commission rules.

The Commission will review the materials and staff will bring this item back for further discussion.

Items C-F below:

Assistant Director Tate explained that due to the weather conditions staff would like to continue items C-F to a future meeting. He stated that staff would also like to hold the tentative second meeting in February 22nd, 2017 to discuss Regulations of Marijuana related Businesses and Cooperatives. He reminded the Planning Commission that the city currently has a moratorium on marijuana. Chair Roland requested that staff provide police presence at future meetings on the discussion regarding Regulations of Marijuana related Businesses and Cooperatives. Staff confirmed those arrangements would be made.

Chair Roland continued items C-F below to a future meeting.

C. Discussion of C1, Light Commercial Code Changes

C. Temporary Uses, Mobile Vendors and Food Trucks – Draft Code Changes

D. Discussion of Open Space Zone

E. Discussion of Mixed Use Zone

VI. COMMUNITY DEVELOPMENT REPORT

Staff reviewed the scheduled meetings moving forward and asked if the Commission was open to hold a public meeting at its tentative meeting March 21st, 2017 over the discussion item being held February 22, 2017 on Regulations of Marijuana related Businesses and Cooperatives after discussing.

The Commission confirmed the meeting schedule for the February and.

VII. ADJOURNMENT

There being no further business to come before the Planning Commission, Chair Roland adjourned the meeting at 8:08 p.m.



MEMORANDUM

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

FROM: Jeff Dixon, Planning Services Manager, Comm. Development & Public Works Dept.
Thaniel Gouk, Senior Planner, Comm. Development & Public Works Dept.

DATE: January 30, 2017

RE: **Discussion on Further** Proposed Code Amendments to the Allowed Residential Uses and Development Standards of the C-1, Light Commercial Zoning District – after the Planning Commission’s November 9, 2016 Recommendation

Background:

The Planning Commission began discussing proposed changes to the allowed residential uses in the C-1, Light Commercial zone on October 4, 2016 with a formal recommendation to the City Council on November 9, 2016. These proposed changes were in response to the City Council's one-year moratorium on residential uses in the C-1 zone that was enacted on December 7, 2015 and extended for an additional six months on December 5, 2016. As this item has been continually discussed for the last several months, a complete background and history is not provided in this memorandum, please reference the January 4, 2017 Planning Commission packet for the complete summary.

Current Action:

As discussed with the Planning Commission on January 4, 2017, Staff is presenting an introduction to the further proposed amendments to the C-1 zone. These proposed amendments include addressing the private zoning text amendment that was attempting to change a section of code that was slated to be deleted (by Promenade Apartments LLC) and general cleanup of several zoning text inconsistencies.

This memorandum is laid out with Staff's commentary then the specific section of code that is proposed for change. The code text is provided in `courier` font in ~~strikeout~~ / underline format. The complete list of amendments is then provided after the a brief introduction to each item.

Discussion Items:

Item 1:

Amend the zoning code definition for “mixed-use development” to specifically require a residential component. Currently the verbiage used in the definition leaves the mix of uses somewhat open-ended (e.g., currently a strip mall with an office use and a retail use could technically meet the definition of mixed-use). The other change to this definition would clarify that mixed-use could be vertical or horizontally mixed. The same terms are also used in **Item 3** below.

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.

Item 2:

This item includes the amendments to the allowed uses in the C-1 zone, as previously discussed and recommended for change by the Planning Commission at the November 9, 2016 hearing. No further changes are proposed.

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 or work/live unit	X	P <u>X</u>	P	P	P	P	P	X	
<u>Work/live unit</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>	
Multiple-family dwellings as part of a mixed-use development <u>2</u>	X	P <u>X</u>	P	P	P	P	P	X	ACC 18.57.030 (A)
Multiple-family dwellings, stand-alone	X	X	X	X	X	X	X	X	ACC 18.57.030 (B)
Nursing home, assisted living facility	X	P	P	P	C	X	X	X	
Senior housing <u>2</u>	X	A <u>X</u>	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:

The amendments listed under this Item are proposed to make the code requirements relating to mixed-use development more clear and concise and to ensure the formatting is consistent with other zoning code sections. Although the changes look expansive based on the number of underline-strikeouts, many of these changes are removing antiquated requirements or clarifying and rewording development standards for mixed-use in the different zoning districts it could be allowed.

18.57.030 ResidentialMixed-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;~~

~~c. 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~~

g3. Horizontal mixed-use.

a. Mixed-use development that has comprised of two or more than two~~two~~ buildings shall have a minimum of 25 percentage~~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"~~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.

2B. 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.~~

3C. 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.

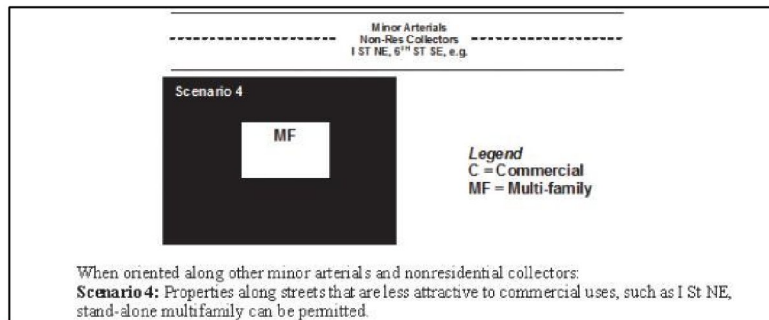
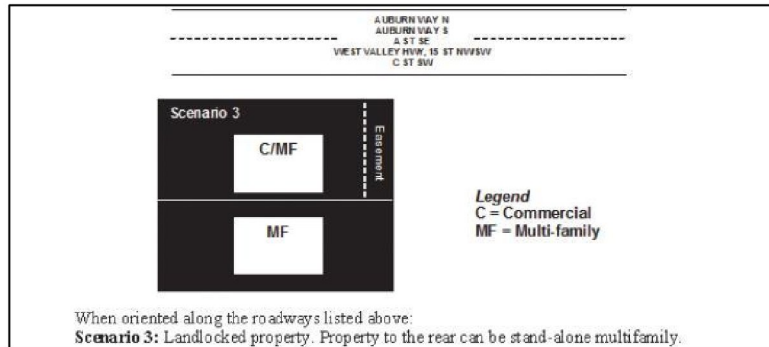
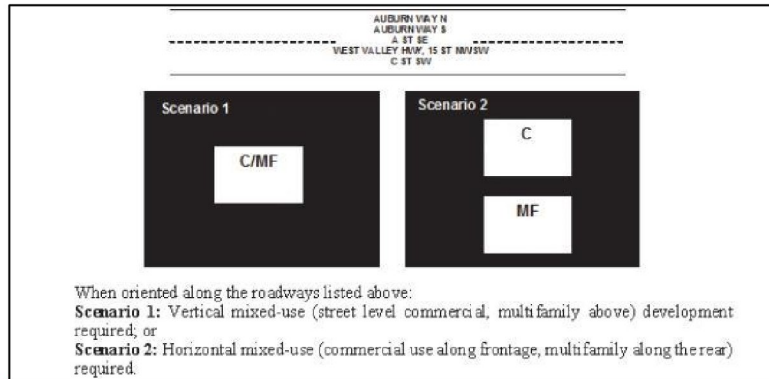
~~a. Located in a multi-story building the ground floor of which must contain one of the retail or service uses listed in Table 18.23.030, "Permitted, Administrative, Conditional and Prohibited Uses by Zone." The ground floor may contain entrance and lobby areas which serve the dwellings.~~

~~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:~~

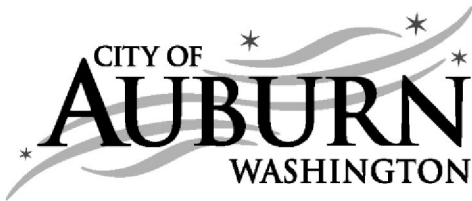
~~a1. The multiple-family development incorporates sustainable design and green building practices and qualifies to be built green certified.~~

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

Conclusion:

As discussed at the January 4, 2017 meeting, a public hearing before the Planning Commission will be scheduled for the March Planning Commission meeting.

Staff would like direction from the Planning Commission on any changes to these proposed amendments.



Memorandum

To: Chairperson Judi Roland
Vice-Chairperson Ron Copple
Commission Member Joan Mason
Commission Member Roger Lee
Commission Member Jack Smith
Commission Member Daniel Shin
Commission Member Phillip Stephens
Commission Member Dimitri Moutzouris

From: Kevin Snyder, AICP, Director of Community Development & Public Works

CC: Dan Heid, City Attorney
Jeff Tate, Assistant Director of Community Development Services
Jeff Dixon, Planning Services Manager

Date: February 16, 2017

Re: **FEBRUARY 22, 2017 PLANNING COMMISSION SPECIAL MEETING –
REVIEW AND DISCUSSION OF DRAFT ORDINANCE NO. 6642**

At the Planning Commission's February 22, 2017 special meeting, City staff will review and discuss with the Planning Commission Draft Ordinance No. 6642 (see attached). Draft Ordinance No. 6642 pertains to the regulation of marijuana related businesses and marijuana cooperatives in the City of Auburn.

ACC 14.03.060, Legislative Non-Project Decisions, specifies that legislative non-project decisions made by the City Council under its authority to establish policies and regulations are not classified as a "type" of project permit decision and that legislative non-project decisions include, but are not limited to amendments to the text and map of the comprehensive plan or development regulations. The Planning Commission, in its advisory body role to the Auburn City Council, is tasked with conducting a substantive review of all proposed new or amended development regulations and conducting one (1) or more public hearings to provide interested parties the opportunity to provide pertinent and relevant public commentary. Please note that the February 22, 2017 Planning Commission special meeting is intended for Commission discussion only with no action to be taken. Because this special meeting is an opportunity for the Commission to gather information on the proposed amended and new development regulations, City staff recommends that the Planning Commission not accept any public comment during the February 22, 2017 special meeting. There will be opportunities for interested parties to provide public testimony at the future public hearing. Please note that the Notice of

Special Meeting for the February 22, 2017 meeting issued by the City Clerk's Office specifically notes that there will not be an opportunity for public comment at the February 22, 2017 special meeting.

The City of Auburn is fully within its police powers to adopt and implement rules and regulations pertaining to the regulation of marijuana related businesses and marijuana cooperatives. Specifically, on January 14, 2014, the Washington State Attorney General's Office issued its opinion (AGO No. 2014) that 1-502 does not preempt counties, cities, and towns from banning recreational marijuana within their jurisdictions and that local ordinances that do not expressly ban state licensed marijuana licensees from operating within the jurisdiction but make such operation impractical are valid if they properly exercise the local jurisdiction's police power. Subsequent to the issuance of AGO No. 2014, several state courts have issued decisions that approve and affirm the Attorney General's opinion that cities have the authority to regulate marijuana use.

Please find below a brief chronology of how we got to this policy discussion and also specific policy questions/issues that staff wishes to discuss with the Planning Commission and get its feedback on.

How We Got Here – A Brief Summary

- Washington State voters approved Initiative Measure No. 502 (I-502), in 2012 that decriminalized possession and use of certain amounts of marijuana and marijuana paraphernalia, and authorized promulgation of regulations and issuance of licenses by the Washington State Liquor and Cannabis Board (WSLCB) for the production, processing and retailing of marijuana. I-502 legalized the possession of small amounts of marijuana and marijuana-related products by persons 21 of age and older, and directed the (then) state Liquor Control Board to develop and implement rules to regulate and tax recreational marijuana producers, processors, and retailers.
- On September 16, 2013, the Auburn City Council adopted Resolution No. 4992 establishing a one (1) year moratorium prohibiting the City from receiving and/ or processing any applications for any marijuana/cannabis related business in any and all zoning districts in the City of Auburn.
- On October 16, 2013, the WSLCB adopted rules for applying for, obtaining, and maintaining licenses for the production, processing, and retailing of recreational marijuana. Under these rules, applicants will be required to identify a business location with their application submittals.
- On September 2, 2014, the Auburn City Council passed Ordinance No. 6525 amending certain Sections of the Auburn City Code relating to the enforcement of state regulations regarding the production, processing, and/or retail outlets and sales of marijuana and terminating the moratorium implemented pursuant to Resolution No. 4992 passed on September 16, 2013.
- The Washington State Legislature approved Second Engrossed Second Substitute House

Bill 2136 (2E2SHB 2136)(approved on June 30, 2015), and Second Substitute Senate Bill 5052 (2SSB 5052) (approved on April 24, 2015 [with partial veto]), revised state requirements for state marijuana regulations, including marijuana processors, producers, retailers, and cooperatives.

- The WSLCB notified the City of Auburn on September 23, 2015, that pursuant to SB 5052 it would not limit the number of marijuana retailers licensed within the City of Auburn to only those allocated per I- 502.
- The City of Auburn City Council adopted a moratorium, through Resolution No. 5194, prohibiting any new marijuana retailers not already in operation on January 4, 2016.
- At a February 16, 2016 public hearing before the Auburn City Council along with social media posts, Auburn residents raised concerns for any marijuana retailers in excess of the initial two (2) originally approved by I- 502.
- The WSLCB notified the City of Auburn on March 8, 2016, that it would increase the number of marijuana retailers licensed within the City of Auburn to the two (2) authorized by I- 502 and identified as the Stash Box and Evergreen Market, and an additional two (2) Priority 1 applicants for licenses under SB 5052. Subsequently, the WSLCB has indicated that the number of SB 5052 retail licenses within the City of Auburn may be increased in the future.
- The WSLCB then notified the City of Auburn on March 8, 2016, that marijuana retailers, including the Evergreen Market, that were licensed using the I-502 lottery are not allowed to move out of the jurisdictions where they are licensed.
- The City of Auburn based upon — and in reliance on — the March 8, 2016 information from the WSLCB, amended its moratorium, through Resolution No. 5215, adopted on March 14, 2016, so as to authorize the operation of [only] the two (2) marijuana retailers initially provided for by I-502.
- Subsequent to the City Council's passage of Resolution No. 5215, the WSLCB continued to process and issue licenses to marijuana retailers intended to operate within the City of Auburn pursuant to SB 5052 despite the transmittal of Resolution No. 5215 to the WSLCB.
- Because of WSLCB's continued processing and issuing of licenses for retail marijuana businesses, and because new retail marijuana businesses continued to engage in activities contrary to the City's moratoria, and in response to the inconsistent, conflicting, and uncooperative positions of the WSLCB, the City of Auburn adopted Ordinance No. 6595 on April 4, 2016, which ordinance prohibited all marijuana related activities within the City of Auburn.
- The Auburn City Council approved Ordinance No. 6613 on August 15, 2016, which

Ordinance indicated (consistent with a report by the Northwest High Intensity Drug Trafficking Area, a division of the Office of National Drug Control Policy) the need to protect public health, safety and welfare by minimizing societal effects and impacts of marijuana, such as a 122% increase in fatality motor vehicle accidents involving the use of marijuana between 2010 and 2014 and a 312% increase in contacts to the Washington Poison Center for intoxication calls pertaining to youth consumption of marijuana, and other increases on demands for public services such as fire and police presence; and

- Ordinance No. 6613 addressed the following:
 - Indicated that the City desired to provide greater clarity as to permitted and prohibited marijuana retailers within the City of Auburn, avoid onerous enforcement proceedings, improve voluntary compliance with local laws pertaining to marijuana activities, facilitate improved cooperation with the WSLCB, and protect the public health, safety and welfare while remaining cognizant of the approval of I-502 by voters within the City of Auburn.
 - Noted that the Auburn City Code did not currently have specific provisions addressing a number of statutorily permitted marijuana provisions and/or uses.
 - Noted that the provisions for marijuana cooperatives, marijuana researchers and marijuana transporters contained within SB 5052 went into effect July of 2016, and that marijuana cooperatives, marijuana researchers and marijuana transporters are not explicitly addressed by current code provisions.
 - Indicated that the impacts and effects of marijuana cooperatives, marijuana researchers and marijuana transporters on Auburn and the Auburn community are unknown and deserving of study and review.
 - Indicated that the inclusion of the prohibition of marijuana cooperatives, marijuana researchers and marijuana transporters in the City's business licensing requirements, pending review and potential amendment of the City Code, would provide greater safety, clarity, consistency, predictability and uniformity that will benefit Auburn businesses and residents.
 - Stated that it would be advantageous for the City of Auburn to have a thorough review made of the impacts and effects of marijuana cooperatives, marijuana researchers and marijuana transporters.
 - Stated that Sections 35A.63.220 and 36.70A.390 of the Revised Code of Washington (RCW) authorize the City Council to adopt an immediate moratorium for a period of up to twelve (12) months if a public hearing on the proposal is held within at least sixty (60) days of its adoption¹ and a work plan is developed for related studies providing for the moratorium period.

¹ The public hearing was held on September 19, 2016.

- Stated that the City Council desired to impose a moratorium for an initial term of twelve (12) months on the acceptance and/or processing of any permit or applications, for or related to any marijuana related activities, including, but not limited to, licensing, permitting, siting, making structural or building improvements, or operating any new marijuana activities; and any other marijuana uses or activities that are not expressly provided by the City Code regulations.
- Stated that the City Council anticipated that it could develop and adopt appropriate controls for marijuana retail facilities prior to the expiration of the moratorium.
- Identified the City Council's position that it would be advantageous for the City of Auburn to have a thorough review made of the alternatives and options available to it for regulation of marijuana related uses and activities.
- Identified the Council's position that in the event permanent regulations are adopted prior to the expiration of the twelve (12) month moratorium established by the Ordinance, Ordinance No. 6613 could be repealed, terminating the moratorium.

Specific Policy Questions/Issues

City staff requests the Commission feedback on the following:

1. What are individual Commission members' key issues areas or questions regarding draft Ordinance No. 6642?
2. Does the Commission as a whole or individually, require more information on a specific portion of draft Ordinance No. 6642 and if so, what kind of information (please be as detailed and specific as possible in your comments to staff)?
3. What is the Commissions' preferred option under Section 18.59.030.C? To assist the Commission in understanding the geographic spacing effects of each of the options, please find attached three (3) maps that correspond to the option reference (i.e. Option 1, Option 2, Option 3).

Option #1 – 1 Mile Approach

Printed Date: 2/14/2017

Map Created by City of Auburn eGIS
Imagery Date: May 2015

Information shown is for general reference purposes only and does not necessarily represent exact geographic or cartographic data as mapped. The City of Auburn makes no warranty as to its accuracy.

Legend

-  Auburn City Limits
-  Industrial Zones
-  C-3 Zone

Notes

Scale

1 in = 6,018.7 ft

1: 72,224



Option #3 – ¼ Mile, 1,000 Foot Approach

Printed Date: 2/13/2017

Map Created by City of Auburn eGIS
Imagery Date: May 2015

Information shown is for general reference purposes only and does not necessarily represent exact geographic or cartographic data as mapped. The City of Auburn makes no warranty as to its accuracy.

Legend

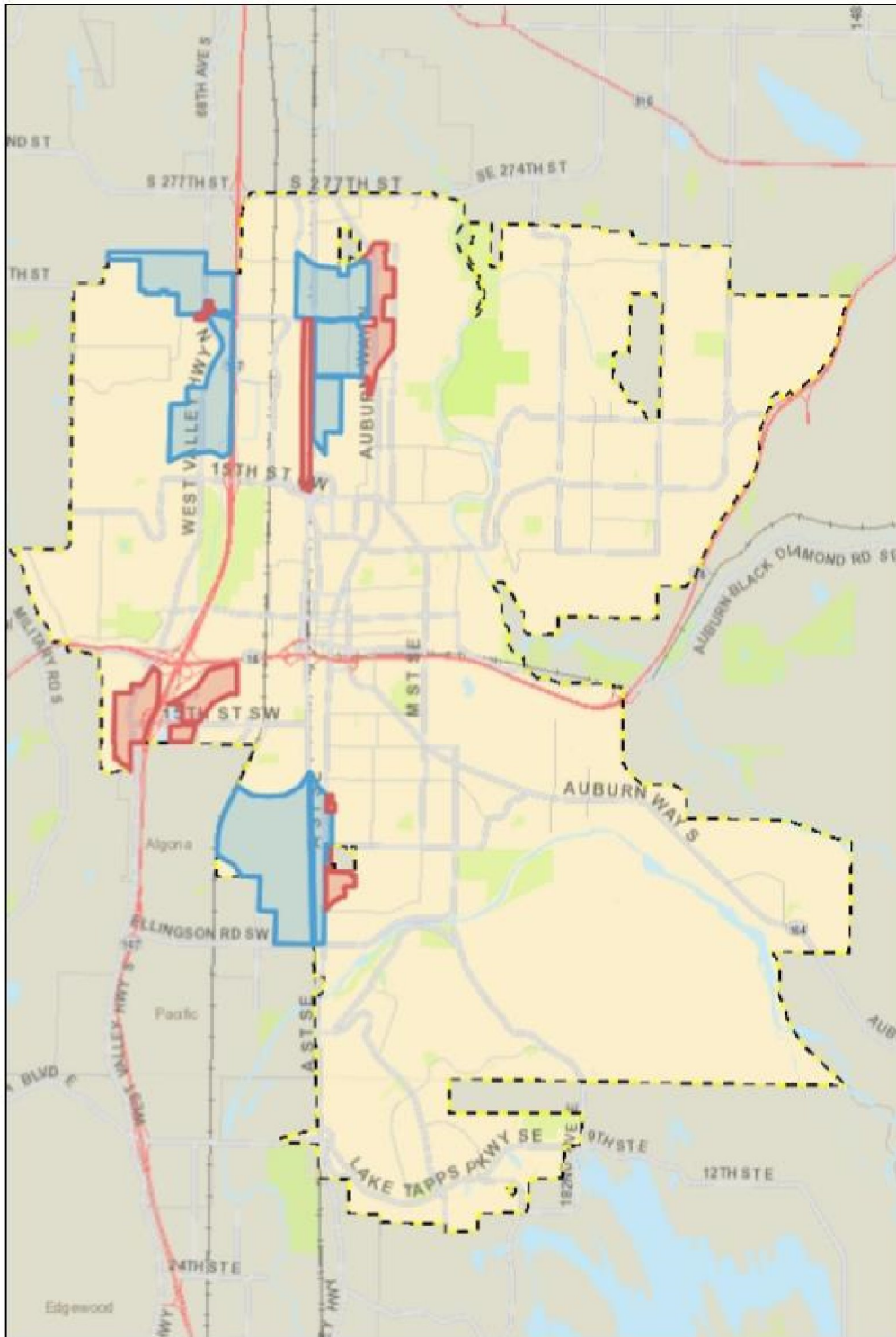
-  Auburn City Limits
-  Industrial Zones
-  C-3 Zone

Notes

Scale

1 in = 6,018.7 ft

1: 72,224



ORDINANCE NO. 6 6 4 2

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

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

WHEREAS, in relevant part, I-502 legalized the possession of small amounts of marijuana and marijuana-related products by persons 21 of age and older, and directed the (then) state Liquor Control Board to develop and implement rules to regulate and tax recreational marijuana producers, processors, and retailers; and

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

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

1 on a case-by-case basis and weigh all information and evidence, including whether the
2 operation is demonstrably in compliance with a strong and effective state regulatory
3 system and if the conduct at issue implicates one or more of eight stated federal
4 enforcement priorities. The DOJ does not appear to differentiate application of its
5 guidance between medical cannabis and recreational marijuana; and
6

7 WHEREAS, in a joint statement dated August 29, 2013, Governor Jay Inslee and
8 Attorney General Bob Ferguson stated the following:
9

10 Today we received confirmation Washington's voter-approved marijuana
11 law will be implemented. We received good news this morning when
12 Attorney General Eric Holder told the governor the federal government
13 would not pre-empt Washington and Colorado as the states implement a
14 highly regulated legalized market for marijuana. Attorney General Holder
15 made it clear the federal government will continue to enforce the federal
16 Controlled Substance Act by focusing its enforcement on eight specific
17 concerns, concerns, including the prevention of distribution to minors and
18 the importance of keeping Washington-grown marijuana within our State's
19 borders. We share those concerns and are confident our state initiative will
20 be implemented as planned. We want to thank the Attorney General for
21 working with the states on this and for finding a way that allows our initiative
22 to move forward while maintaining a commitment to fighting illegal drugs.
23 This reflects a balanced approach by the federal government that respects
24 the states' interests in implementing these laws and recognizes the federal
25 government's role in fighting illegal drugs and criminal activity.
26
27

28 WHEREAS, on September 16, 2013, the Auburn City Council adopted Resolution
29 No. 4992 establishing a one (1) year moratorium prohibiting the City from receiving and/
30 or processing any applications for any marijuana/cannabis related business in any and all
31 zoning districts in the City of Auburn; and
32

33 WHEREAS, on October 16, 2013, the WSLCB adopted rules for applying for,
34 obtaining, and maintaining licenses for the production, processing, and retailing of
35 recreational marijuana. Under these rules, applicants will be required to identify a
36 business location with their application submittals; and
37

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

1 No. 6525 amending certain Sections of the Auburn City Code relating to the enforcement
2 of state regulations regarding the production, processing, and/or retail outlets and sales
3 of marijuana and terminating the moratorium implemented pursuant to Resolution No.
4 4992 passed on September 16, 2013; and
5

6 WHEREAS, Second Engrossed Second Substitute House Bill 2136 (2E2SHB
7 2136) (approved on June 30, 2015), and Second Substitute Senate Bill 5052 (2SSB 5052)
8 (approved on April 24, 2015 [with partial veto]), revised state requirements for state
9 marijuana regulations, including marijuana processors, producers, retailers, and
10 cooperatives; and
11

12 WHEREAS, the WSLCB notified the City of Auburn on September 23, 2015, that
13 pursuant to SB 5052 it would not limit the number of marijuana retailers licensed within
14 the City of Auburn to only those allocated per I- 502; and
15

16 WHEREAS, the City of Auburn adopted a moratorium, through Resolution No.
17 5194, prohibiting any new marijuana retailers not already in operation on January 4, 2016;
18 and
19

20 WHEREAS, in a public hearing on February 16, 2016, and in comments to City
21 elected officials, including social media posts, Auburn residents voiced concern for any
22 marijuana retailers in excess of the initial two (2) originally approved by I- 502; and
23

24 WHEREAS, the WSLCB notified the City of Auburn on March 8, 2016, that it would
25 increase the number of marijuana retailers licensed within the City of Auburn to the two
26 (2) authorized by I- 502 and identified as the Stash Box and Evergreen Market, and an
27 additional two (2) Priority 1 applicants for licenses under SB 5052; and
28

29 WHEREAS, the WSLCB has since indicated that the number of SB 5052 retail
30 licenses within the City of Auburn may be increased in the future; and
31

32 WHEREAS, WSLCB then notified the City of Auburn on March 8, 2016, that

1 marijuana retailers, including the Evergreen Market, that were licensed using the I-502
2 lottery are not allowed to move out of the jurisdictions where they are licensed; and
3

4 WHEREAS, based upon — and in reliance on — that information, the City of
5 Auburn amended its moratorium, through its Resolution No. 5215, so as to authorize the
6 operation of [only] the two (2) marijuana retailers initially provided for by I-502; and
7

8 WHEREAS, other cities in Washington, such as - including Everett, Renton and
9 Vancouver, have adopted restrictions on the number of licensed retailers to conform to
10 initial I-502 approved caps; and
11

12 WHEREAS, the WSLCB continued to process and issue licenses to marijuana
13 retailers intended to operate within the City of Auburn pursuant to SB 5052 despite the
14 transmittal of Resolution No. 5215 to the WSLCB; and
15

16 WHEREAS, because of WSLCB's continued processing and issuing of licenses
17 for retail marijuana businesses, and because new retail marijuana businesses continued
18 to engage in activities contrary to the City's moratoria, and in response to the inconsistent,
19 conflicting, and uncooperative positions of the WSLCB, the City of Auburn adopted its
20 Ordinance No. 6595 on April 4, 2016, which ordinance prohibited all marijuana related
21 activities within the City of Auburn; and
22

23 WHEREAS, the City Council approved Ordinance No. 6613 on August 15, 2016,
24 which Ordinance indicated (consistent with a report by the Northwest High Intensity Drug
25 Trafficking Area, a division of the Office of National Drug Control Policy) the need to
26 protect public health, safety and welfare by minimizing societal effects and impacts of
27 marijuana, such as a 122% increase in fatality motor vehicle accidents involving the use
28 of marijuana between 2010 and 2014 and a 312% increase in contacts to the Washington
29 Poison Center for intoxication calls pertaining to youth consumption of marijuana, and
30 other increases on demands for public services such as fire and police presence; and
31

32 WHEREAS, Ordinance No. 6613 also indicated that the City desired to provide

1 greater clarity as to permitted and prohibited marijuana retailers within the City of Auburn,
2 avoid onerous enforcement proceedings, improve voluntary compliance with local laws
3 pertaining to marijuana activities, facilitate improved cooperation with the WSLCB, and
4 protect the public health, safety and welfare while remaining cognizant of the approval of
5 I-502 by voters within the City of Auburn; and
6

7 WHEREAS, Ordinance No. 6613 further noted that the Auburn City Code did not
8 currently have specific provisions addressing a number of statutorily permitted marijuana
9 provisions and/or uses; and
10

11 WHEREAS, Ordinance NO. 6613 noted that the provisions for marijuana
12 cooperatives, marijuana researchers and marijuana transporters contained within SB
13 5052 went into effect July of 2016, and that marijuana cooperatives, marijuana
14 researchers and marijuana transporters are not explicitly addressed by current code
15 provisions; and
16

17 WHEREAS, Ordinance No. 6613 also indicated that the impacts and effects of
18 marijuana cooperatives, marijuana researchers and marijuana transporters on Auburn
19 and the Auburn community are unknown and deserving of study and review; and
20

21 WHEREAS, Ordinance No. 6613 further indicated that the inclusion of the
22 prohibition of marijuana cooperatives, marijuana researchers and marijuana transporters
23 in the City's business licensing requirements, pending review and potential amendment
24 of the City Code, would provide greater safety, clarity, consistency, predictability and
25 uniformity that will benefit Auburn businesses and residents; and
26

27 WHEREAS, Ordinance No. 6613 stated that it would be advantageous for the City
28 of Auburn to have a thorough review made of the impacts and effects of marijuana
29 cooperatives, marijuana researchers and marijuana transporters; and
30

31 WHEREAS, Ordinance No. 6613 also stated that Sections 35A.63.220 and
32 36.70A.390 of the Revised Code of Washington (RCW) authorize the City Council to

1 adopt an immediate moratorium for a period of up to twelve (12) months if a public hearing
2 on the proposal is held within at least sixty (60) days of its adoption and a work plan is
3 developed for related studies providing for the moratorium period; and
4

5 WHEREAS, Ordinance No. 6613 further stated that the City Council desired to
6 impose a moratorium for an initial term of twelve (12) months on the acceptance and/or
7 processing of any permit or applications, for or related to any marijuana related activities,
8 including, but not limited to, licensing, permitting, siting, making structural or building
9 improvements, or operating any new marijuana activities; and any other marijuana uses
10 or activities that are not expressly provided by the City Code regulations addressed
11 herein; and
12

13 WHEREAS, Ordinance No. 6613 also stated that the City Council anticipated that
14 it could develop and adopt appropriate controls for marijuana retail facilities prior to the
15 expiration of the moratorium enacted hereby; and
16

17 WHEREAS, Ordinance No. 6613 identified the City Council's position that it would
18 be advantageous for the City of Auburn to have a thorough review made of the
19 alternatives and options available to it for regulation of marijuana related uses and
20 activities; and
21

22 WHEREAS, Ordinance No. 6613 also identified the Council's position that in the
23 event permanent regulations are adopted prior to the expiration of the twelve (12) month
24 moratorium established by the Ordinance, Ordinance No. 6613 could be repealed,
25 terminating the moratorium; and
26

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

1 local jurisdiction's police power; and

2
3 WHEREAS, several state courts have issued decisions that approve and affirm the
4 Attorney General's opinion that cities have the authority to regulate marijuana uses; and

5
6 WHEREAS, on May 20, 2015, the King County Superior Court issued its decision
7 in *Greensun Group LLC v. City of Bellevue*, No. 14-2-29863-3 SEA, which decision is
8 incorporated herein as if set forth in full. The court determined, inter alia, that "the City of
9 Bellevue has the authority to regulate the location and density of marijuana retail outlets
10 within its boundaries, including through the adoption and enforcement" of a requirement
11 that a retail marijuana outlet cannot be located within 1,000 feet of another retail marijuana
12 outlet; and that "the City has the authority to develop and apply processes for enforcing"
13 a 1,000 foot separation requirement, including through use of a first-in-time determination
14 based on the date and time of issuance of the state liquor control board license or
15 conditional license, whichever is issued first; and

16
17 WHEREAS, with the passage of 2SSB 5052 and 2E2SHB 2136, and consistent
18 with court decisions the City has the authority to regulate the location and density of
19 marijuana production, processing, distribution, and retail sales within its boundaries; and

20
21 WHEREAS, the establishment and/or licensing of marijuana uses may allow new
22 uses that are incompatible with nearby existing land uses and lead to erosion of
23 community character and harmony; and

24
25 WHEREAS, the presence of large amounts of cash and/or marijuana makes retail
26 outlets and other marijuana facilities a potential target of violent crime, including robberies
27 and burglaries, thereby placing area residents, business owners, and others in danger of
28 bodily harm, and increasing police enforcement risks and costs; and

29
30 WHEREAS, there may be other harmful secondary effects to public health, safety,
31 morals, and welfare as a result of marijuana production, processing, distribution, and retail
32 sales, which effects include but are not limited to loitering, odors, crime, and other

1 behaviors that may be inconsistent with the character of the surrounding neighborhood;
2 and
3

4 WHEREAS, it is critical to the public safety and economic vitality of the City to
5 ensure the impacts of business obtaining a license from the WSLCB to produce, process,
6 or sell marijuana are minimized; and
7

8 WHEREAS, the City Council deems it to be in the public interest to establish
9 permanent regulations regarding where marijuana producers, processors, and retail uses
10 may be located in the City of Auburn; and
11

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

16 WHEREAS, ACC 14.03.060, Legislative Non-Project Decisions, specifies that
17 legislative non-project decisions made by the city council under its authority to establish
18 policies and regulations are not classified as a “type” of project permit decision and that
19 legislative non-project decisions include, but are not limited to amendments to the text
20 and map of the comprehensive plan or development regulations; and
21

22 WHEREAS, the Planning Commission held work sessions on **DATE** and
23 conducted a properly noticed public hearing (s) on **DATE** for the proposed amendments
24 to Title 18 (Zoning) of the Auburn City Code) contained herein; and
25

26 WHEREAS, the Planning Commission on a **TBD** motion voted to recommended
27 **TBD** to the Auburn City Council; and
28

29 WHEREAS, the City Council finds that the proposed amendments were processed
30 in accordance with applicable standards of Chapter 18.68, Amendments, of the Auburn
31 City Code and are consistent with the Comprehensive Plan, enhance the public health,

safety, and welfare, and are not contrary to the best interest of the residents, citizens, property owners and businesses of the City of Auburn; and

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

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

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

Section 2. Repeal of Moratorium. That the moratorium specified in Sections 9 of Ordinance No. 6613 is automatically expired on the effective date of this Ordinance consistent with the applicable provision of Section 10 of Ordinance No. 6613 that specifies that the moratorium shall automatically expire upon the effective date of zoning and land use regulations adopted by the City Council to address the implementation of the State's licensing of any marijuana/cannabis related business to be located in the City of Auburn.

Section 3. Amendment to City Code. That Section 18.07.020 of the Auburn City Code be and the same hereby is amended to read as follows:

Table 18.07.020
Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
A. Residential Uses.							
Accessory dwelling units	P	P	P	P	X ¹	X ¹	X ¹

Table 18.07.020
Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
Accessory use, residential	P	P	P	P	P	P	P
Adult family home	P	P	P	P	P	P	P
Bed and breakfast	P	P	P	P	P	P	P
Communal residence four or less individuals	P	P	P	P	P	P	P
Duplexes; provided, that minimum lot size of zoning designation is met and subject to compliance with Chapter 18.25 ACC (Infill Residential Development Standards)	X	X	A	P	P	P	X
Foster care homes	P	P	P	P	P	P	P
Group residence facilities (7 or more residents)	X	X	X	X	C	C	C
Group residence facilities (6 or fewer residents)	P	P	P	P	P	P	P
Keeping of animals ⁴	P ²	P ²	P ²	P ²	P ²	P ²	P ²
Multiple-family dwellings	X	X	X	X	A	P	P
Neighborhood recreational buildings and facilities owned and managed by the neighborhood homeowners' association	A ⁶	A ⁶	A ⁶	A ⁶	A ⁶	P	P
Use as dwelling units of (1) recreational vehicles that are not part of an approved recreational vehicle park, (2) boats, (3) automobiles, and (4) other vehicles	X	X	X	X	X	X	X
Renting of rooms, for lodging purposes only, to accommodate not more than two persons in addition to the family or owner occupied unit ⁸	P	P	P	P	P	P	P
Residential care facilities including but not limited to assisted living facilities, convalescent homes, continuing care retirement facilities	P	P	X	X	A	P	P
Single-family detached dwellings, new	P	P	P	P	P	P	X

Table 18.07.020
Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
Supportive housing, subject to the provisions of ACC 18.31.160	X	X	X	X	X	P	P
Swimming pools, tennis courts and similar outdoor recreation uses only accessory to residential or park uses	P	P	P	P	P	P	P
Townhouses (attached)	X	X	X	X	P	P	P
B. Commercial Uses.							
Commercial horse riding and bridle trails	A	X	X	X	X	X	X
Commercial retail, included as part of mixed-use development and not a home occupation in compliance with Chapter 18.60 ACC	X	X	X	X	A	A	A
Daycare, limited to a mini daycare center. Daycare center, preschool or nursery school may also be permitted but must be located on an arterial	X	A	A	A	A	A	A
Home-based daycare as regulated by RCW 35.63.185 and through receipt of approved city business license	P	P	P	P	P	P	P
Home occupations subject to compliance with Chapter 18.60 ACC	P	P	P	P	P	P	P
<u>Marijuana cooperative</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Marijuana processor</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Marijuana producer</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Marijuana related businesses</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Marijuana researcher</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Marijuana retailer</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Marijuana transporter business</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
Mixed-use development ³	X	X	X	X	P	P	P
Nursing homes	X	X	X	X	C	C	C

Table 18.07.020
Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
Private country clubs and golf courses, excluding driving ranges	X	X	C	C	C	X	X
Privately owned and operated parks and playgrounds and not homeowners' association-owned recreational area	X	A	A	A	A	P	P
Professional offices, included as part of mixed-use development and not a home occupation in compliance with Chapter 18.60 ACC	X	X	X	X	A	A	A
C. Resource Uses.							
Agricultural enterprise: ⁷							
When 50 percent, or more, of the total site area is dedicated to active agricultural production during the growing season, and with 52 or less special events per calendar year	A ⁷	X	X	X	X	X	X
When less than 50 percent of the total site area is dedicated to active agricultural production during the growing season, or with more than 52 special events per calendar year	C ⁷	X	X	X	X	X	X
Agricultural type uses are permitted provided they are incidental and secondary to the single-family use:							
Agricultural crops and open field growing (commercial)	P	X	X	X	X	X	X
Barns, silos and related structures	P	X	X	X	X	X	X
Commercial greenhouses	P	X	X	X	X	X	X
Pasturing and grazing ⁴	P	X	X	X	X	X	X
Public and private stables ⁴	P	X	X	X	X	X	X
Roadside stands, for the sale of agricultural products raised on the premises. The stand cannot exceed 300 square feet in area and	P	X	X	X	X	X	X

Table 18.07.020
Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
must meet the applicable setback requirements							
Fish hatcheries	C	X	X	X	X	X	X
D. Government, Institutional, and Utility Uses.							
Civic, social and fraternal clubs	X	X	X	X	A	A	A
Government facilities	A	A	A	A	A	A	A
Hospitals (except animal hospitals)	X	X	X	X	X	C	C
Municipal parks and playgrounds	A	P	P	P	P	P	P
Museums	X	X	X	X	A	A	A
Religious institutions, less than one acre lot size	A	A	A	A	A	A	A
Religious institutions, one acre or larger lot size	C	C	C	C	C	C	C
Transmitting towers	C	C	C	C	C	C	C
Type 1-D wireless communication facility (see ACC 18.04.912(J))	P	P	P	P	P	P	P
Utility facilities and substations	C ⁵	C ⁵	C ⁵	C ⁵	C ⁵	C ⁵	C ⁵

- 1 1. An accessory dwelling unit may be permitted with an existing single-family residence pursuant to ACC
- 2 18.31.120.
- 3 2. Please see the supplemental development standards for animals in ACC 18.31.220.
- 4 3. Individual uses that make up a mixed-use development must be permitted within the zone. If a use
- 5 making up part of a mixed-use development requires an administrative or conditional use permit, the
- 6 individual use must apply for and receive the administrative or conditional use approval, as applicable.
- 7 4. Proximity of pasture or livestock roaming area to wells, surface waters, and aquifer recharge zones is
- 8 regulated by the King or Pierce County board of health, and property owners shall comply with the
- 9 provisions of the King County board of health code.
- 10 5. Excludes all public and private utility facilities addressed under ACC 18.02.040(E).
- 11 6. Administrative use permit not required when approved as part of a subdivision or binding site plan.
- 12 7. Agricultural enterprise uses are subject to supplemental development standards under ACC 18.31.210,
- 13 Agricultural enterprises development standards.

8. An owner occupant that rents to more than two persons but no more than four persons is required to obtain a city of Auburn rental housing business license and shall meet the standards of the International Property Maintenance Code.
(Ord. 6600 § 9, 2016; Ord. 6565 § 2, 2015; Ord. 6560 § 9, 2015; Ord. 6477 § 8, 2013; Ord. 6369 § 2, 2011; Ord. 6363 § 3, 2011; Ord. 6269 § 3, 2009; Ord. 6245 § 5, 2009.)

Section 4. Amendment to City Code. That Section 18.09.020 of the Auburn City Code is hereby amended as follows:

18.09.020 Uses.

Permitted Use Table – Residential Zoning Designations

	Land Use	R-MHC Zone
A	Manufactured/Mobile home community	P
B	Residential accessory use	P
C	Manufactured/Mobile home community accessory use	P
D	Keeping of not more than six household pets. This limit shall not apply to birds, fish, or suckling young of pets.	P
E	Home-based daycare	P
F	Daycare limited to a mini daycare center, daycare center, or preschool/nursery school	A
<u>G</u>	<u>Marijuana cooperative</u>	<u>X</u>
<u>H</u>	<u>Marijuana processor</u>	<u>X</u>
<u>I</u>	<u>Marijuana producer</u>	<u>X</u>
<u>J</u>	<u>Marijuana related businesses</u>	<u>X</u>
<u>K</u>	<u>Marijuana researcher</u>	<u>X</u>
<u>L</u>	<u>Marijuana retailer</u>	<u>X</u>
<u>M</u>	<u>Marijuana transporter business</u>	<u>X</u>

P = Permitted Use

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

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

X = Prohibited

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

Section 5. Amendment to City Code. That Section 18.21.010 of the Auburn City Code be and the same hereby is amended to read as follows:

18.21.010 Lea Hill overlay.

A. Purpose. The purpose of this section is to provide for additional development standards to address the area commonly referred to as the Lea Hill annexation area, as annexed under city of Auburn Ordinance Nos. 5346 and 6121, and

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

B. Development Standards – Lots Previously Approved.

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

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

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

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

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

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

E. Farm Animals.

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

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

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

18 F. Lot Averaging – R-1 Zone. It may be possible to subdivide land in the R-1
19 zone into lots smaller than 35,000 square feet if the property has a significant amount of
20 non-buildable land due to steep slopes, wetlands or similar features that would be in the
21 public's best interest to maintain. The following regulations shall apply in situations where
22 lot averaging is permitted or required:

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

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

30 3. The minimum size of any **lot** shall be 8,000 square feet. For **lots** less than
31 35,000 square feet, the minimum **lot width** shall be consistent with the requirements of
32 the R-5 **zone** (Chapter 18.07 ACC). All other applicable **development standards** related
33 to the R-1 **zone** will continue to apply.

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

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

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

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

4 **Section 6. Amendment to City Code.** That Section 18.21.020 of the Auburn
5 City Code be and the same hereby is amended to read as follows:

6 18.21.020 West Hill overlay.

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

16 B. Development Standards – Lots Previously Approved.

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

23 2. Any further subdivision of any lot and its subsequent use must conform to
24 the permitted uses and standards referenced in the applicable zoning chapters of this
25 title, except as modified by this section. For farm animals, subsection E of this section or
26 subsection 18.31.210 shall apply.
27

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

28 * Garages and other similar structures with a vehicular access require a 20-foot setback from any street.
29

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

35 D. Planning Director Authorization. The planning director shall be authorized
36 to interpret the language of any King County permit, plat or condition thereof and

1 effectuate the implementation of same to the fullest extent possible. If there is a conflict
2 between a previous King County approval and the Auburn regulation, then the most
3 restrictive provision shall apply as determined by the planning director.

4 E. Farm Animals.

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

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

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

22 F. All marijuana related businesses and marijuana cooperatives are prohibited
23 land uses within the West Hill overlay. (Ord. 6369 § 3, 2011; Ord. 6245 § 13, 2009.)
24

25 **Section 7. Amendment to City Code.** That Section 18.21.030 of the Auburn
26 City Code be and the same hereby is amended to read as follows:

27 18.21.030 Urban separator overlay.

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

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

38 C. All marijuana related businesses and marijuana cooperatives are prohibited
39 land uses within the Urban Separator Overlay. (Ord. 6369 § 3, 2011; Ord. 6245 § 13,
40 2009.)
41

42 **Section 8. Amendment to City Code.** That Section 18.23.030 of the Auburn
43 City Code be and the same hereby is amended to read as follows:

18.23.030 Uses.

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

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

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

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE									P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	Zoning Designation								Standards for Specific Land Uses
	C-N	C-1	C-2	C-3	C-4	M-1	EP	M-2	
INDUSTRIAL, MANUFACTURING AND PROCESSING, WHOLESALING									
Building contractor, light	X	X	X	P	X	P	X	P	
Building contractor, heavy	X	X	X	X	X	A	X	P	
Manufacturing, assembling and packaging – Light intensity	X	X	X	P	X	P	P	P	ACC 18.31.180
Manufacturing, assembling and packaging – Medium intensity	X	X	X	A	X	P	A	P	ACC 18.31.180
Manufacturing, assembling and packaging – Heavy intensity	X	X	X	X	X	X	X	A	ACC 18.31.180
<u>Marijuana processor</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>ACC 18.59</u>
<u>Marijuana producer</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>ACC 18.59</u>
<u>Marijuana researcher</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>ACC 18.59</u>
<u>Marijuana retailer</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>ACC 18.59</u>
<u>Marijuana transporter business</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>ACC 18.59</u>
Outdoor storage, incidental to principal permitted use on property	X	X	X	P	X	P	P	P	ACC 18.57.020(A)
Storage – Personal household storage facility (mini-storage)	X	P	X	P	X	P	X	P	ACC 18.57.020(B)
Warehousing and distribution	X	X	X	X	X	P	P	C	ACC 18.57.020(C)
Warehousing and distribution, bonded and located within a designated foreign trade zone	X	X	X	P	X	P	P	P	
Wholesaling with on-site retail as an incidental use (coffee, bakery, e.g.)	X	X	X	P	X	P	P	P	

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

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

RECREATION, EDUCATION AND PUBLIC ASSEMBLY USES

Commercial recreation facility, indoor	X	P	P	P	P	P	P	A	
Commercial recreation facility, outdoor	X	X	X	A	X	P	A	A	ACC 18.57.025(A)
Conference/convention facility	X	X	A	A	X	A	X	X	
Library, museum	X	A	A	A	X	A	P	X	
Meeting facility, public or private	A	P	P	P	X	A	P	A	
Movie theater, except drive-in	X	P	P	P	P	X	X	X	
Private school – Specialized education/training (for profit)	A	A	P	P	P	P	P	P	
Religious institutions, lot size less than one acre	A	P	P	P	A	A	A	A	
Religious institutions, lot size more than one acre	C	P	P	P	A	A	A	A	
Sexually oriented businesses	X	X	X	P	X	P	X	P	Chapter 18.74 ACC
Sports and entertainment assembly facility	X	X	A	A	X	A	X	A	
Studio – Art, dance, martial arts, music, etc.	P	P	P	P	P	P	A	A	

RESIDENTIAL

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

RETAIL

Building and landscape materials sales	X	X	X	P	X	P	X	P	ACC 18.57.035(A)
Construction and heavy equipment sales and rental	X	X	X	X	X	A	X	P	
Convenience store	A	A	P	P	X	P	P	P	

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

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE									P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	Zoning Designation								Standards for Specific Land Uses
	C-N	C-1	C-2	C-3	C-4	M-1	EP	M-2	
Drive-through espresso stands	A	A	A	P	A	P	A	A	
Drive-through facility, including banks and restaurants	A	A	A	P	P	P	X	P	ACC 18.52.040
Entertainment, commercial	X	A	P	P	X	A	X	A	
Groceries, specialty food stores	P	P	P	P	P	P	P	X	ACC 18.57.035(B)
Nursery	X	X	X	P	A	P	X	P	ACC 18.57.035(C)
Outdoor displays and sales associated with a permitted use (auto/vehicle sales not included in this category)	P	P	P	P	P	P	P	P	ACC 18.57.035(D)
Restaurant, cafe, coffee shop	P	P	P	P	P	P	P	P	
Retail									
Community retail establishment	A	P	P	P	P	P	X	P	
Neighborhood retail establishment	P	P	P	P	P	P	X	P	
Regional retail establishment	X	X	X	P	P	P	X	A	
Tasting room	P	P	P	P	P	P	P	P	
Tavern	P	P	X	P	P	P	X	A	
Wine production facility, small craft distillery, small craft brewery	A	P	P	P	P	P	P	P	
SERVICES									
Animal daycare (excluding kennels and animal boarding)	A	A	A	P	A	P	X	P	ACC 18.57.040(A)
Animal sales and services (excluding kennels and veterinary clinics)	P	P	P	P	P	P	X	P	ACC 18.57.040(B)
Banking and related financial institutions, excluding drive-through facilities	P	P	P	P	P	P	P	P	
Catering service	P	P	P	P	A	P	A	P	
Daycare, including mini daycare, daycare center, preschools or nursery schools	A	P	P	P	P	P	P	X	
Dry cleaning and laundry service (personal)	P	P	P	P	P	P	P	P	
Equipment rental and leasing	X	X	X	P	X	P	X	P	
Kennel, animal boarding	X	X	X	A	X	A	X	A	ACC 18.57.040(C)

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

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

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

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

(Ord. 6508 § 1, 2014; Ord. 6433 § 26, 2012.)

Section 9. Amendment to City Code. That Section 18.29.050 of the Auburn

City Code be and the same hereby is amended to read as follows:

18.29.050 Use limitations.

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

A. Sexually oriented businesses as defined in Chapter 18.74 ACC.

B. Taverns.

C. All industrial uses as defined in the North American Industrial Classification System (1997 Edition), categories 48 – 49 (transportation), 31 – 33 (manufacturing) and 42 (wholesale).

D. Outdoor storage of materials and equipment (except during active construction projects).

E. New automobile maintenance and repair businesses.

F. Work release facilities; secure community transition facilities.

G. Wrecking yards.

H. Solid waste transfer stations.

I. Car washes.

- 1 J. New gasoline stations.
 2 K. Street-level ministorage.
 3 L. Outdoor sales of vehicles, boats or equipment.
 4 M. Drive-in/drive-through facilities with direct vehicular driveway access onto
 5 Main Street.
 6 N. All Marijuana Related Businesses and Marijuana Cooperatives
 7 O. Other uses may be prohibited by the director if the use is determined to be
 8 inconsistent with the intent of this zone or is of the same general character of the other
 9 prohibited uses listed in this section. (Ord. 6071 § 6 [Exh. A], 2007.)
 10

11 **Section 10. Amendment to City Code.** That Section 18.35.030 of the Auburn
 12 City Code be and the same hereby is amended to read as follows:

13 18.35.30 Uses.

14 A. General permit requirements. Table 18.35.030 identifies the uses of land
 15 allowed in each special purpose zone and the planning permit required to establish each
 16 use.
 17

18 B. Requirements for certain specific land uses. Where the last column in Table
 19 18.35.030 ("Standards for Specific Land Uses") includes a section number, the
 20 referenced section determines other requirements and standards applicable to the use
 21 regardless of whether it is permitted outright or requires an administrative or conditional
 22 use permit.

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

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

MARIJUANA RELATED BUSINESSES

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

PUBLIC

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

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	

RECREATION, EDUCATION AND PUBLIC ASSEMBLY

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

RESIDENTIAL

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

RETAIL

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

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

Notes:

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

(Ord. 6434 § 1, 2012.)

Section 11. Amendment to City Code. That Section 18.42.020 of the Auburn City Code be and the same hereby is amended to read as follows:

18.42.020 Establishment.

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

Section 12. Amendment to City Code. That Section 18.78.020 of the Auburn City Code be and the same hereby is amended to read as follows:

18.78.020 Permitted uses.

The permitted uses allowed in the Terrace View zoning district will be those as allowed within Chapter 18.30 ACC, C-3 Heavy Commercial District, as may be amended.

1 The process to allow any use on the Terrace View property shall be as required by this
2 title with the exception that apartments/multifamily units will be considered an outright
3 permitted use and will not require an administrative use permit. Notwithstanding the
4 foregoing, all marijuana related businesses and marijuana cooperatives shall not be
5 permitted in any residential or non-residential portion of the Terrace View zoning district.
6 (Ord. 6269 § 26, 2009; Ord. 5377 § 2, 2000.)
7

8 **Section 13. New Section to City Code.** That a new Section 18.04.1001 of the
9 Auburn City Code be and the same hereby is created to read as follows:
10

11 18.04.1001 "Child care center".

12 "Child care center" means an entity that regularly provides child day care and early
13 learning services for a group of children for periods of less than twenty-four hours licensed
14 by the Washington state department of early learning under Chapter 170-295 of the
15 Washington Administrative Code (WAC).
16

17 **Section 14. New Section to City Code.** That a new Section 18.04.1003 of the
18 Auburn City Code be and the same hereby is created to read as follows:
19

20 18.04.1003 "Game arcade".

21 "Game arcade" means an entertainment venue featuring primarily video games,
22 simulators, and/or other amusement devices where persons under twenty-one years of
23 age are not restricted
24

25 **Section 15. New Section to City Code.** That a new Section 18.04.1005 of the
26 Auburn City Code be and the same hereby is created to read as follows
27

28 18.04.1005 "Marijuana" or "marihuana."

29 "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing
30 or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds
31 thereof; the resin extracted from any part of the plant; and every compound, manufacture,
32 salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not
33 include the mature stalks of the plant, fiber produced from the stalks, oil or cake made
34 from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture,
35 or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or
36 cake, or the sterilized seed of the plant which is incapable of germination.
37

38 **Section 16. New Section to City Code.** That a new Section 18.04.1007 of the
39 Auburn City Code be and the same hereby is created to read as follows:
40

41 18.04.1007 "Marijuana cooperative."

42 "Marijuana cooperative" means up to four qualifying patients, as defined by RCW
43 69.51A.010(19), who share responsibility for acquiring and supplying the resources
44 needed to produce and process marijuana, including tetrahydrocannabinols or

1 cannabimimetic agents, only for the medical use of members of the cooperative and not
2 for profit.

3
4 **Section 17. New Section to City Code.** That a new Section 18.04.1009 of the
5 Auburn City Code be and the same hereby is created to read as follows:

6
7 18.04.1009 "Marijuana-infused products."

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

11
12 **Section 18. New Section to City Code.** That a new Section 18.04.1011 of the
13 Auburn City Code be and the same hereby is created to read as follows:

14
15 18.04.1011 "Marijuana processor."

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

20
21 **Section 19. New Section to City Code.** That a new Section 18.04.1013 of the
22 Auburn City Code be and the same hereby is created to read as follows:

23
24 18.04.1013 "Marijuana producer."

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

29
30 **Section 20. New Section to City Code.** That a new Section 18.04.1015 of the
31 Auburn City Code be and the same hereby is created to read as follows:

32
33 18.04.1015 "Marijuana related business."

34 "Marijuana related business" means a person or entity engaged in for-profit activity
35 that includes the possession, cultivation, production, processing, distribution,
36 dispensation, or sale of tetrahydrocannabinols or cannabimimetic agents, as defined by
37 the controlled substances act, codified at 21 U.S.C. § 812, including marijuana retailers,
38 marijuana processors, and marijuana producers, as defined herein.

39
40 **Section 21. New Section to City Code.** That a new Section 18.04.1017 of the
41 Auburn City Code be and the same hereby is created to read as follows:

1 18.04.1017 "Marijuana retailer."

2 "Marijuana retailer" means any person or entity established for the purpose of
3 making marijuana concentrates, usable marijuana and marijuana-infused products,
4 including tetrahydrocannabinols or cannabimimetic agents, available for sale to adults
5 aged twenty-one and over.
6

7 **Section 22. New Section to City Code.** That a new Section 18.04.1019 of the
8 Auburn City Code be and the same hereby is created to read as follows:
9

10 18.04.1019 "Marijuana researcher."

11 "Marijuana researcher" is a position licensed by the Washington state liquor and
12 cannabis board that permits a licensee to produce, process, and possess marijuana for
13 the limited research purposes set forth in RCW 69.50.372.
14

15 **Section 23. New Section to City Code.** That a new Section 18.04.1021 of the
16 Auburn City Code be and the same hereby is created to read as follows:
17

18 18.04.1021 "Marijuana transporter."

19 "Marijuana transporter" is a position licensed by the Washington state liquor and
20 cannabis board pursuant to WAC 314-55-310 that allows a licensee to physically
21 transport or deliver marijuana, marijuana concentrates, and marijuana-infused products
22 between licensed marijuana businesses within Washington state.
23

24 **Section 24. New Section to City Code.** That a new Section 18.04.1023 of the
25 Auburn City Code be and the same hereby is created to read as follows:
26

27 18.04.1023 "Public or private park."

28 "Public or private park" means an area of land for the enjoyment of the public or
29 private parties, having facilities for rest and/or recreation, such as a baseball diamond or
30 basketball court, owned and/or managed by a private for-profit entity, a non-profit entity,
31 a homeowners' association, city, county, state, federal government, sovereign nation or
32 metropolitan park district. Public park does not include trails.
33

34 **Section 25. New Section to City Code.** That a new Section 18.04.1025 of the
35 Auburn City Code be and the same hereby is created to read as follows:
36

37 18.04.1025 "Public or private playground."

38 "Public or private playground" means a public or private outdoor recreation area
39 for children, usually equipped with swings, slides, and other playground equipment,
40 owned and/or managed by a private business, a non-profit entity, city, county, state, or
41 federal government or sovereign nation.
42

43 **Section 26. New Section to City Code.** That a new Section 18.04.1027 of the
44 Auburn City Code be and the same hereby is created to read as follows:

18.04.1027 "Public or private recreational center."

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

Section 27. New Section to City Code. That a new Section 18.04.1029 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1029 "Public transit center."

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

Section 28. New Section to City Code. That a new Section 18.76.046 of the Auburn City Code be and the same hereby is created to read as follows:

18.76.046 Marijuana related uses.

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

Section 29. New Chapter to City Code. That a new Chapter 18.59 of the Auburn City Code be and the same hereby is created to read as follows:

Chapter 18.59

DEVELOPMENT STANDARDS FOR MARIJUANA RELATED BUSINESSES

Sections:

- | | |
|-----------|--|
| 18.59.010 | Purpose. |
| 18.59.020 | Maximum number of marijuana retail businesses. |
| 18.59.030 | Required geographic separation. |
| 18.59.040 | Marijuana required to be grown in a structure. |
| 18.59.050 | Required odor control for marijuana retail stores. |
| 18.59.060 | First-in-time – change in ownership, relocation and abandonment for marijuana retail stores. |
| 18.59.070 | Crime prevention through environmental design required. |
| 18.59.080 | Signage. |
| 18.59.090 | Security required. |

1 18.59.100 Specific standards for marijuana processors, producers. research
2 and transportation businesses.

3 18.59.110 Pre-application conference meeting required.

4 18.59.120 Public review meeting required.

5 18.59.130 Release of liability and hold harmless.

6
7 18.59.010 Purpose.

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

18
19 18.59.020 Maximum number of marijuana retail businesses.

20
21 A. The total maximum number of marijuana retail businesses operating within
22 the City at any given time shall be limited to a maximum of three (3) properly licensed)
23 and permitted stores. For purposes of these regulations, these standards shall be
24 considered in addition to the numeric allowances on these businesses specified now or
25 in the future by the Washington State Liquor and Cannabis Board.

26
27 B. In the event that one (1) of the permitted three (3) marijuana retail
28 businesses ceases to legally operate within the City, the maximum number of properly
29 licensed and permitted stores shall be a maximum of two (2) stores. For purposes of this
30 section, ceases to legally operate shall mean that the business has physically stopped
31 operating at a specified addressed location in the City as confirmed and documented by
32 the City, provided that a legal change in business name or ownership or Washington State
33 Unified Business Identifier (UBI) number shall not constitute cessation of business
34 operation.

35
36 18.59.030 Required geographic separation.

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

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

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

4
5 C. All marijuana related businesses shall not be located within **REFER TO**
6 **POTENTIAL OPTIONS BELOW** of the following uses or any use included in Chapter 314-
7 55 WAC now or as hereafter amended:

8
9 **OPTION 1:**

10 5,280 feet (1 mile) for all of the following:

- 11 1. Public elementary or secondary school;
- 12 2. Privately operated school
- 13 3. Public or private playgrounds inclusive of those located within a multi-family
14 residential complex;
- 15 4. Public or private recreation center or facility;
- 16 5. Child care centers;
- 17 6. Public or private parks;
- 18 7. Public trails
- 19 8. Public transit centers;
- 20 9. Religious institutions;
- 21 10. Public libraries;
- 22 11. Any game arcade; and,
- 23 12. Transit center or park-and-ride facility operated by a sovereign nation on
24 trust or non-trust designated properties

25
26 **OPTION 2:**

27
28 2,640 feet for:

- 29 1. Public elementary or secondary school;
- 30 2. Privately operated school
- 31 3. Public or private playgrounds inclusive of those located within a multi-family
32 residential complex;
- 33 4. Public or private recreation center or facility;
- 34 5. Child care centers;
- 35 6. Public or private parks;
- 36 7. Any game arcade; and,

37 1,320 feet for:

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

44 **OPTION 3:**

1,320 feet for:

1. Public elementary or secondary school;
2. Privately operated school
3. Public or private playgrounds inclusive of those located within a multi-family residential complex;
4. Public or private recreation center or facility;
5. Child care centers;
6. Public or private parks;
7. Any game arcade; and,

1,000 feet for:

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

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

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

18.59.040 Marijuana required to be grown in a structure.

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

18.59.050 Required odor control for marijuana retail stores.

Marijuana odor shall be contained within the retail store so that odor from the marijuana cannot be detected by a person with a normal sense of smell from any abutting use or property. If marijuana odor can be smelled from any abutting use or property, the marijuana retailer shall be required to implement measures, including but not limited to, the installation of the ventilation equipment necessary to contain the odor.

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

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

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

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

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

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

26 1. State licensing review or administrative appeal; or

27 2. Review of building, land use, other required development permits or
28 approvals; or

29 3. Correspondence or other documentation from insurance provider
30 demonstrating an intent to reestablish the use after either a partial or full loss or disruption
31 of the use.

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

35 F. Accidental Destruction. First-in-time status or cessation is not affected when
36 a structure containing a state-licensed retail outlet is damaged by fire or other causes
37 beyond the control of the owner or licensee; provided all necessary local, regional, state
38 or other permits and approvals are successfully obtained and redevelopment commences
39 within twelve (12) months from the documented date of the accidental destruction or the
40 licensee provides documentation demonstrating why redevelopment cannot commence
41 within twelve (12 months), provided that redevelopment is completed within twenty-four
42 (24) months of the documented date of accidental destruction.

43
44 18.59.070 Crime prevention through environmental design (CPTED) required.

1 A. All marijuana related businesses shall be required to go through a crime
2 prevention through environmental design (CPTED) review effort conducted by
3 representatives of the Auburn Police Department. Any and all design requirements
4 identified for implementation through this review effort shall be completed prior to receipt
5 of business license authorization from the City.

6 B. All marijuana related businesses shall be subject to periodic CPTED review
7 by the Auburn Police Department. These businesses shall upon receipt of a written notice
8 from the City update, modify or introduce CPTED measures at the subject property as
9 specified in the written notice. It shall be the responsibility of a business to obtain any and
10 all needed authorizations from the property owner of record to comply with the initial or
11 subsequent identified CPTED measures. A failure to obtain needed authorization from
12 the property owner of record shall not be a determinant factor in not complying with
13 required CPTED measures. Rather, the property owner of record shall submit a written
14 letter to the Director justifying why one (1) or more measures cannot be implemented at
15 the subject business site and proposing alternate reasonable measures for review and
16 consideration by the City. The City shall retain the right to accept or reject the proposed
17 alternate measures proposed by the property owner.

18
19 18.59.080 Signage.

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

22
23 18.59.090 Security required.

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

32
33 18.59.100 Specific standards for marijuana producers, processors, research and
34 transportation businesses.

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

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

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

1
2 18.59.110 Pre-application conference meeting required.

3 A minimum of one (1) pre-application conference meeting with the City of Auburn
4 and other relevant parties including but not limited to the Valley Regional Fire Authority
5 shall be conducted prior to the submittal of a formal application for all marijuana related
6 businesses within the City.
7

8 18.59.120 Public review meeting required.

9 A. A minimum of one (1) public review meeting shall be conducted by applicant
10 for any marijuana related business in the City. The purpose of the Public Review Meeting
11 is to allow adjacent property owners (residential and non-residential) and adjacent
12 business owners an opportunity to become familiar with the proposal and to identify any
13 associated issues. The Public Review Meeting is intended to assist in producing
14 applications that are responsive to the concerns of adjacent property owners (residential
15 and non-residential) and adjacent business owners and to reduce the likelihood of delays
16 and appeals. The City expects an applicant to take into consideration the reasonable
17 concerns and recommendations of these parties when preparing an application. The City
18 expects these parties to work with the applicant to provide reasonable concerns and
19 recommendations.

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

27 C. Public Review Meetings shall occur prior to submitting a formal application
28 to the City of Auburn.

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

31 E. The applicant shall hold a public review meeting in a publicly accessible
32 location within one (1) mile of the proposed business site, provided that if no such place
33 is immediately available, the applicant may submit a written request to the Director
34 proposing an alternate meeting location and the Director may approve said location, in
35 writing. The meeting starting time selected shall be limited to a weekday evening after
36 6:00 p.m. or a weekend at any reasonable time and shall not occur on a national holiday.
37 The meeting shall be held at a location open to the public and in compliance with the
38 Americans with Disabilities Act (ADA). A portable sign at least 22 inches x 28 inches in
39 size with minimum two (2) inch lettering shall be placed at the main entrance of the
40 building where the meeting will take place at least one (1) hour prior to the meeting. Such
41 sign will announce the meeting, and announce that the meeting is open to the public and
42 that interested persons are invited to attend. This sign shall be removed by the applicant
43 upon conclusion of the meeting.

1 F. The applicant shall send by regular mail a written notice announcing the
2 Public Review Meeting to the Director, property owners pursuant to the most current
3 public records of the King County Assessor's Office or Pierce County Assessor's Office
4 within 1,320 feet on all sides of the property involved in the anticipated application and to
5 all current businesses registered with the City of Auburn within 1,320 feet on all sides of
6 the property involved in the anticipated application. At the request of the applicant, and
7 upon payment of the applicable fee, the City will provide the required mailing lists for
8 property owners and/or registered businesses.

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

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

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

24 J. To comply with this section, an applicant shall submit the following
25 information with the application:

26 1. A copy of the notice sent to surrounding property owners pursuant to
27 Section 18.59.120 (F).

28 2. A copy of the mailing list used to send out meeting notices pursuant to
29 Section 18.59.120.(G).

30 3. A written statement and clear photographs containing the information
31 posted on the property pursuant to Section 18.59.120 (G)

32 4. A notarized affidavit of mailing and posting notices.

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

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

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

42 L. Failure of a property owner or business owner to receive notice shall not
43 invalidate the Public Review Meeting proceedings.
44

1 18.59.130 Release of liability and hold harmless.

2 All marijuana businesses shall, prior to receipt of a business license from the City,
3 provide an executed release in a form approved by the Auburn City Attorney's Office to
4 the City of Auburn, for itself, its agents, officers, elected officials and employees from any
5 injuries, damages, or liabilities of any kind that result from any arrest or prosecution or
6 seizure of property, or liabilities of any kind that result from any arrest or prosecution for
7 violations of federal or state law relating to operation or siting of a marijuana related use
8 and business. Additionally, within the release document, the permittee of a marijuana use
9 shall indemnify and hold harmless the City of Auburn and its agents, officers, elected
10 officials, and employees from any claims, damages, or injuries brought by adjacent
11 property owners or other third parties due to operations at the marijuana use and for any
12 claims brought by any of the marijuana use's members, employees, agents, guests, or
13 invitees for problems, injuries, damages, or liability of any kind that may arise out of the
14 operation of the marijuana use.

15
16 **Section 30. Implementation.** The Mayor is hereby authorized to implement such
17 administrative procedures as may be necessary to carry out the directions of this
18 legislation.

19
20 **Section 31. Severability.** The provisions of this ordinance are declared to be
21 separate and severable. The invalidity of any clause, sentence, paragraph, subdivision,
22 section or portion of this ordinance, or the invalidity of the application thereof to any
23 person or circumstance shall not affect the validity of the remainder of this ordinance, or
24 the validity of its application to other persons or circumstances.

25
26 **Section 32. Effective Date.** This Ordinance shall take effect and be in force five
27 days from and after its passage, approval and publication as provided by law.

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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: _____

ORDINANCE NO. 6642

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

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

WHEREAS, in relevant part, I-502 legalized the possession of small amounts of marijuana and marijuana-related products by persons 21 of age and older, and directed the (then) state Liquor Control Board to develop and implement rules to regulate and tax recreational marijuana producers, processors, and retailers; and

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

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

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PC 02.22.17 PGS. 41

Item V.B. Proposed Ord. No. 6642

Submitted by: Kevin Snyder

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

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

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

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

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

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WHEREAS, on September 2, 2014, the Auburn City Council passed Ordinance No. 6525 amending certain Sections of the Auburn City Code relating to the enforcement of state regulations regarding the production, processing, and/or retail outlets and sales of marijuana and terminating the moratorium implemented pursuant to Resolution No. 4992 passed on September 16, 2013; and

WHEREAS, Second Engrossed Second Substitute House Bill 2136 (2E2SHB 2136)(approved on June 30, 2015), and Second Substitute Senate Bill 5052 (2SSB 5052) (approved on April 24, 2015 [with partial veto]), revised state requirements for state marijuana regulations, including marijuana processors, producers, retailers, and cooperatives; and

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

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

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

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

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

licenses within the City of Auburn may be increased in the future; and

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

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

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

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

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

WHEREAS, the City Council approved Ordinance No. 6613 on August 15, 2016, which Ordinance indicated (consistent with a report by the Northwest High Intensity Drug Trafficking Area, a division of the Office of National Drug Control Policy) the need to protect public health, safety and welfare by minimizing societal effects and impacts of marijuana, such as a 122% increase in fatality motor vehicle accidents involving the use of marijuana between 2010 and 2014 and a 312% increase in contacts to the Washington

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Poison Center for intoxication calls pertaining to youth consumption of marijuana, and other increases on demands for public services such as fire and police presence; and

WHEREAS, Ordinance No. 6613 also indicated that the City desired to provide greater clarity as to permitted and prohibited marijuana retailers within the City of Auburn, avoid onerous enforcement proceedings, improve voluntary compliance with local laws pertaining to marijuana activities, facilitate improved cooperation with the WSLCB, and protect the public health, safety and welfare while remaining cognizant of the approval of I-502 by voters within the City of Auburn; and

WHEREAS, Ordinance No. 6613 further noted that the Auburn City Code did not currently have specific provisions addressing a number of statutorily permitted marijuana provisions and/or uses; and

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

WHEREAS, Ordinance No. 6613 also indicated that the impacts and effects of marijuana cooperatives, marijuana researchers and marijuana transporters on Auburn and the Auburn community are unknown and deserving of study and review; and

WHEREAS, Ordinance No. 6613 further indicated that the inclusion of the prohibition of marijuana cooperatives, marijuana researchers and marijuana transporters in the City's business licensing requirements, pending review and potential amendment of the City Code, would provide greater safety, clarity, consistency, predictability and uniformity that will benefit Auburn businesses and residents; and

WHEREAS, Ordinance No. 6613 stated that it would be advantageous for the City

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of Auburn to have a thorough review made of the impacts and effects of marijuana cooperatives, marijuana researchers and marijuana transporters; and

WHEREAS, Ordinance No. 6613 also stated that Sections 35A.63.220 and 36.70A.390 of the Revised Code of Washington (RCW) authorize the City Council to adopt an immediate moratorium for a period of up to twelve (12) months if a public hearing on the proposal is held within at least sixty (60) days of its adoption and a work plan is developed for related studies providing for the moratorium period; and

WHEREAS, Ordinance No. 6613 further stated that the City Council desired to impose a moratorium for an initial term of twelve (12) months on the acceptance and/or processing of any permit or applications, for or related to any marijuana related activities, including, but not limited to, licensing, permitting, siting, making structural or building improvements, or operating any new marijuana activities; and any other marijuana uses or activities that are not expressly provided by the City Code regulations addressed herein; and

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

WHEREAS, Ordinance No. 6613 identified the City Council's position that it would be advantageous for the City of Auburn to have a thorough review made of the alternatives and options available to it for regulation of marijuana related uses and activities; and

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

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

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

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

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

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

WHEREAS, the presence of large amounts of cash and/or marijuana makes retail outlets and other marijuana facilities a potential target of violent crime, including robberies

and burglaries, thereby placing area residents, business owners, and others in danger of bodily harm, and increasing police enforcement risks and costs; and

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

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

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

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

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

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

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

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

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

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

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

Section 2. Repeal of Moratorium. That the moratorium specified in Sections 9 of Ordinance No. 6613 is automatically expired on the effective date of this Ordinance consistent with the applicable provision of Section 10 of Ordinance No. 6613 that specifies that the moratorium shall automatically expire upon the effective date of zoning and land use regulations adopted by the City Council to address the implementation of the State's licensing of any marijuana/cannabis related business to be located in the City of Auburn.

Section 3. Amendment to City Code. That Section 5.20.020 of the Auburn City Code be and the same hereby is amended to read as follows:

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5.20.250 Marijuana related activities.

A. Definitions.

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

2. "Marijuana related business" means a person or entity engaged in for-profit activity that includes the possession, cultivation, production, processing, distribution, dispensation, or sale of tetrahydrocannabinols or cannabimimetic agents, as defined by the Controlled Substances Act, codified at 21 USC Section 812, including marijuana retailers, marijuana processors, and marijuana producers, as defined herein.

a. "Marijuana processor" means any person or entity licensed by the Washington State Liquor and Cannabis Board to process, package, and label marijuana concentrates, including tetrahydrocannabinols or cannabimimetic agents, in accordance with the provisions of Chapters 65.50 and 69.51A RCW and Chapter 314-55 WAC.

b. "Marijuana producer" means any person or entity licensed by the Washington State Liquor and Cannabis Board to produce marijuana, including tetrahydrocannabinols or cannabimimetic agents, for wholesale to marijuana processors and other marijuana producers pursuant to RCW 69.50.325.

c. "Marijuana retailer" means any person or entity established for the purpose of making marijuana concentrates, usable marijuana and marijuana-infused products, including tetrahydrocannabinols or cannabimimetic agents, available for sale to adults aged 21 and over.

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

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

B. License Application – Qualification – Requirements to Apply. In addition to the information required to be included with an application form pursuant to ACC 5.10.040(a), an application for a license for a marijuana related business shall also include:

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1. ~~License. Each application for a marijuana related business shall be accompanied by a current, valid license to operate, as a marijuana producer or marijuana processor issued by the Washington State Liquor and Cannabis Board, or a current, valid license to operate as a marijuana retailer awarded by the Washington State Liquor and Cannabis Board on the basis of I-502 lottery selection. Even if permitted or licensed by and/or registered with the Washington State Liquor and Cannabis Board, marijuana cooperatives, marijuana researchers and marijuana transporters are not qualified or entitled to operate within the city of Auburn or to apply for a permit or business license within the city of Auburn.¹~~

~~a. The maximum number of licensed marijuana retailers authorized and allowed to operate in the city of Auburn shall not exceed two.~~

~~b. Any marijuana producer or marijuana processors operating within the city (i) shall strictly comply with all industrial, health and safety codes, including but not limited to WAC 314-55-104 and RCW 69.50.348, and (ii) shall have at least 4,000 square feet of building space utilized for its individual business, and the total square feet of all marijuana producers and processors in the city shall not exceed 90,000 square feet of building space; provided, that any such business that was licensed and existing prior to August 1, 2016, that did not have at least 4,000 square feet of building space utilized for its individual business may continue operating at its current location even though it did not have at least 4,000 square feet of building space utilized for its individual business.~~

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

3. Fingerprints. Each application for a marijuana related business or renewal shall be accompanied by a complete set of fingerprints of all managers and owners of the business, utilizing fingerprint forms as prescribed by the chief of police.

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

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

6. Release of Liability and Hold Harmless. Each application for a marijuana related business shall be required to provide an executed release in a form approved by the Auburn City Attorney's Office to the City of Auburn, for itself, its agents, officers, elected officials and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution or seizure of property, or liabilities of any kind that result from any arrest or prosecution for violations of federal or state law relating to operation or siting of a marijuana related use and business. Additionally, within the release document,

the permittee of a marijuana use shall indemnify and hold harmless the City of Auburn and its agents, officers, elected officials, and employees from any claims, damages, or injuries brought by adjacent property owners or other third parties due to operations at the marijuana use and for any claims brought by any of the marijuana use's members, employees, agents, guests, or invitees for problems, injuries, damages, or liability of any kind that may arise out of the operation of the marijuana use.

C. License Regulations.

1. Access by City Officials. All city officials shall have free access to marijuana related businesses licensed under the provisions of this chapter for the purposes of inspecting and enforcing compliance with the provisions of this chapter, including periodic CPTED review and compliance with required CPTED measures as directed by the Auburn Police Department.

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

3. Law Enforcement Officers Entry Right. It is unlawful for the owner, proprietor, manager or person in charge of any marijuana related business licensed under the provisions of this chapter to refuse admission to any peace officer of the city or of the state, or any officer of the United States government charged with the duty of enforcing the police laws of the United States. Said officers shall have free access at all times to any marijuana related businesses licensed under the provisions of this chapter.

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

5. State Statute Compliance. All marijuana related businesses licensed under the provisions of this chapter shall also comply with Chapters 69.50 and 69.51A RCW, and Chapter 314-55 WAC, as applicable. (Ord. 6613 § 3, 2016.)

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

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Table 18.07.020
Permitted Use Table – Residential Zoning Designations

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
A. Residential Uses.							
Accessory dwelling units	P	P	P	P	X ¹	X ¹	X ¹
Accessory use, residential	P	P	P	P	P	P	P
Adult family home	P	P	P	P	P	P	P
Bed and breakfast	P	P	P	P	P	P	P
Communal residence four or less individuals	P	P	P	P	P	P	P
Duplexes; provided, that minimum lot size of zoning designation is met and subject to compliance with Chapter 18.25 ACC (Infill Residential Development Standards)	X	X	A	P	P	P	X
Foster care homes	P	P	P	P	P	P	P
Group residence facilities (7 or more residents)	X	X	X	X	C	C	C
Group residence facilities (6 or fewer residents)	P	P	P	P	P	P	P
Keeping of animals ^a	P ²	P ²	P ²	P ²	P ²	P ²	P ²
Multiple-family dwellings	X	X	X	X	A	P	P
Neighborhood recreational buildings and facilities owned and managed by the neighborhood homeowners' association	A ³	A ³	A ³	A ³	A ³	P	P
Use as dwelling units of (1) recreational vehicles that are not part of an approved recreational vehicle park, (2) boats, (3) automobiles, and (4) other vehicles	X	X	X	X	X	X	X
Renting of rooms, for lodging purposes only, to accommodate not more than two persons in addition to the family or owner occupied unit ^a	P	P	P	P	P	P	P

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Table 18.07.020
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Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
Residential care facilities including but not limited to assisted living facilities, convalescent homes, continuing care retirement facilities	P	P	X	X	A	P	P
Single-family detached dwellings, new	P	P	P	P	P	P	X
Supportive housing, subject to the provisions of ACC 18.31.160	X	X	X	X	X	P	P
Swimming pools, tennis courts and similar outdoor recreation uses only accessory to residential or park uses	P	P	P	P	P	P	P
Townhouses (attached)	X	X	X	X	P	P	P
B. Commercial Uses.							
Commercial horse riding and bridle trails	A	X	X	X	X	X	X
Commercial retail, included as part of mixed-use development and not a home occupation in compliance with Chapter 18.60 ACC	X	X	X	X	A	A	A
Daycare, limited to a mini daycare center. Daycare center, preschool or nursery school may also be permitted but must be located on an arterial	X	A	A	A	A	A	A
Home-based daycare as regulated by RCW 35.63.185 and through receipt of approved city business license	P	P	P	P	P	P	P
Home occupations subject to compliance with Chapter 18.60 ACC	P	P	P	P	P	P	P
<u>Marijuana cooperative</u>	X	X	X	X	X	X	X
<u>Marijuana processor</u>	X	X	X	X	X	X	X
<u>Marijuana producer</u>	X	X	X	X	X	X	X
<u>Marijuana related businesses</u>	X	X	X	X	X	X	X

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Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
<u>Marijuana researcher</u>	X	X	X	X	X	X	X
<u>Marijuana retailer</u>	X	X	X	X	X	X	X
<u>Marijuana transporter business</u>	X	X	X	X	X	X	X
Mixed-use development ³	X	X	X	X	P	P	P
Nursing homes	X	X	X	X	C	C	C
Private country clubs and golf courses, excluding driving ranges	X	X	C	C	C	X	X
Privately owned and operated parks and playgrounds and not homeowners' association-owned recreational area	X	A	A	A	A	P	P
Professional offices, included as part of mixed-use development and not a home occupation in compliance with Chapter 18.60 ACC	X	X	X	X	A	A	A
C. Resource Uses.							
Agricultural enterprise: ⁷							
When 50 percent, or more, of the total site area is dedicated to active agricultural production during the growing season, and with 52 or less special events per calendar year	A'	X	X	X	X	X	X
When less than 50 percent of the total site area is dedicated to active agricultural production during the growing season, or with more than 52 special events per calendar year	C'	X	X	X	X	X	X
Agricultural type uses are permitted provided they are incidental and secondary to the single-family use:							
Agricultural crops and open field growing (commercial)	P	X	X	X	X	X	X

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P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	Zoning Designations						
	RC	R-1	R-5	R-7	R-10	R-16	R-20
Barns, silos and related structures	P	X	X	X	X	X	X
Commercial greenhouses	P	X	X	X	X	X	X
Pasturing and grazing ¹	P	X	X	X	X	X	X
Public and private stables ¹	P	X	X	X	X	X	X
Roadside stands, for the sale of agricultural products raised on the premises. The stand cannot exceed 300 square feet in area and must meet the applicable setback requirements	P	X	X	X	X	X	X
Fish hatcheries	C	X	X	X	X	X	X
D. Government, Institutional, and Utility Uses.							
Civic, social and fraternal clubs	X	X	X	X	A	A	A
Government facilities	A	A	A	A	A	A	A
Hospitals (except animal hospitals)	X	X	X	X	X	C	C
Municipal parks and playgrounds	A	P	P	P	P	P	P
Museums	X	X	X	X	A	A	A
Religious institutions, less than one acre lot size	A	A	A	A	A	A	A
Religious institutions, one acre or larger lot size	C	C	C	C	C	C	C
Transmitting towers	C	C	C	C	C	C	C
Type 1-D wireless communication facility (see ACC 18.04.912(J))	P	P	P	P	P	P	P
Utility facilities and substations	C ²	C ²	C ²	C ²	C ²	C ²	C ²

1. An accessory dwelling unit may be permitted with an existing single-family residence pursuant to ACC 18.31.120.
2. Please see the supplemental development standards for animals in ACC 18.31.220.

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

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

18.09.020 Uses.

Permitted Use Table – Residential Zoning Designations

	Land Use	R-MHC Zone
A	Manufactured/Mobile home community	P
B	Residential accessory use	P
C	Manufactured/Mobile home community accessory use	P
D	Keeping of not more than six household pets. This limit shall not apply to birds, fish, or suckling young of pets.	P
E	Home-based daycare	P
F	Daycare limited to a mini daycare center, daycare center, or preschool/nursery school	A
G	Marijuana cooperative	X
H	Marijuana processor	X
I	Marijuana producer	X
J	Marijuana related businesses	X
K	Marijuana researcher	X
L	Marijuana retailer	X
M	Marijuana transporter business	X

P = Permitted Use

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

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

X = Prohibited

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

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

18.21.010 Lea Hill overlay.

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

B. **Development Standards – Lots Previously Approved.**

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

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

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

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

C. **Prior King County Approvals.** The city of Auburn will recognize the terms of any King County-approved plat, PUD, conditional use permit, contract rezone or similar

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contractual obligations that may have been approved prior to the effective date of the annexation of the subject property. The conditions of any project that was approved by King County shall be required to be fulfilled in the city of Auburn.

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

E. Farm Animals.

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

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

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

F. Lot Averaging – R-1 Zone. It may be possible to subdivide land in the R-1 zone into lots smaller than 35,000 square feet if the property has a significant amount of non-buildable land due to steep slopes, wetlands or similar features that would be in the public's best interest to maintain. The following regulations shall apply in situations where lot averaging is permitted or required:

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

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

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

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

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

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

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

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

18.21.020 West Hill overlay.

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

B. Development Standards – Lots Previously Approved.

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

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

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

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

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

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

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

E. Farm Animals.

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

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

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

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

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

18.21.030 Urban separator overlay.

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

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

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

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

18.23.030 Uses.

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

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

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

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE										P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	Zoning Designation								Standards for Specific Land Uses	
	C-N	C-1	C-2	C-3	C-4	M-1	EP	M-2		
INDUSTRIAL, MANUFACTURING AND PROCESSING, WHOLESALING										
Building contractor, light	X	X	X	P	X	P	X	P		
Building contractor, heavy	X	X	X	X	X	A	X	P		
Manufacturing, assembling and packaging – Light intensity	X	X	X	P	X	P	P	P	ACC 18.31.180	
Manufacturing, assembling and packaging – Medium intensity	X	X	X	A	X	P	A	P	ACC 18.31.180	

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

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE									P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	Zoning Designation								Standards for Specific Land Uses
	C-N	C-1	C-2	C-3	C-4	M-1	EP	M-2	
Manufacturing, assembling and packaging – Heavy intensity	X	X	X	X	X	X	X	A	ACC 18.31.180
<u>Marijuana processor</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>ACC 18.59</u>
<u>Marijuana producer</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>ACC 18.59</u>
<u>Marijuana researcher</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>ACC 18.59</u>
<u>Marijuana retailer</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>ACC 18.59</u>
<u>Marijuana transporter business</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>ACC 18.59</u>
Outdoor storage, incidental to principal permitted use on property	X	X	X	P	X	P	P	P	ACC 18.57.020(A)
Storage – Personal household storage facility (mini-storage)	X	P	X	P	X	P	X	P	ACC 18.57.020(B)
Warehousing and distribution	X	X	X	X	X	P	P	C	ACC 18.57.020(C)
Warehousing and distribution, bonded and located within a designated foreign trade zone	X	X	X	P	X	P	P	P	
Wholesaling with on-site retail as an incidental use (coffee, bakery, e.g.)	X	X	X	P	X	P	P	P	

RECREATION, EDUCATION AND PUBLIC ASSEMBLY USES

Commercial recreation facility, indoor	X	P	P	P	P	P	P	A	
Commercial recreation facility, outdoor	X	X	X	A	X	P	A	A	ACC 18.57.025(A)
Conference/convention facility	X	X	A	A	X	A	X	X	
Library, museum	X	A	A	A	X	A	P	X	
Meeting facility, public or private	A	P	P	P	X	A	P	A	
Movie theater, except drive-in	X	P	P	P	P	X	X	X	
Private school – Specialized education/training (for profit)	A	A	P	P	P	P	P	P	
Religious institutions, lot size less than one acre	A	P	P	P	A	A	A	A	
Religious institutions, lot size more than one acre	C	P	P	P	A	A	A	A	
Sexually oriented businesses	X	X	X	P	X	P	X	P	Chapter 18.74 ACC

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LAND USE	Zoning Designation								Standards for Specific Land Uses
	C-N	C-1	C-2	C-3	C-4	M-1	EP	M-2	
Sports and entertainment assembly facility	X	X	A	A	X	A	X	A	
Studio – Art, dance, martial arts, music, etc.	P	P	P	P	P	P	A	A	

RESIDENTIAL

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

RETAIL

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

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LAND USE	Zoning Designation								Standards for Specific Land Uses
	C-N	C-1	C-2	C-3	C-4	M-1	EP	M-2	
Tasting room	P	P	P	P	P	P	P	P	
Tavern	P	P	X	P	P	P	X	A	
Wine production facility, small craft distillery, small craft brewery	A	P	P	P	P	P	P	P	

SERVICES

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

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

TRANSPORTATION, COMMUNICATIONS AND INFRASTRUCTURE

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

VEHICLE SALES AND SERVICES

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

OTHER

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

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

18.29.050 Use limitations.

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

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

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

18.35.30 Uses.

A. General permit requirements. Table 18.35.030 identifies the uses of land allowed in each special purpose zone and the planning permit required to establish each use.

B. Requirements for certain specific land uses. Where the last column in Table 18.35.030 ("Standards for Specific Land Uses") includes a section number, the referenced section determines other requirements and standards applicable to the use regardless of whether it is permitted outright or requires an administrative or conditional use permit.

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

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

MARIJUANA RELATED BUSINESSES

Marijuana processor	X	X	X	X	
Marijuana producer	X	X	X	X	
Marijuana researcher	X	X	X	X	
Marijuana retailer	X	X	X	X	
Marijuana transporter business	X	X	X	X	

PUBLIC

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

RECREATION, EDUCATION AND PUBLIC ASSEMBLY

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

RESIDENTIAL

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

RETAIL

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

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

Notes:

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

(Ord. 6434 § 1, 2012.)

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

18.42.020 Establishment.

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

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

18.78.020 Permitted uses.

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

Section 14. New Section to City Code. That a new Section 18.04.1001 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1001 "Child care center".

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

Section 15. New Section to City Code. That a new Section 18.04.1003 of the Auburn City Code be and the same hereby is created to read as follows:

18.04.1003 "Game arcade".

"Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted

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

18.04.1005 "Marijuana" or "marihuana."

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"Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

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

18.04.1007 "Marijuana cooperative."

"Marijuana cooperative" means up to four qualifying patients, as defined by RCW 69.51A.010(19), who share responsibility for acquiring and supplying the resources needed to produce and process marijuana, including tetrahydrocannabinols or cannabimimetic agents, only for the medical use of members of the cooperative and not for profit.

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

18.04.1009 "Marijuana-infused products."

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

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

18.04.1011 "Marijuana processor."

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

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

18.04.1013 "Marijuana producer."

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

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

18.04.1015 "Marijuana related business."

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

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

18.04.1017 "Marijuana retailer."

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

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

18.04.1019 "Marijuana researcher."

"Marijuana researcher" is a position licensed by the Washington state liquor and cannabis board that permits a licensee to produce, process, and possess marijuana for the limited research purposes set forth in RCW 69.50.372.

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

18.04.1021 "Marijuana transporter."

"Marijuana transporter" is a position licensed by the Washington state liquor and cannabis board pursuant to WAC 314-55-310 that allows a licensee to physically transport or deliver marijuana, marijuana concentrates, and marijuana-infused products between licensed marijuana businesses within Washington state.

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

18.04.1023 "Public or private park."

"Public or private park" means an area of land for the enjoyment of the public or private parties, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a private for-profit entity, a non-profit entity,

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a homeowners' association, city, county, state, federal government, sovereign nation or metropolitan park district. Public park does not include trails.

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

18.04.1025 "Public or private playground."

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

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

18.04.1027 "Public or private recreational center."

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

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

18.04.1029 "Public transit center."

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

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

18.76.046 Marijuana related uses.

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

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

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Chapter 18.59

DEVELOPMENT STANDARDS FOR MARIJUANA RELATED BUSINESSES

Sections:

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

18.59.010 Purpose.

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

18.59.020 Maximum number of marijuana retail businesses.

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

B. In the event that one (1) of the permitted three (3) marijuana retail businesses ceases to legally operate within the City, the maximum number of properly licensed and permitted stores shall be a maximum of two (2) stores. For purposes of this section, ceases to legally operate shall mean that the business has physically stopped operating at a specified addressed location in the City as confirmed and documented by

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the City, provided that a legal change in business name or ownership or Washington State Unified Business Identifier (UBI) number shall not constitute cessation of business operation.

18.59.030 Required geographic separation.

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

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

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

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

OPTION 1:

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

1. Public elementary or secondary school;
2. Privately operated school
3. Public or private playgrounds inclusive of those located within a multi-family residential complex;
4. Public or private recreation center or facility;
5. Child care centers;
6. Public or private parks;
7. Public trails
8. Public transit centers;
9. Religious institutions;
10. Public libraries;
11. Any game arcade; and,
12. Transit center or park-and-ride facility operated by a sovereign nation on trust or non-trust designated properties

OPTION 2:

2,640 feet for:

1. Public elementary or secondary school;
2. Privately operated school
3. Public or private playgrounds inclusive of those located within a multi-family residential complex;

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4. Public or private recreation center or facility;
 5. Child care centers;
 6. Public or private parks;
 7. Any game arcade; and,
- 1,320 feet for:
1. Public trails
 2. Public transit centers;
 3. Religious institutions;
 4. Public libraries;
 5. Transit center or park-and-ride facility operated by a sovereign nation on trust or non-trust designated properties

OPTION 3:

- 1,320 feet for:
1. Public elementary or secondary school;
 2. Privately operated school
 3. Public or private playgrounds inclusive of those located within a multi-family residential complex;
 4. Public or private recreation center or facility;
 5. Child care centers;
 6. Public or private parks;
 7. Any game arcade; and,
- 1,000 feet for:
1. Public trails
 2. Public transit centers;
 3. Religious institutions;
 4. Public libraries;
 5. Transit center or park-and-ride facility operated by a sovereign nation on trust or non-trust designated properties

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

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

18.59.040 Marijuana required to be grown in a structure.

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

18.59.050 Required odor control for marijuana retail stores.

Marijuana odor shall be contained within the retail store so that odor from the marijuana cannot be detected by a person with a normal sense of smell from any abutting use or property. If marijuana odor can be smelled from any abutting use or property, the marijuana retailer shall be required to implement measures, including but not limited to, the installation of the ventilation equipment necessary to contain the odor.

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

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

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

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

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

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

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

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

F. Accidental Destruction. First-in-time status or cessation is not affected when a structure containing a state-licensed retail outlet is damaged by fire or other causes beyond the control of the owner or licensee; provided all necessary local, regional, state or other permits and approvals are successfully obtained and redevelopment commences within twelve (12) months from the documented date of the accidental destruction or the licensee provides documentation demonstrating why redevelopment cannot commence within twelve (12 months), provided that redevelopment is completed within twenty-four (24) months of the documented date of accidental destruction.

18.59.070 Signage.

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

18.59.080 Security required.

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

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

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

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

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

18.59.100 Pre-application conference meeting required.

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

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18.59.110 Public review meeting required.

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

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

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

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

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

F. The applicant shall send by regular mail a written notice announcing the Public Review Meeting to the Director, property owners pursuant to the most current public records of the King County Assessor's Office or Pierce County Assessor's Office within 1,320 feet on all sides of the property involved in the anticipated application and to all current businesses registered with the City of Auburn within 1,320 feet on all sides of the property involved in the anticipated application. At the request of the applicant, and

upon payment of the applicable fee, the City will provide the required mailing lists for property owners and/or registered businesses.

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

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

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

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

1. A copy of the notice sent to surrounding property owners pursuant to Section 18.59.120 (F).

2. A copy of the mailing list used to send out meeting notices pursuant to Section 18.59.120.(G).

3. A written statement and clear photographs containing the information posted on the property pursuant to Section 18.59.120 (G)

4. A notarized affidavit of mailing and posting notices.

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

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

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

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

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

Section 32. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 33. Effective Date. This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

Introduced: _____

Passed: _____

Approved: _____

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

PUBLISHED: _____

Ordinance No. 6642

Version No. 2 – Auburn Planning Commission (February 22, 2017 Special Meeting)

Version 2 – Published and Distributed February 17, 2017

Version 1 – Published and Distributed February 16, 2017

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DRAFT

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Item V.B. Proposed Ord: No. 6642
Submitted by: Kevin Snyder

DRAFT ORDINANCE NO. 6642

PLANNING COMMISSION
WORK SESSION
FEBRUARY 22, 2017

Community Development and Public Works Department

Engineering Services • Administrative Services • Environmental Services
Community Development Services • Maintenance & Operations Services

AUBURN
VALUES

S E R V I C E

E N V I R O N M E N T

E C O N O M Y

C H A R A C T E R

S U S T A I N A B I L I T Y

W E L L N E S S

C E L E B R A T I O N

TONIGHT'S MEETING GOALS

- Discuss draft Ordinance No. 6642
- Get Commission feedback, questions and concerns
- Determine if another work session is needed
- Address any procedural questions or other issues prior to the currently planned March 21, 2017 public hearing

WHY ARE WE HERE?

- **Haven't we been here before?**

- **Yes!**

- **Ordinance No. 6525 – 09/02/2014**

- **What's Different?**

- **City Council passed Ordinance No. 6613 on 08/15/16 that:**

- **Modified City's business license regulations (Title 5) for marijuana related businesses**
 - **Established a 1 year moratorium that prohibits the acceptance or processing of any permits or applications, for or related to any marijuana related activities**
 - **Established a work plan for looking at potential changes to City codes**

CURRENT CONTEXT

RETAILERS:

2 active stores (Evergreen Market and Stash Box)

1 under review (Green Solutions)

PRODUCERS/PROCESSORS:

4 active businesses (Leaph, Amerikan Weed, Herban Goods, Mary Janeco)

3 under review (O.G. Growers, Om Shiv, Erbacce)

1 opened but has since closed (Happy Crowd)

PRODUCER/PROCESSOR SQUARE FOOTAGE:

90,000 square foot limit city wide

54,198 square feet active

18,555 square feet under review

17,247 square feet available

CODE ENFORCEMENT (ONLY SINCE THE FIRST MARIJUANA ORDINANCE WAS ENACTED):

2 cases opened since 2013

1 case pertains to garbage and landscaping of site at a producer/processor location

1 case pertains to opening a retail establishment at an unauthorized location

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

KEY ORDINANCE HIGHLIGHTS

- **Proposed zoning district limitations for marijuana related businesses and marijuana cooperatives:**
 - **Conditional & Prohibited**
- **Proposed new definitions – Chapter 18.04 (Definitions)**
- **Proposed new zoning code chapter – Chapter 18.59 (Development Standards for Marijuana Related Businesses)**
- **Proposed maximum of 3 retailers**
- **Proposed maximum square footage for marijuana processors/producers**
- **Proposed geographic separation requirements (3 options for Commission consideration)**
- **Proposed significant public review process**

KEY QUESTIONS FOR THE COMMISSION

1. What are individual Commission members' key issues areas or questions regarding draft Ordinance No. 6642?
2. Does the Commission as a whole or individually, require more information on a specific portion of draft Ordinance No. 6642 and if so, what kind of information (please be as detailed and specific as possible in your comments to staff)?
3. What is the Commissions' preferred option under Section 18.59.030.C? To assist the Commission in understanding the geographic spacing effects of each of the options, please find attached three (3) maps that correspond to the option reference (i.e. Option 1, Option 2, Option 3).