

**City Council
Study Session
Finance & Internal Services SFA
September 8, 2025 - 5:30 PM
City Hall Council Chambers**

AGENDA

CALL TO ORDER

PUBLIC PARTICIPATION

- A. The Auburn City Council Study Session Meeting scheduled for Monday, September 8, 2025 at 5:30 p.m. will be held in person and virtually.

Virtual Participation Link:

To view the meeting virtually please click the below link, or call into the meeting at the phone number listed below. The link to the Virtual Meeting is:

<https://www.youtube.com/user/watchauburn/live/?nomobile=1>

To listen to the meeting by phone or Zoom, please call the below number or click the link:

Telephone: 253 215 8782

Toll Free: 877 853 5257

Zoom: <https://us06web.zoom.us/j/82338063757>

ROLL CALL

AGENDA MODIFICATIONS

ANNOUNCEMENTS, REPORTS, AND PRESENTATIONS

FINANCE AND INTERNAL SERVICES DISCUSSION ITEMS

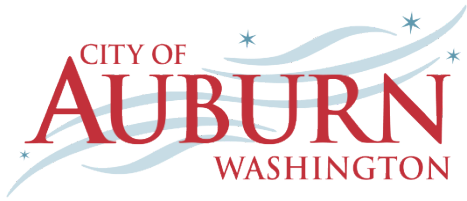
- A. 2nd Quarter 2025 Financial Report (Thomas) (20 Minutes)
Financial Report through June 30, 2025

AGENDA ITEMS FOR COUNCIL DISCUSSION

- A. Ordinance No. 6987 (Krum) (15 Minutes)
An Ordinance for a site-specific rezone of Parcel No. 0004200001 from R-2, Residential Low to P-1, Public Use
- B. Ordinance No. 6988 (Krum) (15 Minutes)
An Ordinance for a major amendment to the Lakeland Hills South PUD boundary to extract fourteen (14) parcels
- C. Ordinance No. 6994 (Gaub) (10 Minutes)
An Ordinance granting Ezee Fiber Texas, LLC a franchise for wireline telecommunications

ADJOURNMENT

Agendas and minutes are available to the public at the City Clerk's Office and on the City website (<http://www.auburnwa.gov>).



AGENDA BILL APPROVAL FORM

Agenda Subject:

2nd Quarter 2025 Financial Report (Thomas) (20 Minutes)
Financial Report through June 30, 2025

Meeting Date:

September 8, 2025

Department:

Finance

Attachments:

Financial Report through June
2025 , 2025 Q2 Financial Update

Budget Impact:**Administrative Recommendation:**

For discussion only.

Background for Motion:**Background Summary:**

The financial report summarizes the general state of Citywide financial affairs and highlights significant items or trends that the City Council should be aware of. The attachment provides year-to-date financial activity through June 30, 2025, based on financial data available as of July 25, 2025.

Councilmember: Kate Baldwin

Staff: Jamie Thomas

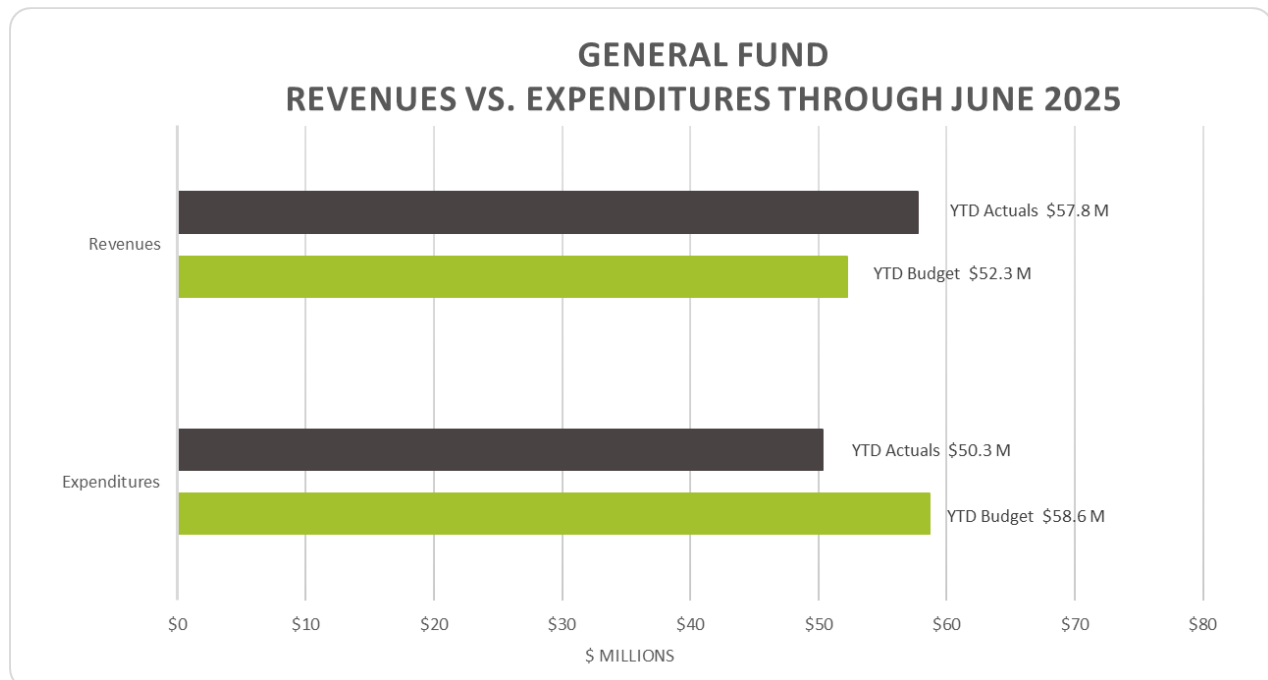
This report provides an overview of the City's overall cash-basis financial position for the fiscal period ending June 30, 2025, reflecting data available as of July 25, 2025. References to budget, actual and prior year amounts reflect year-to-date numbers, unless otherwise stated. Year-to-date budget expectations are generally based on the two prior years of data.

General Fund Overview

Although 2024 ended favorable to both revenue and expenditure projections, the new year has begun with a higher degree of uncertainty. The City anticipates that the favorable variances at the City saw in prior years will diminish in magnitude this year. With the adoption of Ordinance #6975 in June, the 2025 annual budget consists of \$105.9 million in revenues and \$119.6 million in expenditures - a planned decrease in General Fund balance of \$13.7 million.

Through the second quarter of 2025, the General Fund outperformed revenue expectations by \$5.5 million or 11%. However, General Fund revenue collections are \$3.2 million or 5% lower year-to-date than the same period in 2024, mainly due to the final transfer-in of ARPA monies last year. A large contributor to the favorable variance to budget outcome is Business and Occupation (B&O) tax revenue; through the second quarter the City collected \$7.0 million in B&O taxes, which includes backdated collections. Despite a strong first half of the year performance, the City anticipates B&O revenues will decline from a high point of \$11.6 million in 2024 as payments related to prior periods decrease. Also contributing to the favorable revenue variance is the expansion of the photo enforcement program, which has generated \$1.1 million in revenue year-to-date. The City saw expenditures increase from the same period last year by \$2.0 million or 4%. This is due to planned increases in overhead costs, professional services (citywide projects and improvements), and insurance premiums.

Overall, General Fund revenues collected through Q2-2025 totaled \$57.8 million as compared to the year-to-date budget of \$52.3 million, and were \$5.5 million, or **11% above** budget expectations. General Fund expenditures totaled \$50.3 million compared to the year-to-date budget of \$58.6 million, resulting in a \$8.3 million or **14% underspend**.



Revenue: The following factors had the most significant impact on the budget vs. actual revenue collected:

- Business and Occupation Tax: Revenues collected throughout Q2-2025 totaled \$7.0 million, exceeding the year-to-date budget by \$1.8 million. Some of this favorable variance is due to the collection of tax obligations incurred in prior years, which is not expected to continue at the same level in the future. **[pages 8-9]**
- Interest and Investment Earnings: Throughout Q2-2025, interest and investment earnings have totaled \$1.2 million in collections and hold a \$930,000 favorable variance to budget. This is largely due to current investments outperforming expectations throughout this timeframe despite lower interest rates. The City had a large investment mature during this time, contributing to the favorable variance. **[pages 19-20]**
- Electric Utility Tax: Revenues collected throughout Q2-2025 have totaled \$2.7 million, compared to a year-to-date budget of \$1.9 million. Electric utility tax revenue collections are the highest they have been in the last eight years, outperforming prior year totals through the same timeframe by \$215,000. This is due to higher than anticipated usage throughout the City. **[pages 9-10]**
- Fines and Penalties: Throughout Q2-2025, fines and penalties revenues have totaled \$1.8 million and hold a favorable variance against budget projections by \$585,000 or 50%. This is mainly due to the enhancement of the Photo Enforcement program, from which the City has collected \$1.1 million year-to-date. This program alone accounts for 61% of revenues collected in this category. However, photo enforcement collections compared to prior year totals are down \$568,000 or 33%. This was anticipated by the City as the program goal of increasing safety takes effect. **[pages 18-19]**
- Intergovernmental: Q2-2025 revenues collected totaled \$2.6 million and were \$651,000 lower than budget expectations. The timing of collections from federal and state grants are the main contributor to the unfavorable variance. Grants are generally received on a reimbursement basis, meaning that lower revenues in this category correspond to lower expenditures based on the timing of the project underlying the grant award. **[page 15]**

Expenditures: Most of the City's departments operated within year-to-date expectations throughout the second quarter of 2025, with some variances due to the timing of professional services payments, as well as expenses related to projects facilitated by ARPA funding. Overall, the favorable variance to the year-to-date expense budget is \$8.3 million. Contributing to the favorable variance was a savings in salaries and benefits expenses of roughly \$3.1 million; as of the compilation of this report, there were 35 vacant regular full-time positions in the City. Additionally, services and charges were below budget expectations throughout the second quarter by roughly \$3.2 million. This is partially due to the timing of spending on non-ARPA related projects in progress within the City.

Enterprise Funds Overview

The City's enterprise funds account for operations with revenues primarily provided from user fees, charges, or contracts for services. In the prior year, the maturation of certain investments meant that while the enterprise funds continued to see year-over-year increases in interest earnings, these increases were at a lower growth rate than previous periods. Through Q2-2025, interest earnings for the City's enterprise funds were \$1.8 million, an increase of only +\$7,000 from Q2-2024.

The **Water Utility Fund** ended Q2-2025 with operating income of \$2.9 million, an increase of \$197,000 compared to the same period last year. This variance is due primarily to increased revenues from charges for services (+\$802,000), while expenditures also increased by +\$598,000 mainly due to interfund operating expenses and personnel charges. Overall, the fund's operating income has a \$1.4 million favorable variance to year-to-date budget expectations, driven by strong performance in charges for service and interest and investment earnings on the revenue side and lower-than-expected service charge expenditures. [pages 24-25]

The **Sewer Utility Fund** ended Q2-2025 with operating income \$75,000 higher than Q2-2024, coming in at \$2.5 million. While operating revenues increased \$341,000 compared to the same period last year, operating expenditures also increased (+\$266,000). The increase in operating expenditures was driven primarily by increased interfund charges (+\$376,000). In total, operating income for this fund was \$2.2 million higher compared to our budget projections, due to favorable variances in both operating revenues (+\$1.5 million) and operating expenses (-\$652,000). [page 25]

The **Stormwater Utility Fund** ended Q2-2025 with operating income of \$1.8 million, \$21,000 higher than operating income through the same period last year. Operating revenues increased \$505,000 compared to the prior year, mainly due to an increase in charges for storm service (+433,000) and interest and investment earnings (+\$74,000). Operating expenditures for this fund also increased compared to the prior year (+\$484,000), due mainly to increased service charges (+\$83,000) and interfund charges (+\$350,000). This fund outperformed operating income budget projections by \$800,000 through Q2-2025, due to favorable budget variances in both operating revenues (+\$594,000) and expenditures (-\$206,000). [page 25]

The **Solid Waste Utility Fund** ended Q2-2025 with operating income of \$453,000, a \$923,000 increase compared to the operating loss in Q2-2024. This variance is due to an increase in charges for services revenues (+\$1.2 million) due to higher service rates adopted in 2025, while operating expenses saw a smaller increase (+\$184,000). In all, operating income for this fund came in - \$192,000 lower than expected, driven by a favorable budget variance in revenues (+\$477,000) offset by higher than anticipated expenditures (+\$669,000). In general, we expect that increases to charges for service in this fund throughout the year will have corresponding increases in payments to the City's solid waste vendor. [pages 25-26]

Internal Service Funds Overview

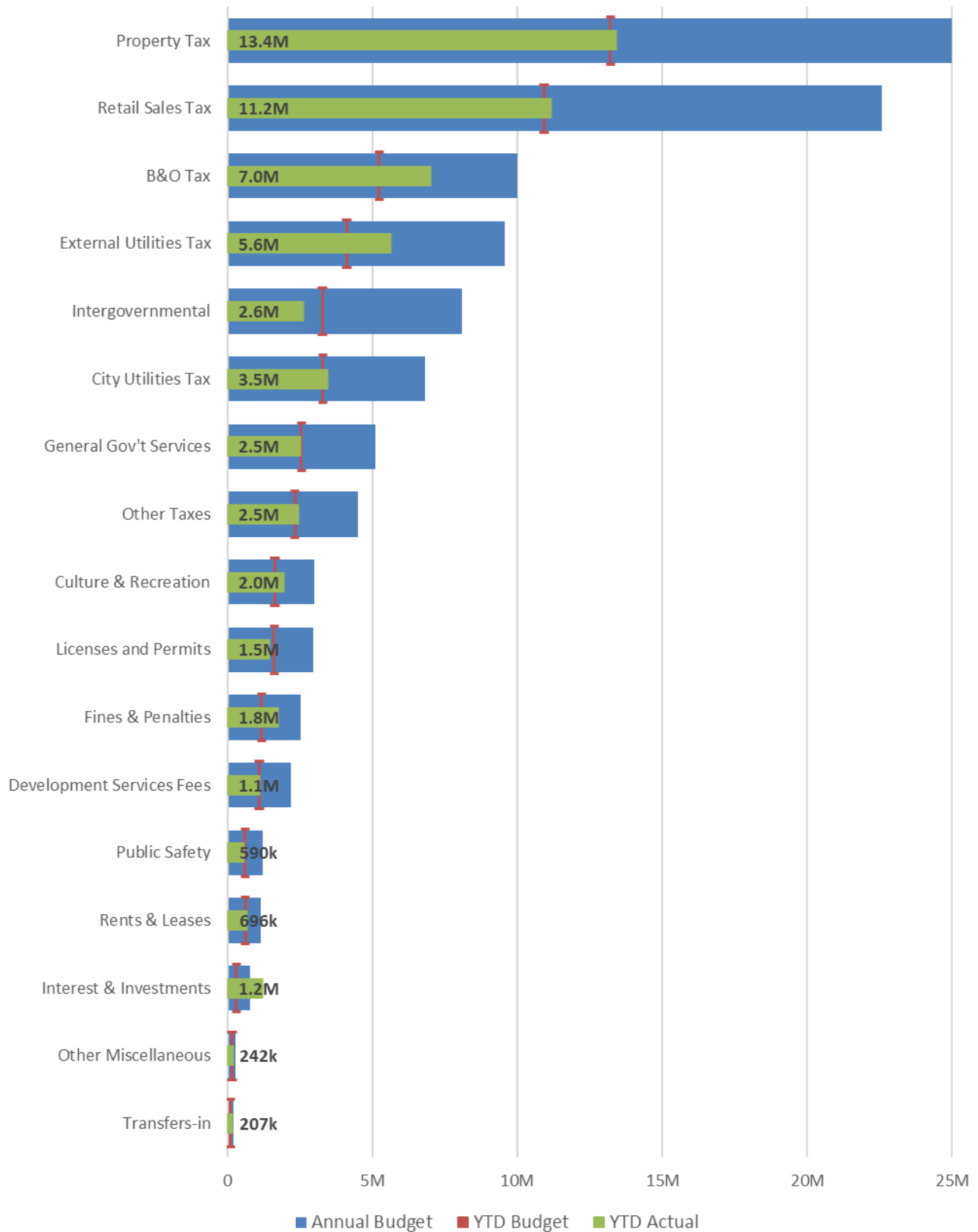
Internal service funds provide services to other City departments and include functions such as Insurance, Worker's Compensation, Facilities, Innovation & Technology, and Equipment Rental. No significant variances were reported in these funds during Q2-2025. [page 26]

General Fund Details

The following chart is a detailed breakdown of the General Fund's different sources of revenue and expenditures, broken down by department:

General Fund Summary of Sources and Uses	2025			2025 YTD Budget vs. Actual		2024	2024 YTD Actual vs. 2023 Actual	
	Annual Budget	YTD Budget	YTD Actual	Favorable (Unfavorable) Amount	Percentage	YTD Actual	Favorable (Unfavorable) Amount	Percentage
Operating Revenues								
Property Tax	\$ 25,002,800	\$ 13,211,200	\$ 13,438,669	\$ 227,469	1.7 %	\$ 13,013,003	\$ 425,666	3.3 %
Retail Sales Tax	22,579,330	10,924,600	11,176,312	251,712	2.3 %	11,034,366	141,946	1.3 %
Affordable Housing Sales Tax Credit	148,000	47,800	47,903	103	0.2 %	47,917	(14)	(0.0) %
Sales Tax - Pierce County Parks	131,100	63,200	65,983	2,783	4.4 %	65,256	727	1.1 %
Criminal Justice Sales Tax	3,067,500	1,479,800	1,507,809	28,009	1.9 %	1,471,722	36,088	2.5 %
Brokered Natural Gas Tax	314,000	213,300	147,479	(65,821)	(30.9) %	158,200	(10,720)	(6.8) %
City Utilities Tax	6,828,200	3,287,200	3,493,734	206,534	6.3 %	3,273,192	220,542	6.7 %
Business & Occupation Tax	9,991,700	5,237,813	7,035,190	1,797,377	34.3 %	6,492,740	542,450	8.4 %
Admissions Tax	252,500	134,900	234,950	100,050	74.2 %	412,521	(177,571)	(43.0) %
Electric Tax	4,695,800	1,881,500	2,661,010	779,510	41.4 %	2,445,863	215,146	8.8 %
Natural Gas Tax	1,417,400	780,300	1,012,226	231,926	29.7 %	832,703	179,523	21.6 %
Cable Franchise Fee	888,000	444,000	355,924	(88,076)	(19.8) %	386,847	(30,923)	(8.0) %
Cable Utility Tax	917,400	458,700	423,085	(35,615)	(7.8) %	412,496	10,590	2.6 %
Cable Franchise Fee - Capital	51,200	25,600	17,756	(7,844)	(30.6) %	20,167	(2,411)	(12.0) %
Telephone Tax	606,240	285,271	394,074	108,803	38.1 %	386,423	7,651	2.0 %
External Utility Tax	987,500	241,802	779,482	537,680	222.4 %	583,042	196,441	33.7 %
Leasehold Excise Tax	286,000	246,200	265,124	18,924	7.7 %	255,613	9,510	3.7 %
Gambling Excise Tax	287,500	142,451	222,223	79,772	56.0 %	94,389	127,834	135.4 %
Taxes sub-total	\$ 78,452,170	\$ 39,105,636	\$ 43,278,931	\$ 4,173,295	10.7 %	\$ 41,386,459	\$ 1,892,472	4.6 %
Business License Fees	\$ 585,100	\$ 293,200	\$ 373,833	\$ 80,633	27.5 %	\$ 300,660	\$ 73,173	24.3 %
Building Permits	950,200	508,200	674,669	166,469	32.8 %	571,910	102,759	18.0 %
Other Licenses & Permits	1,414,300	811,300	412,872	(398,428)	(49.1) %	755,392	(342,520)	(45.3) %
Intergovernmental (Grants, etc.)	8,095,610	3,279,318	2,628,262	(651,056)	(19.9) %	3,611,258	(982,996)	(27.2) %
Charges for Services:								
General Government Services	5,114,176	2,557,088	2,549,857	(7,231)	(0.3) %	2,270,820	279,037	12.3 %
Public Safety	1,215,556	607,778	589,818	(17,960)	(3.0) %	630,328	(40,509)	(6.4) %
Development Services Fees	2,175,100	1,100,700	1,122,634	21,934	2.0 %	623,247	499,387	80.1 %
Culture and Recreation	2,981,200	1,634,879	1,974,843	339,964	20.8 %	1,884,830	90,014	4.8 %
Fines and Penalties	2,522,706	1,180,928	1,765,834	584,905	49.5 %	2,143,975	(378,141)	(17.6) %
Fees/Charges/Fines sub-total	\$ 25,053,948	\$ 11,973,391	\$ 12,092,624	\$ 119,232	1.0 %	\$ 12,792,419	\$ (699,796)	(5.5) %
Interest and Investment Earnings	\$ 782,500	\$ 304,886	\$ 1,235,349	\$ 930,464	305.2 %	\$ 945,672	\$ 289,677	30.6 %
Rents and Leases	1,155,180	618,100	695,625	77,525	12.5 %	786,591	(90,966)	(11.6) %
Contributions and Donations	33,623	10,117	13,996	3,879	38.3 %	11,919	2,077	17.4 %
Other Miscellaneous	223,180	135,064	176,398	41,334	30.6 %	529,509	(353,111)	(66.7) %
Transfers In	206,558	103,279	206,558	103,279	100.0 %	4,482,645	(4,276,087)	(95.4) %
Insurance Recoveries - Capital & Operating	25,000	12,500	51,623	39,123	313.0 %	29,294	22,329	76.2 %
Other Revenues sub-total	\$ 2,426,041	\$ 1,183,946	\$ 2,379,549	\$ 1,195,603	101.0 %	\$ 6,785,630	\$(4,406,081)	(64.9) %
Total Operating Revenues	\$ 105,932,159	\$ 52,262,974	\$ 57,751,104	\$ 5,488,130	10.5 %	\$ 60,964,509	\$(3,213,404)	(5.3) %
Operating Expenditures								
Council & Mayor	\$ 1,951,839	\$ 1,078,986	\$ 839,428	\$ 239,558	22.2 %	\$ 779,722	\$ 59,707	7.7 %
Administration	1,055,607	535,865	464,641	71,224	13.3 %	646,351	(181,709)	(28.1) %
Human Resources	2,750,455	1,393,270	1,319,154	74,116	5.3 %	1,305,416	13,738	1.1 %
Municipal Court & Probation	3,754,752	836,476	850,070	(13,594)	(1.6) %	580,136	269,935	46.5 %
Finance	6,128,609	3,082,349	2,929,443	152,905	5.0 %	2,450,280	479,163	19.6 %
City Attorney	4,804,178	2,332,875	2,442,539	(109,664)	(4.7) %	2,296,015	146,524	6.4 %
Community Development	8,905,635	4,371,302	3,480,618	890,684	20.4 %	3,430,300	50,318	1.5 %
Human Services	5,176,012	2,592,639	1,168,823	1,423,816	54.9 %	1,272,496	(103,674)	(8.1) %
Office of Equity	1,051,203	537,698	322,708	214,990	40.0 %	447,395	(124,688)	(27.9) %
Jail - SCORE	5,900,000	2,950,200	2,927,616	22,584	0.8 %	2,432,988	494,628	20.3 %
Police	40,422,325	21,207,576	18,398,006	2,809,570	13.2 %	18,071,151	326,855	1.8 %
Public Works	4,826,501	2,626,720	2,886,331	(259,612)	(9.9) %	2,668,438	217,893	8.2 %
Parks, Arts & Recreation	17,265,391	8,531,185	8,173,320	357,865	4.2 %	8,041,914	131,406	1.6 %
Streets	5,811,498	2,968,846	2,544,612	424,234	14.3 %	2,389,086	155,526	6.5 %
Non-Departmental	9,843,185	3,594,275	1,565,690	2,028,585	56.4 %	1,529,437	36,253	2.4 %
Total Operating Expenditures	\$ 119,647,190	\$ 58,640,262	\$ 50,313,001	\$ 8,327,262	14.2 %	\$ 48,341,125	\$ 1,971,876	4.1 %

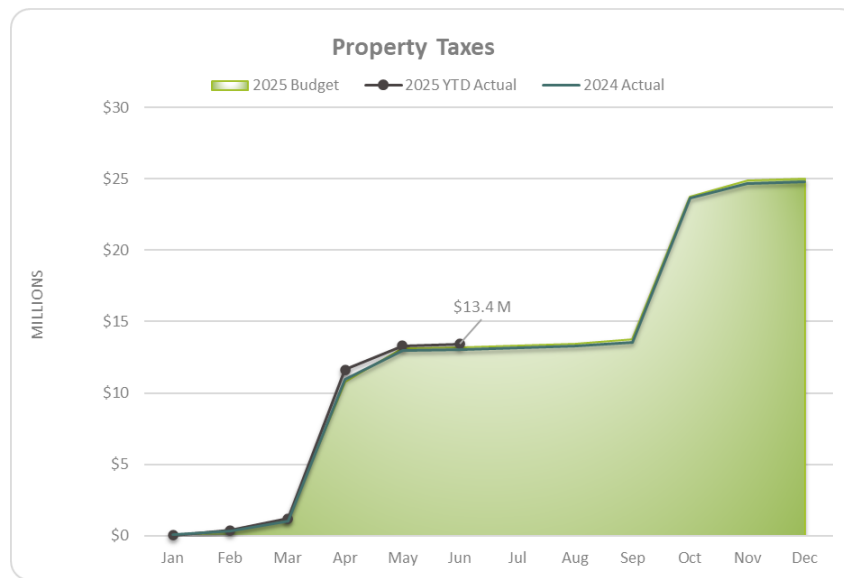
General Fund Revenues Budget Vs Actual



Revenue

Tax revenues, including property, sales/use, utility, business & occupation, gambling, and admissions taxes provide over 75% of all resources supporting general governmental activities. Licenses, charges for services, intergovernmental revenue (grants, state shared revenue, etc.) and fines contribute a further 21% of total revenue to the General Fund. The remaining 4% is comprised of a combination of different sources that are considered to be one-time resources. The following section provides additional information on the most significant tax resource streams.

Property Tax collections through the second quarter totaled roughly \$13.4 million, approximately \$227,000 or 2% above budget projections. As depicted in the graphic below, the majority of property taxes are collected during the months of April and October, coinciding with the due dates for county property tax billings.



Retail Sales Tax collections throughout Q2-2025 totaled \$11.2 million, representing taxes remitted to the City of Auburn based on sales from November 2024 through April 2025. Overall, these revenues increased by \$142,000, or 1%, from Q2-2024 collections. Most industries saw higher overall collections, including automotive (+\$172,602), manufacturing (+\$85,681), and services (+\$48,290). Partially offsetting the increases were decreases in the construction (-\$110,386) and wholesale trade industries (-\$45,310), as well as the miscellaneous category, which largely consists of remitters with no identified industry classification (-\$39,347). In comparison to the year-to-date budget, these revenues are also favorable by nearly \$251,712 or 2% through the second quarter. Historically, the City collects more sales tax revenues during the second half of the year, mainly due to the upcoming holiday seasons.

The City's retail sales tax budget is \$22.6 million for fiscal year 2025, a budgeted decrease of \$326,000 from the prior year actuals. Based on year-to-date performance, collections may exceed this amount by year-end. In its July 2025 economic forecast, King County estimated¹ that sales tax revenues will have an annual growth of 0.9% from 2024 collections. By comparison, the City's budget currently reflects a decline in sales tax revenues of -1% from 2024 collections. Auburn generally experiences a higher growth rate than the County does, and has experienced a

¹ King County, WA. 2025. The Office of Economic and Financial Analysis.
<https://kingcounty.gov/en/legacy/independent/forecasting>.

cumulative annual growth rate of 5% between 2019 and 2024. However, the rate of growth is volatile and has been in decline since a peak in 2019.



The following table breaks out the City's retail sales taxes by major business sector.

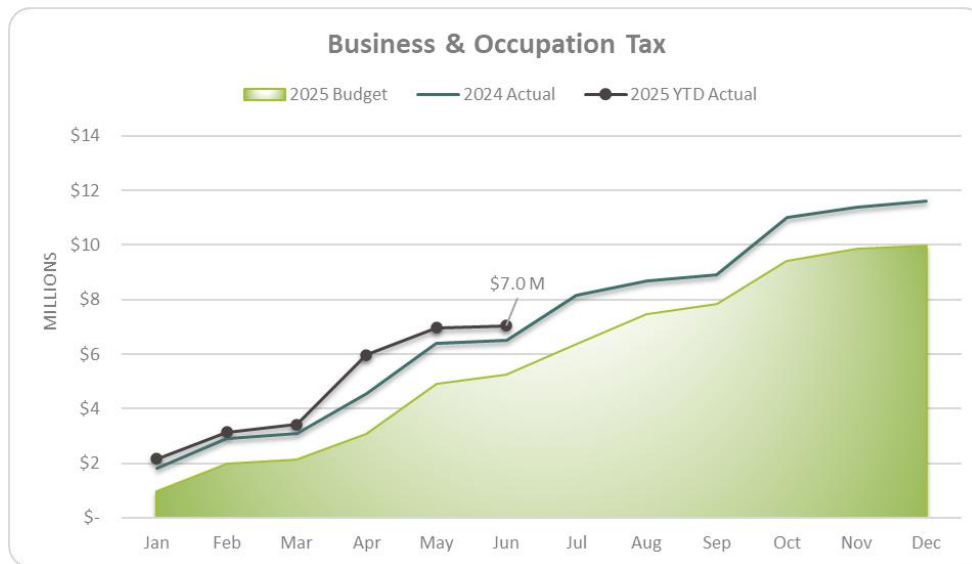
Comparison of Retail Sales Tax Collections by Group Through June 2025				
Component Group	2024	2025	Change from 2024	
	YTD Actual	YTD Actual	Amount	Percentage
Construction	\$ 1,236,766	\$ 1,126,380	\$ (110,386)	(8.9) %
Manufacturing	149,263	234,944	85,681	57.4 %
Transportation & Warehousing	160,368	173,253	12,885	8.0 %
Wholesale Trade	837,152	791,842	(45,310)	(5.4) %
Automotive	2,370,159	2,542,761	172,602	7.3 %
Retail Trade	3,254,196	3,271,726	17,530	0.5 %
Services	2,829,364	2,877,654	48,290	1.7 %
Miscellaneous	197,099	157,752	(39,347)	(20.0) %
YTD Total	\$ 11,034,366	\$ 11,176,312	\$ 141,946	1.3 %

Business & Occupation (B&O) Taxes are collected from businesses based on either the value of gross receipts or square footage of occupied warehousing space, subject to certain constraints. While the City receives collections throughout the year, B&O taxes are generally received on a quarterly basis.

By reconciling against the State's Business Licensing System, the City has been able to identify taxes collectable from prior periods, significantly contributing to the performance of this revenue which will bring the anticipated collection amount well over the budgeted totals for this year. Overall collection through the second quarter of the year totaled \$7.0 million versus a year-to-date budget of \$5.2 million. Of the \$7.0 million collected, roughly \$3.7 million or 52% consists of back taxes being paid. Current 2025 collections outpace 2024 collections through the same period by \$542,000 (8%), although recovery of back taxes is anticipated to decrease over time.

Comparing collections to prior year-to-date totals, the City has collected roughly \$793,000 or 21% more revenue related to gross receipts, while square footage collections are \$-250,000 or -9% lower than prior year totals.

Business & Occupation Tax Through June 2025								
Revenue	2025			Favorable (Unfavorable)		2024	2025 YTD Actual vs. 2024 Actual	
	Annual Budget	YTD Budget	YTD Actual	Amount	Percentage	YTD Actual	Amount	Percentage
Gross Receipts	\$ 6,973,700	\$ 3,655,728	\$ 4,494,806	\$ 839,078	23.0%	\$ 3,701,984	\$ 792,822	21.4%
Square Footage	3,018,000	1,582,085	2,540,384	958,299	60.6%	2,790,756	(250,372)	-9.0%
Total	\$ 9,991,700	\$ 5,237,813	\$ 7,035,190	\$ 1,797,377	34.3%	\$ 6,492,740	\$ 542,450	8.4%



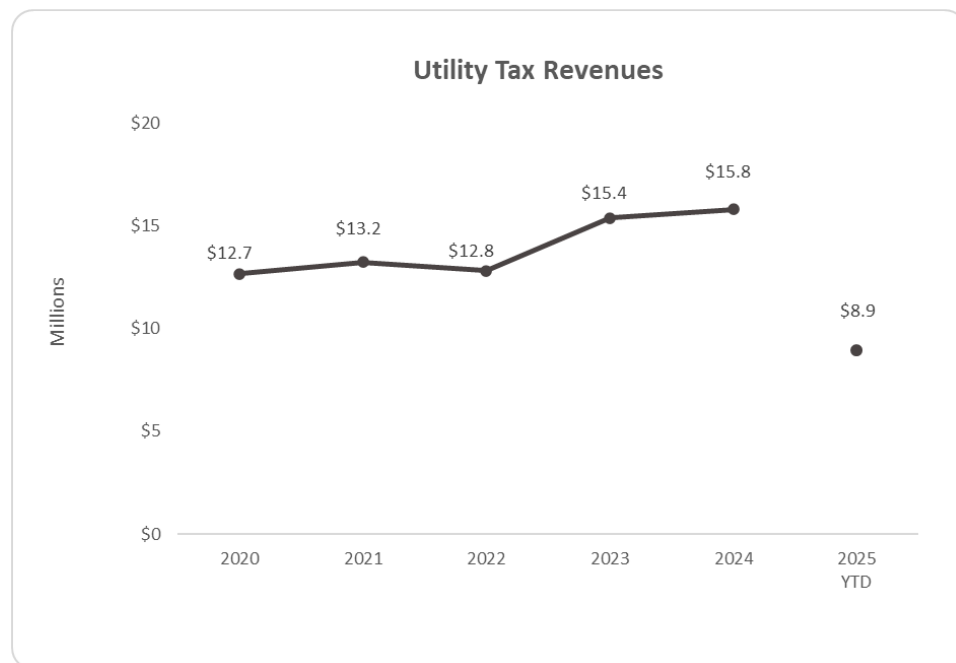
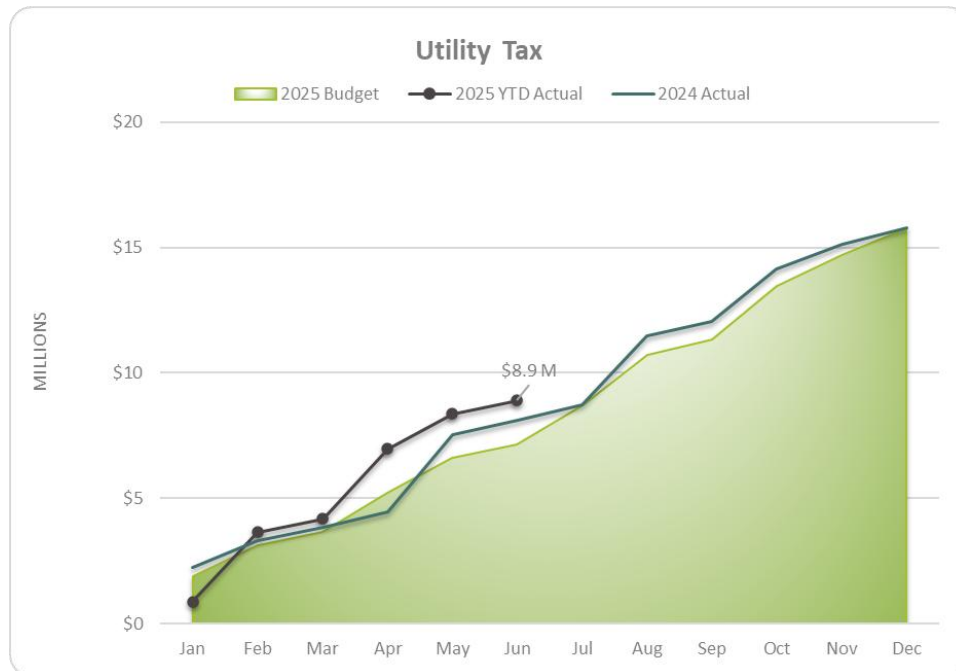
Utility Taxes consist of an 11.5% tax on the gross revenues of water, sewer, storm drainage and solid waste utilities and a 6.0% tax on electric, natural gas, and telephone utilities operating within the City. Of those utilities taxed at 11.5%, the General Fund receives 9.0% while the remaining 2.5% is dedicated to funding City streets projects. The utilities taxed at 6.0% contribute 5.0% to the General Fund and 1.0% to City streets projects.

Overall, utility taxes increased by \$819,000 or 10% from Q2-2024, and are \$1.8 million favorable to budget. Roughly 56% of the utility taxes collected by the City are represented by the city interfund utility taxes and electric utility taxes. These two revenue sources accounted for \$6.2 million of the collected \$8.9 million throughout the second quarter of 2025.

Currently, the largest portion of the overall favorable variance to budget occurs within the electric utility taxes category due to an increase in electric rates effective in 2025. The remaining favorable variances are due to the collection of backdated taxes. The City anticipates these collections to slow as more utility taxes become current, since the collection of backdated taxes are assumed as a one-time collection. Furthermore, external utility taxes are \$538,000 above budget expectations and \$196,000 above prior year totals. This is due to higher collections of solid waste haulers which increased their rates at the beginning of the year. With this rate change, the City anticipates these revenues will continue the favorable variance throughout the year. Likewise, telephone taxes increased from Q2-2024 by \$8,000, which was mainly due to the timing of collections from prior year activity. Telephone taxes are collected in arrears on a quarterly basis, which causes the timing variance from prior year and quarters.

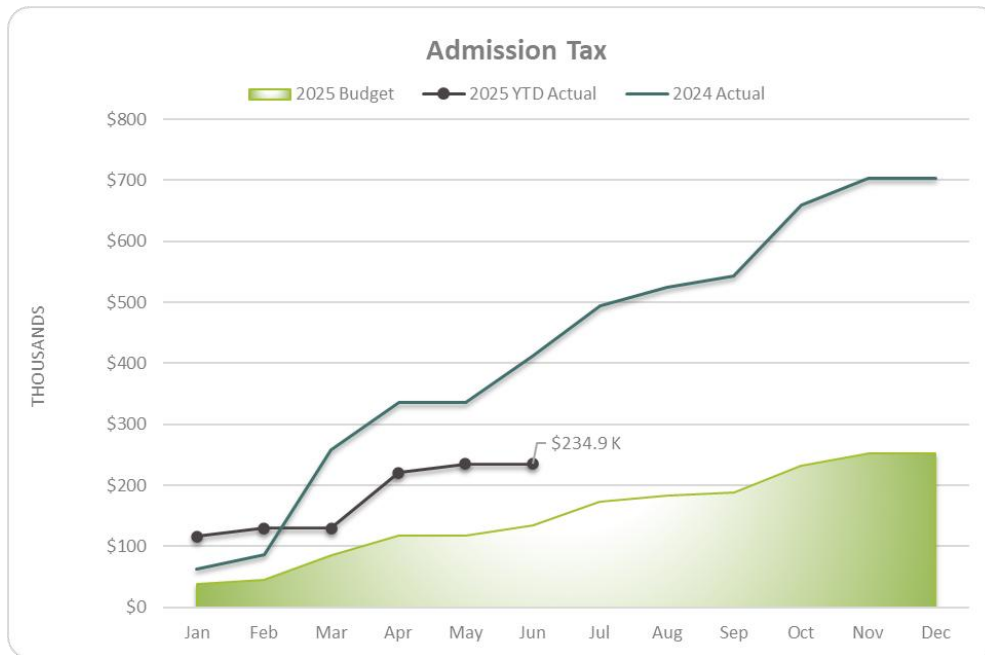
The table and charts below demonstrate the various utility tax revenues and show actual revenues compared to budget. Note that these amounts represent only the General Fund portion of revenues, and do not contain those revenues allocated for funding City streets projects.

Utility Tax by Type (General Fund Portion) Through June 2025								
Revenue	2025			Favorable (Unfavorable)		2024	2025 YTD Actual vs. 2024 Actual	
	Annual Budget	YTD Budget	YTD Actual	Amount	Percentage	YTD Actual	Amount	Percentage
City Interfund Utility Taxes	\$ 6,828,200	\$ 3,287,200	\$ 3,493,734	\$ 206,534	6.3%	\$ 3,273,192	\$ 220,542	6.7%
Electric	4,695,800	1,881,500	2,661,010	779,510	41.4%	2,445,863	215,146	8.8%
Natural Gas	1,417,400	780,300	1,012,226	231,926	29.7%	832,703	179,523	21.6%
Telephone	606,240	285,271	394,074	108,803	38.1%	386,423	7,651	2.0%
External Utility Taxes	987,500	241,802	779,482	537,680	222.4%	583,042	196,441	33.7%
Brokered Natural Gas	314,000	213,300	147,479	(65,821)	-30.9%	158,200	(10,720)	-6.8%
Cable	917,400	458,700	423,085	(35,615)	-7.8%	412,496	10,590	2.6%
Total	\$ 15,766,540	\$ 7,148,073	\$ 8,911,090	\$ 1,763,017	24.7%	\$ 8,091,918	\$ 819,172	10.1%



Note: The significant jump from 2022 (\$12.8 million) to 2023 (\$15.8 million) is largely due to higher service revenue following a rate increase effective in 2023, combined with higher service usage and the collection of B&O taxes on businesses that provide utility services.

An **Admission Tax** of 5.0% is placed on charges for general admission, season tickets, cover charges, etc. which are generally collected on a quarterly basis. Admission tax revenues of approximately \$235,000 collected through June 2025 were significantly lower (-43%) than through Q2-2024. This is largely due to a one-time payment received in 2024 as part of an agreement. Controlling for this non-recurring payment, admission taxes are still reporting an unfavorable variance of roughly \$71,000 from prior year actuals. However, this revenue holds a favorable variance to budget of \$100,000 through the second quarter.



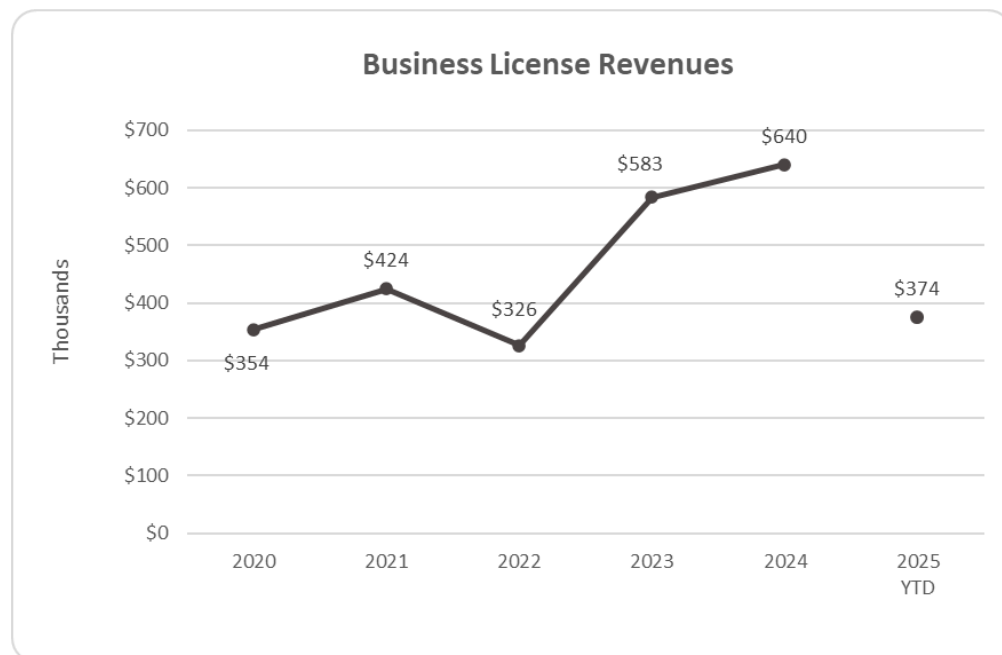
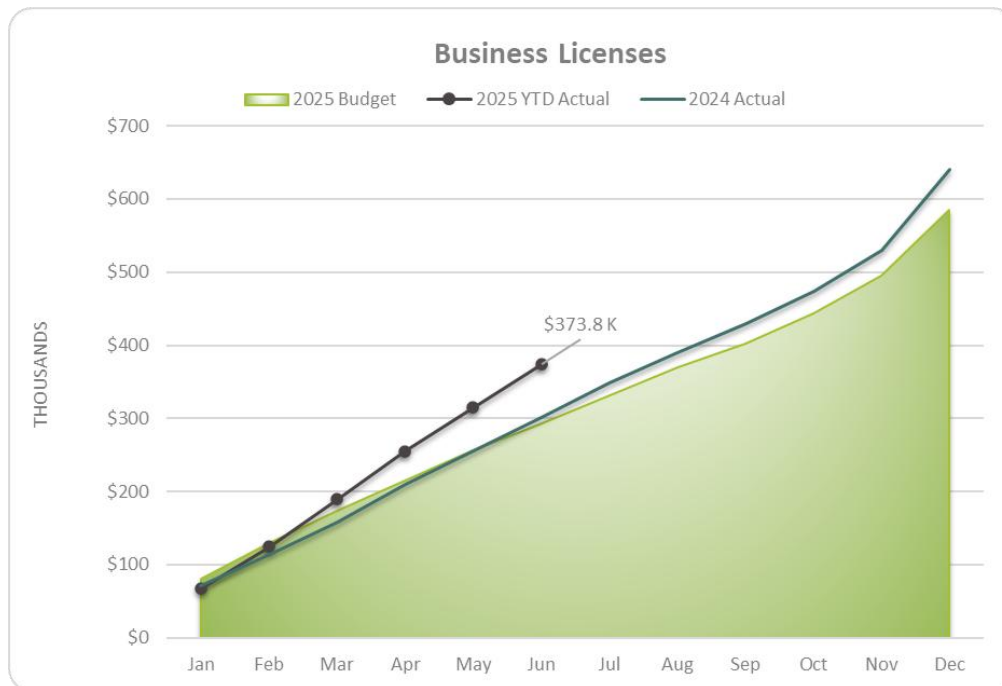
Gambling Tax applies to all card games, punch board games, pull tabs, bingo games, raffles and amusement games played within City limits. The majority of gambling tax revenues are collected from card games (64%) and amusement games (24%). At \$222,000 through the second quarter, collections are \$128,000 higher than 2024 year-to-date totals and report a \$80,000, or 56%, favorable variance to budget. The primary drivers of the favorable variance are higher collections from card games (+\$106,000) and amusement games (+\$28,000). Gambling tax revenues have historically exhibited high volatility both month-over-month and year-over-year: excluding 2021 (due to COVID-19 restrictions), recent revenues through the second quarter of the year average about \$118,000 but have been as high as \$170,000 (2023) and as low as \$76,000 (2020). The City will be monitoring these taxes closely, along with sales tax, as they serve as an indicator of disposable income in the economy.



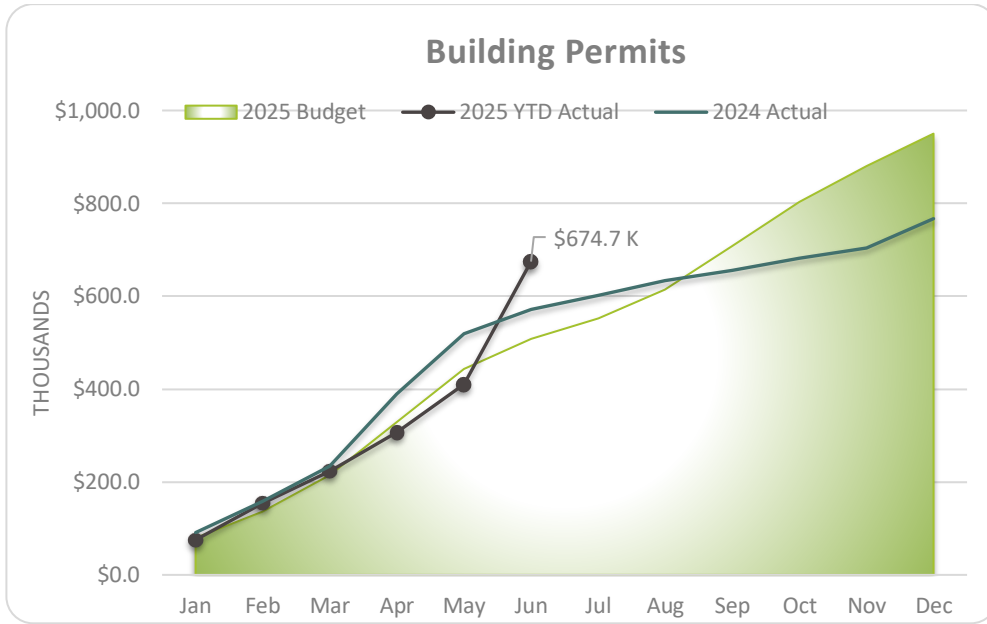
Licenses and Permits include business licenses, building permits, plumbing, electric and other licenses and permit fees. Building permit fees and business licenses typically comprise most of the budgeted revenue in this category, at approximately 46% and 26%, respectively.

The annual **Business License** renewal fee for each business located within the City is \$107, with the renewal cycle for each business beginning on the date the business was originally granted a license.

Year-to-date collections totaled \$374,000 so far in 2025 compared to \$301,000 in 2024, a 24% increase. Historically, business license collections have been a highly volatile revenue source, and as such were budgeted conservatively. Through discovery and B&O tax use of the State's Business Licensing System, these revenues have become more consistent. Comparing budget to actual revenue, business licenses are favorable by \$81,000 or 28% versus budget projections. The City generally sees the highest collection amounts during the first and fourth quarters of the year due to the renewal cycle.

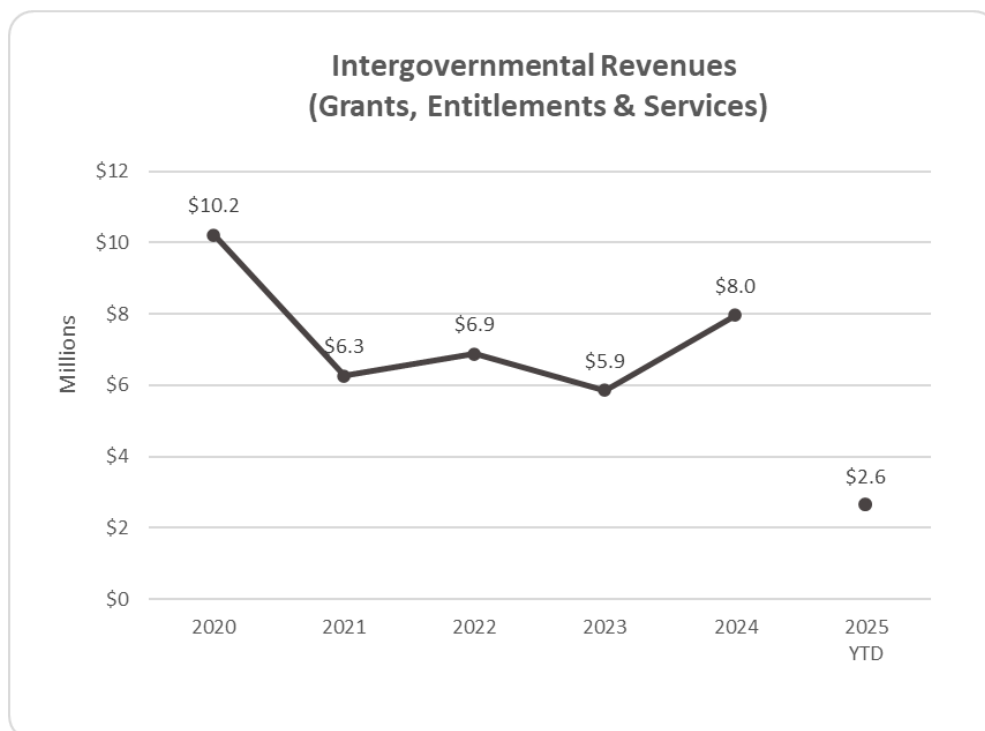


Building Permit revenues collected through June 2025 totaled \$675,000. Building permits are approximately \$103,000 higher than 2024 collections year-to-date, likewise, there is a favorable variance against the budget of \$166,000 (33%). A large contributing factor for this favorable variance versus 2024 totals is the increased valuation of construction permits on warehouses. However, the number of permits submitted throughout the second quarter have decreased by 44% over the same period last year, representing a decreased workload of construction throughout the City. There are two highly valued projects currently in progress in the City that account for the majority of the permit revenues through this timeframe.



Intergovernmental revenues include grants and stimulus monies (direct and indirect federal, state, and local), revenue from the Muckleshoot Indian Tribe (MIT) compact as well as state shared revenues. Collections throughout Q2-2025 totaled \$2.6 million and were \$651,000 unfavorable to budget expectations. Much of this unfavorable variance is due to the timing of collection on federal and state grants. These grant revenues are generally collected on a cost reimbursement basis; throughout the end of 2024 and into the beginning of 2025, several projects have been delayed, causing the delay in collecting the reimbursement. The City anticipates that the identified projects will be completed and reimbursed in 2025. Furthermore, the City's proposed 2025 MIT compact request was approved, and revenues from the request started to be collected in the beginning of the second quarter.

Intergovernmental Revenues (Grants, Entitlements & Services) Through June 2025								
Revenue	2025			Favorable (Unfavorable)		2024	2025 YTD Actual vs. 2024 Actual	
	Annual Budget	YTD Budget	YTD Actual	Amount	Percentage	YTD Actual	Amount	Percentage
Federal Grants	\$ 1,103,661	\$ 275,915	\$ 34,000	\$ (241,915)	-87.7%	\$ 40,418	\$ (6,417)	-15.9%
State Grants	1,007,467	464,400	188,516	(275,884)	-59.4%	534,897	(346,381)	-64.8%
Interlocal Grants	460,682	174,100	88,345	(85,755)	-49.3%	281,149	(192,804)	-68.6%
Muckleshoot Casino Services	1,800,000	450,000	419,277	(30,724)	-6.8%	791,885	(372,608)	-47.1%
State Shared Revenues:								
Streamlined Sales Tax	460,900	230,450	256,040	25,590	11.1%	320,051	(64,010)	-20.0%
Motor Vehicle Fuel Tax	1,173,700	565,800	513,575	(52,225)	-9.2%	523,420	(9,844)	-1.9%
Criminal Justice - High Crime	291,200	145,600	149,583	3,983	2.7%	141,570	8,013	5.7%
Criminal Justice - Population	34,500	16,600	17,516	916	5.5%	16,393	1,124	6.9%
Criminal Justice - Special Prog.	121,100	68,000	61,437	(6,563)	-9.7%	75,643	(14,206)	-18.8%
Marijuana Excise Tax	200,600	100,300	97,769	(2,532)	-2.5%	116,499	(18,730)	-16.1%
State DUI	7,800	3,900	3,600	(300)	-7.7%	4,833	(1,233)	-25.5%
Fire Insurance Tax	121,600	121,600	201,291	79,691	65.5%	119,516	81,775	68.4%
Liquor Excise	645,300	329,103	260,959	(68,144)	-20.7%	309,733	(48,774)	-15.7%
Liquor Profit	667,100	333,550	336,354	2,804	0.8%	335,253	1,101	0.3%
Total State Shared:	3,723,800	1,914,903	1,898,125	(16,778)	-0.9%	1,962,910	(64,785)	-3.3%
YTD Total	\$ 8,095,610	\$ 3,279,318	\$ 2,628,262	\$ (651,056)	-19.9%	\$ 3,611,258	\$ (982,996)	-27.2%



Note: 2020 revenue was higher than normal due to the receipt of \$3.8 million in federal CARES grant money from the Department of Treasury.

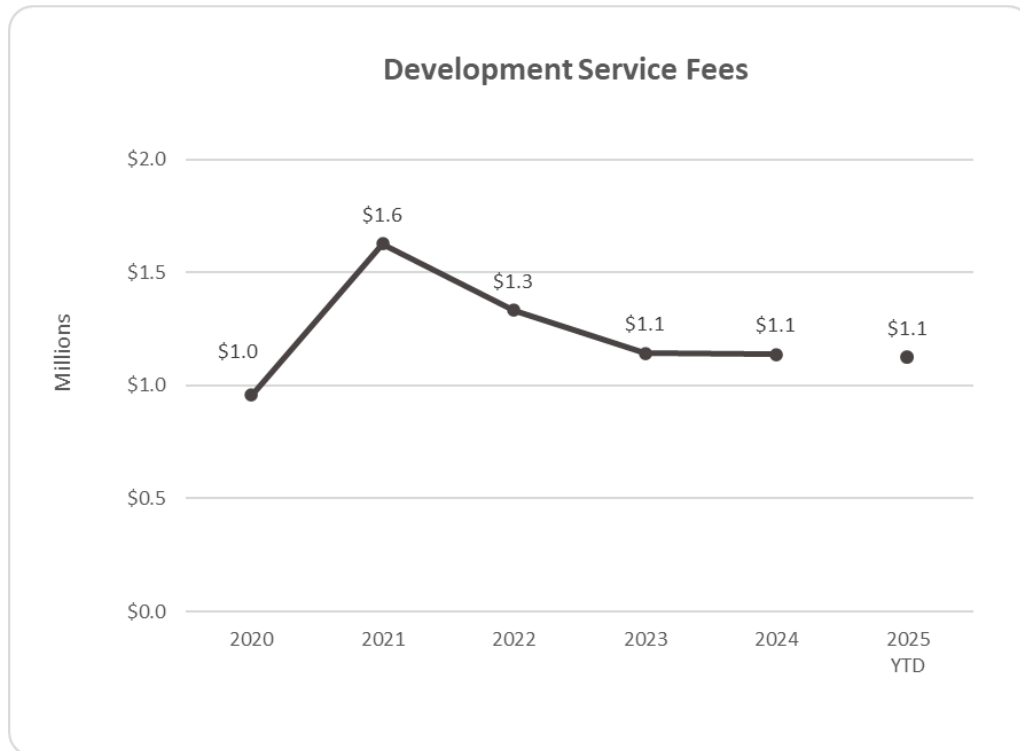
Charges for Services consist of general governmental service charges, public safety charges, development service fees, and culture and recreation fees. Charges for services revenues collected through June 2025 totaled \$6.2 million and were \$337,000, or 6%, more than expected to date. This was mainly due to culture and recreation revenues (specifically, recreation classes) being higher than anticipated.

Charges for Services by Type Through June 2025								
Revenue	2025			Favorable (Unfavorable)		2024	2025 YTD Actual vs. 2024 Actual	
	Annual Budget	YTD Budget	YTD Actual	Amount	Percentage	YTD Actual	Amount	Percentage
General Government	\$ 5,114,176	\$ 2,557,088	\$ 2,549,857	\$ (7,231)	-0.3%	\$ 2,270,820	\$ 279,037	12.3%
Public Safety	1,215,556	607,778	589,818	(17,960)	-3.0%	630,328	(40,509)	-6.4%
Development Services	2,175,100	1,100,700	1,122,634	21,934	2.0%	623,247	499,387	80.1%
Culture & Recreation	2,981,200	1,634,879	1,974,843	339,964	20.8%	1,884,830	90,014	4.8%
Total	\$ 11,486,032	\$ 5,900,445	\$ 6,237,153	\$ 336,709	5.7%	\$ 5,409,225	\$ 827,929	15.3%

The *general government* revenue category primarily includes the interfund assessment for support departments (Finance, Human Resources and Legal). Operating costs for these departments are charged to the respective General Fund home department and the portion of those costs that provide citywide benefit are recouped from other funds via interfund charges. General government revenues also include fees for passport services, and quarterly administrative expenses related to South King Housing and Homelessness Partners (SKHHP). The unfavorable variance of \$7,000 to budget is due to the timing of collections from SKHHP payments. Conversely, passport services revenue is generally higher than expected due to the May 7th, 2025 implementation of the Real ID program, which requires either a Real ID or a valid passport to travel by air.

Public safety revenues mainly consist of collections for law enforcement services, which are extra duty security services whereby police officers are contracted for, and reimbursement is made by the hiring agency. This category also includes reimbursements from the Muckleshoot Indian Tribe (MIT) for a full-time dedicated police officer and associated expenditures, as well as monies collected from the Auburn School District for services rendered. Public safety revenues collected through the second quarter of 2025 totaled \$590,000 and saw a \$41,000 decrease from 2024 second quarter totals. This is largely attributable to lower-than-expected DUI emergency response fees. Comparing 2024 vs 2025, DUI fees have decreased by \$29,000 and roughly hold the same unfavorable variance to budget expectations as well. Overall, public safety collections hold an unfavorable variance to year-to-date budget expectations of -\$18,000.

Development services fee collections consist primarily of plan check fees, facility extension charges, and zoning and subdivision fees. Through Q2-2025, development service fee revenue totaled \$1.1 million, which is \$22,000 above budget expectations and \$499,000 higher than prior year-to-date totals. Within this category, favorable variances to year-to-date budget existed in plan check fees (+\$367,000), FAC charges (+\$77,000), and zoning and subdivision fees (+\$58,000). The large variance within plan check fees is the result of assessments on two large development projects within city limits. These variances were offset by an unfavorable variance in other planning and development fees (-\$476,000), which is due to one large project added in the first budget amendment of the year; it is expected to collect the full amount of the project by the end of the year. With the ongoing projects progressing throughout the city, it is anticipated that development service revenues with end the year with a favorable variance to both prior year totals and current annual budget assumptions.



Most *Culture and Recreation* revenues are derived from green fees and pro shop sales at the Auburn Golf Course, recreational classes, ticket sales at the Auburn Avenue Theater (currently being held at other venues during construction), senior programs, and special events. Overall, this category of revenues outperformed budget expectations by \$340,000, or 21%.

Nearly 47% of the year-to-date Culture and Recreation revenues have come from the Auburn Golf Course. Green fee revenues have increased by \$89,000 or 11% from the same period last year and are favorable to budget by \$29,000 year-to-date. The City projects that green fee collections will increase through the remainder of the year, as the golf course typically collects about 65% of its total revenues during the peak months of May through September. Since 2018, green fee revenues have increased annually, seeing a large spike in 2020 through 2021, followed by modest increases during 2022-2024. The City anticipates continued modest growth in 2025 based on updated green fee rates. However, the actual number of rounds played at the golf course decreased by 369 or 1% from the same period last year.

Recreation classes represent 26% of year-to-date culture and recreation collections throughout the second quarter and have generally remained consistent from prior year-to-date totals with \$515,000 in collections. Ticket sales for performances held at local school venues (previously held at the Auburn Avenue Theater) have decreased by \$11,000 or 20% from prior year totals and also carry an unfavorable variance to budget by \$9,000. This is mainly due to the Performing Arts Center decreasing ticket sales from prior year as the popularity of various shows were not as high as last year. With continued community participation in recreational classes through the remainder of the year the City is expecting a slight increase in revenues throughout 2025.

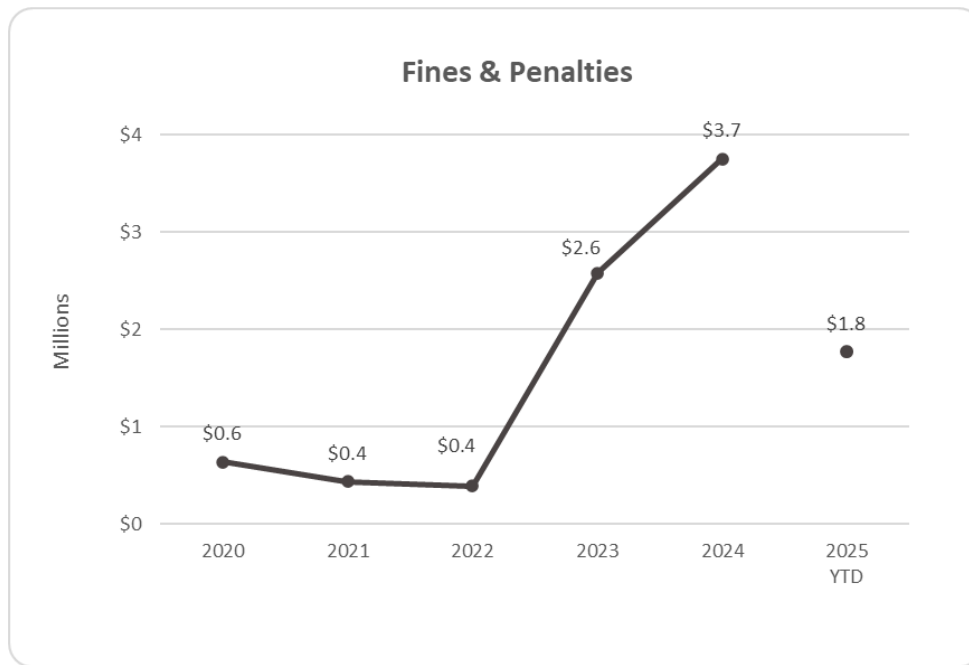


Fines & Penalties include civil penalties (such as code compliance fines), parking and traffic infraction penalties, criminal fines (including criminal traffic, criminal non-traffic, and other criminal offenses) as well as non-court fines such as false alarm fines. The table below shows a detailed breakdown of the different types of fines and penalties collected by the City.

Fines & Penalties by Type Through June 2025								
Revenue	2025			Favorable (Unfavorable)		2024	2025 YTD Actual vs. 2024 Actual	
	Annual Budget	YTD Budget	YTD Actual	Amount	Percentage	YTD Actual	Amount	Percentage
Civil Penalties	\$ 1,000	\$ 328	\$ 567	\$ 239	72.9%	\$ 984	\$ (417)	-42.4%
Civil Infraction Penalties	148,400	74,000	115,319	41,319	55.8%	86,912	28,408	32.7%
Photo Enforcement	1,100	600	-	(600)	-100.0%	157	(157)	-100.0%
Parking Infractions	2,233,506	1,050,300	1,137,978	87,678	8.3%	1,705,544	(567,565)	-33.3%
Criminal Traffic Misdemeanor	31,200	15,000	32,307	17,307	115.4%	16,909	15,398	91.1%
Criminal Non-Traffic Fines	48,200	24,000	25,051	1,051	4.4%	34,415	(9,365)	-27.2%
Criminal Costs	12,200	7,800	3,760	(4,040)	-51.8%	5,235	(1,475)	-28.2%
Non-Court Fines & Penalties	47,100	8,900	450,851	441,951	4965.7%	293,819	157,032	53.4%
Total	\$ 2,522,706	\$ 1,180,928	\$ 1,765,834	\$ 584,905	49.5%	\$ 2,143,975	\$ (378,141)	-17.6%

Total revenues collected through June 2025 were \$1.8 million as compared to a budget of \$1.2 million and were 50% above budget expectations. This is primarily due to collections of the photo enforcement program (implemented in 2023), which are classified as parking infractions. Furthermore, the City received an influx of non-court fines & penalties throughout the second quarter of the year due to the assessed fines and penalties regarding the backpay of B&O taxes.

The City contracts with the King County Court to operate its municipal court services. The number of hearings, judgments, and collections activity began decreasing in 2019 and has continued to decline since that time. Although the graph below shows a large spike in revenue in 2023 and 2024, this is almost entirely due to photo enforcement and B&O-related collections. Excluding these sources, the remaining court-related collections have declined to \$144,000, approximately one-third of their average for the period of 2015-2019, prior to contracting with King County. The City is currently conducting a feasibility study of alternatives to contracting with King County.



Miscellaneous Revenues consist of investment earnings, income from facility rentals, revenue collected for golf cart rentals at the Auburn Golf Course, contributions and donations, and other income including the quarterly purchasing card (P-card) rebate monies. The most significant miscellaneous revenue categories are listed in the table below.

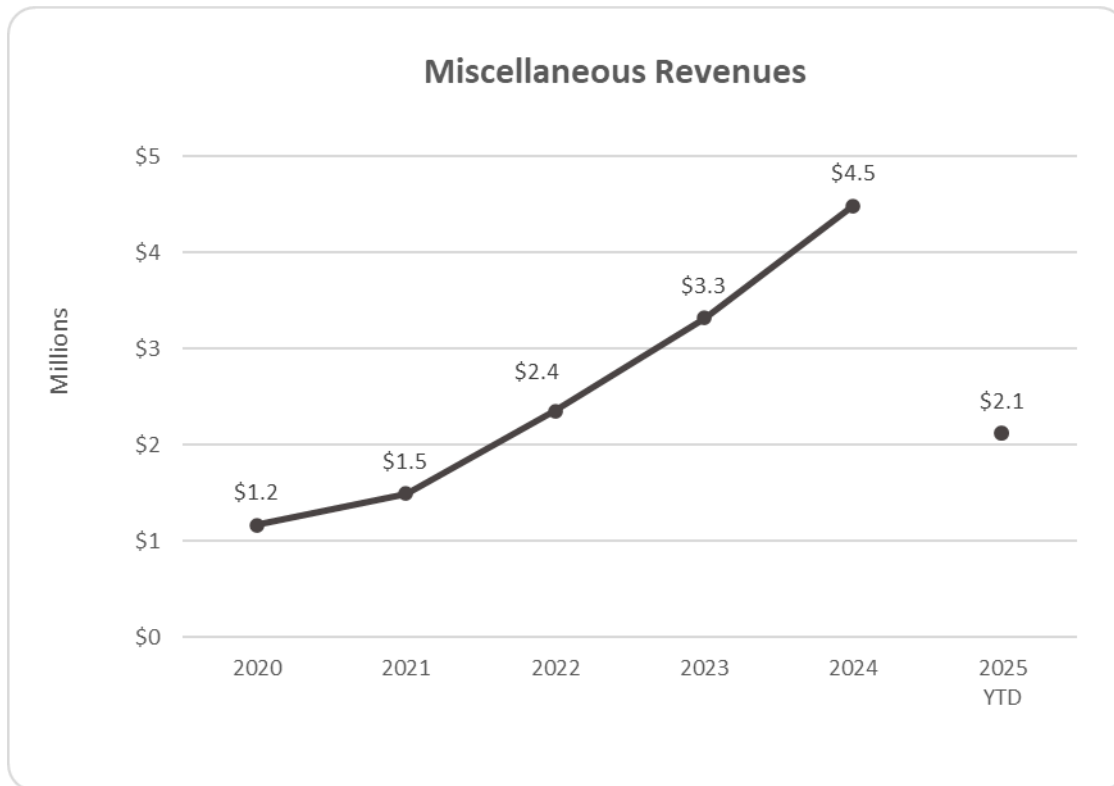
Miscellaneous Revenues by Type Through March 2025								
Revenue	2025			Favorable (Unfavorable)		2024 YTD Actual	2025 YTD Actual vs. 2024 Actual	
	Annual Budget	YTD Budget	YTD Actual	Amount	Percentage		Amount	Percentage
Interest & Investments	\$ 782,500	\$ 304,886	\$ 1,235,349	\$ 930,464	305.2%	\$ 945,672	\$ 289,677	30.6%
Rents & Leases	1,155,180	618,100	695,625	77,525	12.5%	786,591	(90,966)	-11.6%
Contributions & Donations	33,623	10,117	13,996	3,879	38.3%	11,919	2,077	17.4%
Other Miscellaneous Revenue	223,180	135,064	176,398	41,334	30.6%	529,509	(353,111)	-66.7%
Total	\$ 2,194,483	\$ 1,068,167	\$ 2,121,368	\$ 1,053,201	98.6%	\$ 2,273,691	\$ (152,323)	-6.7%

Revenues collected year-to-date 2025 in this category totaled \$2.1 million and were \$1.1 million or 99% favorable to budget. Of the favorable variance to budget, 88% was comprised of interest and investment collections, far exceeding budget expectations due to higher-than-expected interest rates (although lower than prior year) and the maturation of multiple investments during the first half of the year.

The rents and leases category includes payments for facility rentals, golf cart rentals, and the restaurant lease at the golf course. Rents and leases were favorable by \$78,000 against year-to-

date budget expectations, with a temporary easement of City property contributing significantly to the variance. However, golf carts and other rentals were unfavorable to budget expectations by \$44,000, mitigating the favorable balance of budget to actual for the category. The rents and leases category generally exhibits seasonality, with the peak being in the spring and summer months. To date, rents and leases are \$152,000 below 2024 collections throughout the same period, as the City has seen decreased numbers of events that request the use of City facilities.

The “Other Miscellaneous Revenue” sub-category reported \$353,000 less than the same timeframe last year but was favorable to the year-to-date budget by \$41,000. This category normally includes revenue related to a national opioid settlement distribution program; the City did receive settlement payments during the second quarter of the year totaling \$21,000, contributing to the favorable variance against the budget. However, this amount is far lower than the previous year’s collections of opioid distributions, which is the main cause for the unfavorable year-over-year variance. These payments are expected to experience volatility over the upcoming years, as some companies involved in the settlements elect to pay off their obligations early, while other companies are still navigating the settlement process and may begin payments in the future.

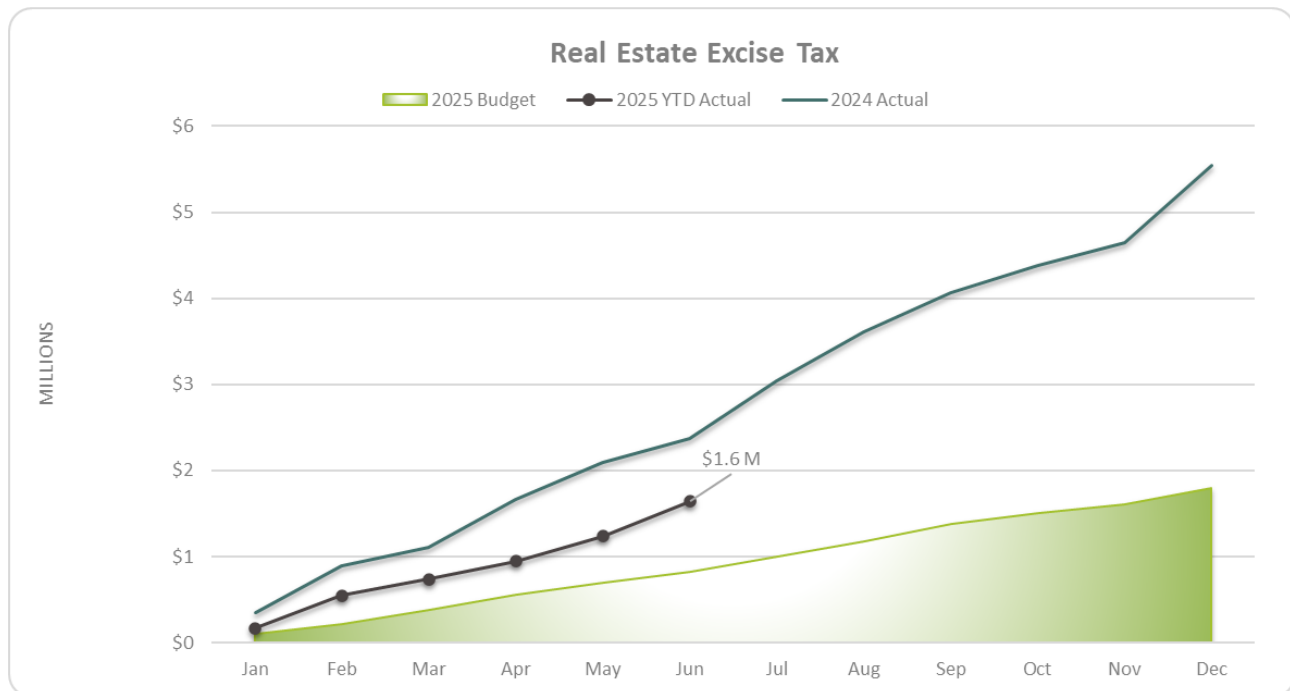


OTHER FUNDS

Real Estate Excise Tax (REET) revenues are taxes on the sale of both commercial properties and single-family residences. These collections are receipted into the Real Estate Excise Tax Fund and transferred to other funds to use for governmental capital projects.

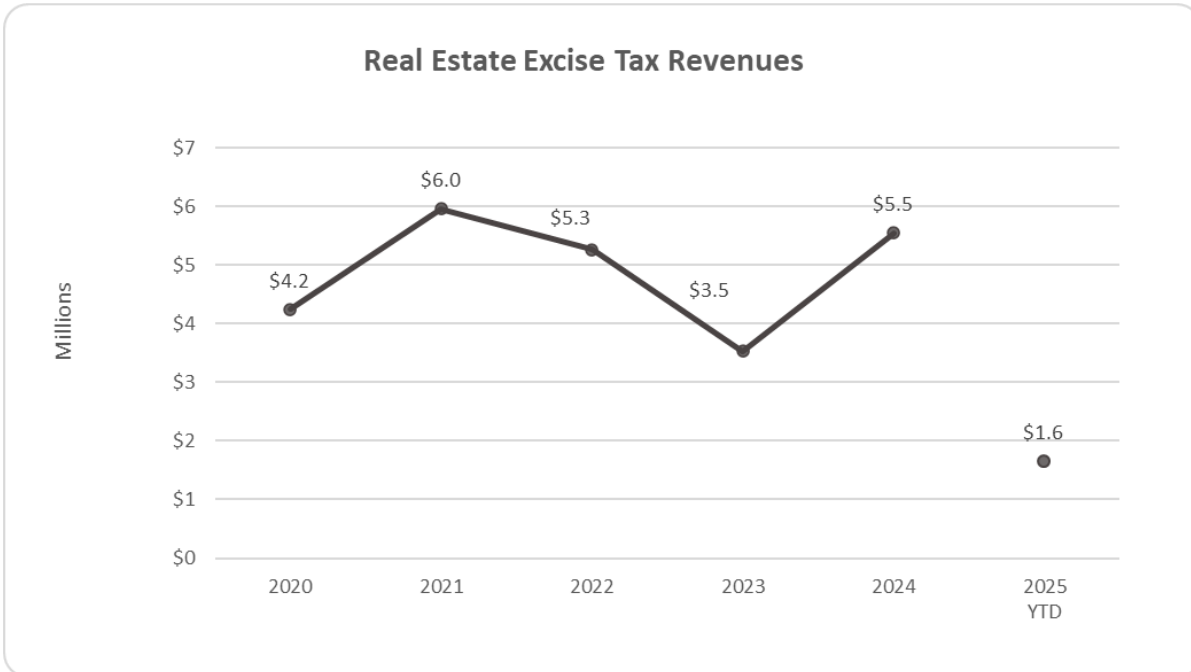
REET revenues collected year-to-date in 2025 total \$1.6 million, which is \$814,000 or 50% favorable to budget expectations. According to King County's assessed valuations of property taxes, the County has increased in property value by 2%. Combined with lower interest rates currently, the current climate for real estate sales seem favorable within the State of Washington.

Despite this, year-to-date REET collections in 2025 have decelerated compared to those of last year, and while collections are favorable to budget projections, it is the lowest second quarter total since 2023. This is a sign of a cooling market even though interest rates have declined since the peak in 2023.



Real Estate Excise Tax Revenues Through June 2025								
Revenue	2025			Favorable (Unfavorable)		2024	2025 YTD Actual vs. 2024 Actual	
	Annual Budget	YTD Budget	YTD Actual	Amount	Percentage	YTD Actual	Amount	Percentage
Real Estate Excise Tax	\$ 1,800,000	\$ 827,134	\$ 1,641,572	\$ 814,438	49.6%	\$ 2,369,365	\$ (727,793)	-30.7%
Total	\$ 1,800,000	\$ 827,134	\$ 1,641,572	\$ 814,438	49.6%	\$ 2,369,365	\$ (727,793)	-30.7%

Overall collections peaked in 2021 following two years of historic low interest rates maintained by the Federal Reserve in response to COVID-19. However, interest rates were increased throughout 2022 and 2023 to address severe inflation, cooling the market and lowering REET collections in those years. The federal funds rate decreased in December of last year and has remained static throughout this year. However, the current market data indicates a potential rate cut in September. With market uncertainty throughout the country, the City is monitoring REET collections meticulously. Generally, REET revenues have reflected the overall market volatility in recent years, with a standard deviation of \$961,000 or 46% of the average annual collections over the time period of 2017 to 2024. The large variance from prior year collections is due to two large purchases of commercial property within City limits last year.



American Rescue Plan Act (ARPA) Fund

In March 2021, the American Rescue Plan Act (ARPA) was signed into law, with the intent of mitigating the economic impacts related to COVID-19. Through ARPA's State and Local Government Fiscal Recovery Fund program, the City was allocated \$14.8 million in funding. Council approved the City's acceptance of ARPA funds in Resolution #5608. The City has since used all \$14.8 million of the ARPA funds to mitigate the cost of providing public safety services.

As a result of the cost mitigation provided by the ARPA funding, the City has been able to allocate General Fund funding toward projects approved by the Council ad hoc committee. As of June 30, 2025, the City has been able to spend \$1.6 million year-to-date and \$8.4 million since 2021 on the following projects:

Title	Budget	2025		
		Q2 Spend	Lifetime Spend (includes this quarter)	Remaining
Completed Projects	3,050,102	-	3,141,384	-
Neighborhood Street Light Program	1,300,000	563,840	1,300,000	-
Neighborhood Traffic Calming	200,000	37,546	200,000	-
Traffic Signals	135,000	-	-	-
Human Services Grants Includes Admin	1,000,000	-	445,882	554,118
Theater	389,700	-	-	389,700
Tyler Tech MUNIS Financial Implementation	301,500	-	-	301,500
Paving Gravel Roads	135,000	-	137,836	-
2023 Local Street Preservation	501,886	-	48,167	453,719
Translation Services	25,000	-	1,685	23,315
Cyber Security Locks	50,000	-	-	50,000
Auburn Way South Median Landscape Replanting/Irrigation	50,000	-	40,187	9,814
Auburn Way South Roundabout	150,000	-	53,231	96,769
Emergency Housing Voucher Program	2,000,000	77,768	741,082	1,258,918
DEI Dashboard (Inclusive Auburn)	130,000	-	92,805	37,195
Encampment Cleanup	500,000	-	456,403	43,597
Downtown Sidewalk Replacement on Main Street and B Street Plaza Surface Replacement	1,819,409	198,965	827,967	991,442
Community Violence Intervention Programs (Drone, SPIDR Tech)	236,248	-	204,436	31,812
Arts Culture Center Renovations	100,000	-	-	100,000
Auburn Ave Theater Demolition	504,350	16,896	455,168	49,182
Signing Bonuses for Police Lateral Hires	200,000	-	240,881	-
Other Projects (not started)	1,973,037	-	-	1,973,037
Total:	14,751,231	895,016	8,387,114	6,364,118

The project *Downtown Sidewalk Replacement on Main Street and B Street Plaza Surface Replacement* (cp2321) will construct infrastructure improvements in Downtown Auburn along Auburn Ave. from East Main St. N to 1st St. NE and on East Main St. from Auburn Ave to B St. NE, including B St. Plaza. The improvements will support existing and future re-development activities and replace infrastructure that is at or near the end of its useful service life. Construction has begun and is anticipated to be completed by the end of 2025. Total spend of this project so far is \$827,967 with \$198,965 spent in the second quarter.

The project *Neighborhood Traffic Calming* (cp2305) constructed traffic circles on B St SE at 13th St SE and 15th, as well as installed speed cushions on F St SE, G St SE and H St SE between 12th St SE and 21st St SE, and K St SE between 17th St SE and 21st St SE. The purpose of these improvements is to improve safety for all road users, reduce vehicle speed, and discourage cut-through vehicle traffic through the construction of physical traffic calming measures. The project team completed construction in the first quarter of 2025 and is now in the final stages of the project. The total spent on this project was \$200,000 with \$37,546 spent in the second quarter.

Beginning in 2023, the *Emergency Housing Voucher Program* is budgeted at \$2 million over the life of the program. This program assists residents of Auburn who are experiencing homelessness and drug addiction who are willing to enroll in and complete inpatient treatment. The program will cover the costs of clean and sober housing of participants for up to three years if the participant follows the clean and sober housing agreement. There are currently 24 individuals utilizing this program. Life-to-date project spend is \$741,082 with \$77,768 occurring in Q2-2025.

The 2024 *Neighborhood Street Light Program* project (CP2317) includes construction of new sidewalks, installation of new streetlights, replacement of sidewalk panels, installation of rectangular rapid flashing beacons with a new raised crosswalk, and implementation of traffic calming measures throughout the City of Auburn. The project is currently in the construction phase and is about 95% complete. The project is waiting to lay down paint at a couple of locations. The project is anticipated to be completed in August. Total spending to date is \$1.3 million with \$563,840 being spent in the second quarter.

Enterprise Funds

Beginning in 2025, both operating and capital utility activities are included within one enterprise fund. Prior to this year, these activities were divided between operating funds and capital sub-funds. Operating activities include revenues and expenditures associated with the operations of the fund, whereas capital activities relate to construction and capital acquisitions. The net effect of these activities equals the change in the fund's working capital balance. The working capital balance is calculated as current assets minus current liabilities.

In 2025 the City charged all departments the full insurance allocation in the first quarter, rather than spreading the allocation over twelve months. This resulted in higher year-over-year variances in interfund charges in the first quarter, which will level out as the year progresses.

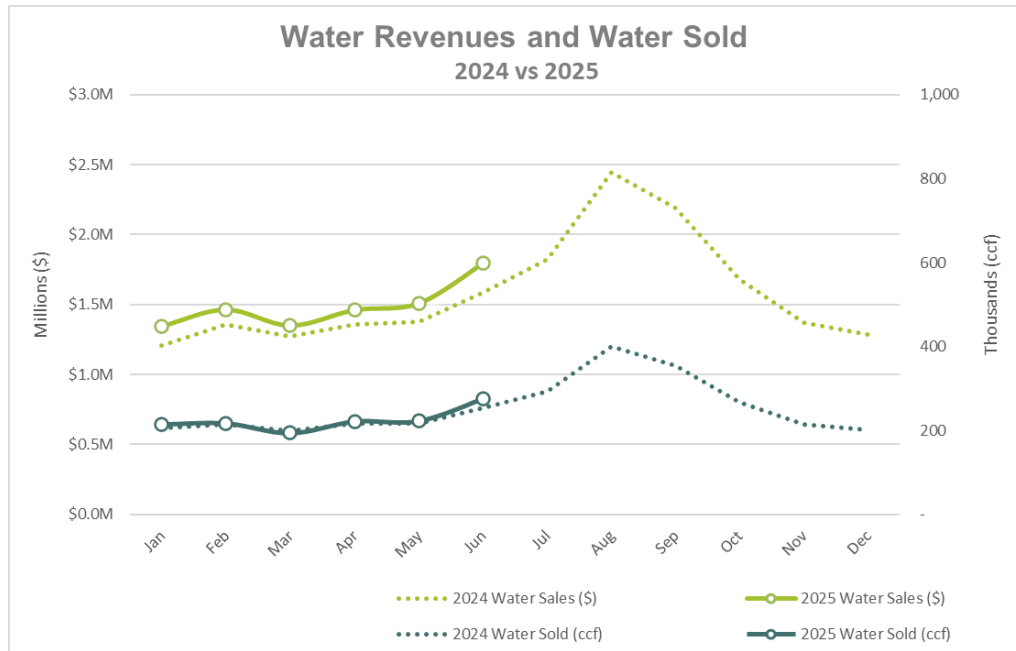
Through June 2025, the **Water Utility Fund** had operating income of \$2.9 million (operating revenues less operating expenditures), an increase of +\$197,000 over the same period last year. Consistent with expectations, revenue increased compared to the first quarter, and is projected to peak in the third quarter before declining in the fourth quarter.

Total operating revenues increased \$795,000 from \$8.8 million through Q2-2024 to \$9.6 million through Q2-2025. This change was largely driven by increases in both rates and water consumption; charges for service revenues were \$9.1 million through Q2-2025 compared to \$8.3 million through Q2-2024, an increase of 9.7%. Other revenues were consistent with last year.

Operating expenses also increased from \$6.1 million to \$6.7 million (+\$598,000). The primary driver of the increased operating expenses from the prior year was interfund charges (+\$561,000), which includes insurance as mentioned above.

Compared to projections, the fund's operating income is \$1.5 million favorable to the year-to-date budget. Operating revenues were \$1.0 million higher than anticipated through Q2-2025, with interest earnings outperforming budget expectations by \$474,000 along with higher charges for services (+\$514,000). Operating expenditures had a \$472,000 favorable variance to budget, driven by lower-than-expected professional services costs (-\$151,000), as well as lower interfund utility and excise taxes (-\$117,000) and external utility expenditures (-\$135,000).

Billable water consumption through Q2-2025 totaled 1.3 million ccf (hundred cubic feet), which is +38,000 ccf, or 3.0% higher than consumption in Q2-2024. Increases in consumption were seen across nearly all customer classes, with the largest gains seen in manufacturing and irrigation. These increases were partially offset by a decrease in the commercial customer class.



Compared to the same period last year, the **Sewer Utility Fund** saw a slight increase in operating income, finishing Q2-2025 with \$1.2 million in operating income, \$75,000 higher than Q2-2024. Operating revenues were up \$341,000 from the same period last year due to strong performance in charges for City sewer service (+\$352,000, or 6.6%), slightly offset by lower interest and other earnings (-\$11,000). These gains were mitigated by higher increases in operating expenses, which rose \$266,000 from \$3.5 million through Q2-2024 to \$3.8 million through Q2-2025. These increases were due primarily to higher interfund charges (+\$376,000) and personnel costs (+\$34,000).

Through Q2-2025, this fund performed better than budget expectations with a \$1.5 million favorable variance in operating revenues, both in charges for service (+\$958,000) and interest earnings (+\$571,000). Additionally, operating expenditures had a \$652,000 favorable variance compared to budget expectations, due to savings in personnel costs (+\$186,000) and state tax charges (+\$462,000).

The **Stormwater Utility Fund** had operating income of \$1.8 million through Q2-2025, a slight increase (+\$21,000) from the same period last year. While operating revenues were higher through Q2-2025 compared to Q2-2024 (+\$505,000), operating expenses for this fund were also higher during the same period (+\$484,000). Charges for service revenue increased \$433,000, or 6.9%, from Q2-2024. Primary drivers for the increase in operating expenditures were increased service charges (+\$83,000), and interfund charges (+\$350,000).

This fund also outperformed budget expectations, with a \$800,000 favorable-to-budget variance in operating income, with operating revenues outperforming budget expectations by \$594,000 due to higher than anticipated charges for service (+\$167,000) and interest earnings (+\$425,000). Meanwhile, expenditures were lower than anticipated (-\$206,000), mainly due to the timing of miscellaneous service charges.

The **Solid Waste Utility Fund** finished Q2-2025 with operating income of \$453,000, which is \$923,000 higher than the -\$470,000 operating loss posted in the same period last year. Operating revenues increased \$1.1 million, driven by an increase of \$1.2 million (+8.0%) in charges for service as a direct result of the service rates adopted in Ordinance #6920. Meanwhile, grants, interest earnings and other revenues experienced a decrease (-\$111,000).

Compared to budget expectations, operating revenues were higher than anticipated (+\$477,000) due primarily to charges for service (+\$484,000). Operating expenses were also higher than expected (+\$669,000) due primarily to utility and excise taxes (+\$138,000) and payments to the City's solid waste provider (+\$554,000). In total, the fund had a -\$192,000 unfavorable variance in operating income compared to budget expectations through Q2-2025.

Internal Service Funds

No significant variances are reported in the **Insurance, Workers' Compensation, Facilities, Innovation & Technology**, or **Equipment Rental** Funds.

Contact Information

This report is prepared by the Finance Department. Additional financial information can also be viewed at our website: <http://www.auburnwa.gov/>. For any questions about this report please contact Jamie Thomas at jdthomas@auburnwa.gov.

City of Auburn 2nd Quarter 2025 Financial Report

CITY COUNCIL STUDY SESSION

SEPTEMBER 8, 2025

General Fund Revenue Overview

Summary

- Collected 11% more revenue YTD compared to budget but **collected 5% less than YTD last year**
- Underspent the YTD budgeted expenditures by 14% and but **spent 4% more than YTD last year**
- \$2.8 million more has been spent in 2025 than revenue collected

Revenue	2024 YTD Actual	2025 YTD Budget	2025 YTD Actual	Variance to Budget Favorable (Unfavorable)	%	Variance to 2024 Favorable (Unfavorable)	%
Property Tax	\$ 13,013,003	\$ 13,211,200	\$ 13,438,669	\$ 227,469		\$ 425,666	
Sales Tax	11,034,366	10,924,600	11,176,312	251,712		141,946	
Utility Tax	8,091,919	7,148,073	8,911,090	1,763,017		819,171	
B&O Tax*	6,492,740	5,237,813	7,035,190	1,797,377		542,450	
Other Tax	2,754,431	2,583,950	2,717,670	133,720		(36,761)	
Licenses and Permits	1,627,962	1,612,700	1,461,374	(151,326)		(166,588)	
Intergovernmental	3,611,258	3,279,318	2,628,262	(651,056)		(982,996)	
Charges for Services	5,409,225	5,900,445	6,237,152	336,707		827,927	
Other	4,446,960	2,261,595	3,938,825	1,677,230		(508,135)	
Transfers In	4,482,645	103,279	206,558	103,279		(4,276,087)	
Total Revenue	\$ 60,964,509	\$ 52,262,973	\$ 57,751,102	\$ 5,488,129	11%	\$ (3,213,407)	-5%
Total Expenditures	\$ 48,341,125	\$ 58,640,262	\$ 50,313,001	\$ 8,327,261	14%	\$ (1,971,876)	-4%

Tax Revenue

2025 budgeted taxes account for \$78.5 million, or 76% of the General Fund budget

- Compared to 67% in 2024 – making the General Fund more reliant on taxes than other funding sources

Property Tax (32% of taxes)

- \$25 million 2025 budget
- Collected 100% at year-end

Retail Sales and Use Tax (29% of taxes)

- \$22.6 million 2025 budget
- \$252,000 (2%) over 2025 YTD budget
- \$142,000 (1%) over 2024 YTD actual

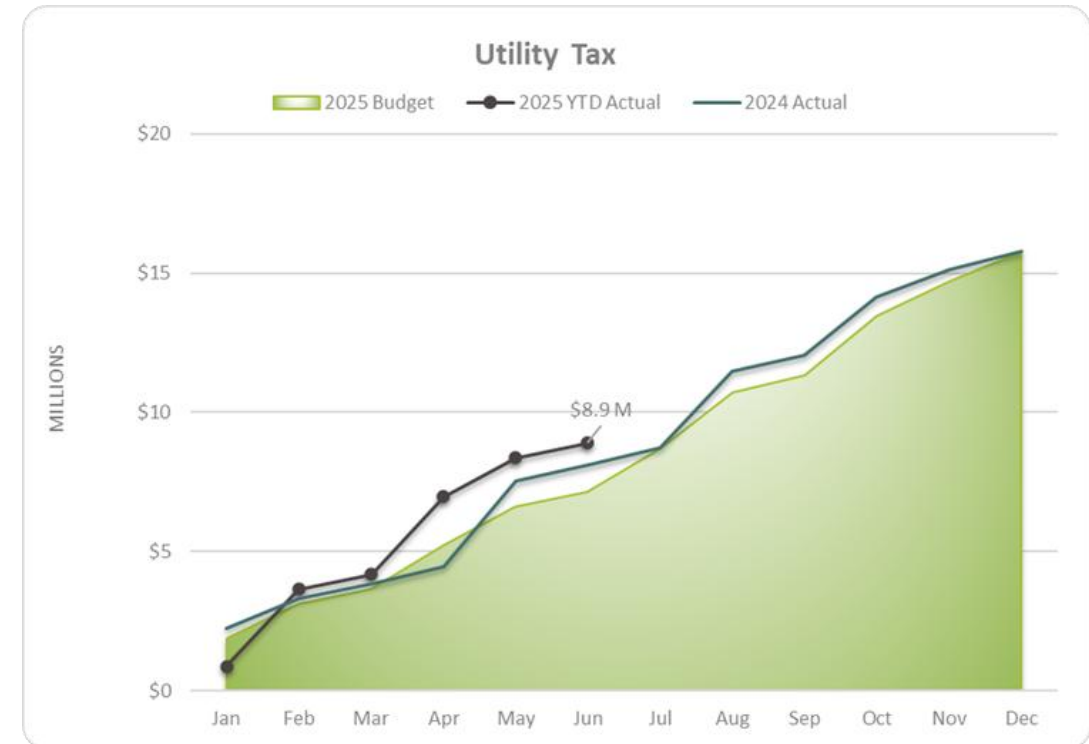
Tax Revenue

Comparison of Retail Sales Tax Collections by Group Through June 2025				
Component Group	2024	2025	Change from 2024	
	YTD Actual	YTD Actual	Amount	Percentage
Construction	\$ 1,236,766	\$ 1,126,380	\$ (110,386)	(8.9) %
Manufacturing	149,263	234,944	85,681	57.4 %
Transportation & Warehousing	160,368	173,253	12,885	8.0 %
Wholesale Trade	837,152	791,842	(45,310)	(5.4) %
Automotive	2,370,159	2,542,761	172,602	7.3 %
Retail Trade	3,254,196	3,271,726	17,530	0.5 %
Services	2,829,364	2,877,654	48,290	1.7 %
Miscellaneous	197,099	157,752	(39,347)	(20.0) %
YTD Total	\$ 11,034,366	\$ 11,176,312	\$ 141,946	1.3 %

Tax Revenue

Utility Tax (20% of taxes)

- \$15.8 million 2025 budget
 - Water, Sewer, Storm, Solid Waste Utility Tax rate 9% (\$7.8 million of total budget)
 - Electric, Natural Gas, Cable, and Telephone Utility Tax rate 5% (\$8.0 million of total budget)
- **\$1.8 million (25%) over** 2025 YTD budget
 - Higher than expected water, sewer, storm collections
- **\$819,000 (10%) over** 2024 YTD actual
 - Higher than expected water, sewer, storm collections



Tax Revenue

Business and Occupation Tax (B&O) (13% of total taxes)

- \$10.0 million 2025 budget
- \$7.1 million collected YTD: \$4.5 million in gross receipts tax (64%) and \$2.6 million in square foot tax (36%)
 - Includes Q4 2024, Q1 2025, and 2024 Annual Filings
- **\$1.8 million (74%)** over 2025 YTD budget*
- **\$542,000 (8%)** over 2024 YTD actual

Other Taxes (7% of total taxes)

- \$5.1 million 2025 budget
- Criminal justice sales tax, admissions tax, gambling tax, leasehold excise tax, franchise fees
- **\$134,000 (5%)** over 2025 YTD budget
 - Due to admission taxes
- **\$37,000 (1%)** below 2024 YTD actual
 - Due to delinquent admission taxes collected in 2024

Licenses and Permits

Accounts for 3% of the total General Fund Resources

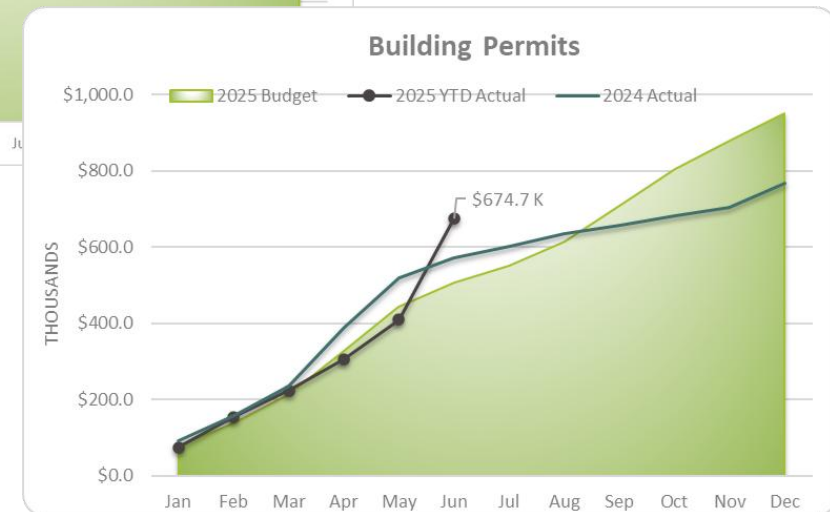
\$3.0 million budgeted in 2025

- \$950,000 is building permit revenue

\$151,000 (9%) under 2025 YTD budget

\$167,000 (10%) under 2024 YTD actual

- More business license revenue and building permit revenue offsetting a \$342k decrease in other permits and licensing



Intergovernmental

Revenues include: Federal/State/Interlocal Grants, Muckleshoot Indian Tribe (MIT) Compact, State Shared Revenue

- State Shared Revenue:
 - Streamlined Sales Tax, Motor Vehicle Excise Tax (MVET), Marijuana/Liquor excise taxes, Criminal Justice Sales Tax

\$651,000 (20%) under 2025 YTD budget

- Lower collection of grants, MVET collection, and Liquor Excise tax

\$983,000 million (27%) under 2024 YTD collections

- Timing of contribution payment from the MIT compact, lower collection of grant, MVET collection, and Liquor Excise tax

Charges for Services

General Government - **\$7,200 under** budget (.3%)

Public Safety - **\$18,000 below** budget (3%)

- Extra duty services

Development Services - **\$22,000 above** budget (2%)

- Plan check fees for two large projects

Culture and Recreation - **\$340,000 above** budget (21%)

- Golf Course Fees (\$45,000), Recreation Fees (\$221,000), Special Events (\$59,000)

Other

Fines and Penalties

- \$584,000 over 2025 YTD budget (50%)
 - B&O fines and penalties (\$432,000)
 - 343 delinquent businesses paid for taxes going back to 2020
 - Almost half (\$190,000) of the total fines and penalties collected were from 4 of the 343 taxpayers

Interest and Investment Earnings

- \$930,000 over 2025 YTD budget (305%)
- \$290,000 over 2024 YTD actual (31%)

General Fund Expenditures by Department

Department	2024 YTD Actual	2025 YTD Budget	2025 YTD Actual	Budget vs Actual	
				\$	%
Council, Mayor, Admin	1,426,073	1,614,851	1,304,069	310,782	19%
Office of Equity	447,395	537,698	322,708	214,990	40%
Municipal Court	580,136	836,476	850,070	(13,594)	-2%
Community Development	3,430,300	4,371,302	3,480,618	890,684	20%
Human Services	1,272,496	2,592,639	1,168,823	1,423,816	55%
Public Works	2,668,438	2,626,720	2,886,331	(259,611)	-10%
Streets (M&O)	2,389,086	2,968,846	2,544,612	424,234	14%
Parks, Art, and Recreation	8,041,914	8,531,185	8,173,320	357,865	4%
Police	18,071,151	21,207,576	18,398,006	2,809,570	13%
SCORE	2,432,988	2,950,200	2,927,616	22,584	1%
Internal Services (HR, Finance, Legal, Nondepartment)	7,581,148	10,402,769	8,256,826	2,145,943	21%
Total	\$ 48,341,125	\$ 58,640,262	\$ 50,312,999	\$ 8,327,263	14%

ARPA Update

Title	Budget	2025	Lifetime Spend	Remaining
		Q2 Spend	(includes this quarter)	
Completed Projects	3,050,102	-	3,141,384	-
Neighborhood Street Light Program	1,300,000	563,840	1,300,000	-
Neighborhood Traffic Calming	200,000	37,546	200,000	-
Traffic Signals	135,000			
Human Services Grants Includes Admin	1,000,000	-	445,882	554,118
Theater	389,700	-	-	389,700
Tyler Tech MUNIS Financial Implementation	301,500	-	-	301,500
Paving Gravel Roads	135,000	-	137,836	-
2023 Local Street Preservation	501,886	-	48,167	453,719
Translation Services	25,000	-	1,685	23,315
Cyber Security Locks	50,000	-	-	50,000
Auburn Way South Median Landscape Replanting/Irrigation	50,000	-	40,187	9,814
Auburn Way South Roundabout	150,000	-	53,231	96,769
Emergency Housing Voucher Program	2,000,000	77,768	741,082	1,258,918
DEI Dashboard (Inclusive Auburn)	130,000	-	92,805	37,195
Encampment Cleanup	500,000	-	456,403	43,597
Downtown Sidewalk Replacement on Main Street and B Street Plaza Surface Replacement	1,819,409	198,965	827,967	991,442
Community Violence Intervention Programs (Drone, SPIDR Tech)	236,248	-	204,436	31,812
Arts Culture Center Renovations	100,000	-	-	100,000
Auburn Ave Theater Demolition	504,350	16,896	455,168	49,182
Signing Bonuses for Police Lateral Hires	200,000	-	240,881	-
Other Projects (not started)	1,973,037	-	-	1,973,037
Total:	14,751,231	895,016	8,387,114	6,364,118

Non-General Fund Highlights – Capital

Real Estate Excise Tax (REET)

Total 2025 Budget: \$1.8 million

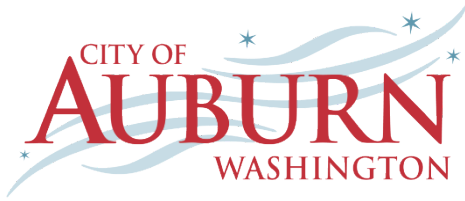
YTD Collections: \$1.6 million

\$727,000 less than 2024 YTD actual

\$814,000 over 2025 YTD budget



Questions



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6987 (Krum) (15 Minutes)

An Ordinance for a site-specific rezone of Parcel No. 0004200001 from R-2, Residential Low to P-1, Public Use

Meeting Date:

September 8, 2025

Department:

Community Development

Attachments:

Ordinance No 6987 Presentation
Slides, Ordinance No. 6987,
Ordinance No. 6987 Exhibit A,
Ordinance No. 6987 - Exhibit B

Budget Impact:**Administrative Recommendation:**

For discussion only.

Background for Motion:**Background Summary:**

The City of Auburn School District No. 408 is requesting to rezone Parcel No. 0004200001 (a vacant parcel) using a "Site-Specific Rezone, Category 1" application process in accordance with ACC 18.68.030(A)(2) to rezone a property to a zoning district that implements the land use map designation applied to the property. The parcel is proposed to be rezoned from R-2, Residential Low zone to P-1, Public Use zone. This rezone action will bring the parcel into alignment with the land use designation and allow for site build out a future school campus. The Hearing Examiner held a Public Hearing on August 20, 2025, and issued a decision on August 27, 2025, recommending approval to the City Council.

Councilmember: Tracy Taylor

Staff: Jason Krum

CITY COUNCIL

**ORDINANCE NO. 6987
AUBURN SCHOOL DISTRICT
SITE-SPECIFIC REZONE**

**PRESENTED BY
STEVE STURZA, ASSISTANT DIRECTOR
COMMUNITY DEVELOPMENT DEPARTMENT
SEPTEMBER 8, 2025**

Department of Community Development
Planning • Building • Development Engineering • Permit Center
Economic Development • Code Enforcement

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

SUBJECT PARCEL

Parcel No.
0004200001



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

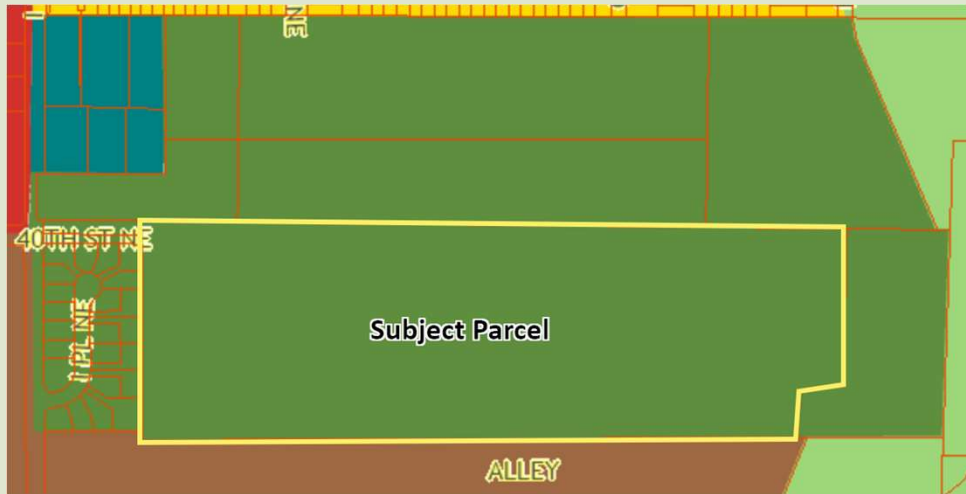
SUBJECT PARCEL

Future ASD School Site

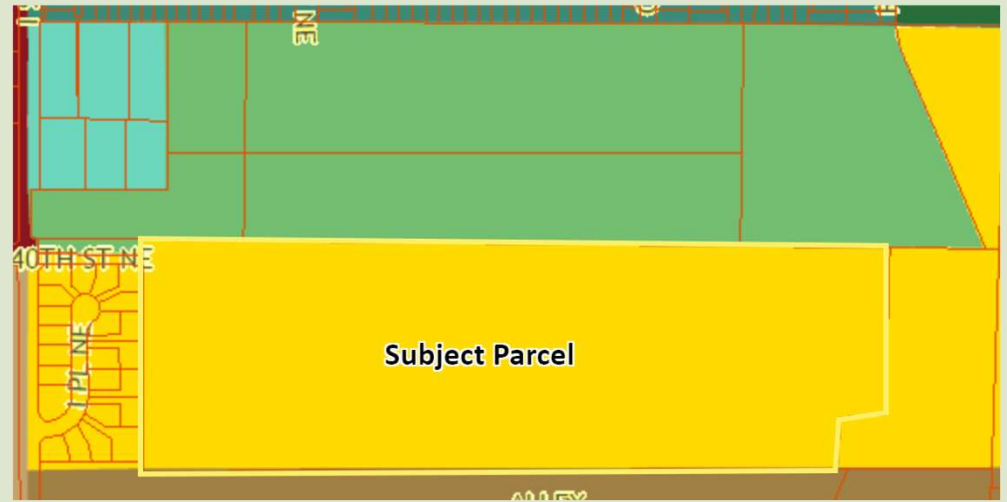


SERVICE • ENVIRONMENT • ECONOMY • CHARACTER • SUSTAINABILITY • WELLNESS • CELEBRATION

PROJECT SUMMARY

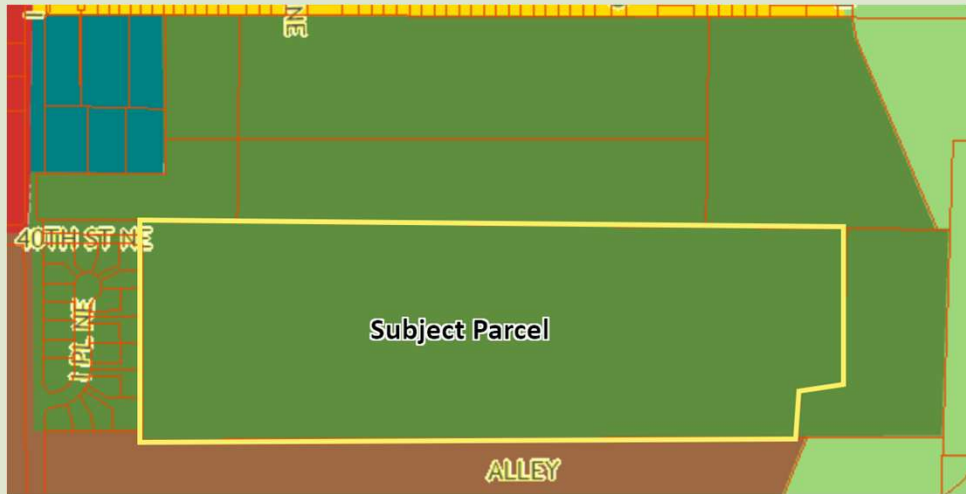


**EXISTING LAND USE
DESIGNATION**

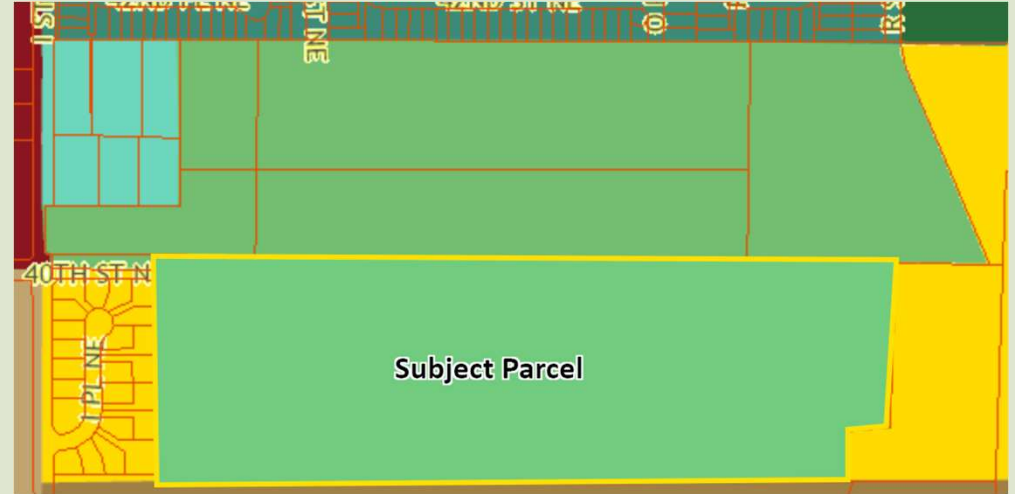


EXISTING ZONING

PROJECT SUMMARY



**EXISTING LAND USE
DESIGNATION**



PROPOSED ZONING

HEARING EXAMINER RECOMMENDATION

Based upon the application, accompanying materials, Findings of Fact, and Conclusions of this Staff Report, Hearing Examiner recommended approval of rezoning of Parcel No. 0004200001 from R-2 Residential Low to P-1, Public Use District to the City Council.

**Thank you for your time.
Any questions?**

Department of Community Development
Planning • Building • Development Engineering • Permit Center
Economic Development • Code Enforcement

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

ORDINANCE NO. 6987

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, FOR A SITE-SPECIFIC REZONE
OF PARCEL NO. 0004200001 FROM R-2, RESIDENTIAL
LOW TO P-1, PUBLIC USE

WHEREAS, Auburn School District No. 408 owns seven (7) contiguous vacant parcels (King County Parcel Nos. 0004200025, 0004200022, 0004200003, 0004200019, 0004200013, 0004200024, and 0004200001) with the intention to develop them into a comprehensive school campus, including a high school, elementary, and middle school; and

WHEREAS, Ordinance No. 6960 relating to the completion of the 2024 Periodic Comprehensive Plan update re-designated the parcels to the Public/Quasi-Public land use category; and

WHEREAS, six of the seven parcels were rezoned to P-1 Public Use zone, however parcel no. 0004200001 (the subject parcel) was inadvertently excluded from the rezoning action and remained zoned as R-2 Residential Low zone which the parcel is specifically proposed to serve as the new middle school; and

WHEREAS, Camie Anderson, of Hockey Planning Group, Applicant's Representative, on behalf of Auburn School District No. 408 submitted a site-specific rezone application on May 27, 2025 for Parcel No. 0004200001 to rezone the parcel from R-2 Residential Low to P-1 Public Use zone; and

WHEREAS, the project is exempt from SEPA review in accordance with WAC 197-11-800(6)(c); and

WHEREAS, after proper notice published in the City's official newspaper at least

ten (10) days prior to the date of public hearing, the City of Auburn Hearing Examiner conducted a public hearing, heard public testimony, and took evidence and exhibits into consideration; and

WHEREAS, on August 27, 2025 the Hearing Examiner recommended approval of the site-specific rezone application and made and entered Findings of Fact and Conclusions of Law based thereon in support of that recommendation, as set forth in the Findings of Fact, Conclusions of Law and Recommendation of the Hearing Examiner attached hereto, marked as Exhibit “A” and incorporated herein by this reference; and

WHEREAS, the City Council concurs with the Findings of Fact and Conclusions of Law of the Hearing Examiner; and

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

Section 1. Adoption of the Hearing Examiner’s Findings of Fact and Conclusions of Law. The City Council adopts the Findings of Fact and Conclusions of Law based thereon, made and entered by the Hearing Examiner in support of the recommendation to the City Council, as set forth in the “Findings of Fact, Conclusions of Law and Recommendation” for the Auburn School District No. 408, City File Number REZ25-0002, dated August 27, 2025 attached hereto, included as Exhibit “A”.

Section 2. Approval. The City Council adopts and approves the request to change the zoning of King County Parcel No. 0004200001 from R-2 Residential Low to P-1 Public Use, shown in Exhibit “B”.

Section 3. Constitutionality or Invalidity. If any section, subsection clause or phase of this Ordinance is for any reason held to be invalid or unconstitutional such

invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance, as it is being hereby expressly declared that this Ordinance and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, adopted and approved and ratified irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid or unconstitutional.

Section 4. Recordation. Upon the passage, approval and publication of this Ordinance as provided by law, the City Clerk of the City of Auburn shall cause this Ordinance to be recorded in the office of the King County Auditor's Division.

Section 5. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 6. **Effective Date.** This Ordinance shall take effect and be in force five (5) days from and after its passage, approval, and publication, as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Shawn Campbell, City Clerk

Jason Whalen, City Attorney

Published: _____

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6 **BEFORE THE HEARING EXAMINER FOR THE CITY OF AUBURN**

7 Phil Olbrechts, Hearing Examiner

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RE: Cascade Middle School Rezone REZ25-0002	FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION.
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12 **INTRODUCTION**

13 The Auburn School District (ASD) has requested a rezone to reclassify approximately
14 35.2 acres from R-2 (Residential Low) to P-1 (Public Use District) located in the
15 southeastern corner of the Lakeland Hills South Planned Unit Development east of I
ST NE with access from 40th ST NE. It is recommended that the City Council
approve the rezone.

16 The rezone area is currently designated Public/Quasi-Public in the City's
17 Comprehensive Land Use Map. The only authorized implementing zones for this
18 Comprehensive Plan designation are Institutional (I) and Public Use (P-1). The
19 current R-2 designation is inconsistent with the Comprehensive Plan designation.
20 The City Council changed the Comprehensive Plan Land Use Map designations of
21 the rezone area and several parcels adjoining to the north in 2024 to facilitate the
22 replacement of the Cascade Middle School and other school campus development.
The proposed rezone area was mistakenly omitted from a similar rezone from R-2 to
P-1 for the parcels to the north. The proposed rezone is necessary for replacement of
the middle school and further development of the school campus.

23 **ORAL TESTIMONY**

24 Dinah Reed, Auburn City Planner, summarized the staff report.

25 Jeff Grose, Executive Director for Auburn School District Capital Projects, spoke in
favor of the project. Mr. Grose noted that the rezone will allow the District to replace
an aging school, develop a larger site with better facilities for instruction, for outdoor
use and for the community. Secondly, a major benefit is that the rezone will enable

1 the District to eventually develop the rest of the 70 acres into a school campus. The
2 campus has a middle school, high school, and elementary school.

3 No one else testified at the hearing.

4 EXHIBITS

5 Exhibits 1-5 listed at page 10 of the July 28, 2025 staff report were admitted into the
6 record during the August 20, 2025 public hearing. A May 27, 2025 compliance
7 narrative written by the Applicant was admitted into the record during the public
8 hearing.

9 FINDINGS OF FACT

10 Procedural:

11 1. Applicant. Jeff Grose, Executive Director-Capital Projects Auburn School
12 District, 915 Fourth ST NE, Auburn, WA 98002

13 2. Hearing. The Hearing Examiner conducted a hearing on the application at
14 5:30 p.m. at Auburn City Hall in the Council Chambers on August 20, 2025.

15 Substantive:

16 3. Site/Proposal Description. The Auburn School District has requested a
17 rezone to reclassify approximately 35.2 acres from R-2 (Residential Low) to P-1
18 (Public Use District) located in the southeastern corner of the Lakeland Hills South
19 Planned Unit Development east of I ST NE with access from 40th ST NE.

20 The subject property is rectangular in shape, approximately 2,277 ft. in width (east to
21 west) and 700 ft. in length (north to south). It is flat with natural vegetation as well as
22 a trail that traverses the property. A portion of the southwest corner contains a
23 wetland encroachment.

24 The subject property is located south of 5 vacant parcels totaling approximately 37.3
25 acres owned by Auburn School District No. 4. The subject site is part of seven
contiguous parcels owned by ASD, approximately 73 acres in total. ASD intends to
develop these parcels into a comprehensive school campus, including an elementary
school, middle school, and high school.

The ASD seven parcels were re-designated to the Public/Quasi-Public land use
category as part of the Periodic Update to the Auburn Comprehensive Plan in 2024.
Concurrently, six of the seven parcels were rezoned to P-1 Public Use Zone.
However, parcel number 000420-0001 (the subject parcel) was inadvertently

excluded from the rezoning action and remain zoned as R-2. The subject parcel is proposed to serve as the new middle school.

4. Characteristics of the Area. As previously noted, the parcels to the north are zoned Public and comprise part of an ASD campus. Directly to the south of the subject parcel is “The River” manufactured home park. To the west is the Velvet Homes Estates subdivision, and to the east is the Green River.

5. Adverse Impacts. No adverse impacts are anticipated from the proposal. The proposal adds to an existing campus and will just result in the replacement of the existing Cascade Middle School in addition to providing additional space for scholastic and community amenities. Traffic and other project specific impacts will be addressed and mitigated during site plan and other development permit review.

CONCLUSIONS OF LAW

Procedural:

1. Authority of Hearing Examiner. ACC 18.68.030(A)(1) grants the Hearing Examiner with the authority to review and make a recommendation on rezone requests to the City Council.

Substantive:

2. Zoning Designation. The property is currently zoned R-2 (Residential Low).

3. Review Criteria. ACC 18.68.040 sets the review criteria for site specific rezones. Applicable criteria are quoted in italics below and applied via corresponding conclusions of law.

ACC 18.68.040: *There is no presumption of validity for a rezone (zoning map amendment) and the applicant has the burden of proof in establishing compliance with all of the following criteria:*

A. The rezone implements the policies of the comprehensive plan; or

4. Criterion met. The criterion is met. As previously noted, the Comprehensive Plan Land Use Map designation for the project site is Public/Quasi-Public. The current R-2 zoning of the subject parcel is inconsistent with the map designation. The only authorized implementing zones for the Public/Quasi-Public designation are Institutional (1) and Public Use (P-1). The proposed P-1 rezone is the most appropriate and compatible zone of the two options because it enables the further development of the adjoining Auburn School District campus.

1 **ACC 18.68.040B.** *The rezone is necessary due to a substantial change in*
2 *circumstances since the current zoning; and*

3 5. Criterion optional. The criterion doesn't need to be met. As noted in ACC
4 18.68.040A and B, only one of A or B needs to be met to validate the rezone. The
5 proposal is clearly necessary to implement the comprehensive plan because current
6 zoning is not consistent with the Comprehensive Plan Land Use Map. The proposal
7 is necessitated by changes in circumstances in any event. The Cascade Middle
School needs to be replaced since the subject parcel was last zoned. The Auburn
School District also has plans to further develop the subject parcel as part of its larger
school campus.

8 **ACC 18.68.040C.** *The rezone bears a substantial relationship to the public health,*
9 *safety, or welfare.*

10 6. Criterion Met. The criterion is met. The proposal will replace an aging middle
11 school and scholastic and community amenities without any significant adverse
12 impacts. In this regard the proposal bears a substantial relationship to the public
health and welfare.

13 **RECOMMENDATION**

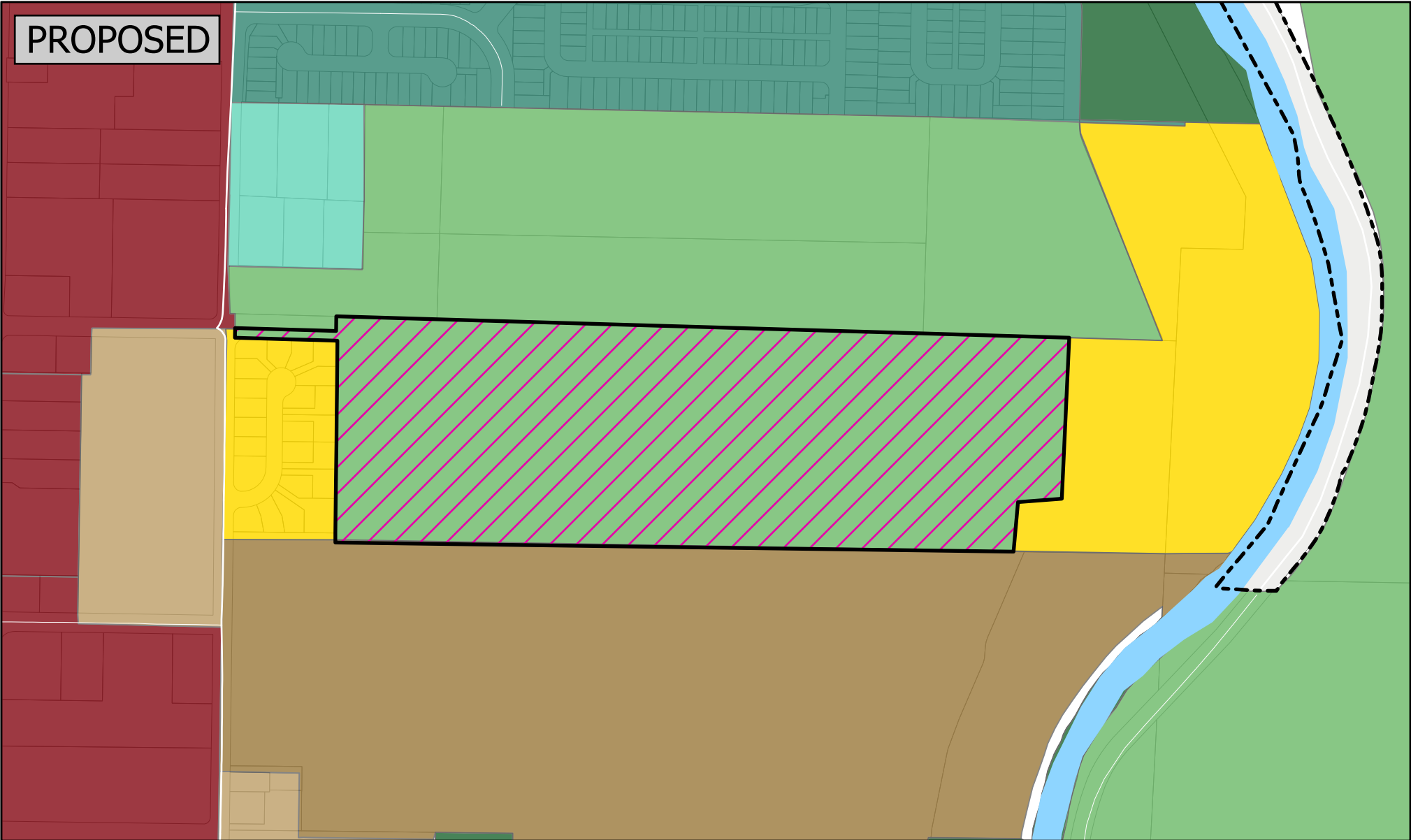
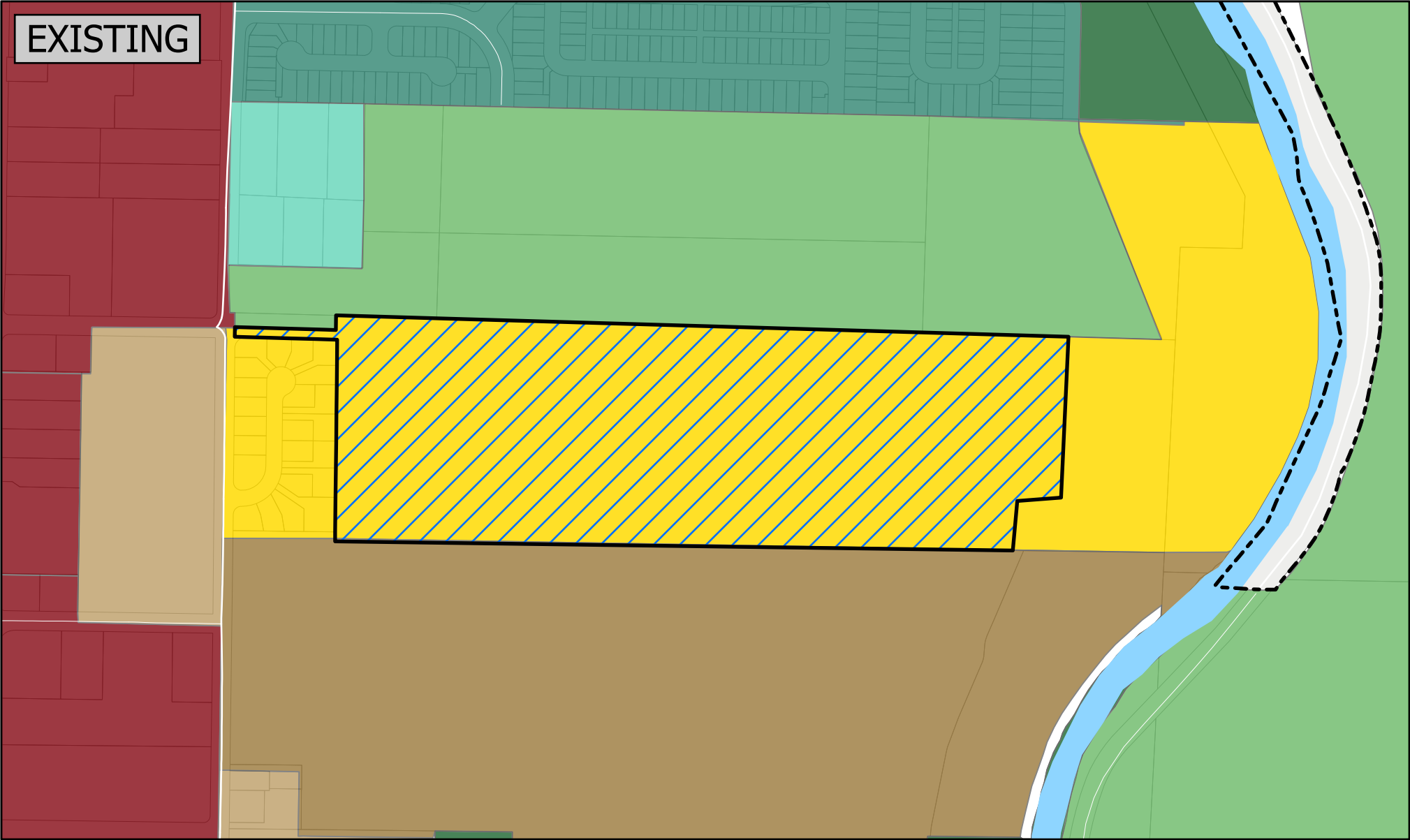
14 It is recommended that the City Council approve the requested REZ25-0002 rezone
15 from R-2 to P-1.

16 Dated this 27th day of August, 2025.

17 *Phil Olbrechts*

18 _____
19 Phil Olbrechts,
20 City of Auburn Hearing Examiner
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Ordinance No. 6987 Zoning Map Amendment



Open Space

R-2 Residential Low

P-1 Public Use District

R-4 Residential High

Planned Unit Development District

C-2 Heavy Commercial

R-NM Neighborhood Mixed Use

Residential Manufactured/
Mobile Home Community

Existing Zoning

Proposed Zoning

Auburn City Limits

00.050.10.150.2

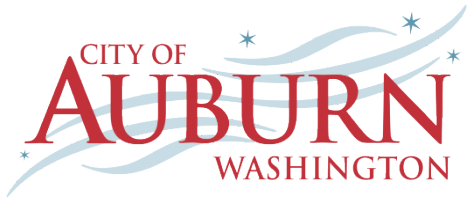
Miles

Printed On: 8/26/2025

Map ID: 6350

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.

Page 60 of 98



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6988 (Krum) (15 Minutes)
An Ordinance for a major amendment to the Lakeland Hills South PUD
boundary to extract fourteen (14) parcels

Meeting Date:

September 8, 2025

Department:

Community Development

Attachments:

Ordinance 6988 Presentation
Slides, Ordinance No. 6988,
Ordinance No. 6988 - Exhibit A,
Ordinance No. 6988 - Exhibit B

Budget Impact:**Administrative Recommendation:**

For discussion only.

Background for Motion:**Background Summary:**

The City of Auburn School District No. 408 is requesting to amend the Lakeland Hills South Planned Unit Development (PUD) boundary by extracting 14 parcels through a Major PUD Amendment (PLT25-0005). The application process is in accordance with ACC 18.76.120. The Lakeland Hills South PUD was originally established in the 1990s and the proposed area to be extracted (approximately 43.6 acres) was created to provide enhanced flexibility and alternative residential development standards for a mix of residential densities. The subject site is no longer intended for residential development but proposed instead for a new school campus. The Hearing Examiner held a Public Hearing on August 20, 2025, and issued a decision on August 28, 2025, recommending approval to the City Council.

Councilmember: Tracy Taylor

Staff: Jason Krum

CITY COUNCIL

ORD. NO. 6988

**AUBURN SCHOOL DISTRICT
PUD MAJOR AMENDMENT**

PRESENTED BY

**STEVE STURZA, ASSISTANT DIRECTOR
COMMUNITY DEVELOPMENT DEPARTMENT
SEPTEMBER 8, 2025**

Department of Community Development
Planning • Building • Development Engineering • Permit Center
Economic Development • Code Enforcement

**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

SUBJECT PARCELS

Parcel Nos.

0520053001
0520053006
0520053014
0520053015
0520053016
0520053034
0520053035
0520053036
0520053040
0520053041
0520053046
0520053055
0520053060
0520054081



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

SUBJECT PARCELS

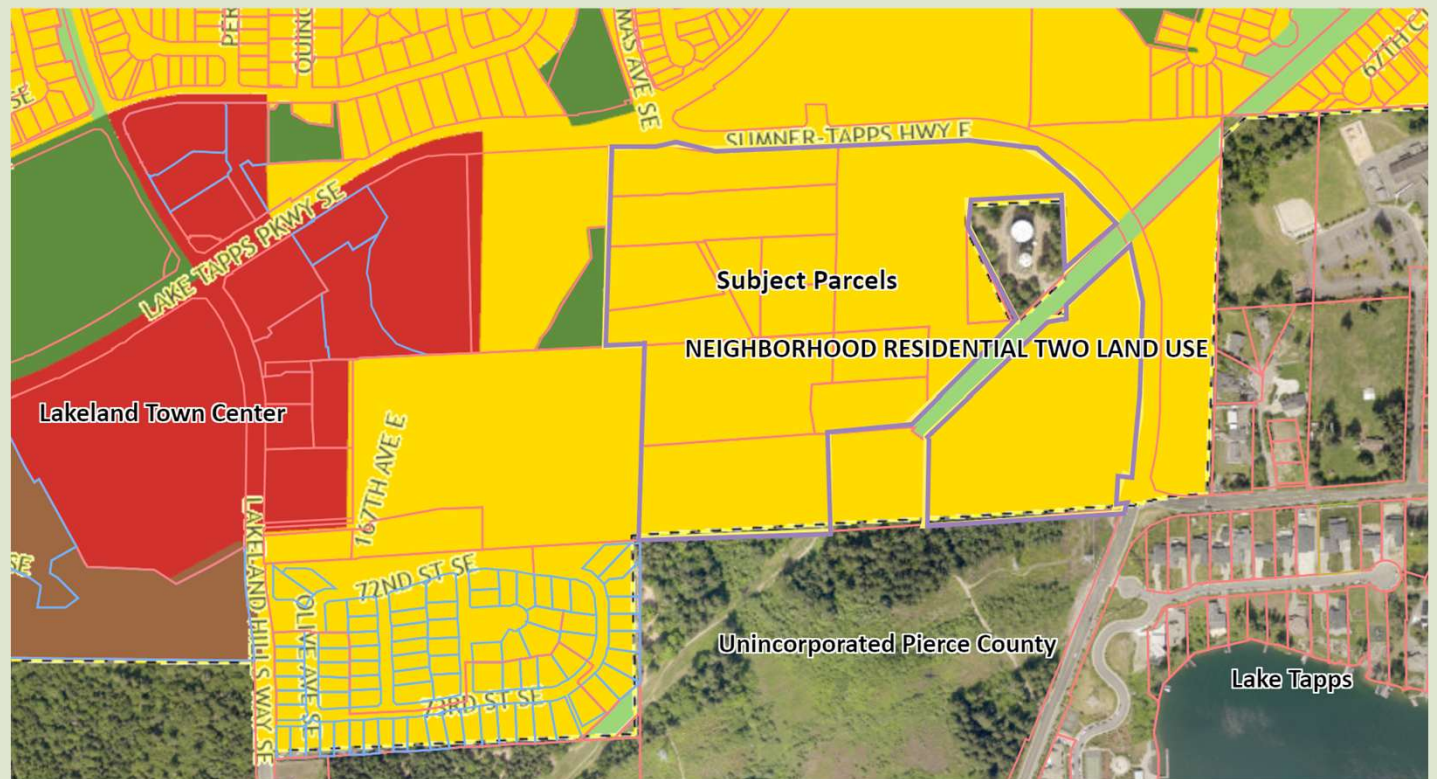
Parcels to be
extracted



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

EXCERPT LAND USE MAP

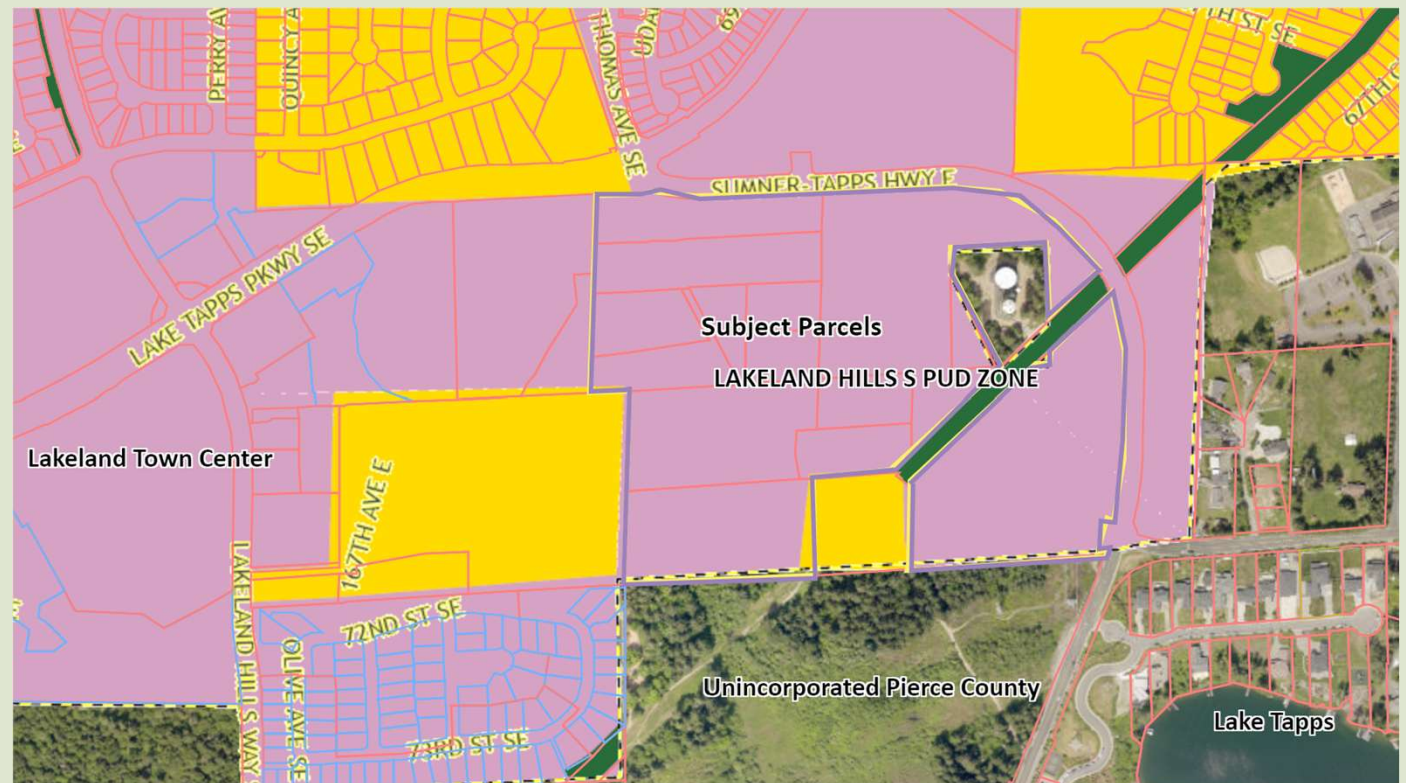
Existing Land Use



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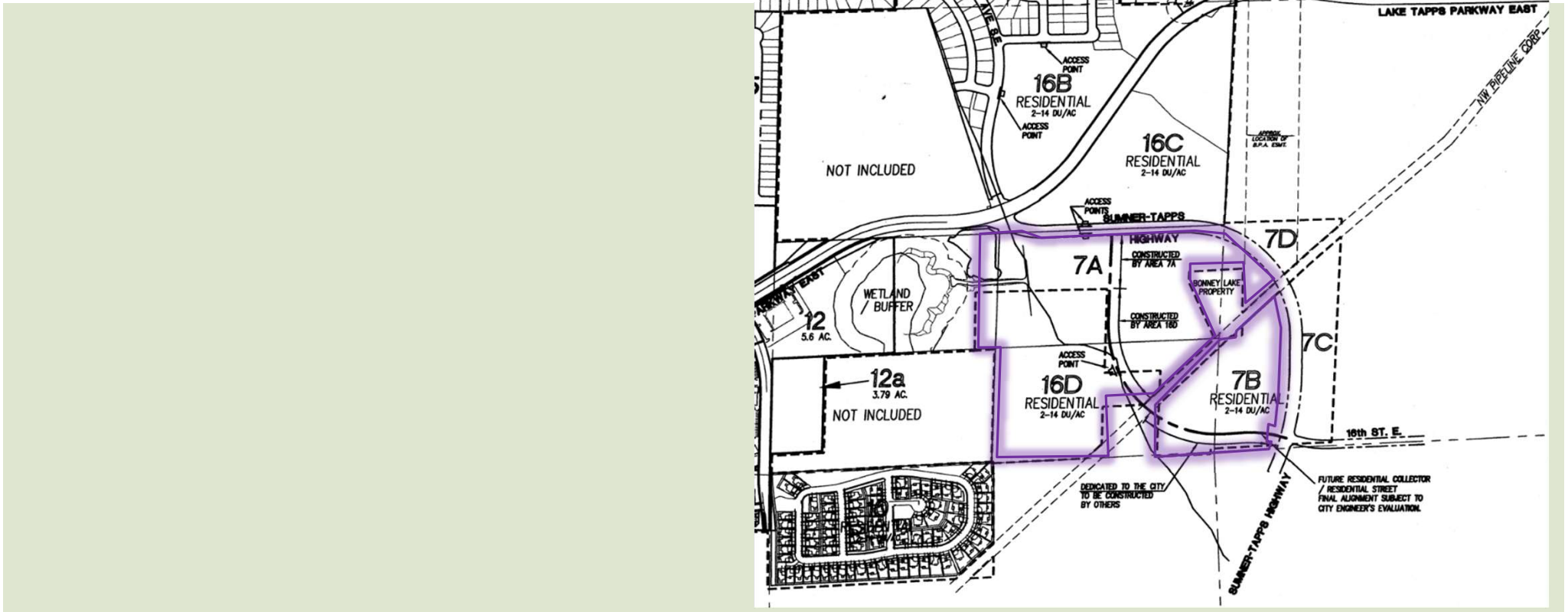
EXCERPT ZONING MAP

Existing Zoning



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

EXCERPT FINAL DEVELOPMENT PLAN



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

HEARING EXAMINER RECOMMENDATION

Based upon the application, accompanying materials, Findings of Fact, and Conclusions of this Staff Report, Hearing Examiner recommends approval to amend the boundary of the existing Lakeland Hills PUD to extract 14 of the District's parcels out of the Lakeland Hills South PUD

Pierce County Parcel Nos. to be removed from PUD			
0520053001	0520053006	0520053014	0520053015
0520053016	0520053034	0520053035	0520053036
0520053040	0520053041	0520053046	0520053055
0520053060	0520054081		

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

Thank you for your time
Any questions?

Department of Community Development
Planning • Building • Development Engineering • Permit Center
Economic Development • Code Enforcement

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

ORDINANCE NO. 6988

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, FOR A MAJOR AMENDMENT
TO THE LAKELAND HILLS SOUTH PUD BOUNDARY TO
EXTRACT FOURTEEN (14) PARCELS

WHEREAS, Auburn School District No. 408 owns fifteen (15) contiguous vacant parcels (Pierce County Parcel Nos. 0520053001, 0520053006, 0520053013, 0520053014, 0520053015, 0520053016, 0520053034, 0520053035, 0520053036, 0520053040, 0520053041, 0520053046, 0520053055, 0520053060, and 0520054081); and

WHEREAS, the area was created to provide enhanced flexibility and alternative residential development; however, the site is no longer intended for residential development but instead for a new middle school; and

WHEREAS, one of the fifteen parcels (Pierce County Parcel No. 0520053013) is outside of the PUD and is zoned R-2 Residential Low; and

WHEREAS, fourteen of the said parcels are to be extracted from the Lakeland Hills South PUD Boundary through a Major PUD Amendment; and

WHEREAS, the Auburn School District's compilation of parcels is bisected by a pipeline/powerline right-of-way owned by Northwest Pipeline Corporation and a parcel containing a water tower owned by the City of Bonney Lake which are not part of the PUD; and

WHEREAS, Camie Anderson, of Shockey Planning Group, Applicant's Representative, on behalf of Auburn School District No. 408 submitted a major amendment to the Lakeland Hills South PUD boundary in conjunction with a Comprehensive Plan Land Use Map Amendment to be processed under a separate

procedure, on June 3, 2025; and

WHEREAS, a SEPA checklist was submitted with the major amendment under City File No. SEP25-0010 and a Determination of Non-significance in accordance with WAC 197-11-800(6)(c), and a Notice of Application and Notice of Public Hearing was issued on July 18, 2025 consistent with the noticing requirements of ACC 14.07.040; and

WHEREAS, after proper notice published in the City's official newspaper at least ten (10) days prior to the date of public hearing, the City of Auburn Hearing Examiner conducted a public hearing, heard public testimony, and took evidence and exhibits into consideration; and

WHEREAS, on August 28, 2025 the Hearing Examiner recommended approval of the major amendment to the PUD and made and entered Findings of Fact and Conclusions of Law based thereon in support of that recommendation, as set forth in the Findings of Fact, Conclusions of Law and Recommendation of the Hearing Examiner attached hereto, marked as Exhibit "A" and incorporated herein by this reference; and

WHEREAS, the City Council concurs with the Findings of Fact and Conclusions of Law of the Hearing Examiner; and

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

Section 1. Adoption of the Hearing Examiner's Findings of Fact and Conclusions of Law. The City Council adopts the Findings of Fact and Conclusions of Law based thereon, made and entered by the Hearing Examiner in support of the recommendation to the City Council, as set forth in the "Findings of Fact, Conclusions of Law and Recommendation for the Auburn School District No. 408, City File Number

PLT25-0005, dated August 28, 2025, attached hereto, marked as Exhibit “A”.

Section 2. Approval. The City Council adopts and approves the request to remove Pierce County Parcel Nos. 0520053001, 0520053006, 0520053014, 0520053015, 0520053016, 0520053034, 0520053035, 0520053036, 0520053040, 0520053041, 0520053046, 0520053055, 0520053060, and 0520054081 from the Lakeland Hills South PUD boundary shown in Exhibit “B”.

Section 3. Constitutionality or Invalidity. If any section, subsection clause or phase of this Ordinance is for any reason held to be invalid or unconstitutional such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance, as it is being hereby expressly declared that this Ordinance and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, adopted and approved and ratified irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid or unconstitutional.

Section 4. Recordation. Upon the passage, approval and publication of this Ordinance as provided by law, the City Clerk of the City of Auburn shall cause this Ordinance to be recorded in the office of the King County Auditor’s Division.

Section 5. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 6. **Effective Date.** This ordinance shall take effect and be in force five (5) days from and after its passage, approval, and publication, as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Shawn Campbell, City Clerk

Jason Whalen, City Attorney

Published: _____

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8 **BEFORE THE HEARING EXAMINER FOR THE CITY OF AUBURN**

9 Phil Olbrechts, Hearing Examiner

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RE: Auburn School District Major PUD Amendment File No. PLT25-0005	FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION
--	--

15 **SUMMARY**

16 The Auburn School District requests approval of a major amendment to the Lakeland Hills South
17 Planned Unit Development (PUD) to extract approximately 43.6 acres from the PUD to change their
18 use from mixed residential use to P-1 for construction of a new middle school. It is recommended that
the City Council approve the requested amendment.

19 **EXHIBITS**

20 Exhibits 1-7 identified at page 9 of the August 5, 2025 staff report were admitted into the record during
21 the August 20, 2025 public hearing. The following exhibits were also admitted during the hearing:

- 22 Exhibit 8: Staff PowerPoint presentation.
23 Exhibit 9: June 3, 2025 Applicant compliance narrative.
24 Exhibit 10: August 4, 2025 Staff and Applicant response to public comments.

25 **ORAL TESTIMONY**

26 Dinah Reed, Auburn City Planner, summarized the staff report.

1 Jeff Grose, Executive Director for Auburn School District Capital Projects, spoke in favor of the project. Mr. Grose
2 noted that the proposed amendment will allow the construction of a new middle school instead of just replacing one
3 as done for the REZ25-0002 rezone. Currently there are 1,000 middle school students in portable class rooms. The
4 new school will accommodate 800 of those students.

5 No one else testified at the hearing.

6 FINDINGS OF FACT

7 Procedural:

8 1. Applicant. Jeff Grose, Executive Director-Capital Projects Auburn School District, 915 Fourth
9 ST NE, Auburn, WA 98002.

10 2. Hearing. The Hearing Examiner conducted a hearing on the application at 5:30 p.m. at Auburn
11 City Hall in the Council Chambers on August 20, 2025.

12 Substantive:

13 3. Site/Proposal Description. The Auburn School District requests approval of a major amendment
14 to the Lakeland Hills South Planned Unit Development (PUD) to extract approximately 43.6 acres from
15 the PUD to change their use from mixed residential use to P-1 zoned use for construction of a new
middle school.

16 The amendment area is located in the Lakeland Hills South Planned Unit Development (PUD) south of
17 the intersection of Lake Tapps Parkway SE and Sumner Tapps Highway East. The Lakeland Hills South
18 PUD was originally established in the 1990's. The area subject to the amendment was created to provide
enhanced flexibility and alternative residential development standards for a mix of residential densities.
The PUD amendment extracts 14 contiguous parcels owned by ASD within the PUD.

19 The Auburn School District's compilation of parcels is partially bisected by Pierce County parcel
20 0520053025, which is a pipeline/powerline right-of-way owned by Northwest Pipeline Corporation, and
21 parcel no. 0520053072, containing a water tower owned by the City of Bonney Lake. These two parcels
are not a part of the application.

22 4. Surrounding Uses. Surrounding uses are composed of vacant and residentially developed
23 property with environmentally sensitive areas to the west and Lake Tapps to the southeast.

24 5. Adverse Impacts. No adverse impacts are anticipated as a result of the amendment. Specific
25 impacts are addressed as follows:

26 A. Infrastructure/Public Services. The proposal will be served by adequate and appropriate
infrastructure and public services.

1
2 Future development of the site will require a separate SEPA environmental review, civil
3 permit, as well as building permit. Under these permit applications, the future middle
4 school will provide code-compliant street frontage improvements, public facilities, and
5 utility extensions.

6
7 The Applicant notes that primary vehicular access will be from Sumner Tapps Highway
8 East, aligned with the entrance to Four Lakes Apartment Homes, via a new single-land
9 roundabout. In addition, a gated, access-controlled bus entrance and exit will be located
10 on 16th Street East, forming the new fourth leg of the existing signalized intersection.
11 Pedestrian and non-motorized access will be enhanced with a new 10-foot wide sidewalk
12 and upgraded lighting along the site's entire street frontage. Open space proposed on-site
13 includes permitter landscaping, a track and field facility, soccer/football/lacrosse fields,
14 baseball and softball fields, and a protected, undisturbed wetland area (Wetland A along
15 the western boundary).

16
17 The City of Bonney Lake has commented that ASD is in the process of obtaining a
18 certificate of water availability, instantaneous fire flow, and water modeling from the City
19 of Bonney Lake. Ex. 10. Bonney Lake will advise ASD of water service connection
20 requirements as part of this review process.

21
22 Jorden Schenk, a representative of the Four Lakes Apartments, located to the north of the
23 project, provided written comment. Mr. Schenk expressed concern about impaired access
24 to the apartments during construction of the middle school. He was assured by ASD in
25 Ex. 10 that access would be maintained. He was also assured that a City-approved traffic
26 control pan would govern any access modifications during construction. Finally, ASD
stated that the lighting of the sports fields would produce minimal light spill beyond ASD
property lines at 0 to 0.1 footcandles. Light impacts will be addressed by the City during
development permit review.

- 27
28 B. Compatibility. The proposed amendment is compatible with surrounding uses. The area
29 proposed to be removed from the Lakeland Hills South PUD is a relatively small area,
30 approximately 44 acres compared to the 725 acres that will still comprise the boundaries
31 of PUD. As noted in the ASD narrative, Ex. 9, the project area will retain its critical area
32 tract that protects on-site wetlands. That tract serves as an aesthetic buffer to adjoining
33 uses. As shown in the aerial photograph of the staff report, existing residential uses are
34 separated from the project site by major roads or heavily forested areas. There is sufficient
35 space to buffer residential development of adjoining residential development if that is
36 found necessary.

CONCLUSIONS OF LAW

1. Authority. Per ACC 14.03.030, a preliminary plat is a Type III Decision which are quasi-judicial final decisions made by the Hearing Examiner.

2. Zoning. The subject property is zoned Lakeland Hills South PUD.

3. Review Criteria/Deviations Approved. ACC 18.79.140 governs the review criteria for major PUD amendments. Applicable criteria are quoted below in italics and applied through corresponding conclusions of law.

ACC 18.76.140: *Applications for a major amendment to a PUD shall only be approved if sufficient findings of facts are drawn to support the following:*

A. Adequate provisions are made for the public health, safety and general welfare and for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, or sites for schools.

4. The criterion is met for the reasons identified in Finding of Fact 5A.

ACC 18.76.140B: *The proposed major amendment to the PUD is in accordance with the goals, policies and objectives of the comprehensive plan.*

5. The criterion is met. The staff report notes that ASD has requested a comprehensive plan amendment to change the comprehensive plan land use map designation of the project site from Residential 2 to Public/Quasi-Public. The Applicant will also be seeking a rezone of the project site from R-2 to P-1 Public Use. If approved, these comprehensive plan and zoning designations will provide consistency between the planned new middle school and City goals and policies. Construction of the middle school as facilitated by the PUD amendment is also consistent with the goals and policies of the City's capital facilities element, which seeks to assure adequate and appropriate capital facilities such as schools.

ACC 18.76.140C: *The major amendment is consistent with the purpose of this chapter, ACC 18.76.010, provides for the public benefits required of the development of PUDs and does not result in only increasing the number of units that would otherwise be attained through a development using the existing zoning and subdivisions standards.*

6. The criterion appears to be met.

Unfortunately the criterion is not the model of clarity. For that reason the staff and Applicant have not applied it in the way intended. The staff report and Applicant analysis focus upon the fact that the amendment doesn't add any dwelling units. That fact is not pertinent to the criterion. The criterion should be construed as prohibiting PUD amenities that were used to justify an increase in dwelling units beyond those authorized for a preliminary plat.

1 The criterion requires that the amendment be consistent with the purpose of PUDs. In simplest terms,
2 PUDs authorize increases in authorized densities and the waiver of other development standards in
3 exchange for superior design features. ACC 18.76.010 reflects this trade off by providing that in
4 exchange for the waiver and modification of development standards,
5 “the city will require the PUD to result in a significantly higher quality development, generate more
6 public benefit and be a more sensitive proposal than would have been the case with the use of standard
7 zoning or subdivision procedures” (as quoted from the ACC 18.76.140C criterion above).

8 Given the purpose of PUDs, it’s clear that the criterion above seeks to prevent the removal of PUD
9 amenities used to justify an increase in authorized dwelling units, i.e. resulting in a PUD that “is only
10 increasing the number of units that would otherwise be attained through a development using the
11 existing zoning and subdivisions standards.” A simple example illustrates this point. If the Lakeland
12 Hills PUD were authorized to have an extra 20 dwelling units solely because it offered an extra 10 acres
13 of open space, then an amendment that removed that 10 acres would result in a PUD that “is only
14 increasing the number of units that would otherwise be attained through a development using the
15 existing zoning and subdivisions standards.”

16 The record doesn’t provide much information on what, if any, PUD benefits may be lost by the
17 amendment. As far as can be ascertained from the maps included in the staff report, there are no PUD
18 amenities lost by the amendment. Staff should clarify this issue for the Council¹.

19 **ACC 18.76.140D:** *The proposed major amendment to the PUD conforms to the general purposes of
20 other applicable policies or plans which have been adopted by the city council.*

21 7. The criterion is met. The reference to “other” policies or plans in the criterion above is construed
22 as referencing plans other than the comprehensive plan. The comprehensive plan is already addressed
23 in prior amendment criteria quoted above. City staff have not identified any policies other than the
24 comprehensive plan that address the proposed PUD amendment. The only other applicable plan that is
25 likely implicated by the amendment is the ASD capital facilities plan. The ASD capital facilities plan
26 appears to be adopted into Page CFE-1 of the City’s comprehensive plan. The PUD amendment is
presumably consistent with this plan.

19 **ACC 18.76.140E:** *The approval of the major amendment will have no more of an adverse impact upon
20 the surrounding area than the approved Lakeland Hills South PUD as shown on the official Lakeland
21 plan map.*

22 8. The criterion is met. The proposal is likely to have nominal impact on surrounding uses.

25 ¹ Generally new evidence cannot be considered after the close of a public hearing. However, the Council can take “judicial
26 notice” of prior City Council and hearing examiner decisions. Staff should be able to identify whether any PUD amenities
are lost by the proposed amendment by referencing the decision that approved the Lakeland Hills PUD.

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3 **RECOMMENDATION**

4 It is recommended that the City Council approve the PLT25-0005 PUD amendment.

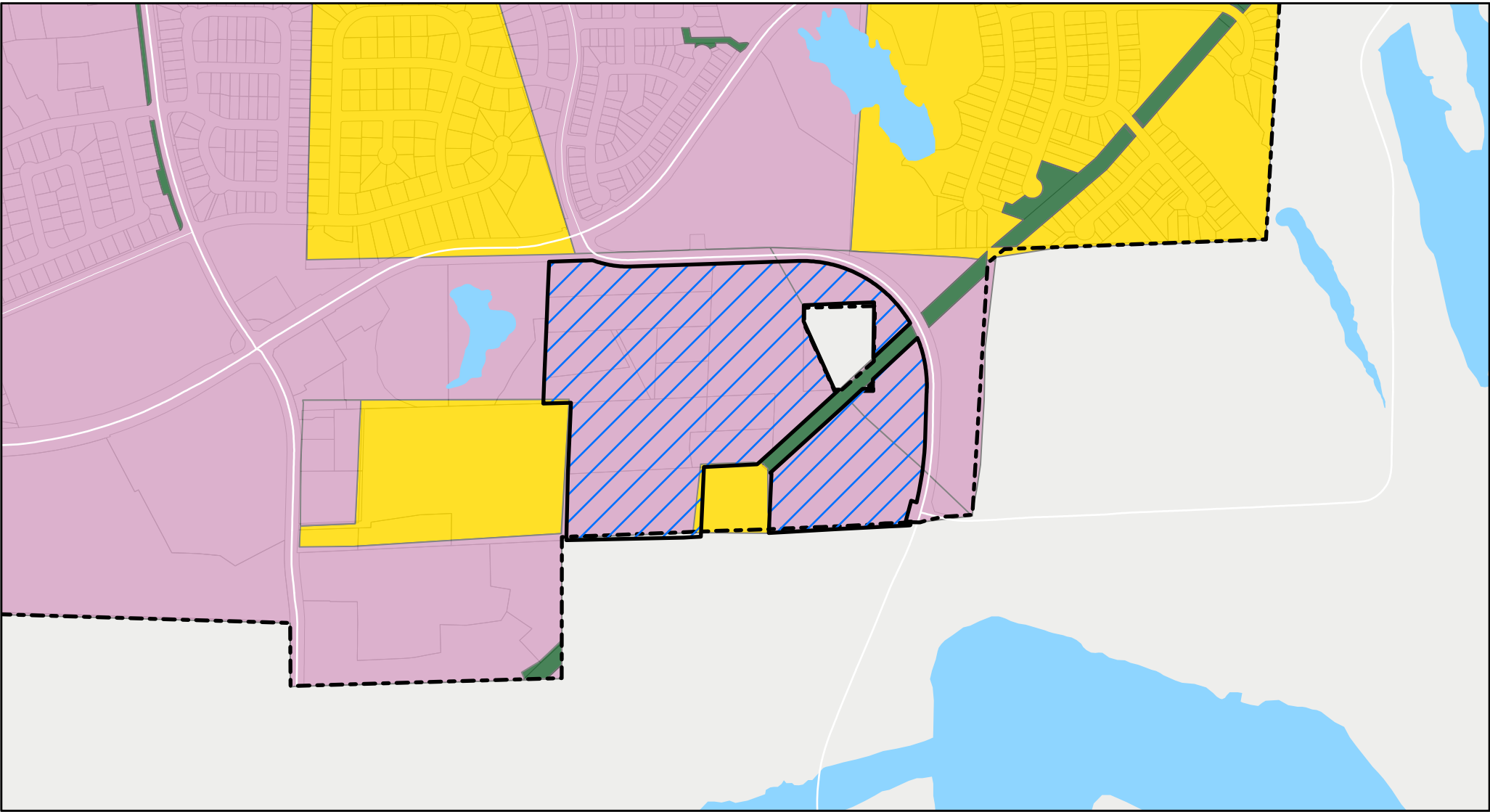
5 Dated this 28th day of August 2025.
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7 *Phil Olbrechts*

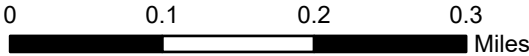
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Phil Olbrechts,
9 City of Auburn Hearing Examiner
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Ord. No. 6988 Exhibit B Map Amendment

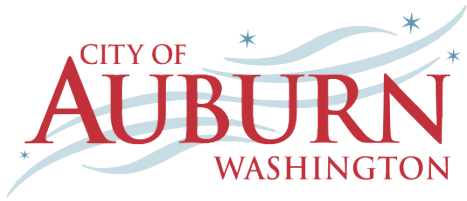


- Open Space
- R-2 Residential Low
- Lakeland Hills South PUD
- Subject Parcels
- Parcels to be extracted
- Auburn City Limits



Printed On: 8/26/2025
Map ID: 6347

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.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6994 (Gaub) (10 Minutes)
An Ordinance granting Ezee Fiber Texas, LLC a franchise for wireline telecommunications

Meeting Date:

September 8, 2025

Department:

Public Works

Attachments:

Draft Ordinance No. 6994

Budget Impact:**Administrative Recommendation:**

For discussion only.

Background for Motion:**Background Summary:**

Section 20.02.040 of the Auburn City Code requires a franchise for any utility or telecommunications carrier or operator to use public ways of the City and to provide services to persons or areas inside or outside of the City.

Ezee Fiber Texas, LLC has applied for a franchise agreement to install fiber optic cable and electronic infrastructure in the public ways within the City limits. Ezee Fiber intends to provide business and residential data and telecommunications services to customers located inside the City limits. The proposed agreement is consistent with the City's standard franchise agreement language.

A Public Hearing to consider this application and take public comment is scheduled before the City Council on September 15, 2025, in accordance with Auburn City Code 20.04.040.

Councilmember: Tracy Taylor

Staff: Ingrid Gaub

ORDINANCE NO. 6994

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, GRANTING TO EZEE FIBER TEXAS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, A FRANCHISE FOR WIRELINE TELECOMMUNICATIONS

WHEREAS, Ezee Fiber Texas, LLC ("Franchisee") has applied for a non-exclusive Franchise for the right of entry, use, and occupation of certain public ways within the City of Auburn ("City"), expressly to install, construct, erect, operate, maintain, repair, relocate and remove its facilities in, on, over, under, along and/or across those public ways; and

WHEREAS, following proper notice, the City Council held a public hearing on Franchisee's request for a Franchise; and

WHEREAS, based on the information presented at such public hearing, and from facts and circumstances developed or discovered through independent study and investigation, the City Council now deems it appropriate and in the best interest of the City to grant the Franchise to Franchisee.

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

Section 1. Definitions

For the purpose of this Franchise and the interpretation and enforcement thereof, definitions of words and phrases shall be in accordance with the definitions set forth in this Franchise and in Auburn City Code 20.02.020. If there is a conflict between any of the definitions set forth in this Franchise and the definitions set forth in Auburn City Code 20.02.020, the definitions in this Franchise shall govern to the extent of such conflict.

- A. "ACC" means the Auburn City Code.
- B. "Franchise" means this agreement approved by Ordinance No. 6994 of the City which authorizes Franchisee Facilities to provide Franchisee Services in the Franchise Area.
- C. "Franchisee's Facilities" means fiber optic and broad band communications services constructed and operated within the public ways including all cables, wires, conduits, ducts, pedestals, and any associated

converter equipment or other items necessary for Telecommunications Services as defined in RCW 35.99.010(7), that are located in the Franchise Area.

Franchisee's Facilities do not include facilities used to provide wireless services, including antennas or other equipment, appliances, attachments and appurtenances associated with wireless telecommunications facilities. Franchisee's facilities do not include small wireless facilities, microcell, minor facility, or small cell facilities, as defined in RCW 80.36.375. Franchisee's facilities do not include any facilities that are not located within the Franchise Area or that are covered under a separate franchise agreement or agreement.

D. "Franchisee's Services" means any telecommunications service, telecommunications capacity, or dark fiber, provided by the Franchisee using its Facilities, including, but not limited to, the transmission of voice, data or other electronic information, or other subsequently developed technology that carries a signal over fiber optic cable. Franchisee's Services will also include non-switched, dedicated and private line, high capacity fiber optic transmission services to firms, businesses or institutions within the City and other lawful services not prohibited by this Ordinance. However, Franchisee's Services will not include the provision of "cable services", as defined by 47 U.S.C. §522, as amended, for which a separate franchise would be required.

Section 2. Grant of Right to Use Franchise Area

A. Subject to the terms and conditions stated in this Franchise, the City grants to the Franchisee general permission to enter, use, and occupy the Franchise Area, located within the incorporated area of the City. Franchisee may locate the Franchisee's Facilities within the Franchise Area subject to all applicable laws, regulations, and permit conditions.

B. The Franchisee is authorized to install, remove, construct, erect, operate, maintain, relocate, upgrade, replace, restore, and repair Franchisee's Facilities to provide Franchisee's Services in the Franchise Area.

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

D. This Franchise is non-exclusive and does not prohibit the City from entering into other agreements, including franchise agreements, impacting the Franchise Area, for any purpose that does not interfere with Franchisee's rights under this Franchise.

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

F. The City reserves the right to change, regrade, relocate, abandon, or vacate any public way within the Franchise Area. If, at any time during the term of this Franchise, the City vacates any portion of the Franchise Area containing Franchisee Facilities, the City may reserve an easement for public utilities within that vacated portion, pursuant to Chapter 35.79.030 RCW, within which the Franchisee may continue to operate any existing Franchisee Facilities under the terms of this Franchise for the remaining period set forth under Section 4.

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

H. The Franchisee agrees to provide the City with complete contact information for any client, lessee, sub-lessee, customer, or other entity that Franchisee allows to utilize, control, access, or otherwise provides services to, who will also use the Franchisee Facilities to provide services to their clients and customers either inside or outside the City limits. Such contact information shall be provided to the City a minimum of sixty (60) days prior to the start of such anticipated use so that the City may determine if Franchisee's client, lessee, sub-lessee, customer, or other entity is required to obtain a franchise agreement with the City prior to such use. If the client, lessee, sub-lessee, customer, or other entity is required to obtain a franchise agreement with the City, then the Franchisee shall not allow use, control, access, or otherwise provide services to such entity until the required franchise agreement has been obtained.

Section 3. Notice

A. Written notices to the parties shall be sent by a nationally recognized overnight courier or by certified mail to the following addresses, unless a different address is designated in writing and delivered to the other party. Any such notice shall become effective upon receipt by certified mail, confirmed delivery by overnight courier, or the date stamped received by the City. Any communication made by e-mail or similar method will not constitute notice pursuant to this Franchise, except in case of emergency notification.

City: Right-of-Way Specialist
Public Works Department - Transportation
City of Auburn
25 West Main Street
Auburn, WA 98001-4998
Telephone: (253) 931-3010

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

Franchisee: Ezee Fiber Texas, LLC
Attn: Garner Duncan
5959 Corporate Dr. Ste. 2000
Houston, TX 77036
Telephone: 713-255-7500
Email Address: garner.duncan@ezeefiber.com

with a copy to: Ezee Fiber Texas, LLC
Attn: Legal Department
5959 Corporate Dr. Ste. 2000
Houston, TX 77036
Telephone: 713-255-7500
Email Address: legal@ezeefiber.com

B. Any changes to the above-stated Franchisee information shall be sent to the City's Right-of-Way Specialist, Public Works Department – Transportation Division, with copies to the City Clerk, referencing the title of this Franchise.

C. The above-stated Franchisee voice telephone numbers shall be staffed at least during normal business hours, Pacific time zone. The City may contact Franchisee at the following number for emergency or other needs outside of normal business hours of the Franchisee: 713-255-7500

Section 4. Term of Franchise

A. This Franchise shall run for a period of fifteen (15) years, from the date of Franchise Acceptance as described in Section 5 of this Franchise.

B. Automatic Extension. If the Franchisee fails to formally apply for a new franchise agreement prior to the expiration of this Franchise's term or any extension thereof, this Franchise automatically continues month to month until a

new franchise agreement is applied for and approved under the then current process or until either party gives written notice at least one hundred and eighty (180) days in advance of intent to cancel this Franchise.

Section 5. Acceptance of Franchise

A. This Franchise will not become effective until Franchisee files with the City Clerk (1) the Statement of Acceptance (Exhibit "A"), (2) all verifications of insurance coverage specified under Section 16, (3) the financial security specified in Section 17, and (4) payment of any outstanding application fees required in the City Fee Schedule. These four items will collectively be the "Franchise Acceptance". The date that such Franchise Acceptance is filed with the City Clerk will be the effective date of this Franchise.

B. If the Franchisee fails to file the Franchise Acceptance with the City Clerk within thirty (30) days after the effective date of the ordinance approving the Franchise as described in Section 28 of this Franchise, the City's grant of the Franchise will be null and void.

Section 6. Construction and Maintenance

A. The Franchisee shall apply for, obtain, and comply with the terms of all permits required under applicable law for any work done within the City. Franchisee will comply with all applicable City, State, and Federal codes, rules, regulations, and orders in undertaking such work.

B. Franchisee agrees to coordinate its activities with the City and all other utilities located within the public way within which Franchisee is undertaking its activity.

C. The City expressly reserves the right to prescribe how and where Franchisee's Facilities will be installed within the public way and may require the removal, relocation and/or replacement thereof in the public interest and safety at the expense of the Franchisee as provided for in Chapter 35.99 RCW.

D. Before beginning any work within the public way, the Franchisee will comply with the One Number Locator provisions of Chapter 19.122 RCW to identify existing utility infrastructure.

E. Tree Trimming. Upon prior written approval of the City the Franchisee shall have the authority to trim trees upon and overhanging streets, public ways and places in the Franchise Area so as to prevent the branches of such trees from coming in physical contact with the Franchisee's Facilities. Franchisee shall be responsible for debris removal from such activities. If such

debris is not removed within 24 hours, the City may, at its sole discretion, remove such debris and charge the Franchisee for the cost thereof. This section does not, in any instance, grant automatic authority to clear vegetation for purposes of providing a clear path for radio signals. Any such general vegetation clearing will require other permits as necessary from the City.

Section 7. Trench Repair for Street Restorations

A. At any time during the term of this Franchise, if a Franchisee Facility or trench within the Franchise Area causes a street to crack, settle, or otherwise fail, the City will notify Franchisee of the deficiency and Franchisee agrees to restore the deficiency and repair the damage within thirty (30) days of written notice by the City.

B. For purposes of the Section, "street" shall mean all City owned improvements within a public way, including, but not limited to, the following: pavement, sidewalks, curbing, above and below-ground utility facilities, and traffic control devices.

Section 8. Repair and Emergency Work

In the event of an emergency, the Franchisee may commence repair and emergency response work as required under the circumstances. The Franchisee will notify the City telephonically during normal business hours (at 253-931-3010) and during non-business hours (at 253-876-1985) as promptly as possible, before such repair or emergency work commences, and in writing as soon thereafter as possible. Such notification shall include the Franchisee's emergency contact phone number for corresponding response activity. The City may commence emergency response work, at any time, without prior written notice to the Franchisee, but will notify the Franchisee in writing as promptly as possible under the circumstances. Franchisee will reimburse the City for the City's actual cost of performing emergency response work.

Section 9. Damages to City and Third-Party Property

Franchisee agrees that if any of its actions, or the actions of any person, agent, or contractor acting on behalf of the Franchisee under this Franchise impairs or damages any City property, survey monument, or property owned by a third-party, Franchisee will restore, at its own cost and expense, the property to a safe condition. Upon returning the property to a safe condition, the property shall then be returned to the condition it was in immediately prior to being damaged (if the safe condition of the property is not the same as that which existed prior to damage). All repair work shall be performed and completed to the satisfaction of the City Engineer.

Section 10. Location Preference

A. Any structure, equipment, appurtenance or tangible property of a utility or other franchisee, other than the Franchisee's, which was installed, constructed, completed or in place prior in time to Franchisee's application for a permit to construct or repair Franchisee's Facilities under this Franchise shall have preference as to positioning and location with respect to the Franchisee's Facilities. However, to the extent that the Franchisee's Facilities are completed and installed before another utility or other franchisee's submittal of a permit for new or additional structures, equipment, appurtenances, or tangible property, then the Franchisee's Facilities will have priority. These rules governing preference shall continue when relocating or changing the grade of any City road or public way. A relocating utility or franchisee will not cause the relocation of another utility or franchisee that otherwise would not require relocation. This Section will not apply to any City facilities or utilities that may in the future require the relocation of Franchisee's Facilities. Such relocations will be governed by Section 11 and Chapter 35.99 RCW.

B. Franchisee will maintain a minimum underground horizontal separation of five (5) feet from City water, sanitary sewer and storm sewer facilities and ten (10) feet from above-ground City water facilities; provided, that for development of new areas, the City, in consultation with Franchisee and other utility purveyors or authorized users of the public way, will develop guidelines and procedures for determining specific utility locations.

Section 11. Relocation of Franchisee Facilities

A. Except as otherwise so required by law, Franchisee agrees to relocate, remove, or reroute its facilities as ordered by the City Engineer at no expense or liability to the City, except as may be required by Chapter 35.99 RCW. Pursuant to the provisions of Section 15, Franchisee agrees to protect and save harmless the City from any customer or third-party claims for service interruption or other losses in connection with any such change, relocation, abandonment, or vacation of the public way.

B. If a readjustment or relocation of the Franchisee Facilities is necessitated by a request from a party other than the City, that party shall pay the Franchisee the actual costs associated with such relocation.

Section 12. Abandonment and or Removal of Franchisee Facilities

A. Within one hundred and eighty days (180) of Franchisee's permanent cessation of use of the Franchisee's Facilities, the Franchisee will, at the City's discretion, either abandon in place or remove the affected facilities.

B. Franchisee may ask the City in writing to abandon, in whole or in part, all or any part of the Franchisee's Facilities. Any plan for abandonment of Franchisee Facilities must be approved in writing by the City.

C. The parties expressly agree that this Section will survive the expiration, revocation or termination of this Franchise.

Section 13. Undergrounding

A. The parties agree that this Franchise does not limit the City's authority under federal law, state law, or local ordinance, to require the undergrounding of utilities.

B. Whenever the City requires the undergrounding of aerial utilities in the Franchise Area, the Franchisee will underground the Franchisee's Facilities in the manner specified by the City Engineer at no expense or liability to the City, except as may be required by Chapter 35.99 RCW. Where other utilities are present and involved in the undergrounding project, Franchisee will only be required to pay its fair share of common costs borne by all utilities, in addition to the costs specifically attributable to the undergrounding of Franchisee's Facilities. Common costs will include necessary costs for common trenching and utility vaults. Fair share will be determined in comparison to the total number and size of all other utility facilities being undergrounded.

Section 14. Franchisee Information

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

B. The parties understand that Chapter 42.56 RCW and other applicable law may require public disclosure of information given to the City.

Section 15. Indemnification and Hold Harmless

A. Franchisee shall defend, indemnify, and hold harmless the City, its officers, officials, employees and volunteers from and against any and all claims,

suits, actions, or liabilities for injury or death of any person, or for loss or damage to property, which arises out of Franchisee's acts, errors or omissions, or from the conduct of Franchisee's business, or from any activity, work or thing done, permitted, or suffered by Franchisee arising from or in connection with this Franchise, except only such injury or damage as shall have been occasioned by the sole negligence of the City.

However, should a court of competent jurisdiction determine that this Franchise is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Franchisee and the City, its officers, officials, employees, and volunteers, the Franchisee's liability hereunder shall be only to the extent of the Franchisee's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Franchisee's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Franchise.

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

C. The Franchisee acknowledges that neither the City nor any other public agency with responsibility for firefighting, emergency rescue, public safety or similar duties within the City has the capability to provide trench, close trench or confined space rescue. The Franchisee, and its agents, assigns, successors, or contractors, will make such arrangements as Franchisee deems fit for the provision of such services. The Franchisee will hold the City harmless from any liability arising out of or in connection with any damage or loss to the Franchisee for the City's failure or inability to provide such services, and, pursuant to the terms of Section 15(A), the Franchisee will indemnify the City against any and all third-party costs, claims, injuries, damages, losses, suits, or liabilities based on the City's failure or inability to provide such services.

Section 16. Insurance

A. The Franchisee shall procure and maintain for the duration of this Franchise and as long as Franchisee has Facilities in the public way, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Franchise and use of the public way.

B. No Limitation. The Franchisee's maintenance of insurance as required by this Franchise shall not be construed to limit the liability of the Franchisee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance. The Franchisee shall obtain insurance of the types and coverage described below:

1. Commercial General Liability insurance shall be at least as broad as Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Franchisee's Commercial General Liability insurance policy with respect this Franchise using ISO endorsement CG 20 12 05 09 if the Franchise is considered a master permit as defined by RCW 35.99.010, or CG 20 26 07 04 if it is not, or substitute endorsement providing at least as broad coverage.

2. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as ISO form CA 00 01.

3. Contractors Pollution Liability insurance shall be in effect throughout the entire Franchise covering losses caused by pollution conditions that arise from the operations of the Franchisee. Contractors Pollution Liability shall cover bodily injury, property damage, cleanup costs and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims.

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

5. Excess or Umbrella Liability insurance shall be excess over and at least as broad in coverage as the Franchisee's Commercial General Liability and Automobile Liability insurance. The City shall be named as an additional insured on the Franchisee's Excess or Umbrella Liability insurance policy.

D. Minimum Amounts of Insurance. The Franchisee shall maintain insurance that meets or exceeds the following limits:

1. Commercial General Liability insurance shall be written with limits no less than \$5,000,000 each occurrence, \$5,000,000 general aggregate.

2. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$5,000,000 per accident.

3. Contractors Pollution Liability insurance shall be written in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$2,000,000.

4. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington and employer's liability insurance with limits of not less than \$1,000,000.

5. Excess or Umbrella Liability insurance shall be written with limits of not less than \$5,000,000 per occurrence and annual aggregate. The Excess or Umbrella Liability requirement and limits may be satisfied instead through Franchisee's Commercial General Liability and Automobile Liability insurance, or any combination thereof that achieves the overall required limits.

E. Other Insurance Provisions. Franchisee's Commercial General Liability, Automobile Liability, Excess or Umbrella Liability, Contractors Pollution Liability insurance policy or policies are to contain, or be endorsed to contain, that they shall be primary insurance as respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Franchisee's insurance and shall not contribute with it.

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

G. Subcontractors. The Franchisee shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Franchisee-provided insurance as set forth herein, including limits no less than what is required of Franchisee under this Franchise. The Franchisee shall ensure that the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 26.

H. Verification of Coverage. The Franchisee shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not

necessarily limited to the additional insured endorsement, evidencing the insurance requirements of this Franchise. Upon request by the City, the Franchisee shall furnish certified copies of all required insurance policies, including endorsements, required in this Franchise and evidence of all subcontractors' coverage.

I. Notice of Cancellation. Franchisee shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.

J. Failure to Maintain Insurance. Failure on the part of the Franchisee to maintain the insurance as required shall constitute a material breach of the Franchise, upon which the City may, after giving five business days' notice to the Franchisee to correct the breach, terminate the Franchise.

K. City Full Availability of Franchisee Limits. If the Franchisee maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Franchisee, irrespective of whether such limits maintained by the Franchisee are greater than those required by this Franchise or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Franchisee.

L. Franchisee – Self-Insurance. Franchisee will have the right to self-insure any or all of the above-required insurance. Any such self-insurance is subject to approval by the City. If the Franchisee is self-insured or becomes self-insured during the term of the Franchise, Franchisee or its affiliated parent entity shall comply with the following: (i) Franchisee shall submit a letter to the City stating which of the above required insurance provisions in this Section 15 Franchisee proposes to self-insure; (ii) provide the City, upon request, a copy of Franchisee's or its parent company's most recent audited financial statements, if such financial statements are not otherwise publicly available; (iii) Franchisee or its parent company is responsible for all payments within the self-insured retention; and (iv) Franchisee assumes all defense and indemnity obligations as outlined in Section 15.

Section 17. Financial Security

The Franchisee will provide the City with a financial security in the amount of Fifty Thousand Dollars (\$50,000.00) running for, or renewable for, the term of this Franchise, in a form and substance acceptable to the City. If Franchisee fails to substantially comply with any one or more of the provisions of this Franchise, the City may recover jointly and severally from the principal and any surety of that financial security any damages suffered by the City as a result Franchisee's failure

to comply, including but not limited to staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or abandonment of facilities. Franchisee specifically agrees that its failure to comply with the terms of Section 20 will constitute damage to the City in the monetary amount set forth in that section. Any financial security will not be construed to limit the Franchisee's liability to the security amount, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

Section 18. Successors and Assignees

A. All the provisions, conditions, regulations and requirements contained in this Franchise are binding upon the successors, assigns of, and independent contractors of the Franchisee, and all rights and privileges, as well as all obligations and liabilities of the Franchisee will inure to its successors, assignees and contractors equally as if they were specifically mentioned herein wherever the Franchisee is mentioned.

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

C. Franchisee and any proposed assignee or transferee will provide and certify the following to the City not less than ninety (90) days prior to the proposed date of transfer: (1) Complete information setting forth the nature, term and conditions of the proposed assignment or transfer; (2) All information required by the City of an applicant for a Franchise with respect to the proposed assignee or transferee; and, (3) An application fee in the amount established by the City's fee schedule, plus any other costs actually and reasonably incurred by the City in processing, and investigating the proposed assignment or transfer.

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

Section 19. Dispute Resolution

A. In the event of a dispute between the City and the Franchisee arising by reason of this Franchise, the dispute will first be referred to the operational officers or representatives designated by City and Franchisee to have oversight over the administration of this Franchise. The officers or representatives will meet within thirty (30) calendar days of either party's request for a meeting, whichever

request is first, and the parties will make a good faith effort to achieve a resolution of the dispute.

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

Section 20. Enforcement and Remedies

A. If the Franchisee willfully violates, or fails to comply with any of the provisions of this Franchise through willful or unreasonable negligence, or fails to comply with any notice given to Franchisee under the provisions of this Franchise, the City may, at its discretion, provide Franchisee with written notice to cure the breach within thirty (30) days of notification. If the City determines the breach cannot be cured within thirty days, the City may specify a longer cure period, and condition the extension of time on Franchisee's submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty day cure period, and diligent prosecution of the work to completion. If the breach is not cured within the specified time, or the Franchisee does not comply with the specified conditions, the City may, at its discretion, either (1) revoke the Franchise with no further notification, or (2) claim damages of Two Hundred Fifty Dollars (\$250.00) per day against the financial guarantee set forth in Section 17 for every day after the expiration of the cure period that the breach is not cured.

B. If the City determines that Franchisee is acting beyond the scope of permission granted in this Franchise for Franchisee Facilities and Franchisee Services, the City reserves the right to cancel this Franchise and require the Franchisee to apply for, obtain, and comply with all applicable City permits, franchises, or other City permissions for such actions, and if the Franchisee's actions are not allowed under applicable federal and state or City laws, to compel Franchisee to cease those actions.

Section 21. Compliance with Laws and Regulations

A. This Franchise is subject to, and the Franchisee will comply with all applicable federal and state or City laws, regulations and policies (including all applicable elements of the City's comprehensive plan), in conformance with federal laws and regulations, affecting performance under this Franchise. The Franchisee will be subject to the police power of the City to adopt and enforce general

ordinances necessary to protect the safety and welfare of the general public in relation to the rights granted in the Franchise Area.

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

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

Section 22. License, Tax and Other Charges

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

Section 23. Consequential Damages Limitation

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

Section 24. Severability

If any portion of this Franchise is deemed invalid, the remainder portions will remain in effect.

Section 25. Titles

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

Section 26. Implementation

The Mayor is authorized to implement those administrative procedures necessary to carry out the directions of this legislation.

Section 27. Entire Franchise

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

Section 28. Effective Date.

This Ordinance will take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Jason Whalen, City Attorney

PUBLISHED: _____

EXHIBIT "A"

STATEMENT OF ACCEPTANCE

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

Franchisee Name: Ezee Fiber Texas, LLC

Address: _____

City, State, Zip: _____

By: _____
Signature

Date: _____

Name: _____

Title: _____

STATE OF _____)
)ss.

COUNTY OF _____)

On this ____ day of _____, 20____, before me the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared, _____ of _____, the company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

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

Signature

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

MY COMMISSION EXPIRES: _____