City Council
Study Session
Muncipal Services Special Focus Area
April 13, 2026 - 5:30 PM
City Hall Council Chambers

AGENDA

CALL TO ORDER

PUBLIC PARTICIPATION

A. The Auburn City Council Study Session Meeting scheduled for Monday, April 13, 2026, 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: 253 205 0468
Toll Free: 888 475 4499
Zoom: https://us06web.zoom.us/j/88194165218

ROLL CALL

AGENDA MODIFICATIONS

ANNOUNCEMENTS, REPORTS, AND PRESENTATIONS

MUNICIPAL SERVICES DISCUSSION ITEMS

A. Police Department Annual Report (Caillier) (30 Minutes)

B. Ordinance No. 7019 (Martinson) (15 Minutes)
An Ordinance amending Chapter 2.14 of the Auburn City Code to provide necessary updates and housekeeping amendments in preparation for the opening of the Auburn Municipal Court

AGENDA ITEMS FOR COUNCIL DISCUSSION

A. Ordinance No. 6999 (Krum) (20 Minutes)
An Ordinance relating to Critical Areas Ordinance Update, amending Sections 16.10.010, 16.10.020, 16.10.030, 16.10.040, 16.10.050, 16.10.070, 16.10.080, 16.10.090, 16.10.100, 16.10.110, 16.10.130, 16.10.140, and 16.10.150 of the Auburn City Code

B. Ordinance No. 7014 (Krum) (25 Minutes)
An Ordinance relating to Battery Energy Storage Systems, amending Sections 18.07.020, 18.23.030, 18.35.030, Chapter 18.29 and establishing two new Sections 18.04.174 and 18.31.240 of the Auburn City Code

C. Ordinance No. 7017 (Thomas) (30 Minutes)
An Ordinance amending the City's 2025-2026 Biennial Budget

D. Update for the Purchase of Soos Creek Botanical Gardens (Whalen/Krueger) (30 Minutes)
Resolution No. 5897, Resolution No. 5900, and Resolution No. 5901

COUNCIL REPORTS

ADJOURNMENT

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

CITY OF AUBURN WASHINGTON

AGENDA BILL APPROVAL FORM

Agenda Subject:
Police Department Annual Report (Caillier) (30 Minutes)

Meeting Date:
April 13, 2026

Department:
Police

Attachments:
2025 Council Pursuit Presentation, Annual Report 2025, 2025 Annual CIA Review, 2025 Pursuit Analysis, 2025 Use of Force Summary, CIA 2025 Council Powerpoint

Budget Impact:
No Budget Impact

Administrative Recommendation:
For discussion only.

Background for Motion:

Background Summary:
The Police Department will present the 2025 Annual Report.

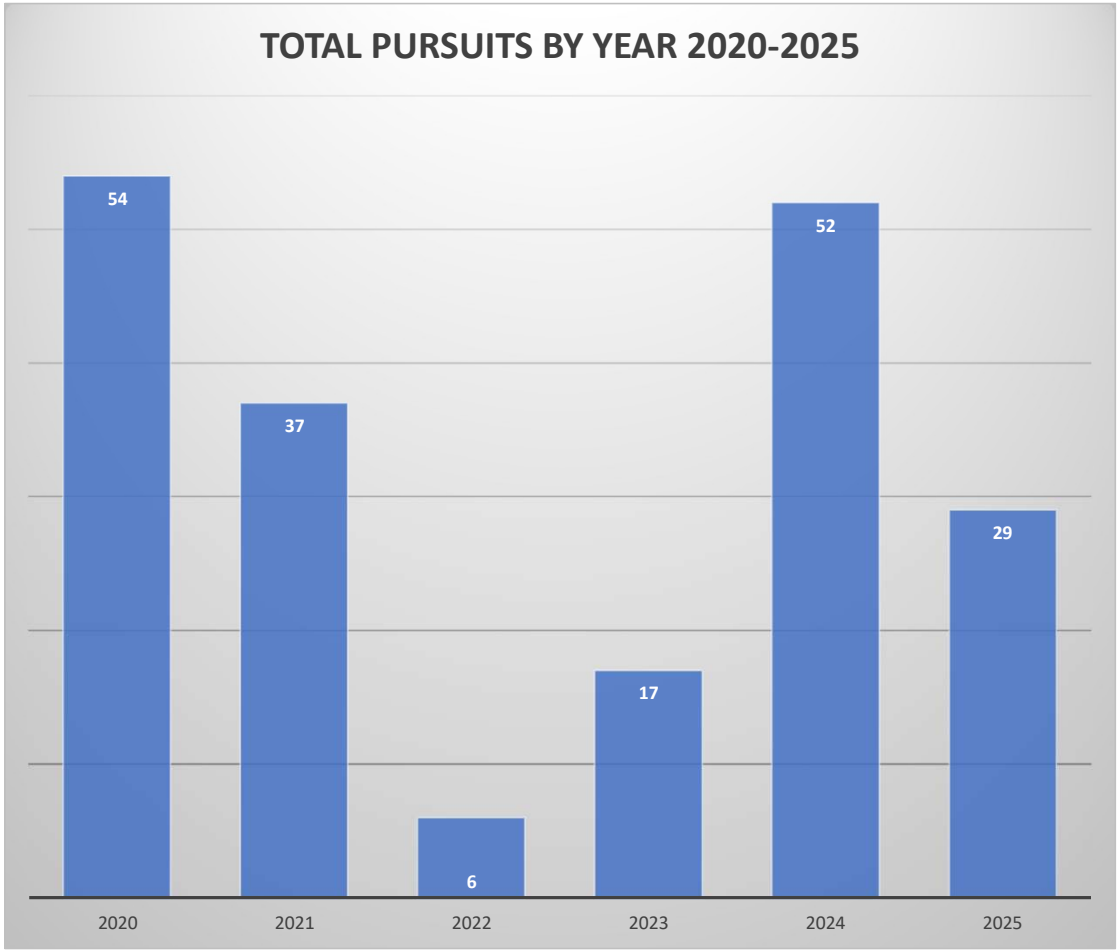
Councilmember: Lisa Stirgus

Staff: Mark Caillier

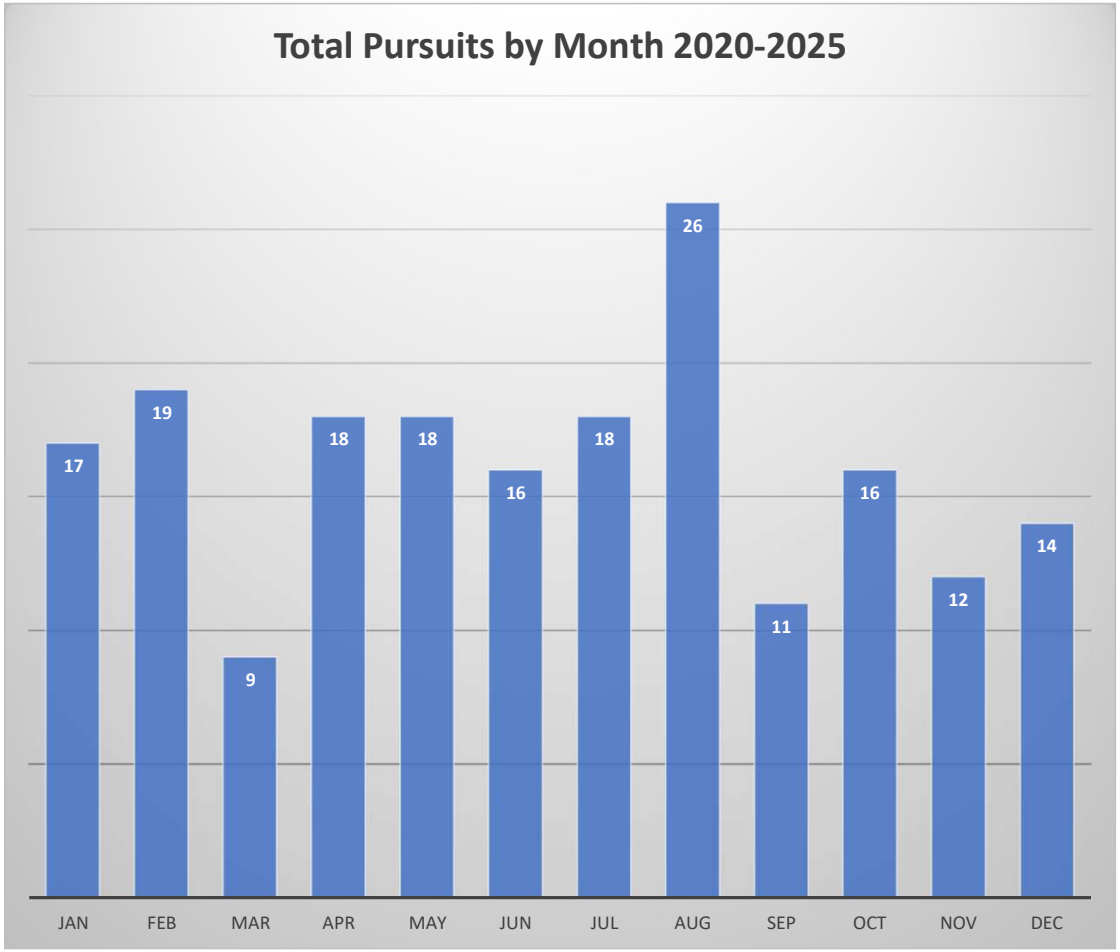
Auburn Police Department

2025 Pursuit Analysis

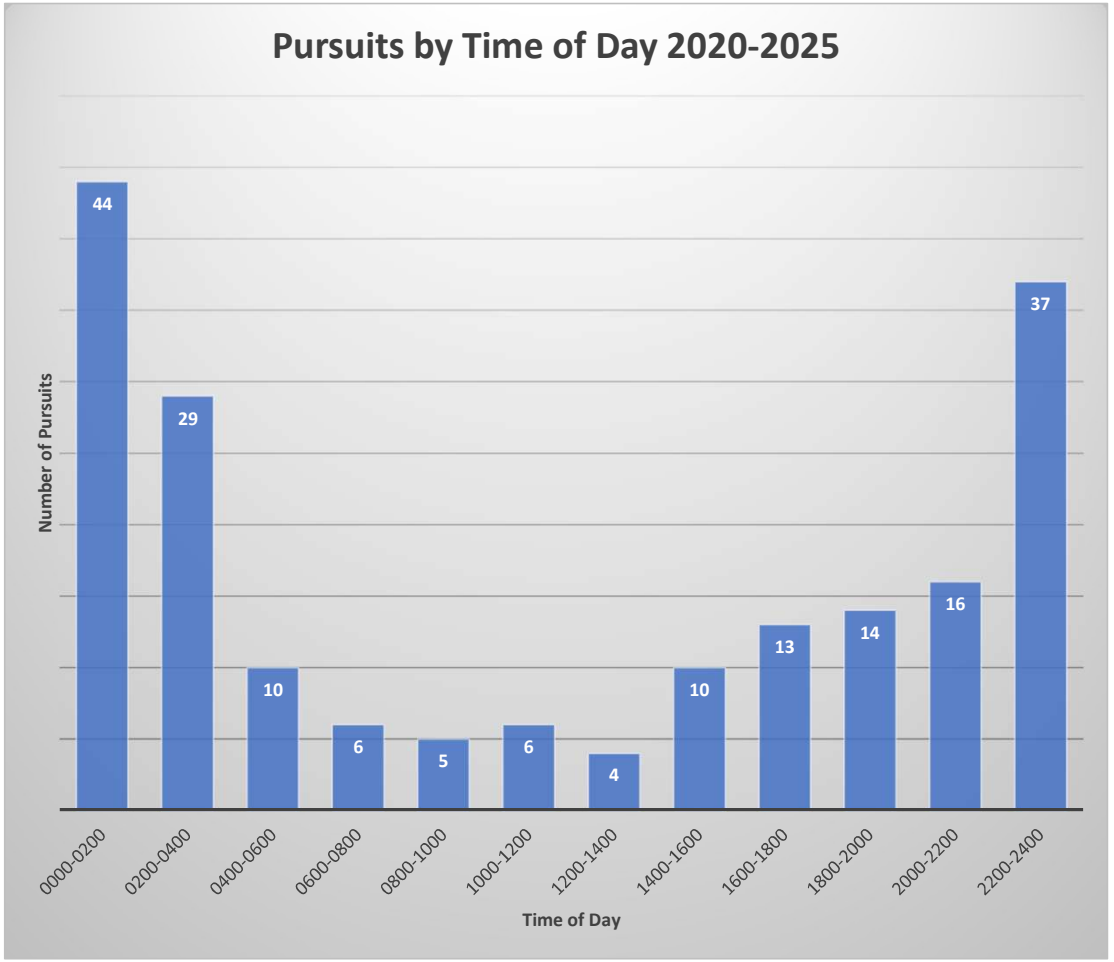
In 2025 there was a 44% decrease in the number of pursuits from 2024.



There is no significant trend in the cumulative number of pursuits by month. October has the highest number of pursuits for 2025 at 5. There were four pursuits each in the months of May and August.

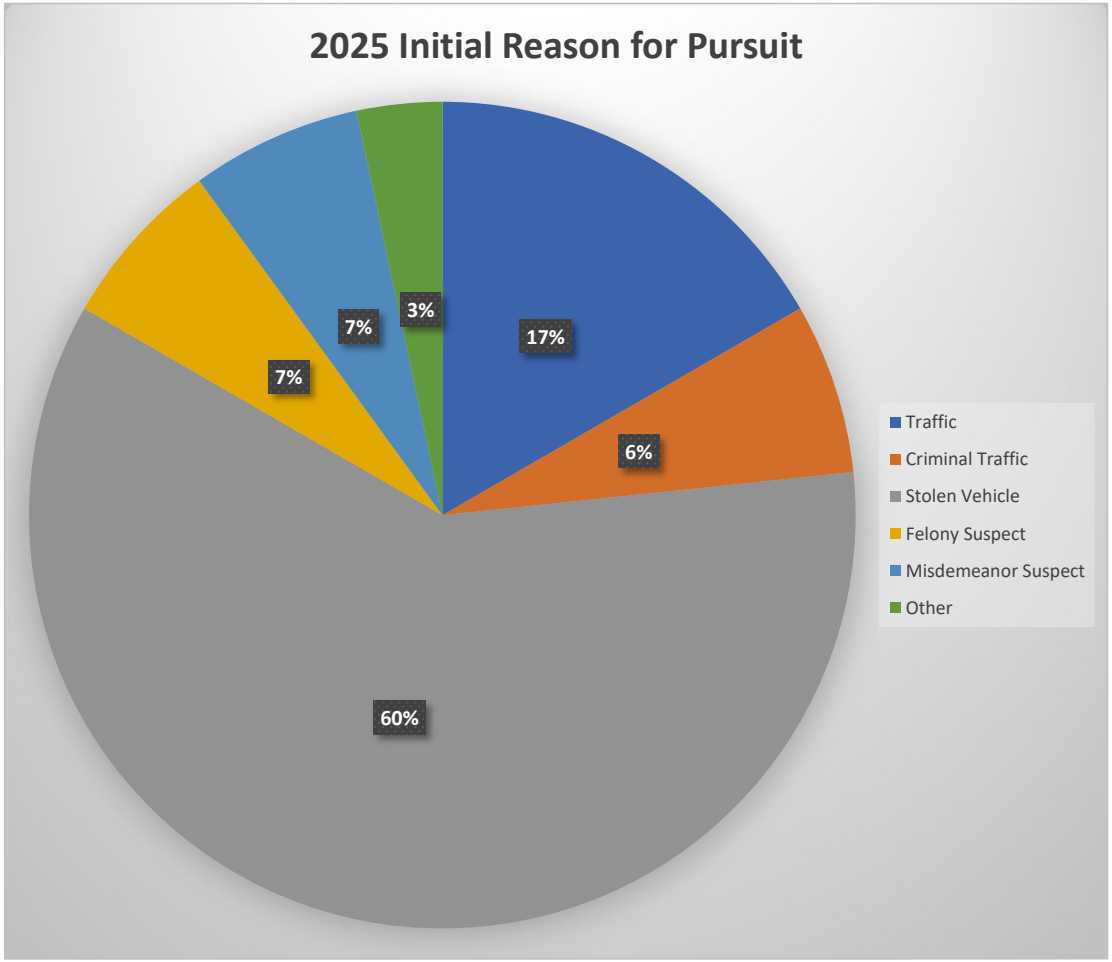


Pursuits in Auburn have traditionally occurred between 2000 and 0400 hours. In 2025 the combined period between the hours of 2200 and 0200 had the highest frequency of pursuits; 16.

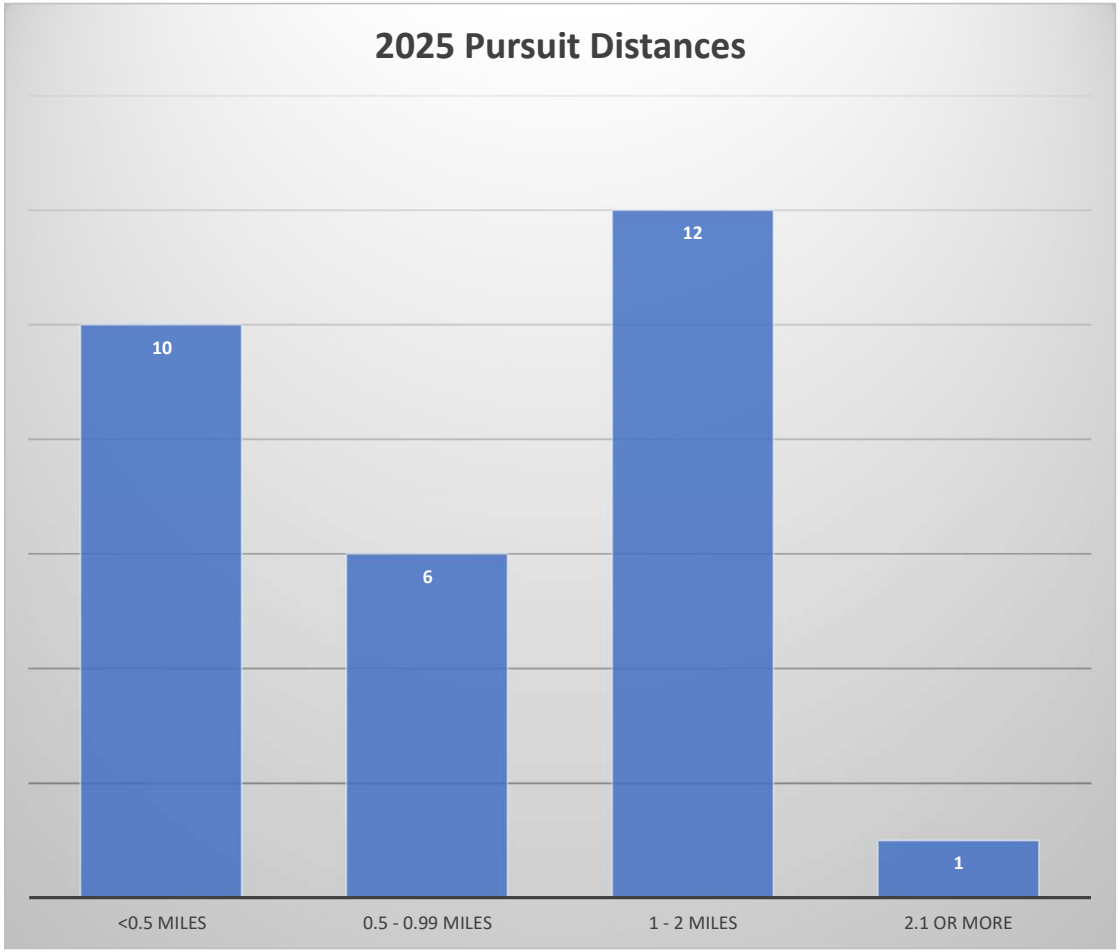


Definition: The *Initial Reason for Pursuit* refers to the crime or infraction observed by the officer that provided probable cause for the initial stop. The purpose of collecting this data is to show that officers often have only limited knowledge as to the underlying reasons why suspects are fleeing from them.

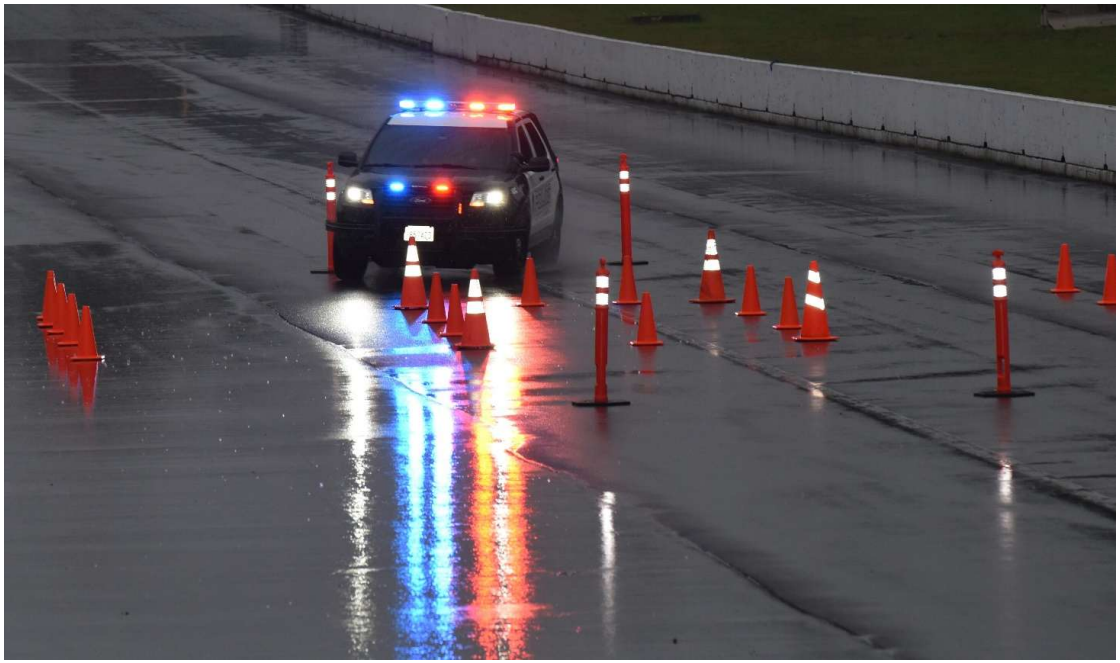
Observation: In 2025, 60% of pursuits were initiated for stolen vehicles. 17% of pursuits were initiated for traffic related offenses.



For pursuits that were not immediately terminated, 41% (12) were 1-2 miles.



Thank You



CITY OF AUBURN WASHINGTON

POLICE DEPARTMENT ANNUAL REPORT HIGHLIGHTS

Auburn Police Department

AUBURN VALUES

SERVICE

ENVIRONMENT

ECONOMY

CHARACTER

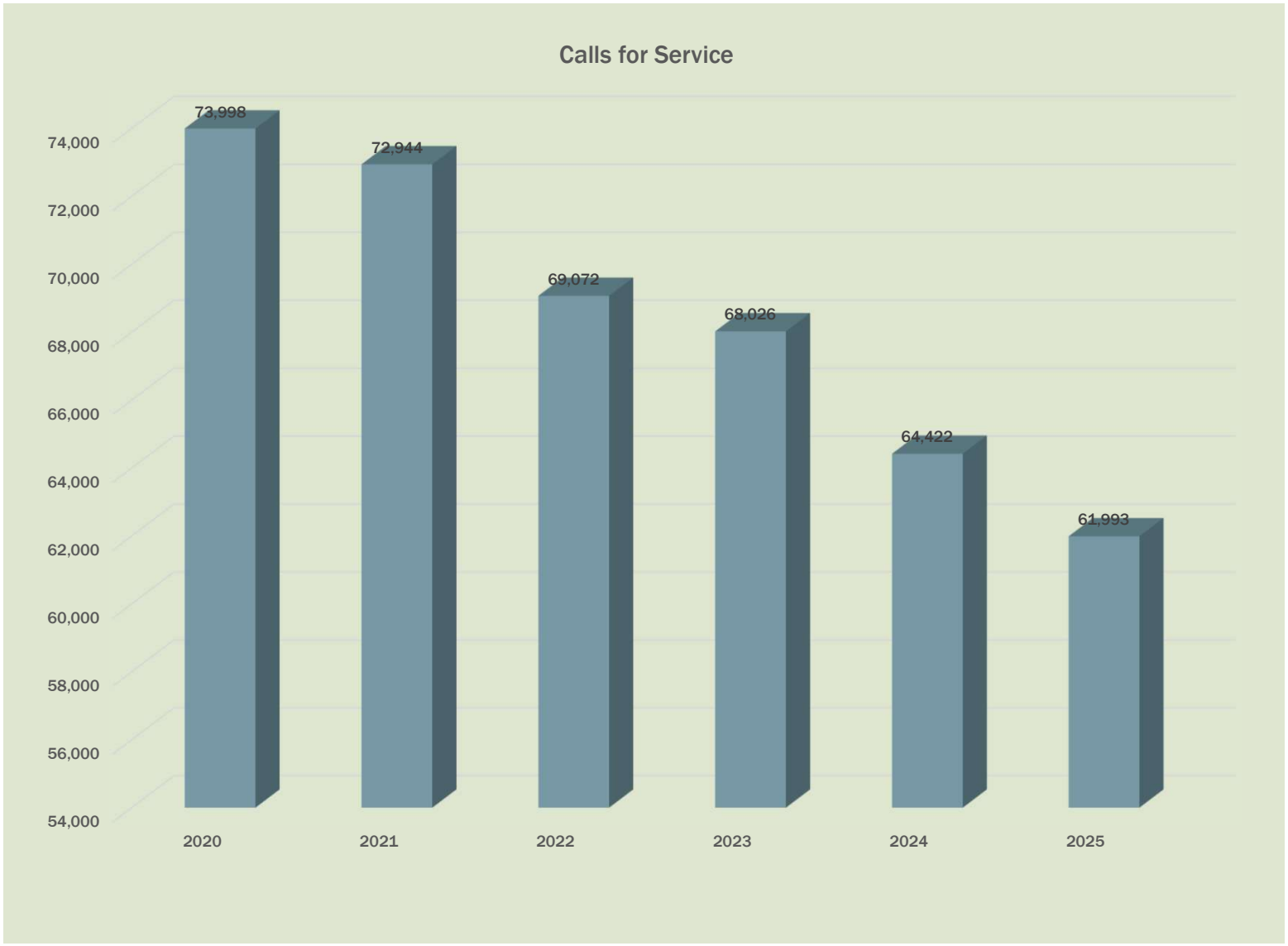
SUSTAINABILITY

WELLNESS

CELEBRATION

OVERVIEW

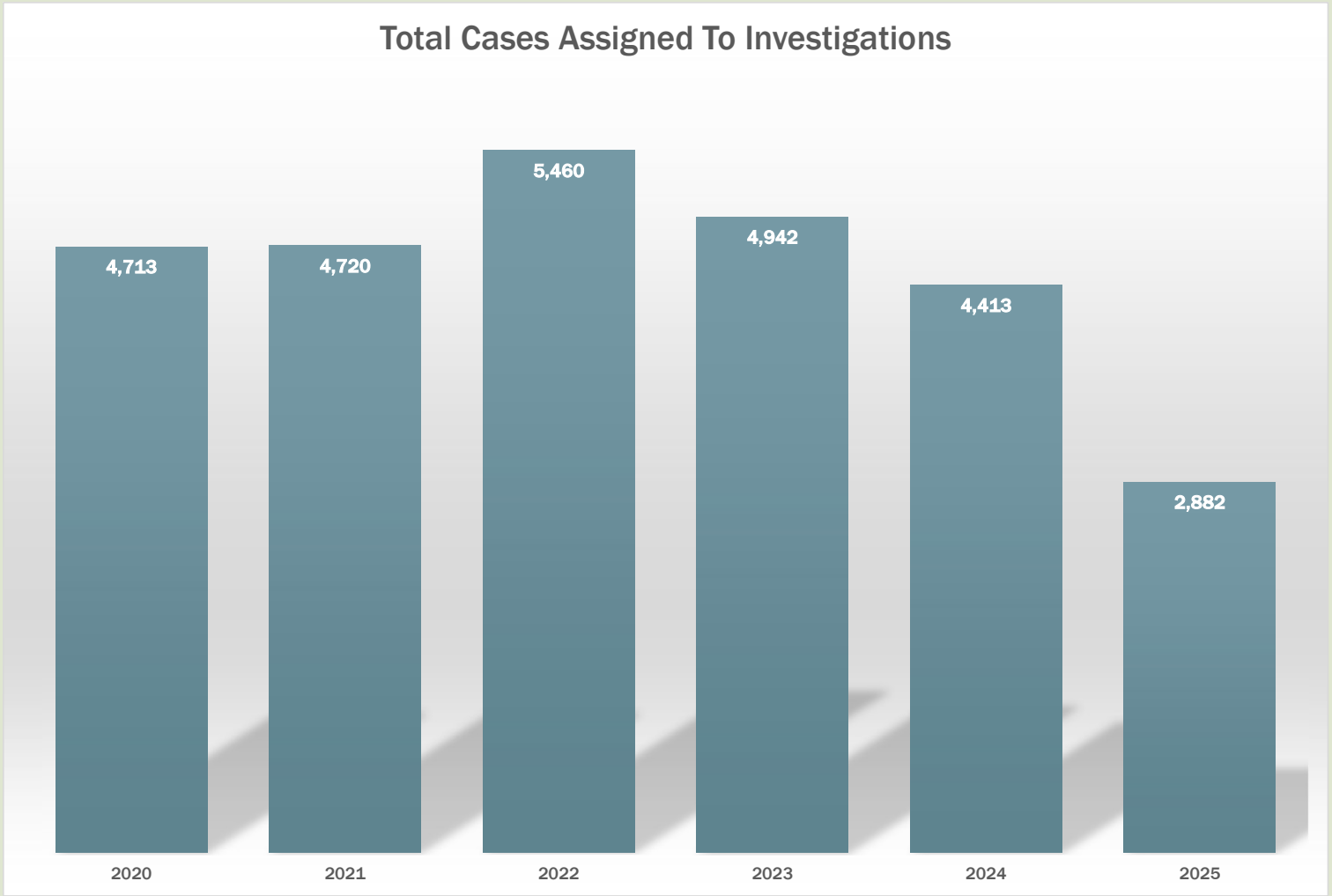
- Auburn population @90,000 people
- Police Department
  - Authorized 128 Officers
  - 22 Non-commissioned staff
  - Currently have 122 positions filled, last year 110
    - 10 Officers in field training
    - 4 Officers in the Academy
    - 2 Officers waiting for Academy class



CALLS FOR SERVICE

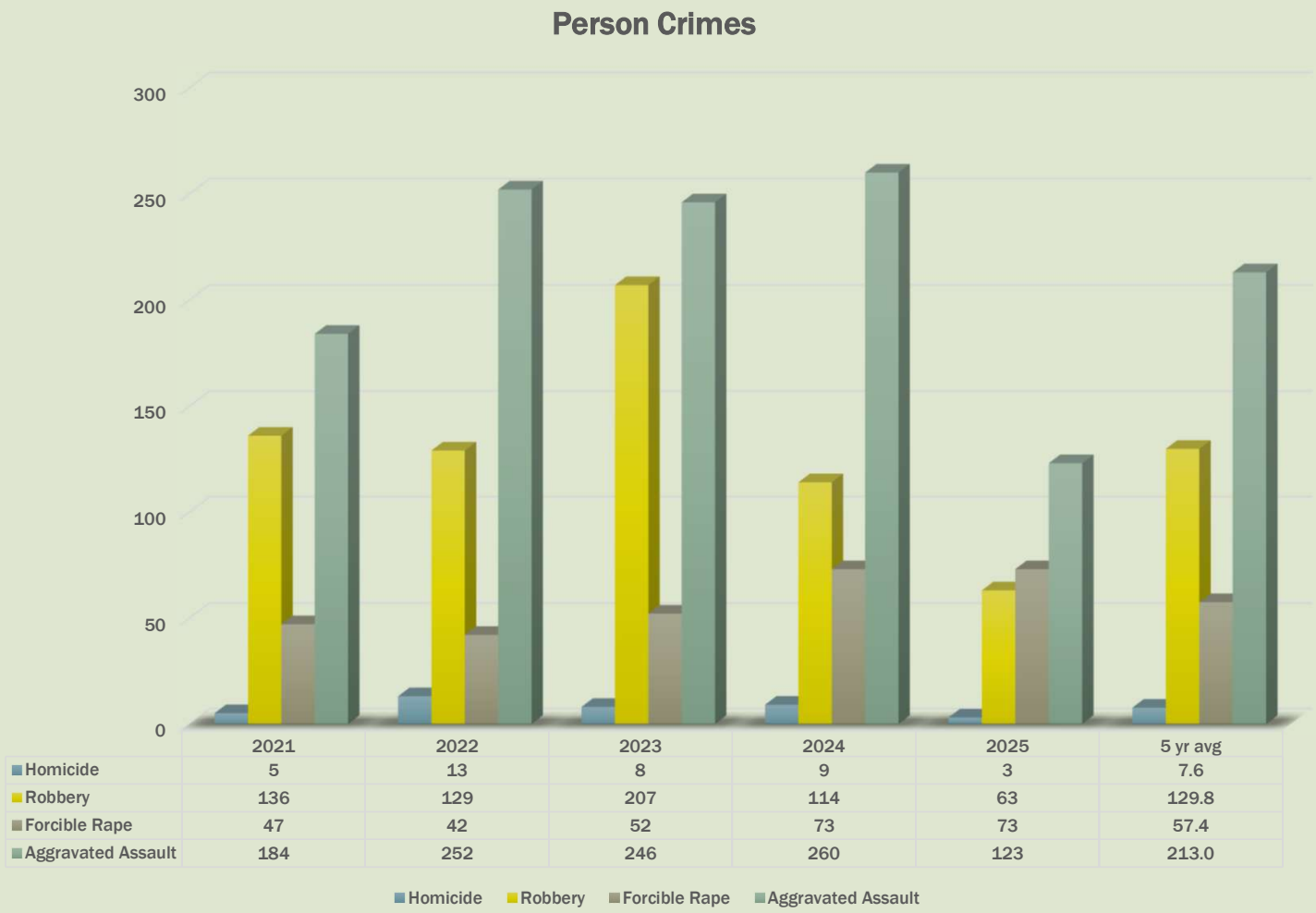
61,993 calls

11,494 case reports



FELONY INVESTIGATIONS

35% Decrease in Felony Cases



	2021	2022	2023	2024	2025	5 yr avg
Homicide	5	13	8	9	3	7.6
Robbery	136	129	207	114	63	129.8
Forcible Rape	47	42	52	73	73	57.4
Aggravated Assault	184	252	246	260	123	213.0

PERSON CRIMES

Homicide -67%
Robbery -45%
Assault -53%

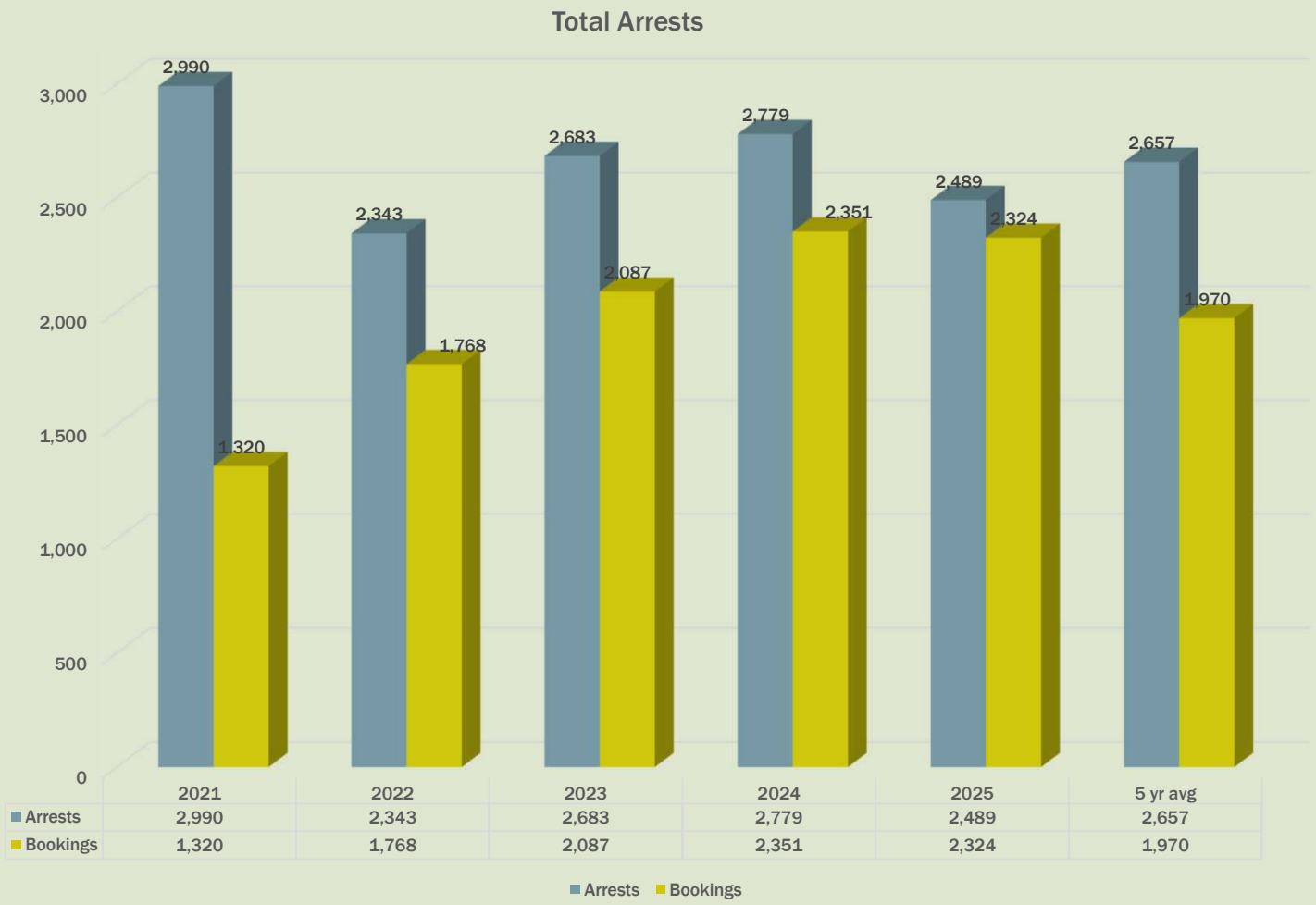
	2021	2022	2023	2024	2025	5 yr avg
Burglary	611	795	773	454	451	616.8
Fraud/Forgery	341	346	304	225	224	288.0
Vehicle Theft	902	1,205	1,542	932	451	1006.4
Larceny	3,269	3,468	3,503	3,186	2,155	3116.2
Theft from Vehicle	1,182	892	585	513	283	691.0

PROPERTY CRIMES

Veh. Theft -52%

Larceny -32%

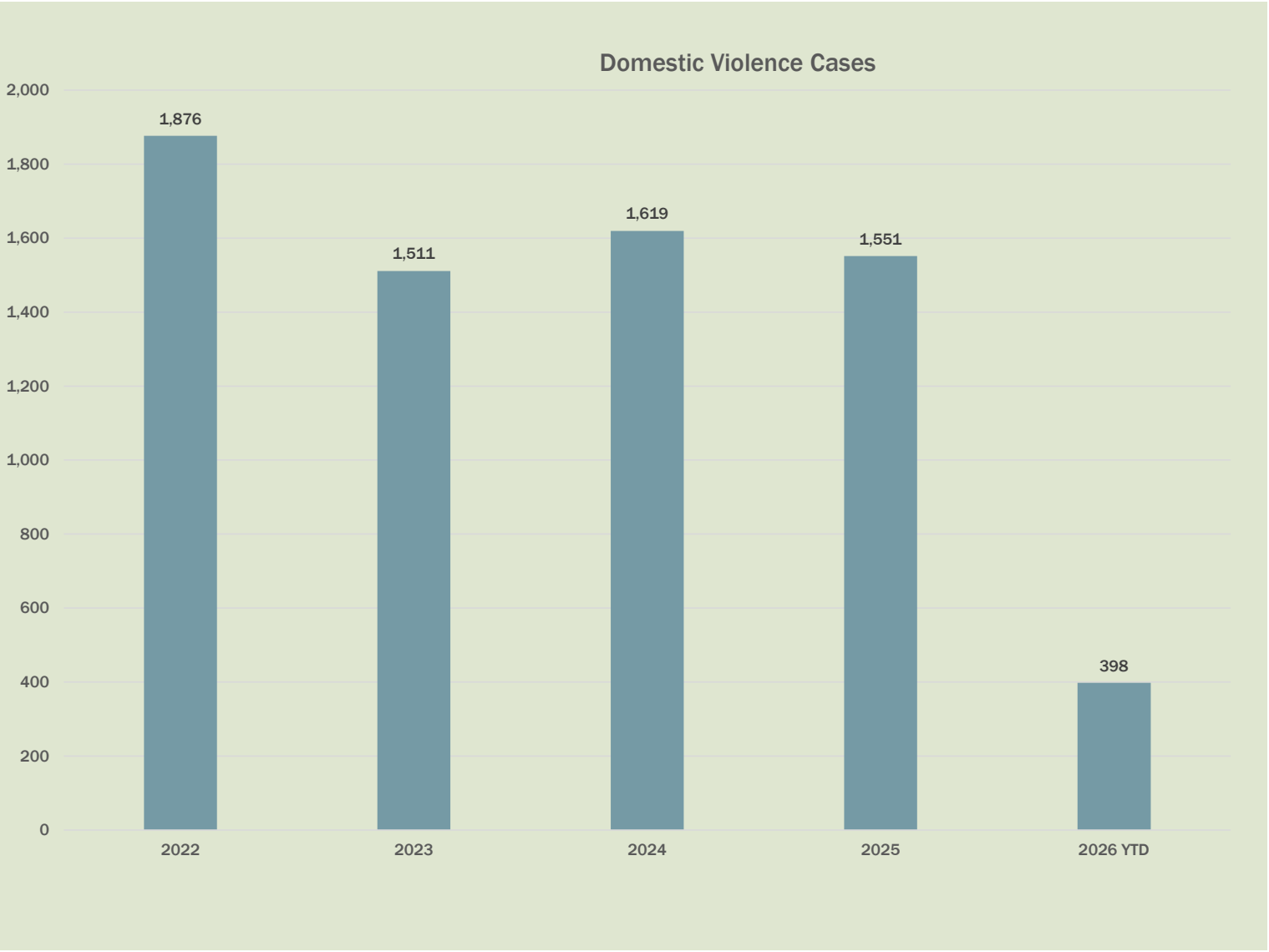
Theft from Vehicles -45%



ARRESTED PERSONS

Arrest dropping 6.3%

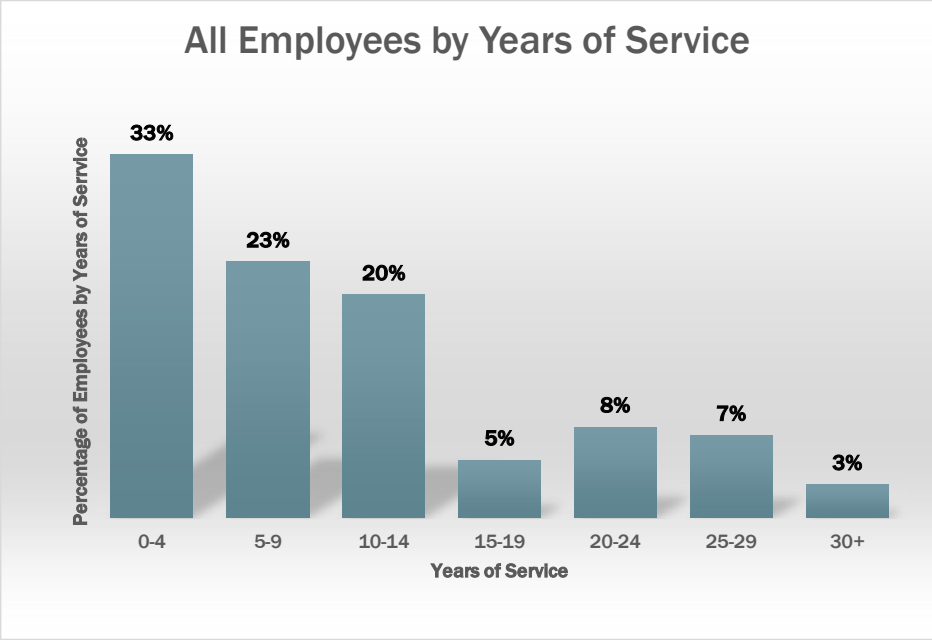
Bookings increased 18%



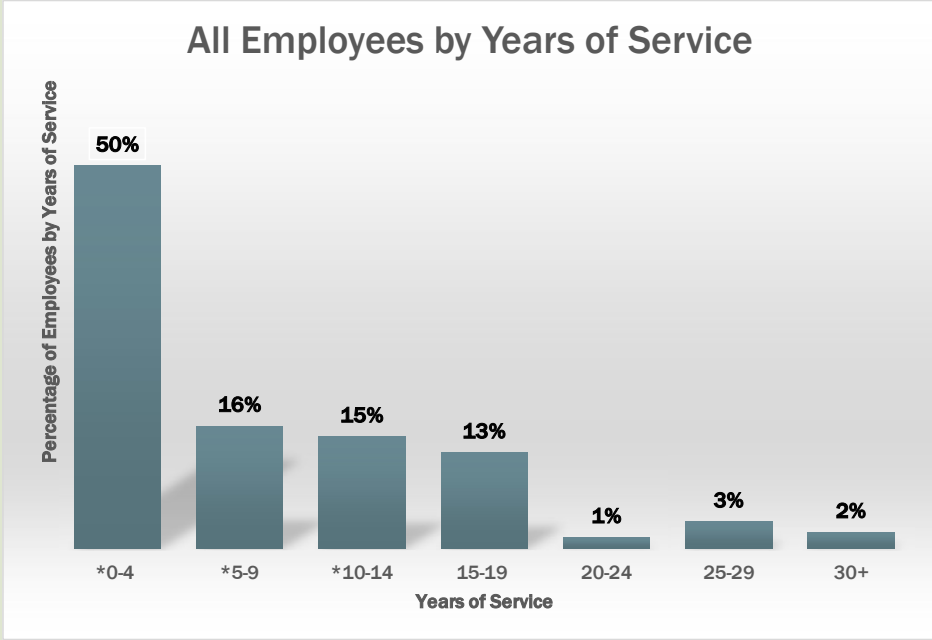
DOMESTIC VIOLENCE CASES

EMPLOYEES

2020



2025



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

AUBURN POLICE DEPARTMENT
2025
ANNUAL CIA REVIEW

THE AUBURN POLICE DEPARTMENT IS A STATE ACCREDITED AGENCY

CITY OF AUBURN WASHINGTON

Report prepared by Commander Shaun Feero

This annual analysis of the CIA (Commendations, Inquiries, and Allegations) investigations provides the administration of the agency and the public we serve a review of agency personnel conduct from an analytical perspective and possibly through the eyes of our community. As outlined in the Auburn Police Department Manual of Standards, the CIA system provides a standardized means of reporting, investigating, and documenting Commendations, Inquiries, Internal Investigations and Collision Reviews.

Our ***Vision Statement*** calls for us to be a premier agency that is trusted, supported, and respected. Our ***Mission Statement*** requires that our department will "provide professional Law Enforcement services to our community." To meet these demands, we must be a disciplined and a well-regulated organization. One method by which to determine our success is to evaluate our CIA process. This report illustrates how well the Auburn Police Department is perceived to be following our Vision and Mission statements, as well as our Manual of Standards.

Summary of 2025

In 2025, Auburn Police Officers responded to 61,856 CAD incidents (64,422 in 2024) and completed 11,494 case reports (13,624 in 2024). Officers made 2,138 arrests (2,779 in 2024) with 2,324 (1,748 male/576 female) of those arrestees being booked into SCORE (2,351 in 2024) and issued 4,501 infractions/citations (3,801 in 2024). All this activity accounts for only a portion of the personal contacts with our community members that are made by our police officers throughout the year.

Commendations

A ***Commendation*** is used to recognize actions or performance by members of the police department who act or perform in a manner that is outstanding or beyond what is normally expected. The Commendation process recognizes employees for Professionalism, Exemplary Job, Exemplary Actions, Life Saving and Heroism.

Most of our commendations come from citizens who took the time to recognize one or more officers due to their exemplary and professional work. Other commendations come from supervisors recognizing officers for a job well done, known as Supervisor Comments. These commendations range from officers conducting school speeches, helping someone change a tire or going above and beyond to investigate someone's case.

Letter of Commendation

A ***Letter of Commendation*** is used when department personnel perform a commendable act that rises above the level of a commendation but does not meet the criteria for an award. Examples include an officer going above and beyond to exemplify our Core Values of Courage, Honor, Integrity, and Professionalism. These letters range from officers volunteering to work an alternative assignment to assist with

staffing, to effectively communicating with a suicidal subject in crisis that leads to a safe resolution.

Awards

The **Medal of Valor** will be awarded to department personnel for acts that meet all of the following conditions.

1. When the act conspicuously displays extreme courage, beyond the normal demands for police service.

2. When failure to take such action would not justify official censure.

3. When substantial risk to their physical safety actually existed and the individual was unquestionably conscious of this imminent threat.

4. When the objective was logically believed to be of sufficient importance to justify the risk taken.

The **Medal of Distinction** will be awarded to department personnel for acts which meet all of the following criteria.

1. When personnel manifest courage in the performance of duty under circumstances less than those required for the Medal of Valor.

2. When a risk to the individual's physical safety actually existed, or when there was reason to believe that such a risk was present.

3. When the act indicated that the individual was conscious of the imminent danger to their personal safety, or when a reasonable and prudent person would normally assume such a danger was present.

4. When the objective was reasonably believed to be of sufficient importance to justify the risk taken.

5. When the individual accomplished the objective or was prevented from doing so by circumstances beyond his/her control.

The **Lifesaving Medal** shall be awarded to department personnel for acts that meet all the following criteria.

1. When the acts were personally performed by the officer.

2. When affirmed by competent medical authority, an individual saved a human life or prolonged life beyond the day of extraordinary circumstances.

The **Merit Medal** shall be awarded to department personnel for acts that meet all the following criteria.

1. When individuals who distinguish themselves by excellence in events which involve tactical action.

2. When the event involves some risk to the individual.

The **Honorable Tactical De-escalation Medal** shall be awarded to department personnel for acts that meet all the following criteria.

1. When the acts were personally performed by the department member.

2. When the department member utilized exceptional tactical skills or verbal approaches and techniques to de-escalate any deadly force situation resulting in the saving or sustaining of a human life.

3. When the deadly force and de-escalation factors can be independently verified.

Year	Total Commendations	Letter of Commendation	Medal of Distinction	Life Saving	Medal of Merit	Tactical Medal
2022	44	6	0	3	0	1
2023	67	8	0	2	0	2
2024	66	2	1	1	0	0
2025	**69**	**1**	**0**	**3**	**1**	**0**

Employee Investigations

There are three ways a complaint can be categorized and investigated: Supervisor Inquiry, Supervisory Investigation and Internal Investigation.

A Supervisor Inquiry involves a complaint that is informal and typically does not arise to discipline. Generally, the involved individual's immediate supervisor will inquire into these complaints as directed and will have 10 calendar days to complete the inquiry. The two categories of disposition involving a supervisor inquiry are acceptable or unacceptable performance. If the inquiry determines there was unacceptable performance, the supervisor will meet with the employee and provide coaching & counseling.

A Supervisory Investigation involves a complaint made regarding the quality-of-service delivery. These complaints vary in degree from complaints regarding an employee's demeanor, tardiness, complaints related to customer service, or the nature of a department practice. This may also be a complaint of a minor policy violation. The employee's immediate supervisor typically handles this type of complaint, but a commander might also take charge of it.

An Internal Investigation involves a complaint of a possible violation of department standards, written directives, City policies or applicable Civil Service Rules. These

allegations include, but are not limited to, complaints of bias-based policing, excessive force, alleged corruption, insubordination, breach of civil rights, false arrest, and other types of allegations of serious misconduct. If an allegation of criminal misconduct is reported and appears to have merit, a simultaneous **criminal investigation** will be initiated.

Internal Investigations

Year	CAD Incidents	Internal Investigations	Inv. With Misconduct	Total Employees
2022	69,072	6 (.009%)	4	4
2023	68,026	4 (.005%)	2	5
2024	64,422	8 (.012%)	6	10
2025	**61,856**	**8 (.013%)**	**4**	**12**

Internal Investigations generated by internal and external sources

	External Sources	Internal Sources	Total Combined
Total Investigations	4	**4**	**8**
Sustained Misconduct	**1**	**3**	**4**

In examining the above tables, Internal Investigations generated internally usually resulted in a finding of actual misconduct. The above table shows that three Investigations received from internal sources resulted in a finding of misconduct. During these types of investigations, statements, photographs, videos, police reports, and any other potential documentation are examined. The investigation is then forwarded to a supervisory review board to determine findings.

Supervisory Investigations

These numbers continue to be very low compared to the number of contacts with the public. This would appear to indicate that our officers conduct themselves most of the time in a professional manner because these are complaints regarding an officer's demeanor, tardiness, and customer service.

Year	CAD Incidents	Supervisory Investigations	Investigations with Actual Misconduct	Involved Employees
2022	69,072	9 (.01%)	4	11
2023	68,026	4 (.005%)	2	13
2024	64,422	7 (.01%)	7	11
2025	**61,856**	**4 (.006%)**	**3**	**4**

Allegations

The following table depicts the total combined allegations by category for all Supervisor Investigations and Internal Investigations for 2025. The total amount of allegations does not always equal the number of investigations. Investigations (Supervisor Investigations & Internal Investigations) often have several allegations that are investigated. It should be noted that Supervisory Investigations and Internal Investigations can result in findings of Misconduct or No Misconduct.

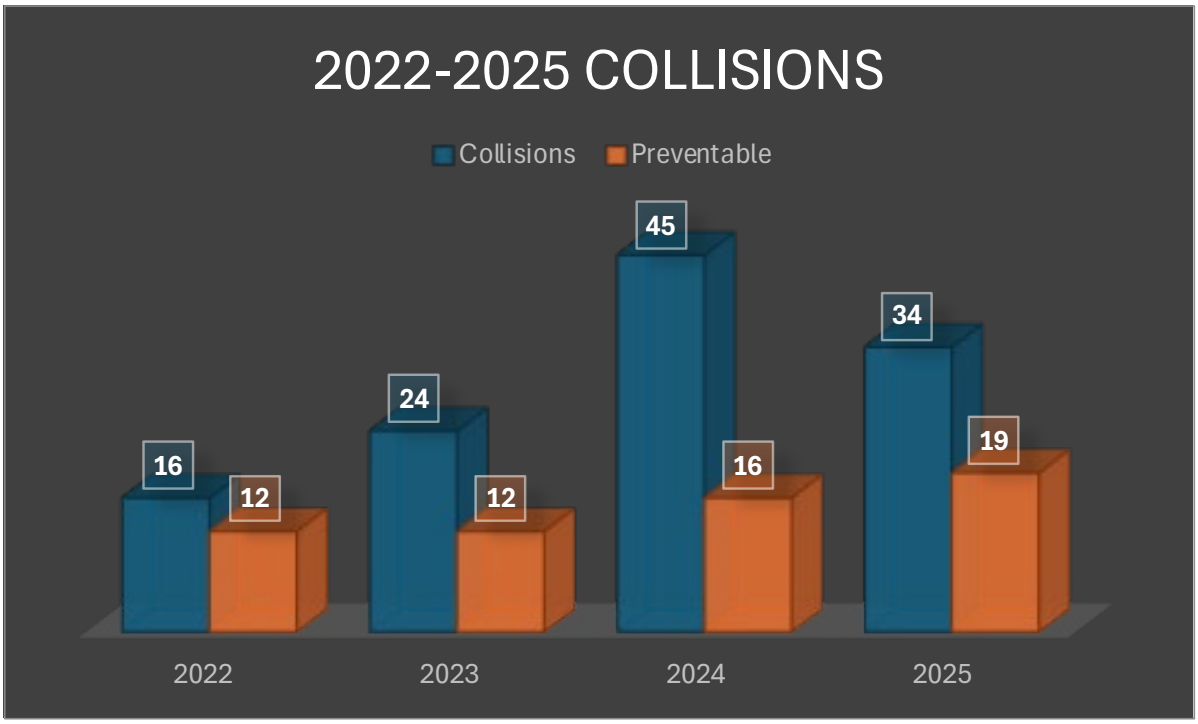
Allegation	Total	No Misconduct/ Acceptable Performance	Misconduct/ Unacceptable performance	No Conclusion/ Pending
Violation of General Policy	1	0	1	0
Discourtesy	2	1	1	0
Code of Conduct	2	0	1	1
False Arrest	0	0	0	0
Excessive Force	2	2	0	0
ACCESS Violation	0	0	0	0
Conduct Unbecoming	0	0	0	1
Core Values	2	0	2	0
Fail to Meet Job Expectations	3	0	3	0
Foot Pursuit Policy	0	0	0	0
Ethics	1	0	0	1
Supervisory Responsibilities	1	0	0	1
Discriminatory Harassment	1	0	0	1
Vehicle Pursuit Policy	0	0	0	0
Totals	**15**	**3**	**8**	**5**

Collisions

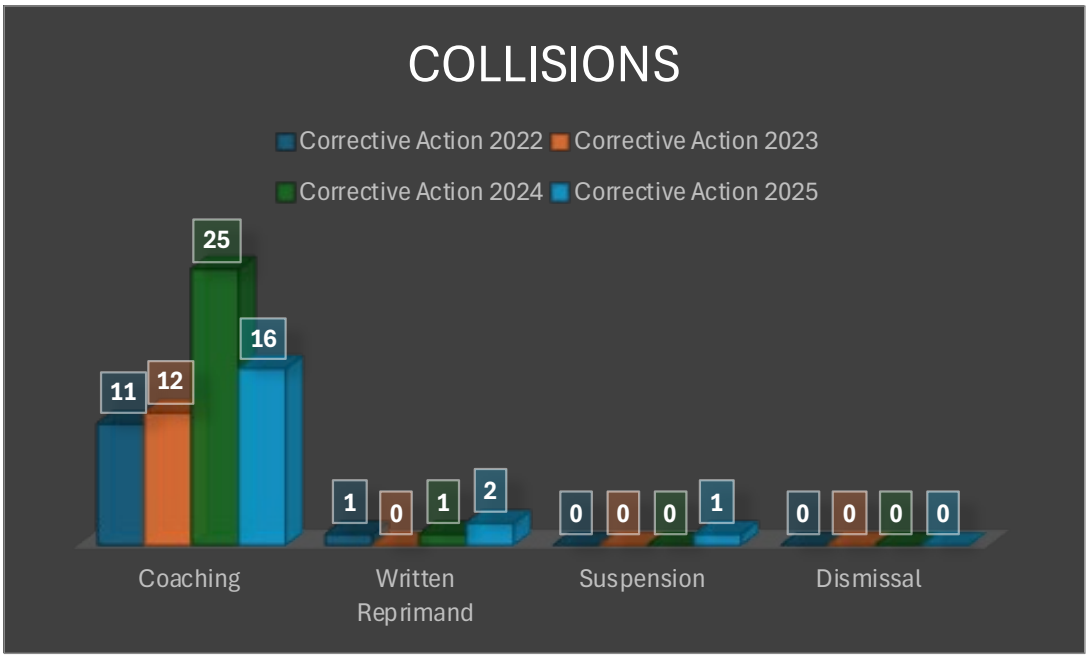
In 2025, there were 34 collisions involving APD employees. Nineteen of the 34 collisions were determined to be preventable on the part of the officer. The median years of service of the officers involved in preventable collisions is 5. Nine of the preventable collisions that occurred were officers who have 5 years or less of service with Auburn PD. In examining the number of collisions, it is important to note that the department determines a collision to be any time an employee in control of a department vehicle has any contact with another vehicle, object, or person. Damage caused by a specific maneuver (PIT, intentional strike, etc.) is not considered a collision under our department policy. Most of these collisions did not meet the state definition of a reportable collision. In Washington State, a reportable collision is defined as any vehicle accident resulting in injury, death, or property damage to any one person of at least $1,000.

In reviewing the 19 collisions which were determined by a Collision Review Board to be preventable, “driver inattention” was apparent in most cases, by either watching for suspects or looking at vehicle equipment inside the car. If the drivers had been more attentive, they would not have collided with another vehicle, curb, tree, etc. All 2025 collisions (preventable and non-preventable) are categorized as follows:

- 10 - Driver Inattention
- 5 - Improper Backing
- 1 - Other
- 1 – Poor Tactics
- 1 – Fail to Clear Intersection
- 1 – Driving Beyond Ability

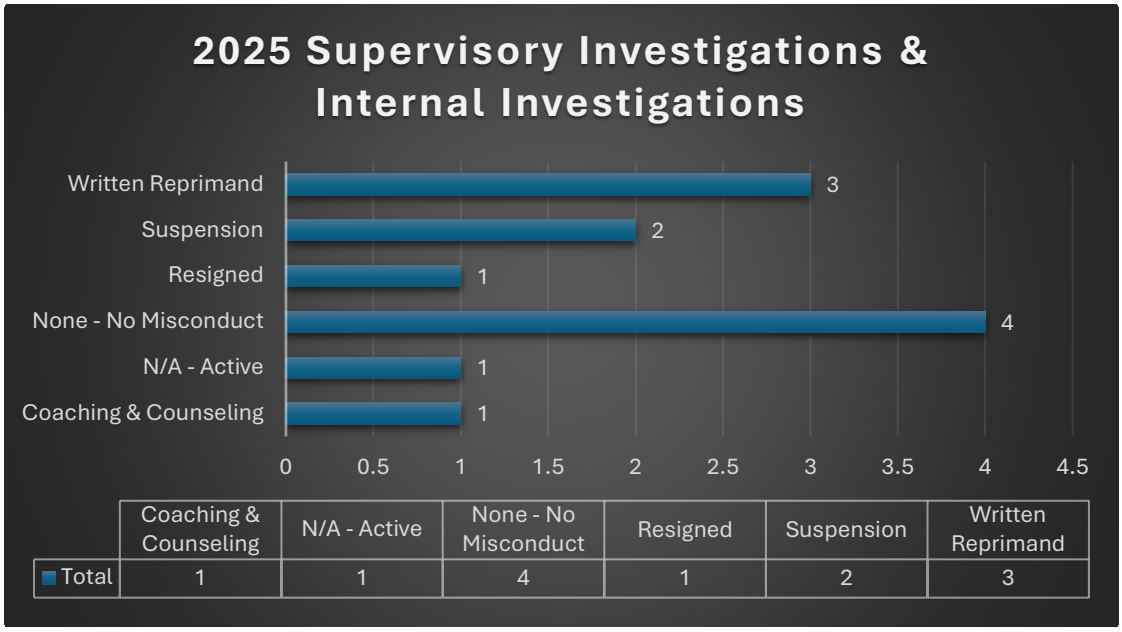


The chart below depicts the corrective action dispensed to the employees in preventable collisions. Some officers also received additional training where it was appropriate.



Actions Taken Internal Investigations

The following chart depicts action taken for misconduct, whether from an Internal Investigation or Supervisory Investigation, for each employee involved.



There was one Internal Investigation that had findings of Actual Misconduct where the employee resigned prior to any disciplinary recommendation.

Outside Agency Investigations

To ensure that our investigations are unbiased, there are times when an outside agency may be asked to investigate serious allegations of misconduct made against agency staff, especially those that may be of criminal nature. This provides Auburn citizens with confidence and allows for unbiased transparency into actions, activities, and decisions made by the Auburn Police Department. In 2025 there were no allegations of criminal misconduct.

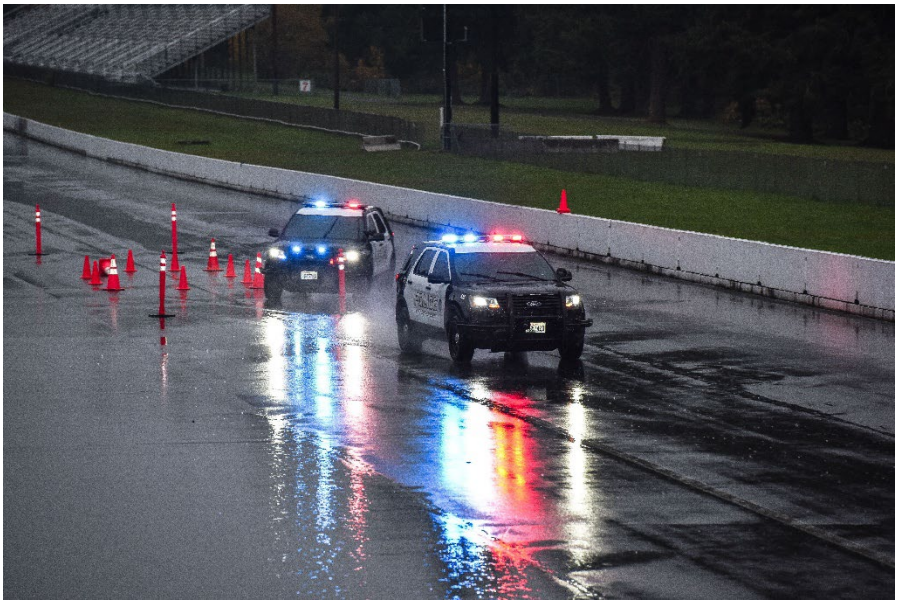
Grievances

Two Internal Investigations that concluded during 2025 were grieved to level 3 and are currently in the arbitration process. These Investigations involved findings of Actual Misconduct.

Conclusion

A review of the frequency of incidents for 2025 regarding alleged misconduct by employees of the Auburn Police Department does not appear to raise any specific concerns. The number of allegations and found misconduct when compared to the actual number of contacts Auburn Police Officers encounter each year is extremely low (.006% for Internal Investigations, .005% of Supervisory Investigations). This illustrates and confirms that we take all complaints seriously and train our employees regularly, and when necessary, use corrective action depending on the severity of the allegation and according to policy and our discipline matrix.

AUBURN POLICE DEPARTMENT



Pursuit Analysis 2025

This document is to report 2025 pursuit information, conduct a comparative analysis against recent years on a variety of pursuit aspects, offer suggestions on how to improve decision-making during pursuit driving by Auburn Officers, and to identify areas where Emergency Vehicle Operators Course training can be enhanced.

Commander Chris Burger

MC

3/27/2026

AUBURN POLICE DEPARTMENT

2025 PURSUIT ANALYSIS

The information in this analysis was obtained from a combination of Spillman Incident reports and pursuits reported via *Report of Pursuit* in BlueTeam to IA Pro.

The current procedure for collecting data on pursuits is outlined below and in the Auburn Police Department Policy Manual, Chapter 345.

Vehicle Pursuit Reporting

1. Following a pursuit, Patrol Supervisors are responsible for completing a Report of Pursuit through BlueTeam. As part of the Report of Pursuit, the Supervisor will interview the involved officer(s) and review all available in-car and body worn camera videos. The purpose of this report and critique is to identify those aspects of the pursuit that went well and those that could be improved upon. It is also designed to determine whether the pursuit met the policy manual guidelines, or whether it deviated from the guidelines. If the pursuit deviated from policy, a determination should be made as to whether this deviation was acceptable.

2. The report is then forwarded through the chain-of-command to the Chief of Police. The Division Commander has the option of providing additional critiques for any pursuit, for training purposes. All pursuits are documented in this manner and reviewed for this analysis. The Report of Pursuit is then forwarded to the Office of Inspectional Services and added to IA Pro.

3. Once the Office of Inspectional Services logs the report, it is then available to the Emergency Vehicle Operators Course (EVOC) coordinator for the purposes of data collection, annual analysis, evaluating and/or recommending changes to the pursuit policy, as well as identifying potential training opportunities.

2025 Pursuit and Comparative Analysis

On the pages following is a collection of key charts and tables that cover vehicle pursuits by type, time of day, tactical intervention and more. In addition, key observations for each category are provided.

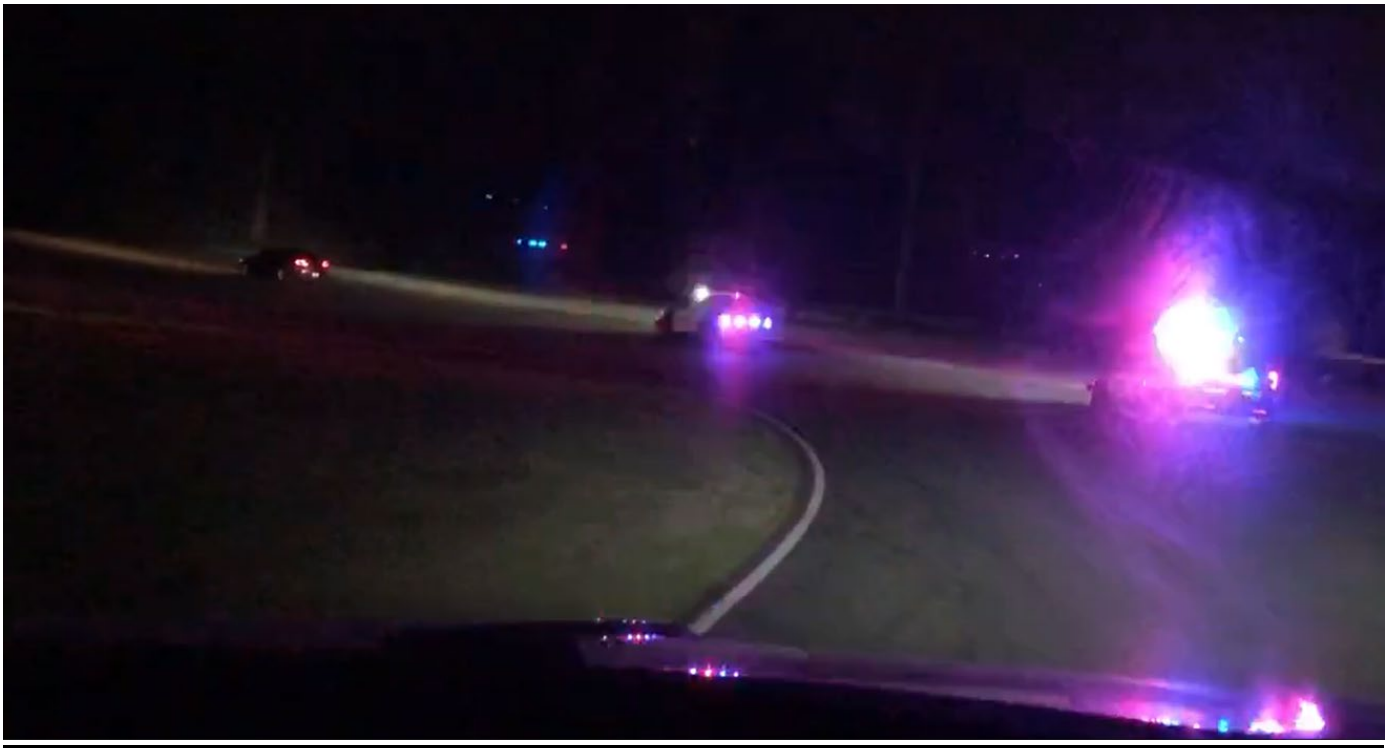
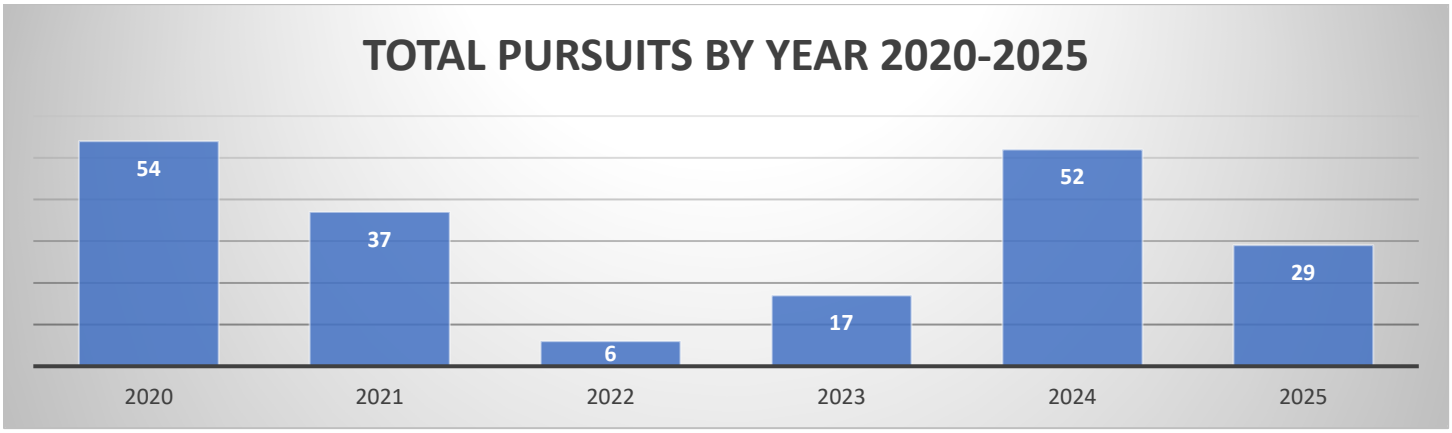
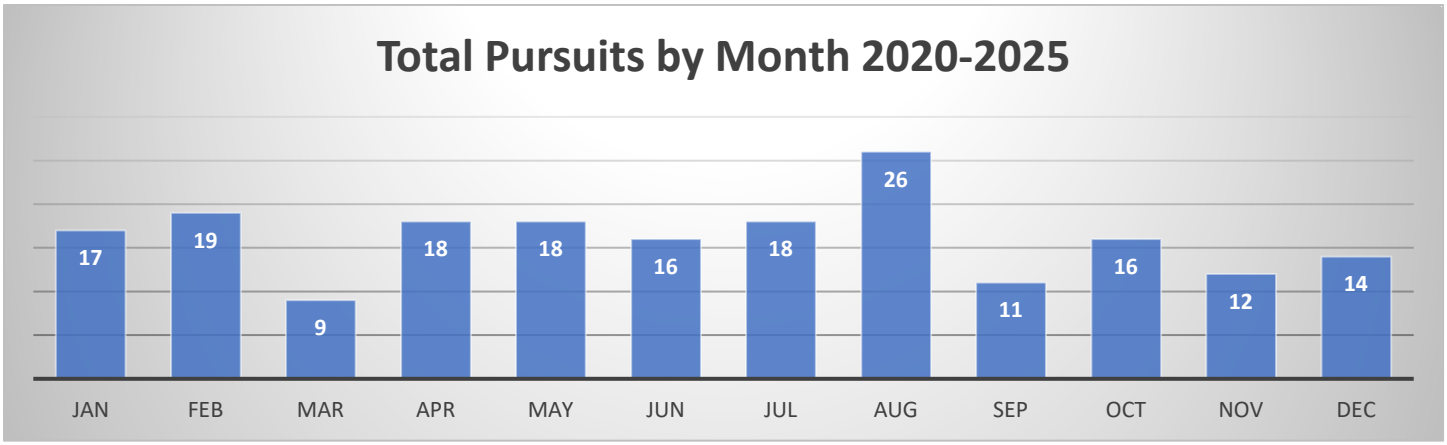


Chart 1. Total Pursuits by Year



Observations: In 2025 there was a 44% decrease in the number of pursuits from 2024.

Chart 2. Total Pursuits by Month



Observations: There is no significant trend in the cumulative number of pursuits by month. October has the highest number of pursuits for 2025 at 5. There were four pursuits each in the months of May and August.

Chart 3. Total Pursuits by Month 2025

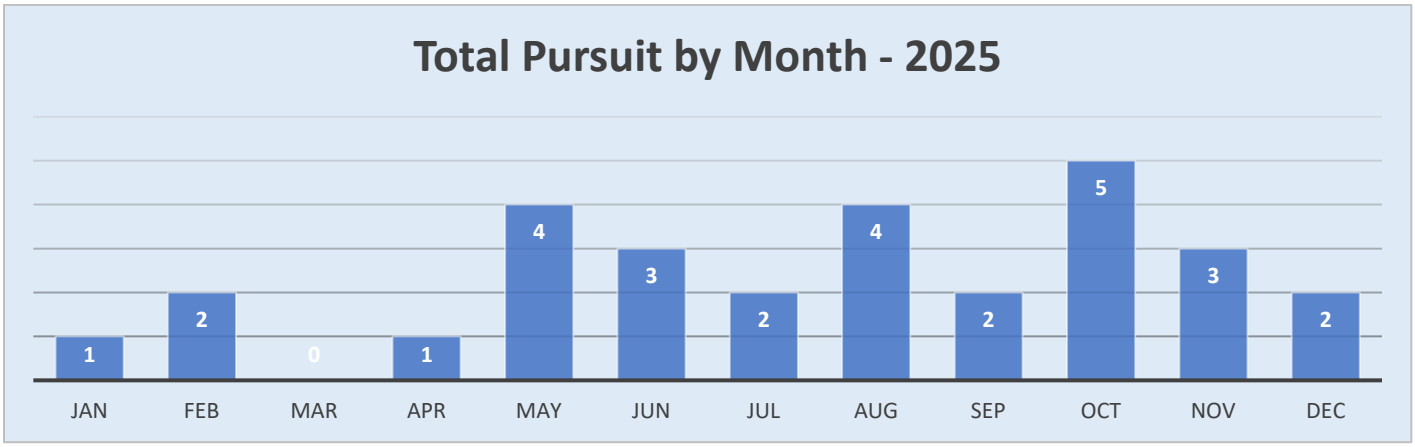


Chart 4. Pursuits by Day of the Week 2020-2025

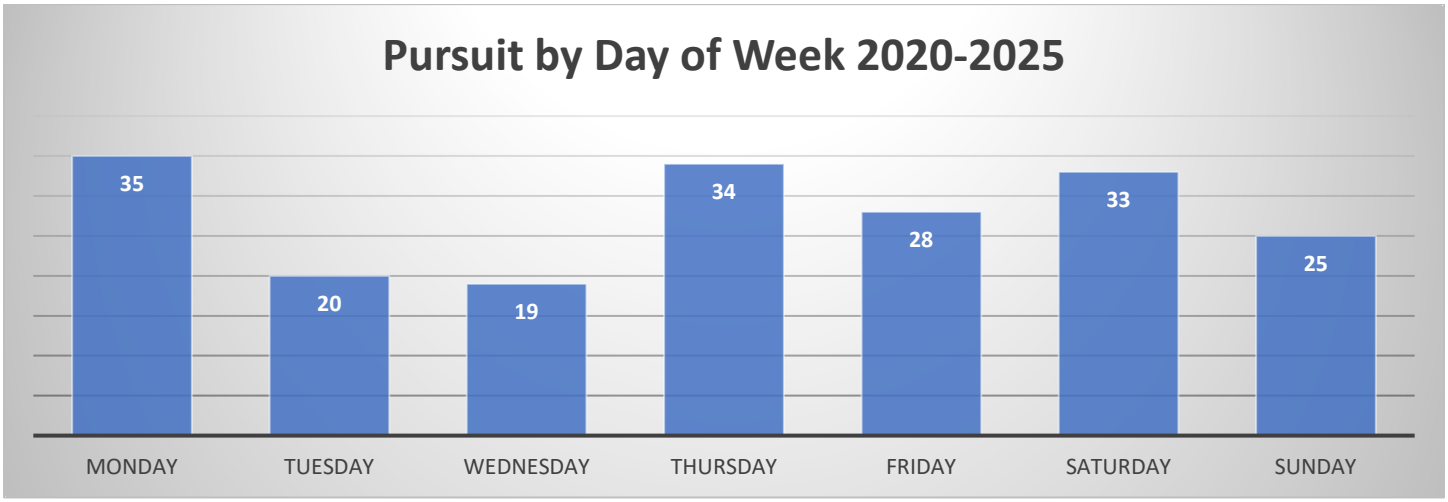
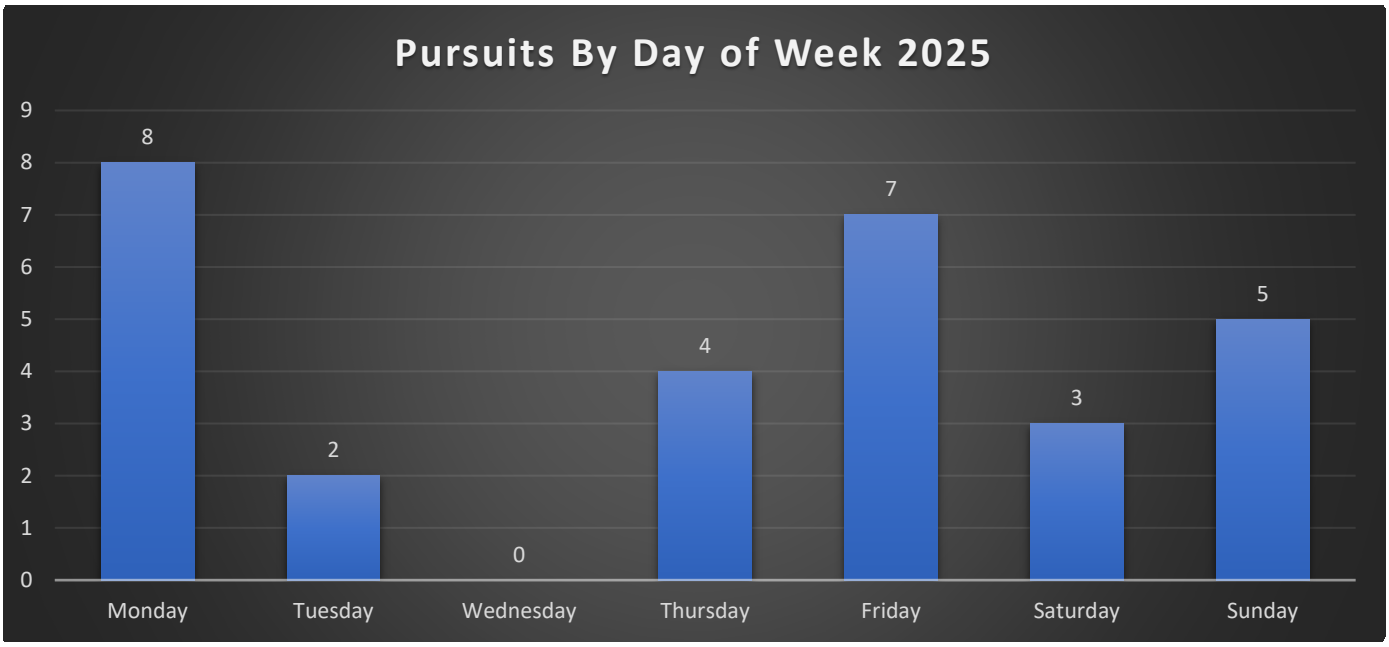
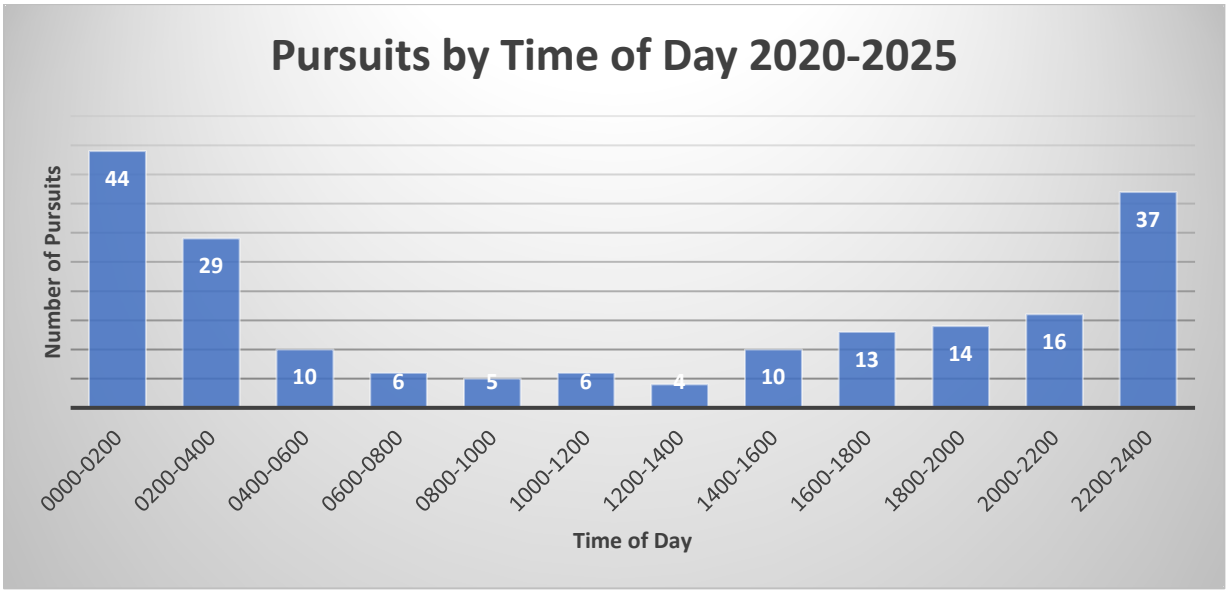


Chart 5. Pursuits by Day of the Week 2025



Observations: Weekends typically have more pursuits. However, this changed in 2024 and remained consistent in 2025, with the most pursuits, 8, occurring on Monday.

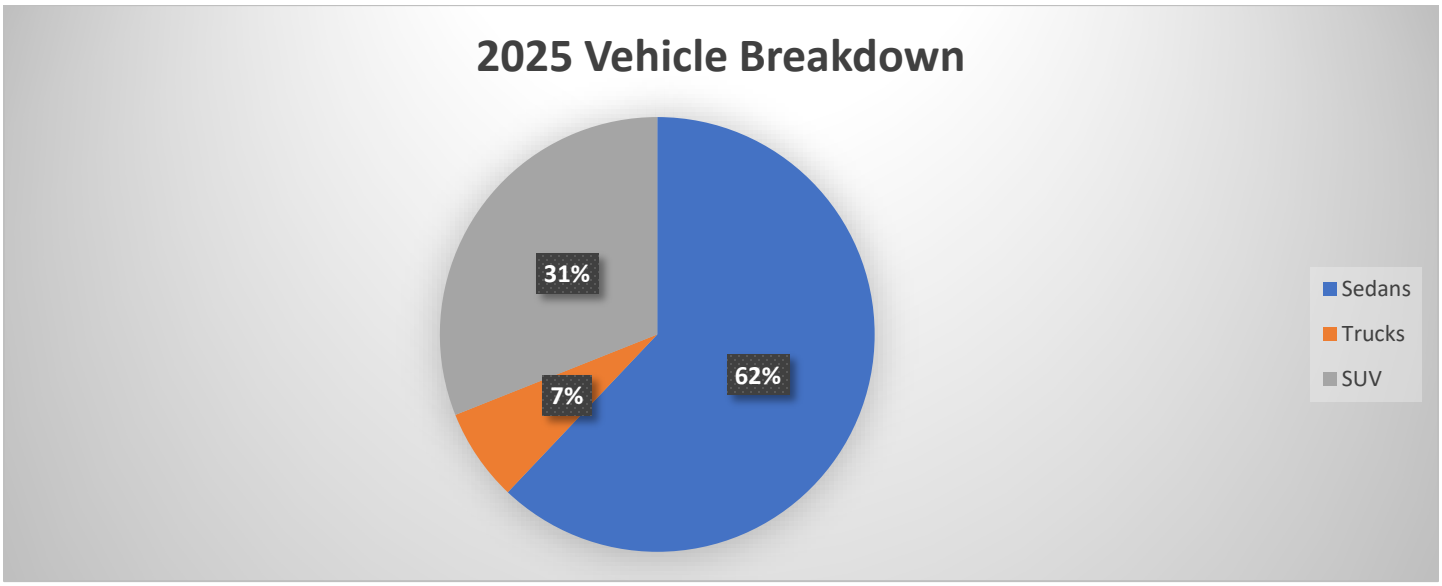
Chart 6. Pursuits by Time of Day (2020-2025)



Observations: Pursuits in Auburn have traditionally occurred between 2000 and 0400 hours. In 2025 the combined period between the hours of 2200 and 0200 had the highest frequency of pursuits; 16. There are several possible explanations for this.

- During this time there are favorable traffic conditions.
- The ratio of officers versus citizens on the road is greatest during this time, and Auburn crime data indicates the criminal element is more active between these hours.
- Except for the afternoon rush hour, this is reflective of the APD workload and staffing distribution. Patrol staffing deployment between these hours is increased as this period correlates with the hours of the highest calls for service.

Chart 7. Pursuits by Vehicle Type



Observations: Sedans traditionally make up most vehicles initiating pursuits. In 2025, 18 pursuits involved Sedans, making up 62% of the total. SUVs were pursued 9 times, making up 31% of the total. There were no pursuits involving vans or motorcycles.

Chart 8. Dry v. West

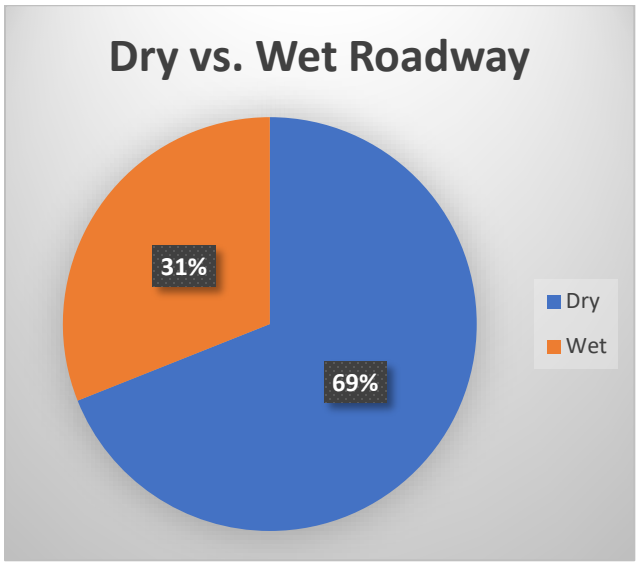
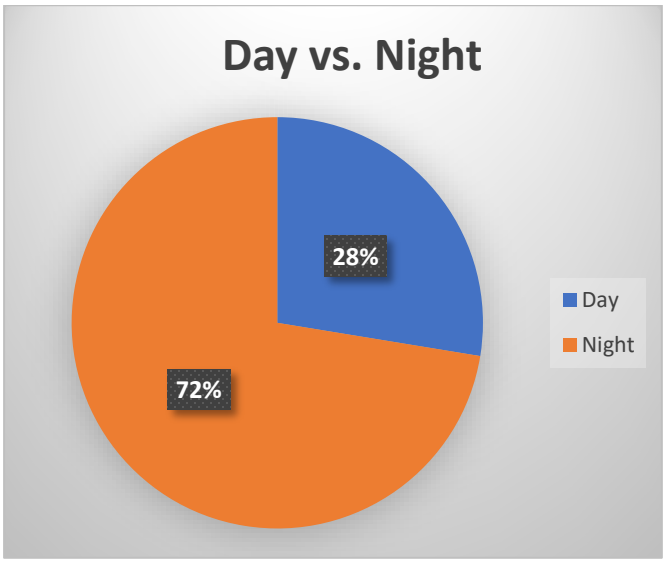
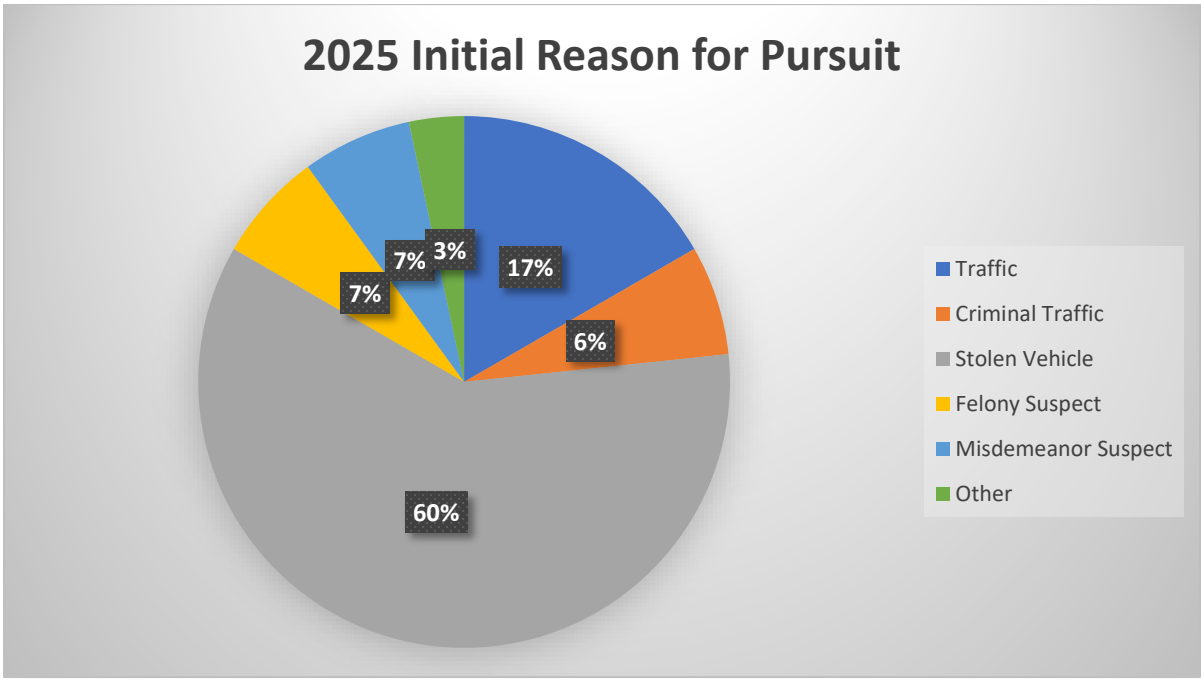


Chart 9. Day v. Night



Observations: Most pursuits occur at night and on dry roadways. Historically, this is a stable trend for pursuits in Auburn.

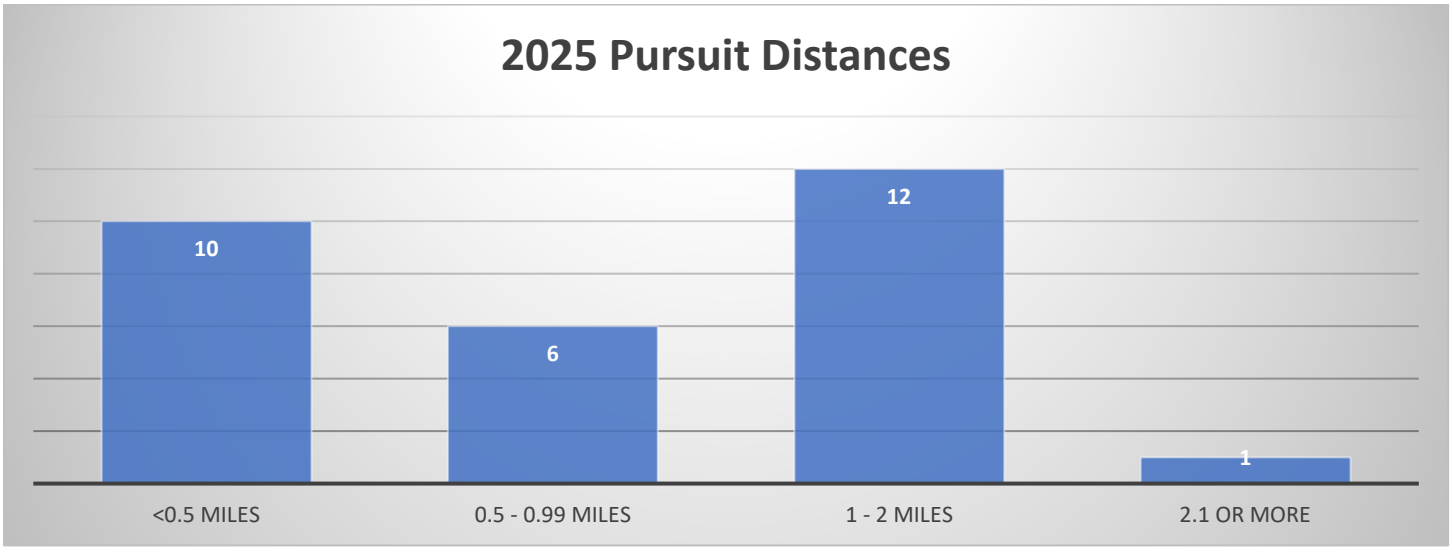
Chart 10. Initial Reason for Pursuits



Definition: The *Initial Reason for Pursuit* refers to the crime or infraction observed by the officer that provided probable cause for the initial stop. The purpose of collecting this data is to show that officers often have only limited knowledge as to the underlying reasons why suspects are fleeing from them.

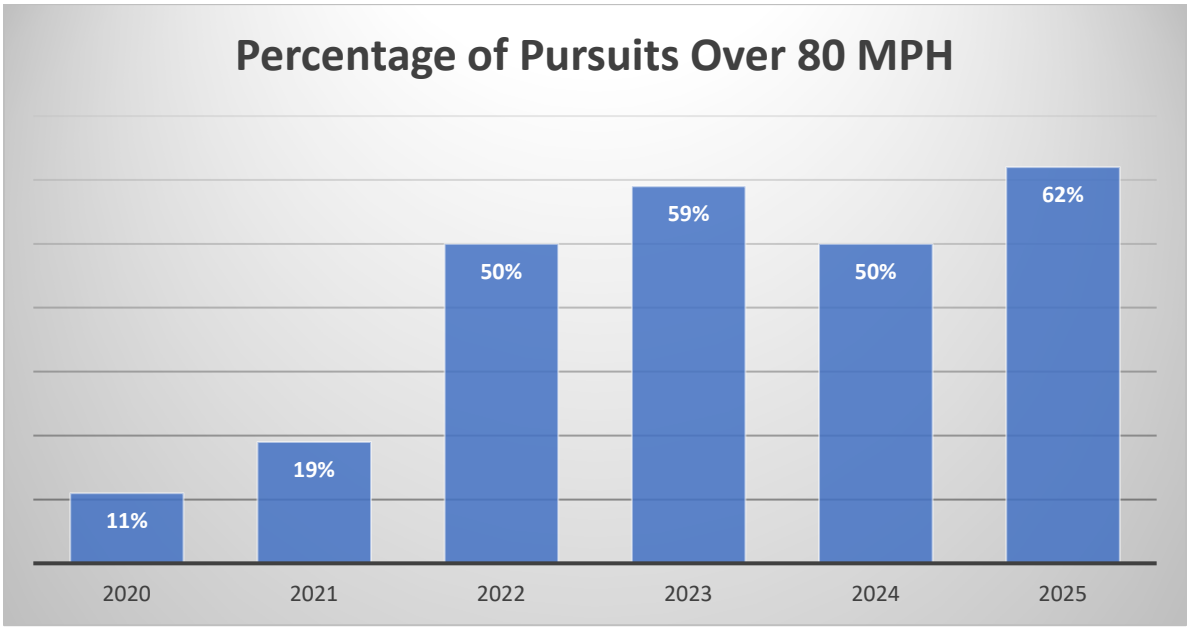
Observation: In 2025, 60% of pursuits were initiated for stolen vehicles. 17% of pursuits were initiated for traffic related offenses.

Chart 10. Pursuit Distances



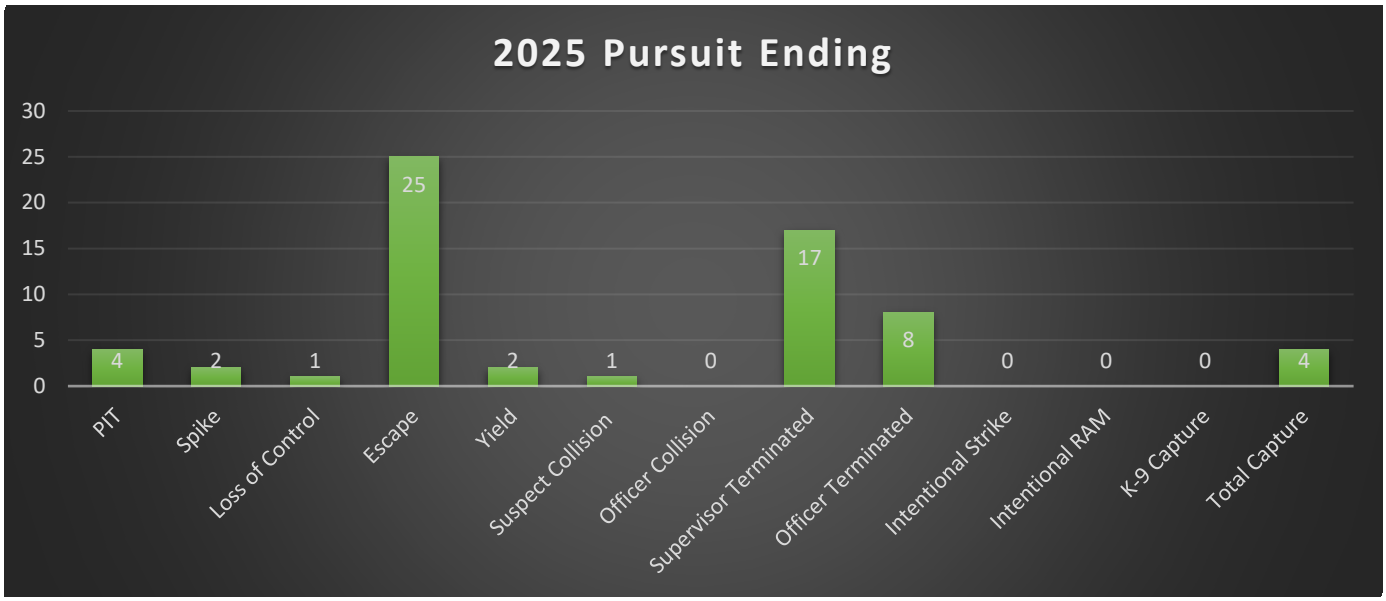
Observations: For pursuits that were not immediately terminated, 41% (12) were 1-2 miles.

Chart 12. Pursuit Speeds (2020-2025)



Observations: Of significant note is the percentage of pursuits during each year with sustained speeds at 80 MPH or greater. The purpose of selecting this range of speeds is so officers understand the importance of ending pursuits as soon as possible. Furthermore, there is a correlation between high speeds and prolonged distance, to pursuits that end in a collision. The above chart shows the percentage of pursuits between 2020 and 2025 that were classified at speeds greater than 80 MPH.

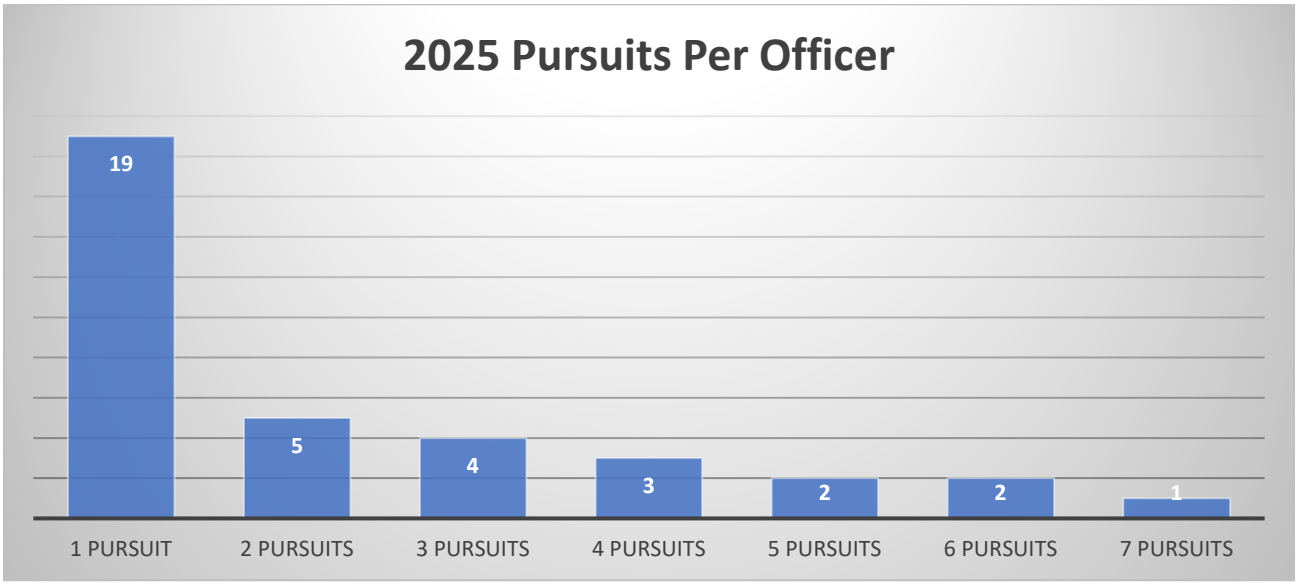
Chart 13. Pursuit Ending



Observations:

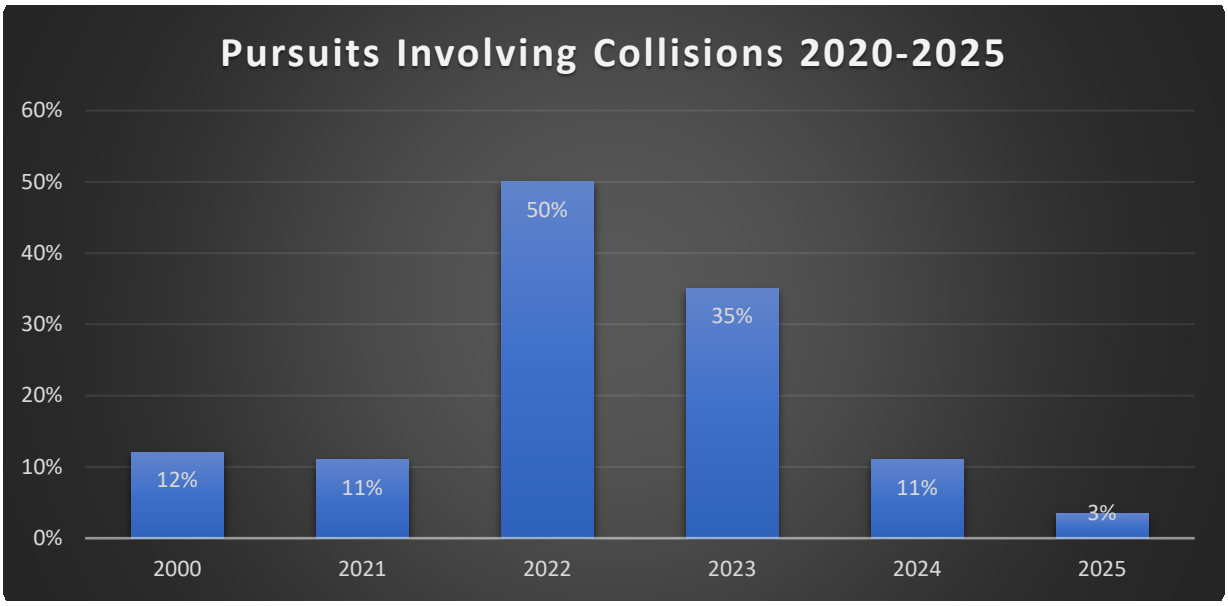
- The above chart reflects how 2025 pursuits concluded. Some pursuits are represented by more than one category. For example, while 25 suspects escaped, some of them are represented under suspect collision, PIT or terminated. Of note, in 2025 86.2% (25) of the 29 pursuits were terminated by the involved officer or supervisor. This demonstrates that the Sergeants were closely monitoring their officers involved in the pursuits and the circumstances of the pursuit. It also shows that the officers themselves recognized on their own the need to terminate the pursuit. They were compelled to terminate the pursuit when the hazards created by it were greater than the danger posed by the suspects escape.
- Officers had only two opportunities to use spike strips in 2025. This is most likely because nearly all pursuits were terminated or ended after a very short distance.
- Of the 29 pursuits in 2025, four resulted in the capture of the suspect.

Chart 13. Officer Frequency 2025



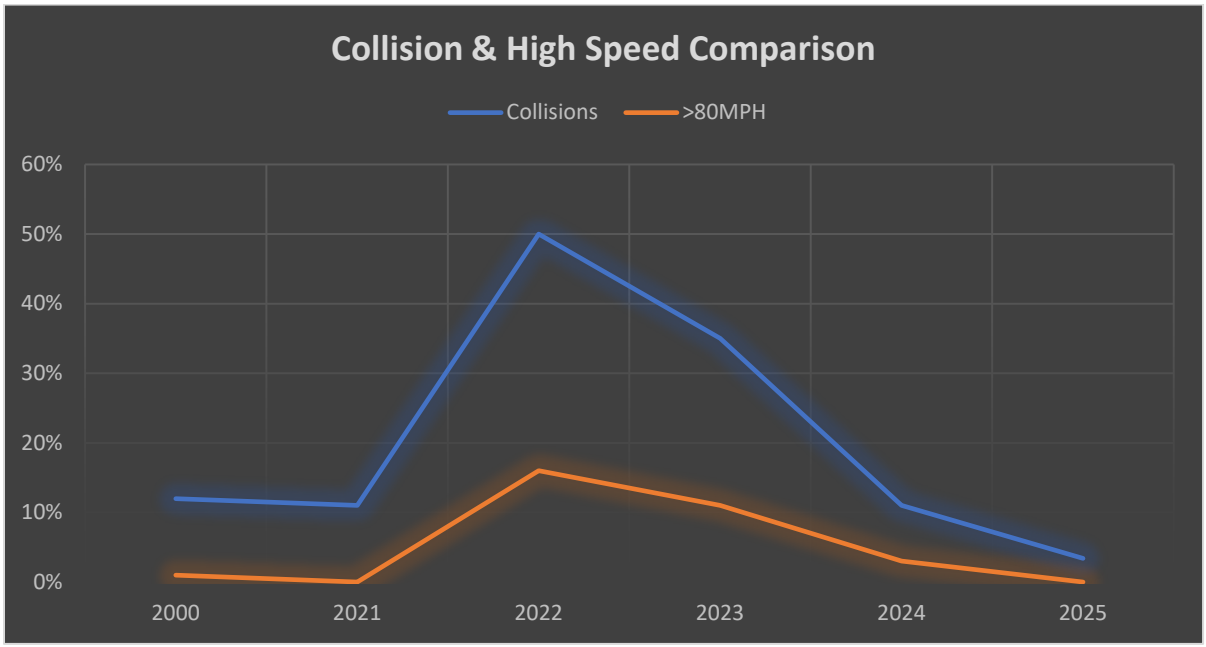
Observations: For training purposes, it is helpful to monitor the number of pursuits that individual officers initiate. It should also be noted that we have started to monitor not just the officer initiating the pursuit, but also an officer's involvement in the pursuit. Meaning that if he/she joins as a second unit involved, they will be shown in this statistic. In 2025, of the 29 pursuits, 19 officers were involved in one pursuit, 5 officers were involved in two pursuits, 4 officers involved three pursuits, and 3 officers were involved in 4 pursuits.

Chart 14. Pursuits Involving Collisions 2020-2025



Observations: In 2025, there was 1 collision by a suspect and 0 by an Officer. No injuries occurred to the suspect. No officers were injured because of these pursuits.

Chart 15. Collisions Vs. High-Speed Pursuits 2020-2025



Observations: This chart depicts a possible correlation between the incidence of collisions and pursuits at speeds greater than 80 MPH, at least for most of the years shown. In 2025 there were no collisions involved in pursuits at speeds greater than 80 MPH. This statistic points to the fact that sergeants and officers are very cognizant of this and are terminating pursuits appropriately.

Chart 16. Suspect Gender

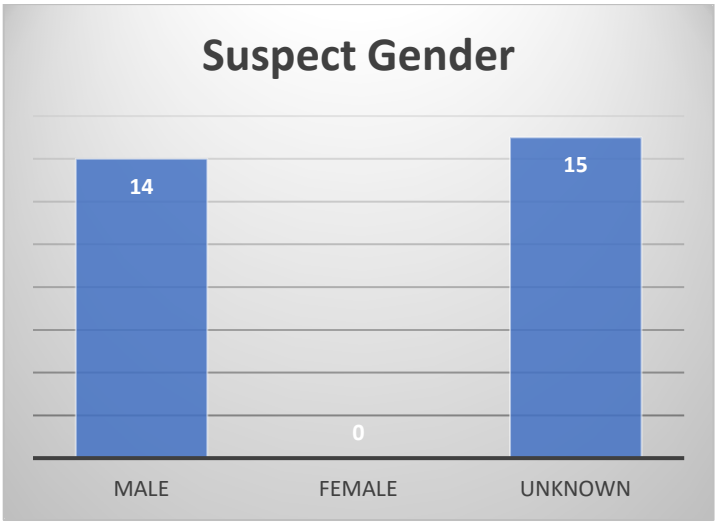


Chart 17. Suspect Age

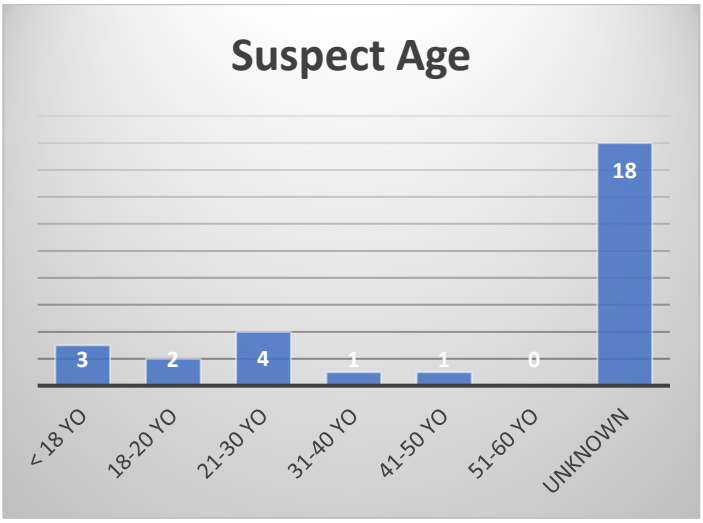
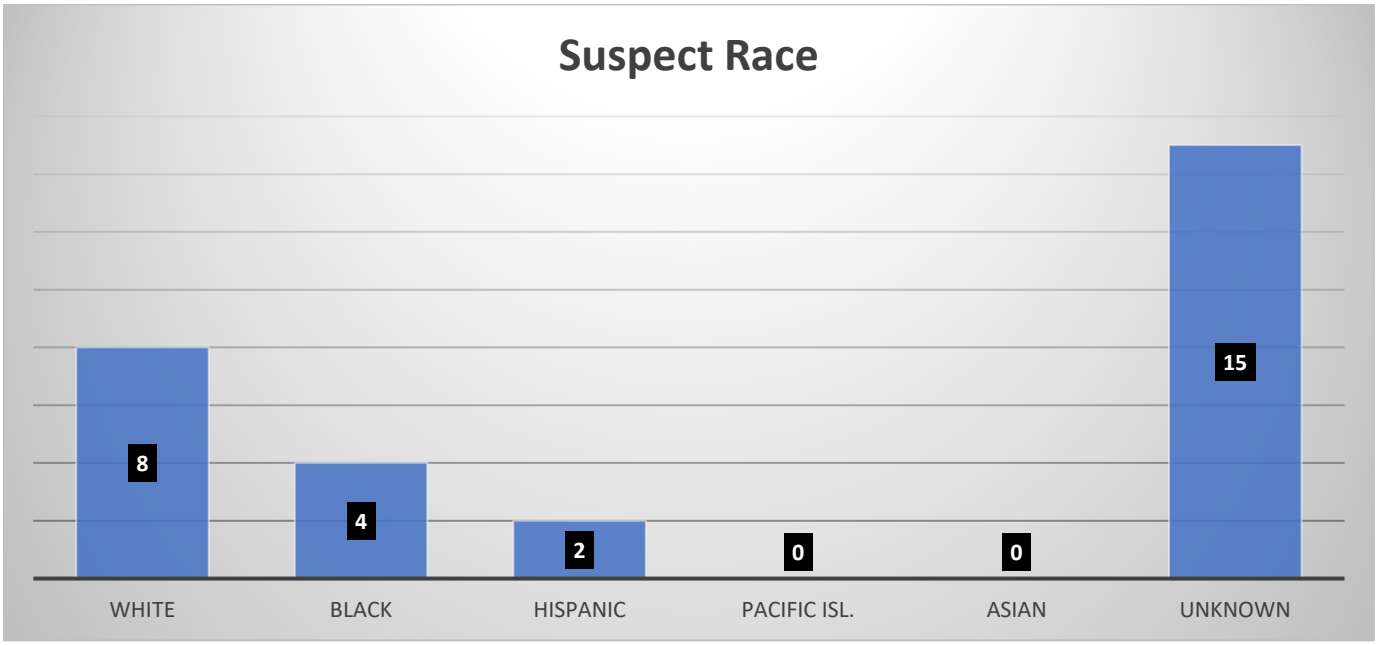


Chart 18. Suspect Race



Observations: Of the known suspects in 2025 pursuits, 14 were male and there were no known female suspects. 8 suspects were White, 4 were African American, 2 were Hispanic, and 15 were unknown. Three identified suspects were less than 18 years old. Not all suspects are identified or captured. Due to the higher probability of pursuits occurring at night, and the fact that most pursuits are terminated, it is difficult for officers to obtain these characteristics. Also, some suspects were identified after the pursuit concluded through investigative measures.

Summary:

1) The number of pursuits in the City of Auburn tends to fluctuate like other crimes reported. Between 2005 and 2025, the average number of pursuits per year was 30.71. Between 2005 and 2009, the average number of pursuits per year was 31.2. The next five years (2010 - 2014) there was a significant decrease in the number of pursuits per year (17.8). Between 2015 – 2019, the average pursuits per year was 41. Lastly, as stated previously, the average number of pursuits per year between 2020 – 2025 was 39. 2018 still has the highest number of pursuits per year at 62. In 2022, however, due to significant legislative actions, discretionary police practices were removed and nearly all incidents of pursuits (6) ceased. In 2024, these discretionary practices were returned, and the number of pursuits showed a significant increase.
2) In 2025, compared to 2024, the average length of a pursuit remained consistent (.91 miles).
3) In terms of what the officers knew at the time each pursuit was initiated, 60% of pursuits in 2025 were initiated for stolen vehicles.
4) The Auburn Police Department has a highly efficient method of capturing pursuit data for subsequent analysis and training. The department should continue evaluating what information should be captured, and how that information should be recorded.
5) There have been major changes in legislation and modification of the pursuit policy to allow for greater discretion for officers and supervisors on pursuits for crimes that are less severe. There are always underlying reasons why suspects flee from the police. We do not know the extent of the reasons for motorists to flee, such as warrants, weapons violations, and other felonies. As mentioned in #3 (above), the "real" reasons suspects are fleeing should be recorded on those suspects who are captured and are willing to speak.
6) Supervisors were very involved in monitoring the 2025 pursuits. This year, 25 of 29 pursuits (86.2%) were terminated by either first line supervisor or the involved officer(s) after approval had initially been given to pursue.
7) Supervisors and officers have often made the correct decision and chose not to continue to pursue even when it was allowed by legislation and policy. It is commendable that they have made these decisions, as it shows that they are constantly weighing the danger of the pursuit to the public, against the danger created by the suspect escaping.

Training

1. For many years, Emergency Vehicle Operators Course, (EVOC), training consisted of eight hours for each officer, every three years. During the eight hours, the officer received training in the Pursuit Policy, vehicle placement, auto-cross, high speed tactical driving, pursuit scenarios, and the Pursuit Immobilization Technique (PIT).
2. The EVOC training provided has changed over time. It has adapted to Legislative and policy changes. To capture officer attention, EVOC training was shortened to four hours of intensive high speed, slow speed, controlled braking, PIT, and scenario-based training. At least one half of all commissioned officers receive pursuit driving and pursuit scenario training per year. The officers also received refresher training in the PIT maneuver.
3. EVOC instructors have the officers continue to perform high speed training and the PIT maneuver until both the officer and instructor are confident that the officer is thoroughly familiar with these techniques. The intent of training at Pacific Raceways is to get more officers through this critical high risk – low frequency training, and on a more frequent basis. This is even more important now that this critical task is less frequent. This training is mandated to take place for every officer every two years, which is a change from the previous requirement of every three years.
4. The EVOC coordinator and several instructors review department pursuits and collisions. A determination is made to consider additional training for the officers that are found to be involved in preventable collisions. In 2024 EVOC Instructors noted that the number of preventable, slow speed collisions was increasing within the department. Through cooperation with the Auburn School District, the EVOC staff provided additional slow speed training at Bowman Elementary School, in the hope of decreasing these types of collisions. This training continued into 2025.
5. There is currently a push to provide basic EVOC training to new recruits to give them this important training prior to annual training in October or November. This is problematic at times as finding a location that will allow the training is challenging.
6. If timing and scheduling allows, we have been sending new hires (pre-academy) to department EVOC training.
7. For 2026, EVOC will be held at the Washington State Patrol Academy. The EVOC designed course will allow for better training, more course layout options, and designated PIT and slow-speed areas. This will also allow the department to send a greater number of commissioned staff through in a shorter period of time and maximize the training opportunities.

AUBURN POLICE DEPARTMENT
2025
ANNUAL USE OF FORCE REVIEW

THE AUBURN POLICE DEPARTMENT IS A STATE ACCREDITED AGENCY

CITY OF AUBURN WASHINGTON

Report prepared by Commander Shaun Feero

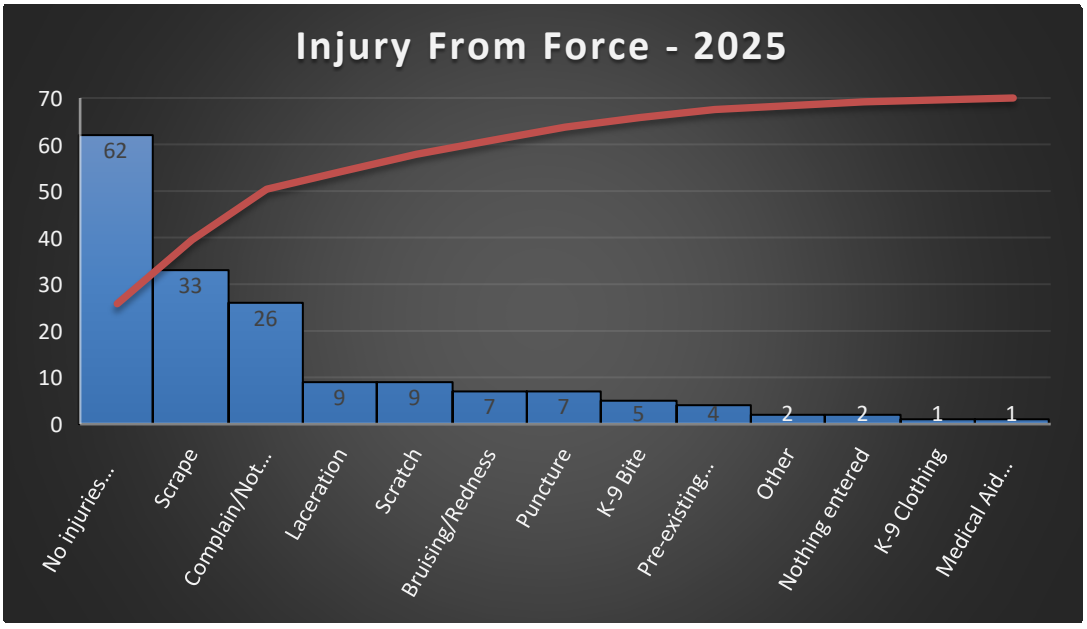
MC 3/25/2026

The purpose of this annual report is to document and summarize all Uses of Force that were completed by Auburn Officers during the 2025 calendar year. This report compares statistics from previous years through 2025, which adds context and helps us identify trends that we can address in future training. The report will compare Use of Force incidents vs. Use of Force Allegations; types of injuries sustained by both suspect and officer; and force used when presented with different scenarios (i.e. officer about to be assaulted, suspect fled, etc.).

In 2025, Auburn Police Officers responded to 61,856 CAD incidents (64,422 in 2024) and completed 11,494 case reports (13,624 in 2024). Officers made 2,389 arrests (2,779 in 2024) with 2,324 of those arrestees being booked into SCORE (2,351 in 2024) and issued 4,501 infractions/citations (3,801 in 2024).

There were 142 incidents where officers were required to use force. 2 of those incidents included the use of deadly force and are still in review by the King County Prosecuting Attorney's Office. Of the 142 incidents there were 140 Use of Force reports completed by officers in 2025 compared to 246 in 2024. Of the 140 incidents, injuries were reported as follows:

7 – Bruising/Redness
26 – Complain/Not Apparent
5 – K-9 Bite
1 – K-9 Clothing
9 – Laceration
1 – Medical Aid Declined
62 – No injuries noted or visible
2 – Other
4 – Pre-existing injury
7 – Puncture
33 – Scrape
9 – Scratch
2 – Nothing entered



All injuries were photographed and noted, and most were minor scrapes, bruises, small lacerations, K-9 contacts, and complaints of pain with no visible injury.

It is important to understand that there are times when it takes two or more officers using force on one suspect in order to gain compliance and get the suspect in custody. When that occurs, each officer is required to complete a force report which then generates multiple force reports for one incident. Table #1 below depicts the ratios in comparison to the force incidents.

Only .229% of subjects contacted resulted in force being used.

	2024	2024 Ratio 249 UoF Incidents	2025	2025 Ratio 142 UoF Incidents
CAD	64,422	1/259 (.39%)	61,856	1/436 (.229%)
Cases	13,624	1/55 (1.83%)	11,494	1/81 (1.235%)
Arrests	2,779	1/11 (8.96%)	2,389	1/17 (5.88%)
Bookings	2,351	1/9 (10.5%)	2,324	1/16 (6.25%)

The above table effectively shows that our officers use de-escalation techniques well. As you can see, only 142 subjects out of 61,856 who were contacted compelled the officer to use force.

Table #2 below shows the ratio comparison from 2024 regarding force reports completed.

Only .226% of contacts resulted in a use of force report being completed.

	2024	2024 Ratio 246 Reports	2025	2025 Ratio 140 Reports
CAD	64,422	1/261 (.38%)	61,856	1/442 (.226%)
Cases	13,624	1/55 (1.8%)	11,494	1/82 (1.22%)
Arrests	2,779	1/11 (8.85%)	2,389	1/17 (5.88%)

USE OF FORCE COMPARISON

The Auburn Police Department reports uses of force using an electronic reporting system. If there is any allegation of excessive force, by policy an internal investigation may be ordered by the Chief of Police. The following chart is a snapshot comparison of total excessive force allegations for each year compared to the number of force reports.

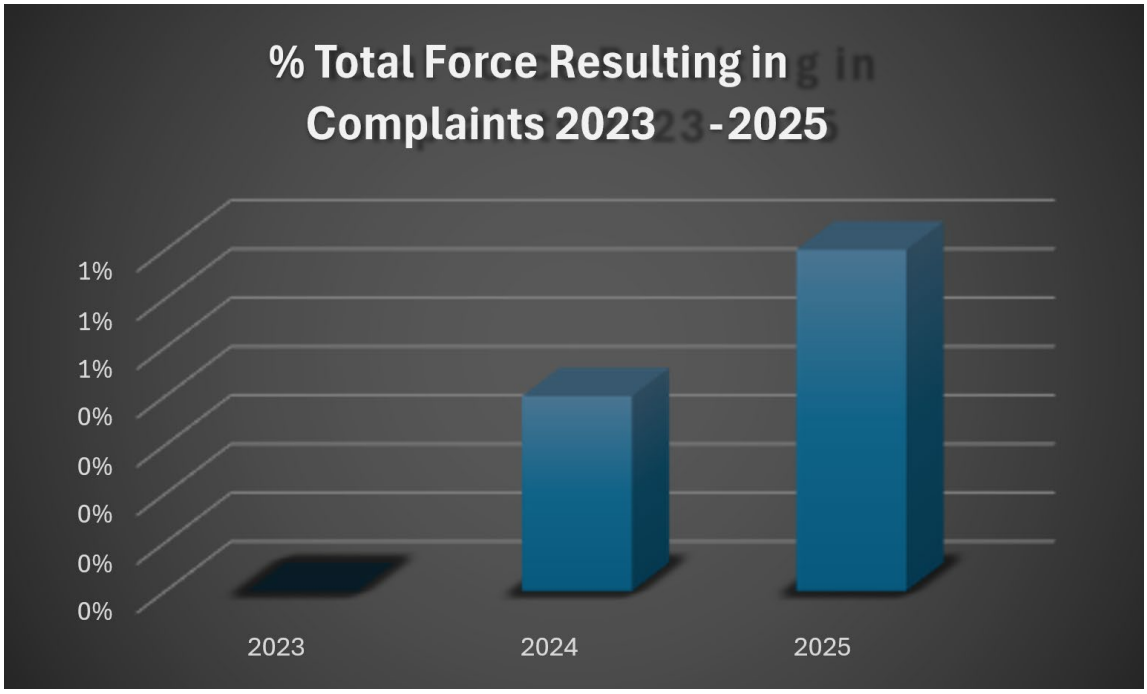
Force Report Comparison 2023-2025

In 2025, we received one allegation of inappropriate and/or excessive use of force involving two officers. An internal investigation was conducted and found no evidence of misconduct by either officer. Table #3 shows there was 1 incident that resulted in allegations of excessive force. Table #4 then reflects these same numbers in a percentage of allegations which is 0.70% in 2025.

Table 3

Year	Use of force reports	Excessive Force Allegations	Sustained Allegations
2023	161	0	0
2024	246	1	0
2025	140	1	0

Table 4



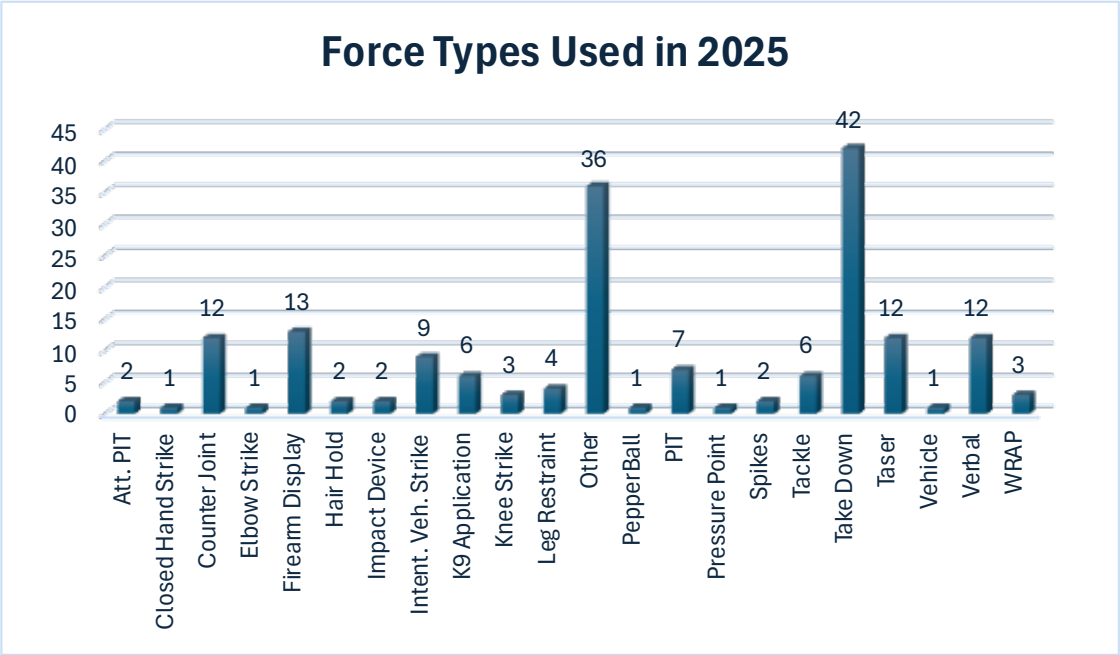
Types of Force Used

The use of force types listed below are techniques that the officers are trained to use depending on the type of resistance the subjects are exhibiting. Take Down is the most used type of force our officers use which is also the least invasive type of force. **PIT** is Pursuit Immobilization Technique which is used during pursuits to end the pursuit as quickly as possible in order to reduce potential injury and take the suspect into custody. An **Intentional Vehicle Strike** is authorized by policy in certain situations which entails the officer striking a suspect vehicle with his/her patrol car at slow speed to pin the vehicle so that it cannot continue to flee. There was a total of 178 force types documented in 2025.

Force Types Used in 2025

Table #5 below shows each force type that can be used by an officer and shows the number of times that force was used in 2025.

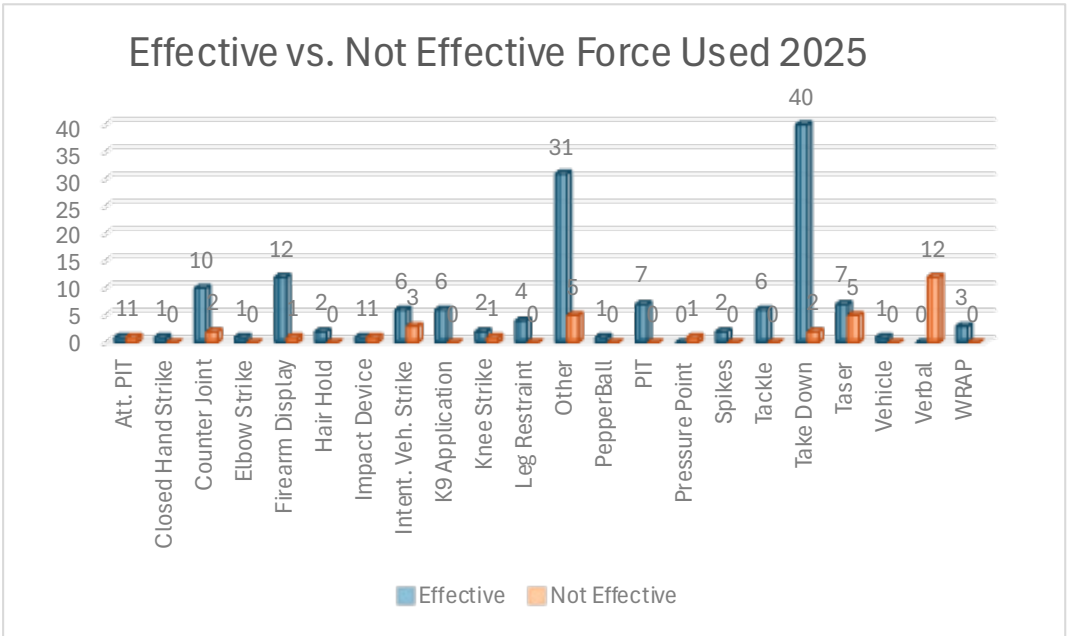
Table 5



Effective vs. Not Effective

Not every type of force is always effective, and at times multiple types of force are used on one person during the same incident. Table #6 shows the effectiveness of the types of force and shows when a force type is ineffective. As you can see officers use verbal skills first quite often, and when that is ineffective the officer is then compelled to use a different type of force.

Table 6



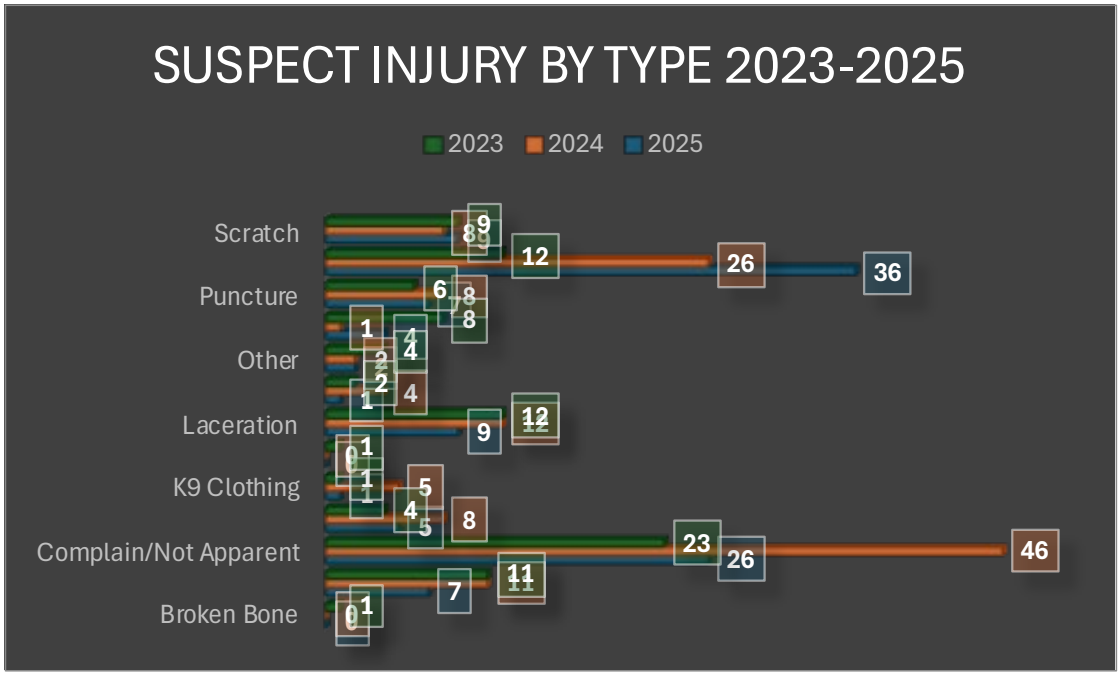
Force Used Resulting in Injuries

In 2025, injuries were reported by the suspect in 59% of all uses of force. Officers received minor injuries in 12% of the incidents. Injuries to suspects can include abrasions, contact from K9's, or general complaints of pain. All complaints of injuries are required to be documented and photographed. Officer injuries included bruising, minor punctures, scrapes and scratches. Table #7 and #8 compare these numbers to previous years. There were no fatal injuries or injuries resulting in serious bodily injury due to use of force.

Table 7

	Total Force Reports	Suspects Injured	Officers Injured	% of total of suspects injured
2023	163	94	23	57%
2024	246	104	30	42%
2025	140	82	17	59%

Table 8



Time of Day

The below tables depict the Auburn Police Departments use of force incidents by time of day. As in previous years documented, the majority of the occasions that officers are compelled to use force occur between the hours of 6:00 PM and midnight. Table #9 focuses on the year 2025 only and Table #10 compares the times to previous years.

Table 9

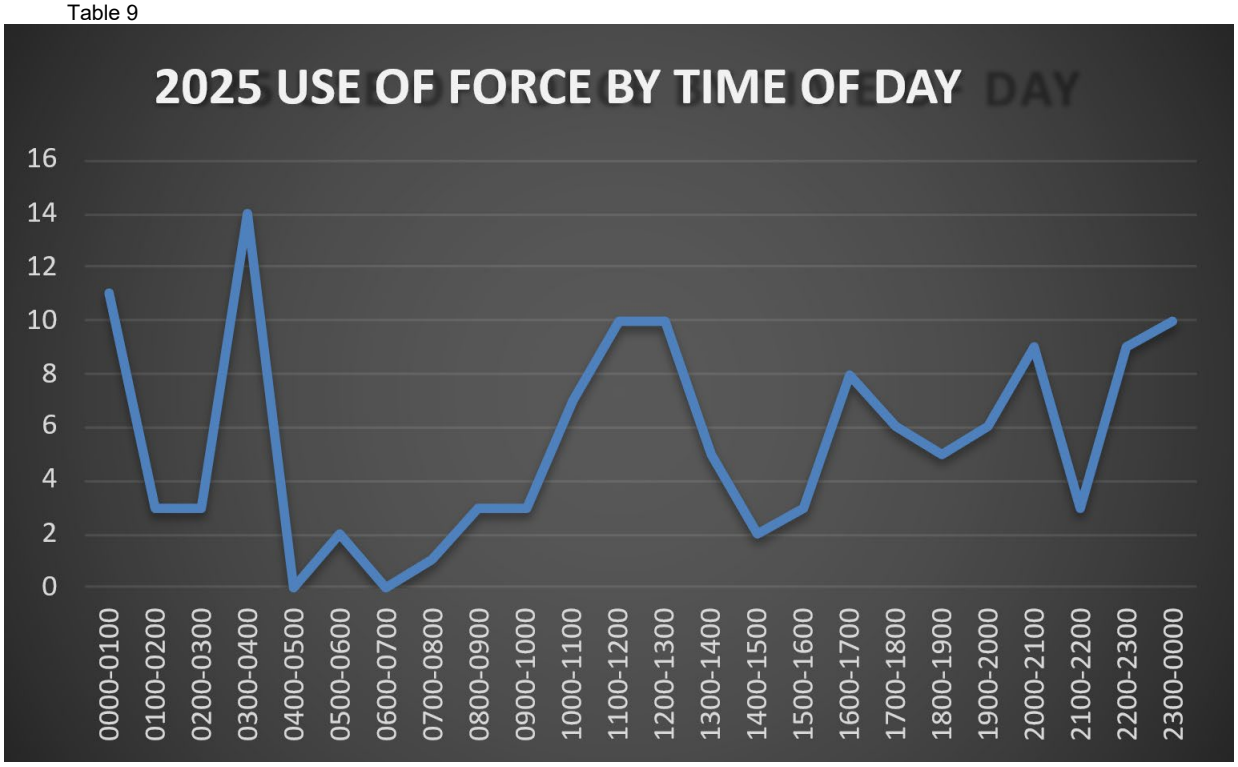
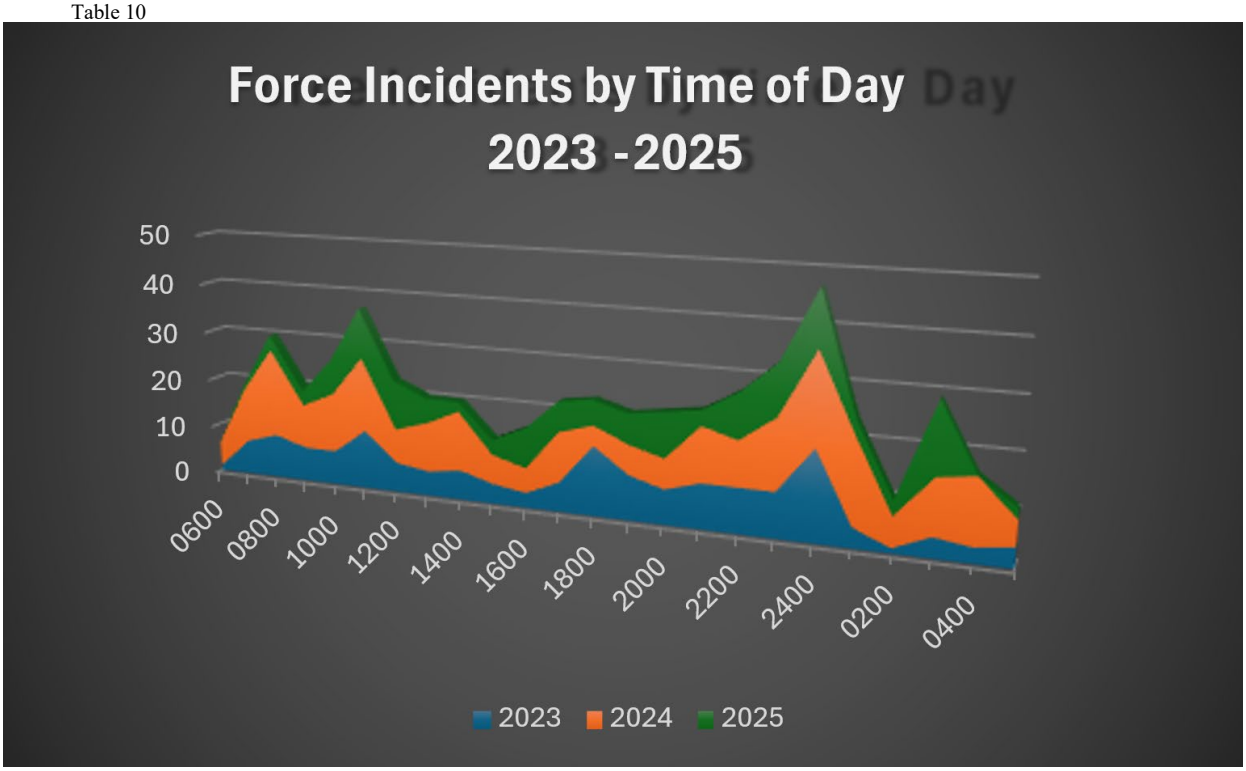


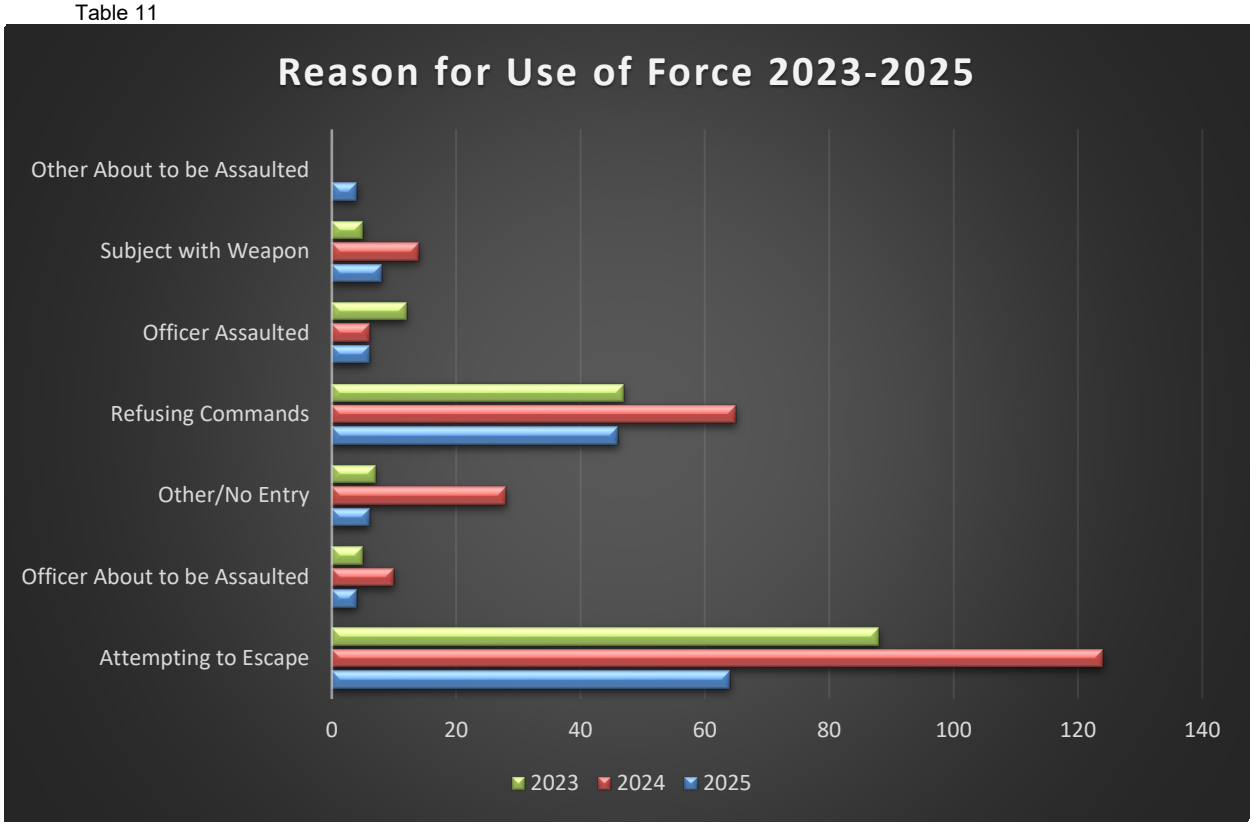
Table 10



Reason for Use of Force

Table #11 below shows the reasons that officer(s) were compelled to begin to use force resulting in the 140 force reports.

Table 11



Citizen Resistance During Force Encounter

Table #12 below shows the different resistance citizens were giving to an officer during a use of force encounter. Most of the time there are multiple types of resistance provided by a subject during a force encounter. In 2025, there were 138 documented forms of resistance during force encounters.

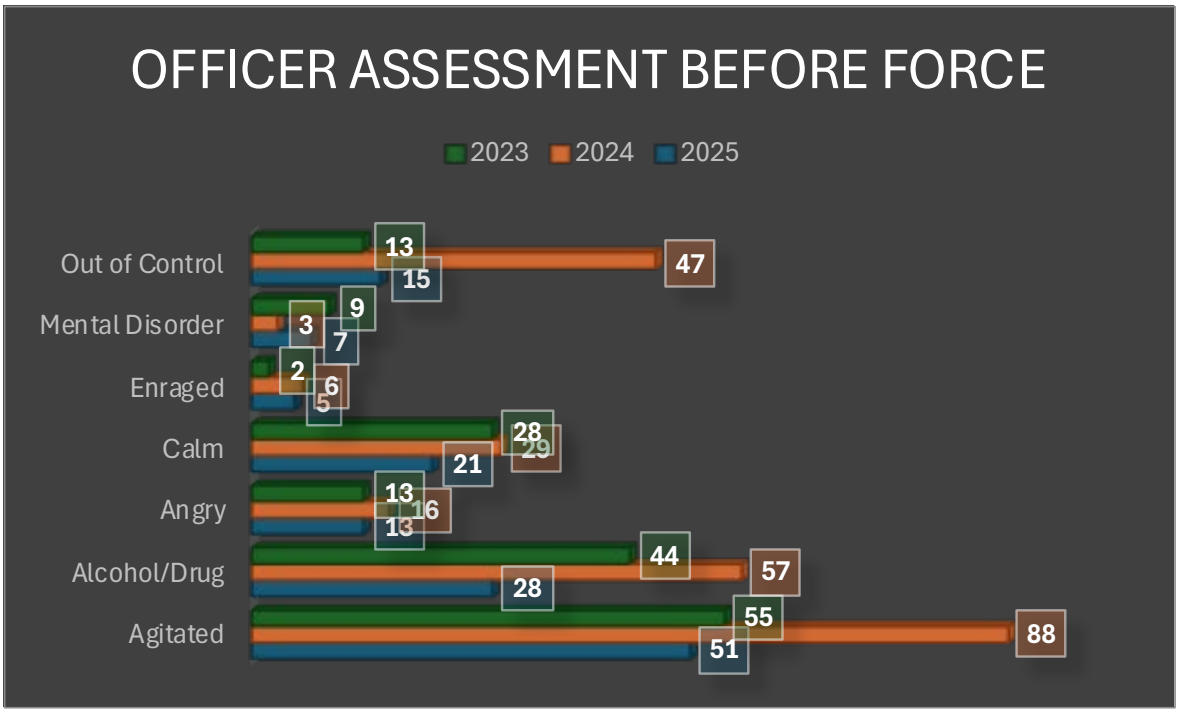
Table 12

	2025	2024	2023
Attempting to Escape	**64**	124	88
Officer About to be Assaulted	**4**	10	5
Other/No Entry	**6**	28	7
Refusing Commands	**46**	65	47
Officer Assaulted	**6**	6	12
Subject with Weapon	**8**	14	5
Other About to be Assaulted	**4**	0	0

Officer Assessment of Citizen Prior to Force Being Used

The below table is what the officer was observing or perceiving of the citizen prior to being compelled to use force.

Table 13



Use of Force Demographics

Table 14 depicts the race of the citizen the officer(s) were compelled to use force on. These numbers are in relation to 61,856 contacts our officers had in 2025 which resulted in only 142 incidents of force.

Table 14

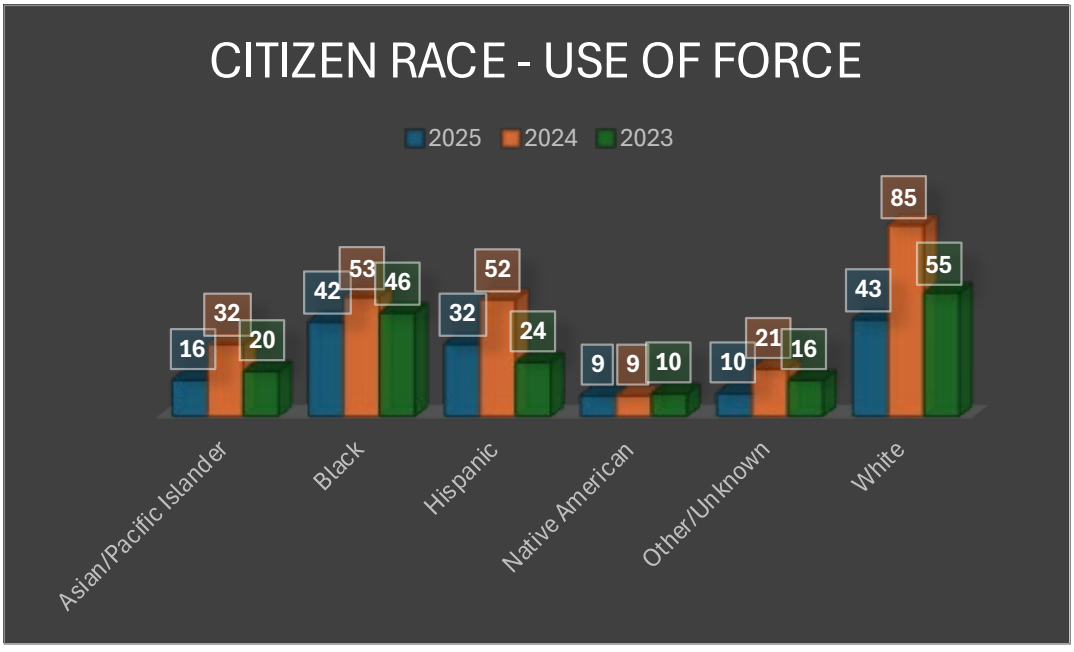
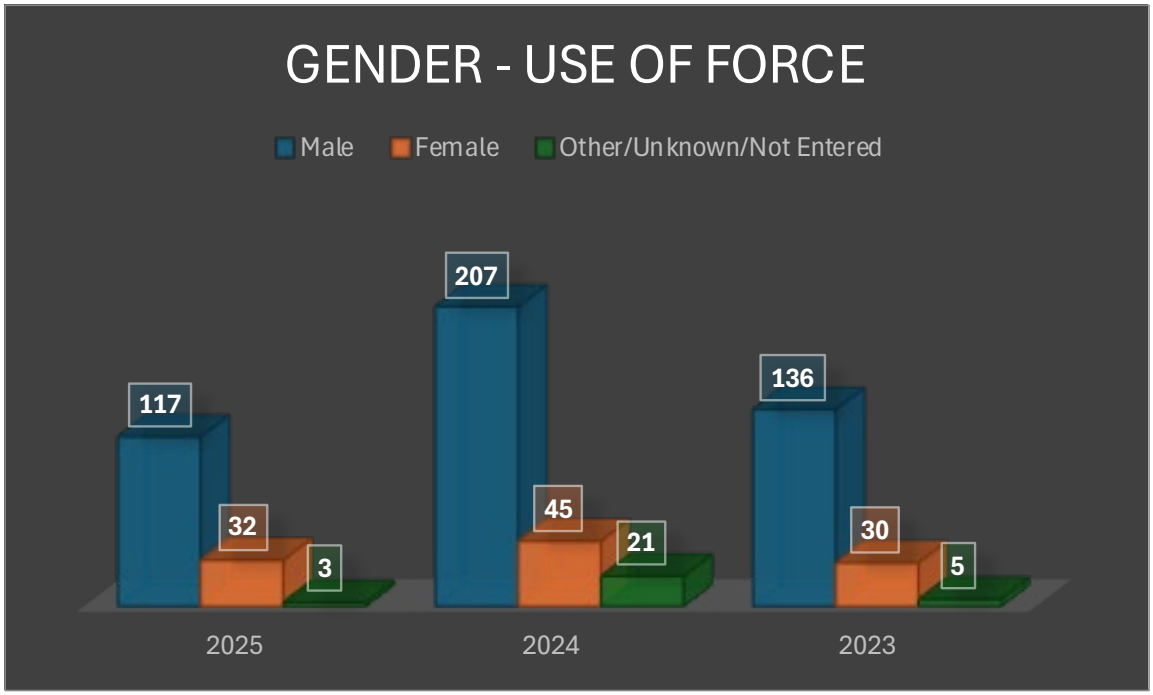


Table 15 depicts the gender of the citizen the officer(s) were compelled to use force on.

Table 15



Summary

It is clear from the report that Auburn Officers contact many subjects throughout the year and make many arrests. Calls for service were down by over 2,500. Subsequently, force incidents continue to be low compared to the number of contacts our officers make each year.

The most compelling statistics in this report are that the calls for service, arrests, and bookings are high numbers and by percentage the use of force does not occur often. In 2025, only .229% of CAD incidents required force to be used on a subject. Officers continue to receive annual defensive tactics/use of force training, as well as training on de-escalation techniques. This training encompasses classroom, hands-on, and scenario-based training. Each Officer has completed the 40-hour Crisis Intervention Training as well as completing yearly refresher training as required. Auburn PD has a cadre of Patrol Tactics Instructors (PTI) that allows for additional de-escalation tactics training.

The APD Use of Force Committee, comprised of Commanders, Sergeants, and officers who are highly trained in police use of force encounters, continues to provide oversight and training recommendations for officers. We continue to be part of the Department of Justice FBI Use of Force database. Uses of force that result in serious bodily injury (as defined by the Department of Justice) or death will be reported in the FBI database. Any use of force that results in great bodily harm (as defined by the Revised Code of Washington), death, or appears to be out of policy, will be reviewed by the Use of Force Committee and is required to be reported to the Washington State Criminal Justice Training Commission (CJTC). After the Use of Force Committee reviews the incident involving force, a representative from the committee provides a report to the Chief. The goal of the Use of Force Committee is to provide a more detailed analysis than is already done and to analyze force trends to enhance training, reduce injuries and ensure our citizens remain protected.

CITY OF AUBURN WASHINGTON

AUBURN POLICE DEPARTMENT 2025 ANNUAL CIA REVIEW

Auburn Police Department

AUBURN VALUES

SERVICE

ENVIRONMENT

ECONOMY

CHARACTER

SUSTAINABILITY

WELLNESS

CELEBRATION

AUBURN VALUES

SERVICE
ENVIRONMENT
ECONOMY
CHARACTER
SUSTAINABILITY
WELLNESS
CELEBRATION

Shaun W. Feero
Commander, Inspectional Services
sfeero@auburnwa.gov
253-288-3163

Auburn Police Department

Commendations

Year	Total Commendations	Letter of Commendation	Medal of Distinction	Life Saving	Medal of Merit	Tactical Medal
2022	44	6	0	3	0	1
2023	67	8	0	2	0	2
2024	66	2	1	1	0	0
2025	**69**	**1**	**0**	3	**1**	**0**

Internal Investigations

Year	CAD Incidents	Internal Investigations	Inv. With Misconduct	Total Employees
2022	69,072	6 (.009%)	4	4
2023	68,026	4 (.005%)	2	5
2024	64,422	8 (.012%)	6	10
2025	**61,856**	**8 (.013%)**	**4**	**12**

Internal Investigations

	External Sources	Internal Sources	Total Combined
Total Investigations	4	4	8
Sustained Misconduct	1	3	4

Supervisory Investigations

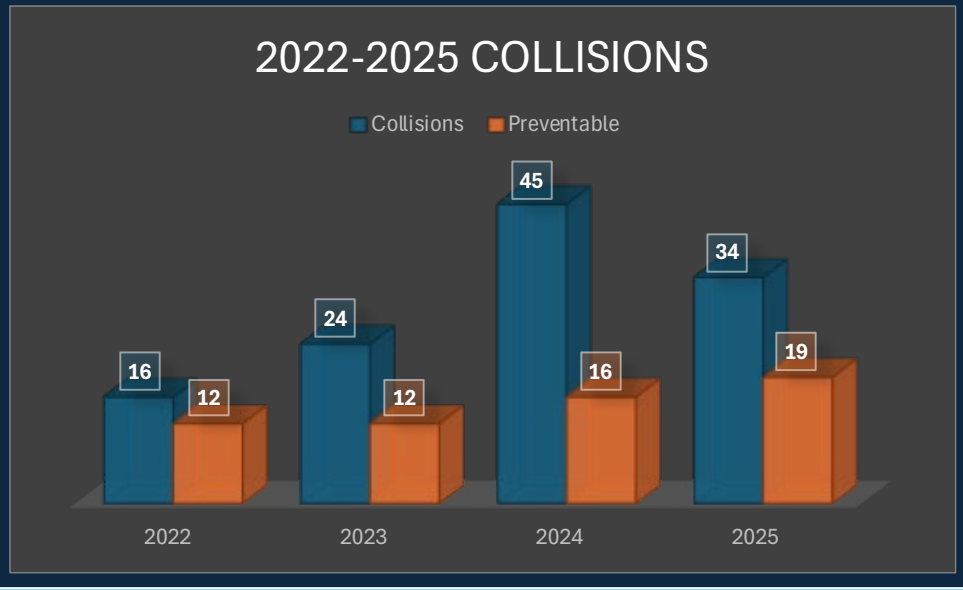
Year	CAD Incidents	Supervisory Investigations	Investigations with Actual Misconduct	Involved Employees
2022	69,072	9 (.01%)	4	11
2023	68,026	4 (.005%)	2	13
2024	64,422	7 (.01%)	7	11
2025	**61,856**	**4 (.006%)**	**3**	**4**

Allegations

Allegation	Total	No Misconduct/ Acceptable Performance	Misconduct/ Unacceptable performance	No Conclusion/ Pending
Violation of General Policy	1	0	1	0
Discourtesy	2	1	1	0
Code of Conduct	2	0	1	1
False Arrest	0	0	0	0
Excessive Force	2	2	0	0
ACCESS Violation	0	0	0	0
Conduct Unbecoming	0	0	0	1
Core Values	2	0	2	0
Fail to Meet Job Expectations	3	0	3	0
Foot Pursuit Policy	0	0	0	0
Ethics	1	0	0	1
Supervisory Responsibilities	1	0	0	1
Discriminatory Harassment	1	0	0	1
Vehicle Pursuit Policy	0	0	0	0
Totals	**15**	**3**	**8**	**5**

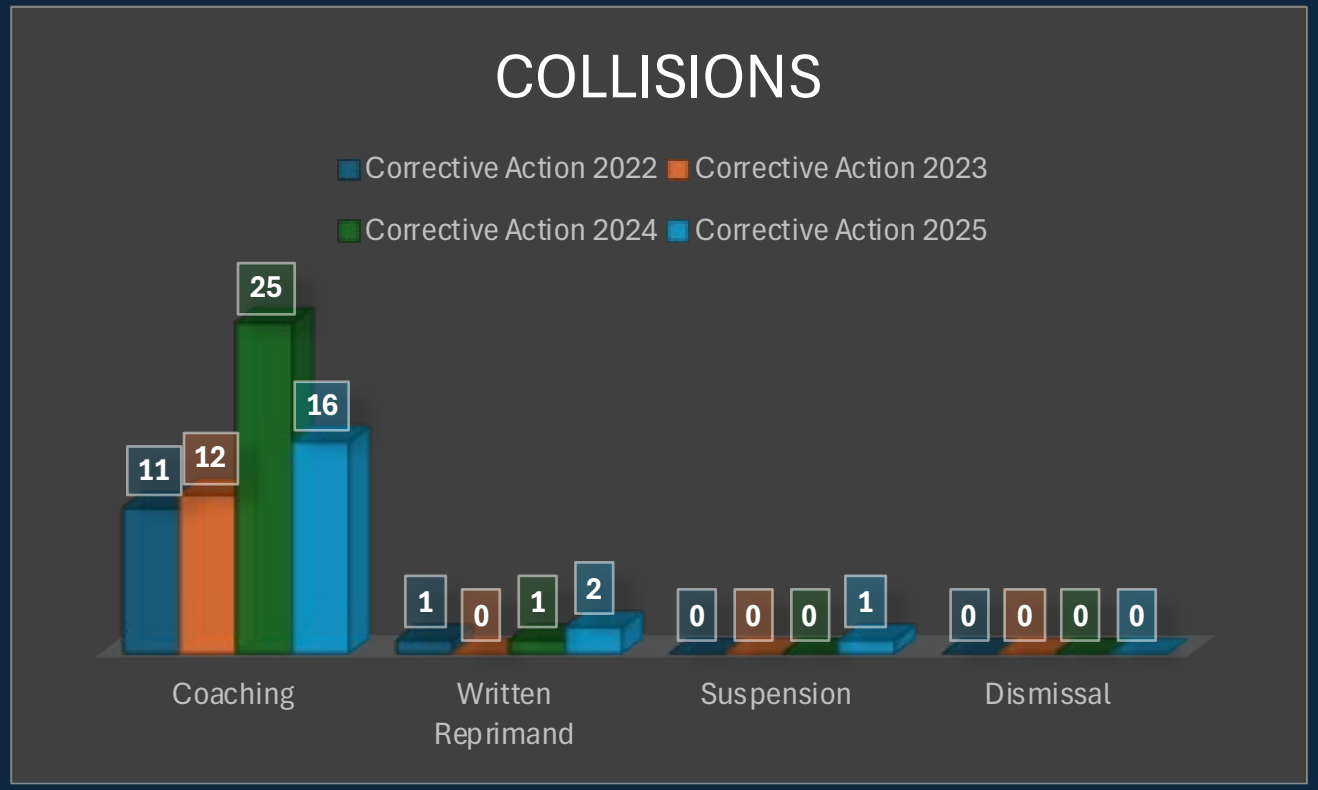
Collisions

10 - Driver Inattention
5 - Improper Backing
1 - Other
1 – Poor Tactics
1 – Fail to clear intersection



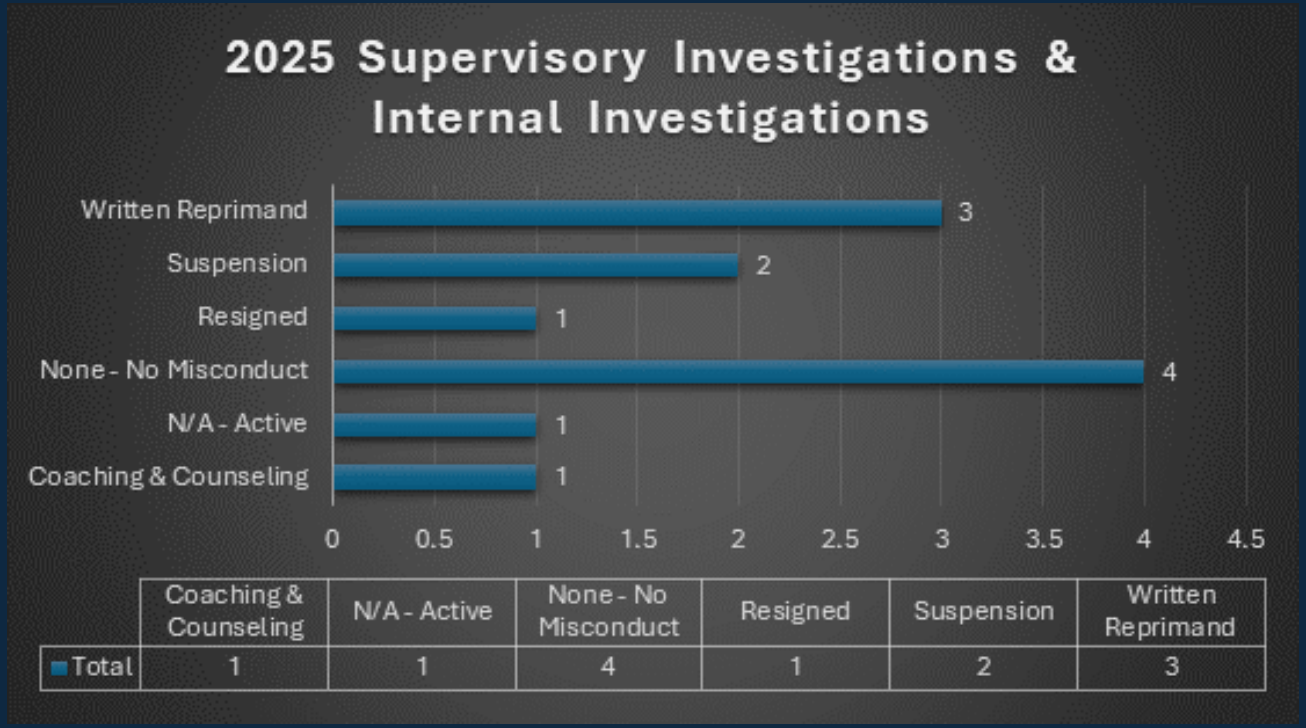
Collisions cont.

The below chart depicts the corrective action dispensed to the employees in preventable collisions. Some officers also received additional training where it was appropriate.



Combined Discipline

The following chart depicts action taken for misconduct, whether from an Internal Investigation or Supervisory Investigation, for each employee involved.



	Coaching & Counseling	N/A - Active	None - No Misconduct	Resigned	Suspension	Written Reprimand
Total	1	1	4	1	2	3

Outside Agency Investigations

To ensure that our investigations are unbiased, there are times when an outside agency may be asked to investigate serious allegations of misconduct made against agency staff, especially those that may be of a criminal nature. This provides Auburn citizens with confidence and allows for unbiased transparency into actions, activities, and decisions made by the Auburn Police Department. In 2025 there were no allegations of criminal misconduct.

Conclusion

A review of the frequency of incidents for 2025 regarding alleged misconduct by employees of the Auburn Police Department does not appear to raise any specific concerns. The number of allegations and found misconduct when compared to the actual number of contacts Auburn Police Officers encounter each year is extremely low **(.006% for Internal Investigations, .005% of Supervisory Investigations)**. This illustrates and confirms that we take all complaints seriously and train our employees regularly, and when necessary, use corrective action depending on the severity of the allegation and according to policy and our discipline matrix.

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 7019 (Martinson) (15 Minutes)
An Ordinance amending Chapter 2.14 of the Auburn City Code to provide necessary updates and housekeeping amendments in preparation for the opening of the Auburn Municipal Court

Meeting Date:
April 13, 2026

Department:
Human Resources and Risk Management

Attachments:
Ordinance No. 7019, Exhibit A

Budget Impact:

Administrative Recommendation:
For discussion only.

Background for Motion:

Background Summary:
On October 6, 2025, Council approved Ordinance No. 7002 establishing the Auburn Municipal Court. Establishing the Court was necessary for the Mayor to be able to initiate a search for a Judicial Officer for appointment, who is subject to Council confirmation. This set of amendments increases the number of Auburn Municipal Court judges to two, which follows the recommendation from the National Center for State Courts. This Ordinance also sets the salaries of both the Municipal Court Judges and the Pro Tem Judges as required by RCW 3.50.080 & .090. The remaining housekeeping amendments adjust grammar & punctuation and other minor edits.

Councilmember: Lisa Stirgus

Staff: Candis Martinson

ORDINANCE NO. 7019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING CHAPTER 2.14 OF THE AUBURN CITY CODE TO PROVIDE NECESSARY UPDATES AND HOUSEKEEPING AMENDMENTS IN PREPARATION FOR THE OPENING OF THE AUBURN MUNICIPAL COURT

WHEREAS, on October 6, 2025, the Auburn City Council passed Ordinance No. 7002 establishing The Municipal Court of the City of Auburn; and

WHEREAS, updates to authorize a second municipal court judge, to set the salaries of the municipal court and pro tem judges, and to adopt housekeeping amendments are needed prior to the January 1, 2027 opening of the Auburn Municipal Court.

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

Section 1. Amendment to City Code. Chapter 2.14 of the Auburn City Code is amended to read as shown in Exhibit A.

Section 2. Implementation. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 3. Severability. The provisions of this Ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Ordinance, or the invalidity of the application of it to any person or circumstance, will not affect the validity of the remainder of this Ordinance, or the validity of its application to other persons or circumstances.

Section 4. **Corrections.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbers, and any references thereto.

Section 5. **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:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Jason Whalen, City Attorney

Published: _____

EXHIBIT A

Chapter 2.14

MUNICIPAL COURT

Sections:

2.14.010 Court established pursuant to RCW 3.50 et seq.
2.14.020 Location of court.
2.14.030 Jurisdiction.
2.14.040 Municipal judges
2.14.050 Independent judiciary.
2.14.060 Judge pro tem.
2.14.070 Vacancy—Removal—Disqualification.
2.14.080 Disposition of Revenue.
2.14.090 Municipal Court employees.
2.14.100 Municipal Court seal.
2.14.110 Suspension or deferral of sentences.
2.14.120 Penalty if no other punishment prescribed.
2.14.130 Criminal prosecution in city's name for violation of ordinances.
2.14.140 Pleadings, practice and procedure.

2.14.010 Court established pursuant to RCW 3.50 et seq.

The Municipal Court of the City of Auburn ("Municipal Court") is hereby created and shall have jurisdiction and exercise all powers vested in the Municipal Court by Chapter 3.50 RCW, together with other powers and jurisdiction generally conferred on such courts in Washington, either by common law or statute. The Municipal Court shall commence operation on January 1, 2027.

2.14.020 Location of court.

The Municipal Court, its courtrooms, chambers, and administrative and clerical offices are located in the Auburn Justice Center, located at 18 Auburn Way S, Auburn, Washington, or in such other location as may be designated by the mayor.

2.14.030 Jurisdiction.

A. Pursuant to RCW 3.50.020, the Municipal Court shall have exclusive original jurisdiction over traffic, parking, and other civil infractions arising under city ordinances and exclusive original criminal jurisdiction of all violations of city ordinances duly adopted by the city and shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes. The Municipal Court shall also have the jurisdiction as conferred by statute.

B. The M~~m~~unicipal Court is empowered to forfeit cash bail or bail bonds and issue execution thereon, and in general to hear and determine all causes, civil or criminal, including traffic infractions, arising under city ordinances and to pronounce judgment in accordance therewith. So long as it participates in the program established by the administrative office of the courts pursuant to RCW 2.56.160, the Municipal C~~c~~ourt shall have jurisdiction to take, recognizance, approve bail, and arraign defendants held within its jurisdiction on warrants issued by any court of limited jurisdiction participating in the program.

2.14.040 Municipal judges.

A. Appointment. Within thirty days after the effective date of this chapter, or any ordinance of the city council that provides for additional judges, the mayor shall appoint a municipal judge subject to confirmation by the city council. Auburn Municipal Court shall have two full-time judicial positions.

B. Term. The appointment of judges under this chapter shall expire on December 31, 2029. Thereafter, all ~~Auburn~~ Municipal Court judges will be subject to election pursuant to RCW 3.50.055 and serve a four-year term consistent with RCW 3.50.040 and RCW 3.50.050.

C. Qualifications. A person appointed as a full-time judge shall be a citizen of the United States of America and of the State of Washington. The appointed judge shall also be an attorney admitted to practice law before the courts of record of the state of Washington. A judge of the ~~Auburn~~ Municipal Court ~~a municipal court~~ must be a resident of King County or Pierce County.

D. Oath.

1. Pursuant to RCW 3.50.097, every judge of a municipal court, before entering upon the duties of the office, shall take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Washington, and that I will faithfully discharge the duties of the judge of the Municipal Court of the City of Auburn according to the best of my ability."

2. The oath shall be filed in the office of the county auditor and with the city clerk.

E. Additional Judges.

1. Additional full- or part-time municipal judge positions may be filled when the public interest and administration of justice makes such additional judge or judges necessary and so long as that procedure is in compliance with state statutes, including but not limited to RCW 3.50.055.

2. Additional full- or part-time judges may be created only by ordinance of the city council.

F. Salary ~~ies~~ of ~~Municipal Court~~ Jjudges ~~shall be fixed by ordinance~~. The salary of a Municipal Court judge shall be equal to the salary of full-time judges of the district court as now codified in RCW 43.01.012 or as hereafter amended or recodified.

2.14.050 Independent judiciary.
The decisions, rulings, and judgments of ~~the~~ Mmunicipal Ceourt judges shall not be subject to oversight, revision, or influence by any other city office or personnel, including, but not limited to, the mayor or city council.

2.14.060 Judges pro tem.
A. Pursuant to RCW 3.50.090, the presiding Mmunicipal Ceourt judge may designate one or more persons as judges pro tem to serve in the absence or disability of the elected or duly appointed judges of the court, subsequent to the filing of an affidavit of prejudice, or in addition to the elected or duly appointed judges when the administration of justice and the accomplishment of the work of the court make it necessary.

B. The qualifications of a judge pro tempore shall be the same as for judges as provided under RCW 3.50.040, except that a judge pro tempore need not be a resident of the city or county in which the Municipal Court is located.

C. Judges pro tempore shall have all of the powers of the duly appointed or elected judges when serving as judges pro tempore of the court.

D. Before entering his or her duties, each judge pro tempore shall take, subscribe, and file an oath as is taken by a duly appointed or elected judge.

E. Judges pro tempore shall receive, per hour, 75% of the hourly salary of the ~~an Auburn~~ Municipal Court judge, ~~and the city shall pay, compensation as fixed by ordinance.~~

2.14.070 Vacancy—Removal—Disqualification.
A. Vacancy.

1. Pursuant to RCW 3.50.093, any vacancy in the Municipal Court, due to death, disability, or resignation of a judge, shall be filled by the mayor for the remainder of the unexpired term.

2. The appointment shall be subject to the confirmation of the city council.

3. The appointed judge shall be qualified to hold the position of judge of the Municipal Court as provided in this chapter.

B. Removal. Pursuant to RCW 3.50.095, a Mmunicipal Ceourt judge shall be removed only upon conviction of misconduct or malfeasance in office or because of physical or mental disability rendering the judge incapable of performing the duties of the office; provided, that a Mmunicipal Ceourt judge is also subject to disciplinary actions by the commission of judicial conduct and the Washington State Supreme Court, as described in Chapter 2.64 RCW.

C. Disqualification. Pursuant to RCW 3.50.045, a Mmunicipal Ceourt judicial officer shall not preside in any of the following cases:

1. In an action to which the judicial officer is a party, or in which the judicial officer is directly interested, or in which the judicial officer has been an attorney for a party.

2. When the judicial officer or one of the parties believes that the parties cannot have an impartial trial or hearing before the judicial officer, the judicial officer shall disqualify himself or herself under the provisions of this section if, before any discretionary ruling has been made, a party files an affidavit that the party cannot have a fair and impartial trial or hearing by reason of the interest or prejudice of the judicial officer. The following are not considered discretionary rulings:

(a) The arrangement of the calendar;

(b) The setting of an action, motion, or proceeding for hearing or trial;

(c) The arraignment of the accused; or

(d) The fixing of bail and initially setting conditions of release.

3. Only one change of judicial officer is allowed by each party in an action or proceeding.

4. When a judicial officer is disqualified under this section, the case shall be heard before another judicial officer of the city.

5. For the purposes of this section, “judicial officer” means a judge, judge pro tempore, or court commissioner.

2.14.080 Disposition of revenue.

A. Costs.

1. Pursuant to RCW 3.50.100, costs in civil and criminal actions may be imposed as provided in district court.

2. All fees, costs, fines, forfeitures, and other money imposed by the Municipal Court for the violation of any municipal ordinances shall be collected by the court clerk and, together with any other noninterest revenues received by the clerk, shall be deposited with the city treasurer as a part of the general fund, deposited in such other fund of the city, or deposited in such other funds as may be designated by the laws of the Sstate of Washington.

B. Except as provided in RCW 9A.88.120 and 10.99.080, the city treasurer shall remit monthly thirty-two percent of the noninterest money received under this section, other than for parking infractions, and certain costs to the state treasurer.

1. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state, county, or city in the prosecution of the case, including the fees of defense counsel.

2. Money remitted under this subsection to the state treasurer shall be deposited in the state general fund.

3. The balance of the noninterest money received under this section shall be retained by the city and deposited as provided by law.

C. Penalties, fines, bail forfeitures, fees, and costs imposed against a defendant in a criminal proceeding shall not accrue interest.

2.14.090 Municipal Court employees.
Pursuant to RCW 3.50.080, but subject to General Rule (GR) 29, all employees of the Municipal Court shall, for all purposes, be deemed employees of the City of Auburn. They shall be appointed by and serve at the pleasure of the presiding municipal judge.

2.14.100 Municipal Court seal.
Pursuant to RCW 3.50.115, the Municipal Court shall have a seal which shall be the vignette of George Washington, with the words "Seal of the Municipal Court of the City of Auburn, State of Washington," surrounding the vignette. All process from the court runs throughout the state. The Supreme Court may determine by rule what process must be issued under seal.

2.14.110 Suspension or deferral of sentences.
Unless otherwise provided by state law, the court shall have the following sentencing authority:

A. Except as provided in subsection B of this section, pursuant to RCW 3.50.320, after a conviction, the court may impose sentence by suspending all or a portion of the defendant's sentence or by deferring the sentence of the defendant and may place the defendant on post disposition supervision for a period of no longer than two years and prescribe the conditions thereof.

1. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of post disposition supervision when ordered to do so by the court, shall have the term of post disposition supervision tolled until such time as the defendant makes his or her presence known to the court on the record.

2. During the time of the deferral, the court may, for good cause shown, permit a defendant to withdraw the plea of guilty, permit the defendant to enter a plea of not guilty, and dismiss the charges. The court shall not defer sentence for an offense sentenced under RCW 46.61.5055.

B. Pursuant to RCW 3.50.330, for a period not to exceed five years after imposition of sentence for a defendant sentenced for a domestic violence offense or under RCW 46.61.5055 and two years after imposition of sentence for all other offenses, the court shall have continuing jurisdiction and authority to suspend or defer the execution of all or any part of the sentence upon stated terms, including installment payment of fines.

1. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of post disposition supervision when ordered to do so by the court, shall have the term of post disposition supervision tolled until such time as the defendant makes his or her presence known to the court on the record.

2. The jurisdiction period in this section does not apply to the enforcement of orders issued under RCW 46.20.720.

3. Any time before entering an order terminating post disposition supervision, the court may modify or revoke its order suspending or deferring the imposition or execution of the sentence.

C. Pursuant to RCW 3.50.340, deferral of sentence and suspension of execution of sentence may be revoked if the defendant violates or fails to carry out any of the conditions of the deferral or suspension.

1. Upon the revocation of the deferral or suspension, the court shall impose the sentence previously suspended or any unexecuted portion thereof. In no case shall the court impose a sentence greater than the original sentence, with credit given for time served and money paid on fine and costs.

2. Any time before entering an order terminating post disposition supervision, the court may revoke or modify its order suspending the imposition or execution of the sentence.

3. If the ends of justice will be served and when warranted by the reformation of the supervisee, the court may terminate the period of post disposition supervision and discharge the person so held. ~~(Ord. 1582 § 1, 2022).~~

2.14.120 Penalty if no other punishment prescribed.
Pursuant to RCW 3.50.440, every person convicted by the Municipal Court of a violation of the criminal provisions of an ordinance for which no punishment is specifically prescribed in the ordinance is guilty of a gross misdemeanor and shall be punished by a fine of not more than five thousand dollars or imprisonment in city jail for a period not to exceed one year, or both such fine and imprisonment.

2.14.130 Criminal prosecution in city's name for violation of ordinances.
Pursuant to RCW 3.50.430, all criminal prosecutions for the violation of a city ordinance shall be conducted in the name of the City of Auburn and may be upon the complaint of any person.

2.14.140 Pleadings, practice and procedure.
Pursuant to RCW 3.50.450, pleadings, practice, and procedure in cases not governed by statutes or rules specifically applicable to municipal courts shall, insofar as applicable, be governed by the statutes and rules now existing or hereafter adopted governing pleadings, practice, and procedure applicable to district courts.

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 6999 (Krum) (20 Minutes)
An Ordinance relating to Critical Areas Ordinance Update, amending Sections 16.10.010, 16.10.020, 16.10.030, 16.10.040, 16.10.050, 16.10.070, 16.10.080, 16.10.090, 16.10.100, 16.10.110, 16.10.130, 16.10.140, and 16.10.150 of the Auburn City Code

Meeting Date:
April 13, 2026

Department:
Community Development

Attachments:
CAO Code Update Study Session Presentation, Planning Commission Staff Report CAO, Technical Memo Prepared by Facet NW, Existing Stream Buffers Map, SPTH Buffers Map, Proposed Stream Buffers Map, Proposed Increased Stream Buffers Map, Ordinance No. 6999, Ordinance No. 6999 - Exhibit A

Budget Impact:

Administrative Recommendation:
For discussion only.

Background for Motion:

Background Summary:
The proposed amendments to Chapter 16.10 “Critical Areas Ordinance” of the Auburn City Code are part of the City’s required periodic update under the Growth Management Act (GMA). Auburn adopted its Comprehensive Plan periodic update in 2024, and is required to update its development regulations, including critical areas regulations, to ensure consistency with Best Available Science (BAS) and current state agency guidance. The proposed amendments incorporate guidance from the Washington State Department of Ecology, Department of Commerce, and Washington Department of Fish and Wildlife (WDFW), and are largely based on Ecology’s Model Critical Areas Ordinance.

The proposed text amendments were submitted to the Washington State Department of Commerce for agency review on August 14, 2025. The Planning Commission first reviewed the proposed updates on September 16, 2025, including a section-by-section overview of the Code revisions. Prior

to that meeting, the City received agency comments, including comments from WDFW related to stream regulations and consistency with BAS. In response to these comments, the City retained Facet Northwest (NW) to conduct additional analysis of stream and riparian regulations, including review of scientific literature, evaluation of regulatory approaches, and GIS-based analysis of Auburn's stream network.

The results of this additional analysis, along with recommended updates to stream buffer standards and related provisions, were presented to the Planning Commission at a regular meeting on March 3, 2026. The Planning Commission held a Public Hearing on the proposed text amendments on April 7, 2026, and provided a recommendation to City Council. The proposed text amendments are now presented to City Council for review and consideration.

Councilmember: Tracy Taylor **Staff:** Jason Krum

CITY COUNCIL

CRITICAL AREA ORDINANCE UPDATE – TEXT AMENDMENT

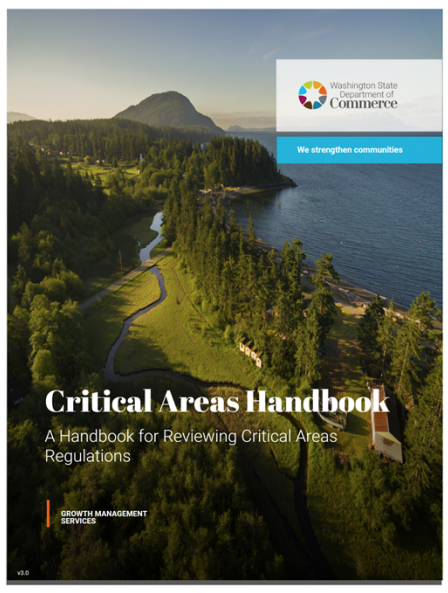
PRESENTED BY
ALYSSA TATRO, SENIOR PLANNER
APRIL 13, 2026

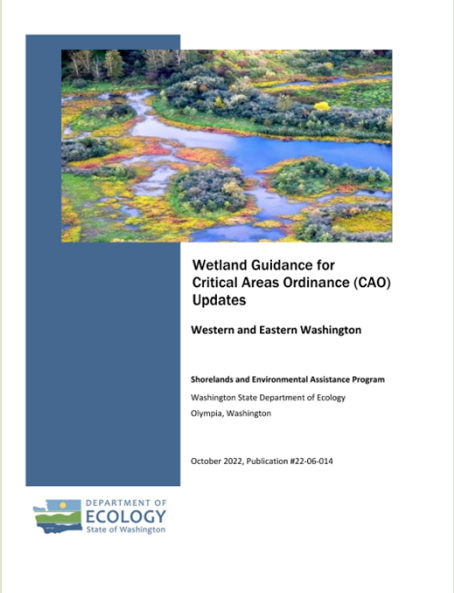
Department of Community Development
Planning • Building • Development Engineering • Permit Center
Economic Development • Code Enforcement

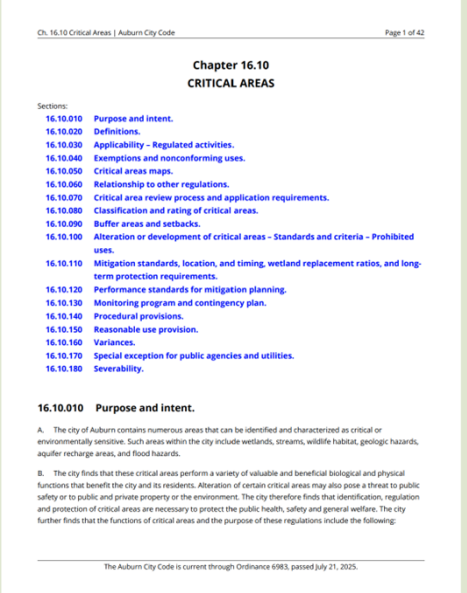
AUBURN VALUES

SERVICE
ENVIRONMENT
ECONOMY
CHARACTER
SUSTAINABILITY
WELLNESS
CELEBRATION

BACKGROUND AND PURPOSE







Ch. 16.10 Critical Areas | Auburn City Code Page 1 of 42

Chapter 16.10
CRITICAL AREAS

Sections:

16.10.010 Purpose and intent.
16.10.020 Definitions.
16.10.030 Applicability – Regulated activities.
16.10.040 Exemptions and nonconforming uses.
16.10.050 Critical areas maps.
16.10.060 Relationship to other regulations.
16.10.070 Critical area review process and application requirements.
16.10.080 Classification and rating of critical areas.
16.10.090 Buffer areas and setbacks.
16.10.100 Alteration or development of critical areas – Standards and criteria – Prohibited uses.
16.10.110 Mitigation standards, location, and timing, wetland replacement ratios, and long-term protection requirements.
16.10.120 Performance standards for mitigation planning.
16.10.130 Monitoring program and contingency plan.
16.10.140 Procedural provisions.
16.10.150 Reasonable use provision.
16.10.160 Variances.
16.10.170 Special exception for public agencies and utilities.
16.10.180 Severability.

16.10.010 Purpose and intent.

A. The city of Auburn contains numerous areas that can be identified and characterized as critical or environmentally sensitive. Such areas within the city include wetlands, streams, wildlife habitat, geologic hazards, aquifer recharge areas, and flood hazards.

B. The city finds that these critical areas perform a variety of valuable and beneficial biological and physical functions that benefit the city and its residents. Alteration of certain critical areas may also pose a threat to public safety or to public and private property or the environment. The city therefore finds that identification, regulation and protection of critical areas are necessary to protect the public health, safety and general welfare. The city further finds that the functions of critical areas and the purpose of these regulations include the following:

The Auburn City Code is current through Ordinance 6983, passed July 21, 2025.

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

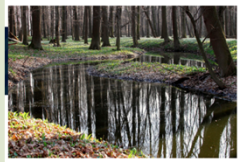
KEY OBJECTIVES

- Meets state periodic-update expectations;
- Is consistent with current best available science;
- Clarifies standards and procedures for applicants and staff; and
- Strengthens long-term protection and monitoring.

WETLANDS & STREAMS maintain the quality of our water, provide fish and wildlife habitats. Provide an area for recreation, education and scientific study.

WILDLIFE HABITATS provide important access to food, cover, breeding and nesting area for fish and other wildlife. Help to maintain air and water quality.

GEOLOGICAL HAZARDS are areas that pose a risk of landslide, erosion, earthquakes or volcanic activity.



FLOODPLAINS help store and transport flood and storm water. Allows for the deep drainage of groundwater.

STEEP SLOPES are areas that have a high or very high risk of landslide.

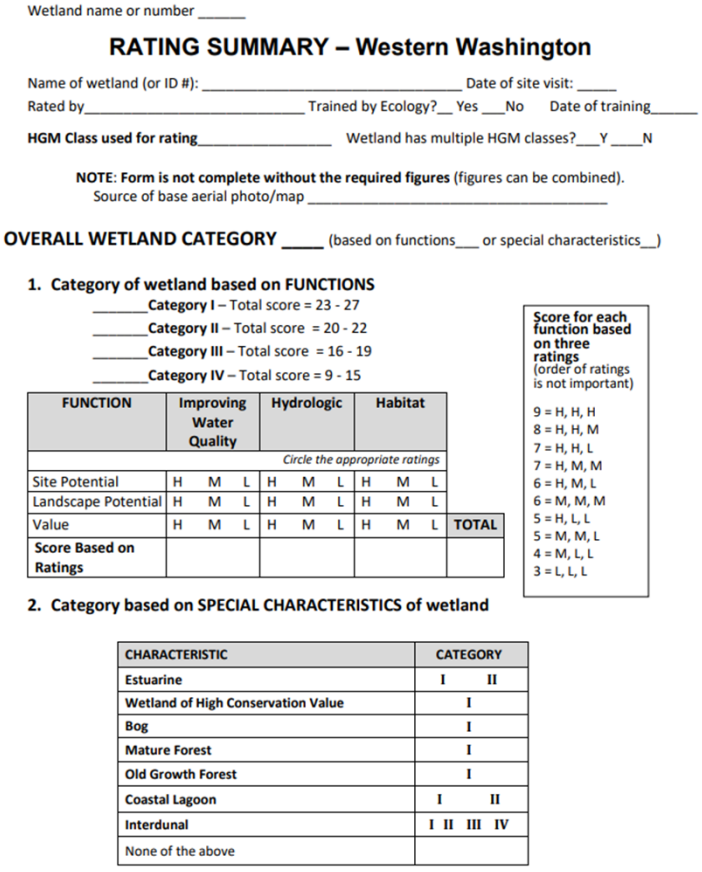
OVERVIEW

Chapter 16.10
CRITICAL AREAS

Sections:

16.10.010	Purpose and intent.
16.10.020	Definitions.
16.10.030	Applicability – Regulated activities.
16.10.040	Exemptions and nonconforming uses.
16.10.050	Critical areas maps.
16.10.060	Relationship to other regulations.
16.10.070	Critical area review process and application requirements.
16.10.080	Classification and rating of critical areas.
16.10.090	Buffer areas and setbacks.
16.10.100	Alteration or development of critical areas – Standards and criteria – Prohibited uses.
16.10.110	Mitigation standards, location, and timing, wetland replacement ratios, and long-term protection requirements.
16.10.120	Performance standards for mitigation planning.
16.10.130	Monitoring program and contingency plan.
16.10.140	Procedural provisions.
16.10.150	Reasonable use provision.
16.10.160	Variances.
16.10.170	Special exception for public agencies and utilities.
16.10.180	Severability.

CLASSIFICATION AND RATING OF CRITICAL AREAS SECTION



Wetland name or number _____

RATING SUMMARY – Western Washington

Name of wetland (or ID #): _____ Date of site visit: _____

Rated by_____ Trained by Ecology?__ Yes ___No Date of training_____

HGM Class used for rating_____ Wetland has multiple HGM classes?___Y ____N

NOTE: Form is not complete without the required figures (figures can be combined).
Source of base aerial photo/map _____

OVERALL WETLAND CATEGORY ____ (based on functions___ or special characteristics__)

1. Category of wetland based on FUNCTIONS

_____**Category I** – Total score = 23 - 27
_____**Category II** – Total score = 20 - 22
_____**Category III** – Total score = 16 - 19
_____**Category IV** – Total score = 9 - 15

FUNCTION	Improving Water Quality			Hydrologic			Habitat			
	Circle the appropriate ratings									
Site Potential	H	M	L	H	M	L	H	M	L	
Landscape Potential	H	M	L	H	M	L	H	M	L	
Value	H	M	L	H	M	L	H	M	L	TOTAL
Score Based on Ratings										

Score for each function based on three ratings (order of ratings is not important)

9 = H, H, H
8 = H, H, M
7 = H, H, L
7 = H, M, M
6 = H, M, L
6 = M, M, M
5 = H, L, L
5 = M, M, L
4 = M, L, L
3 = L, L, L

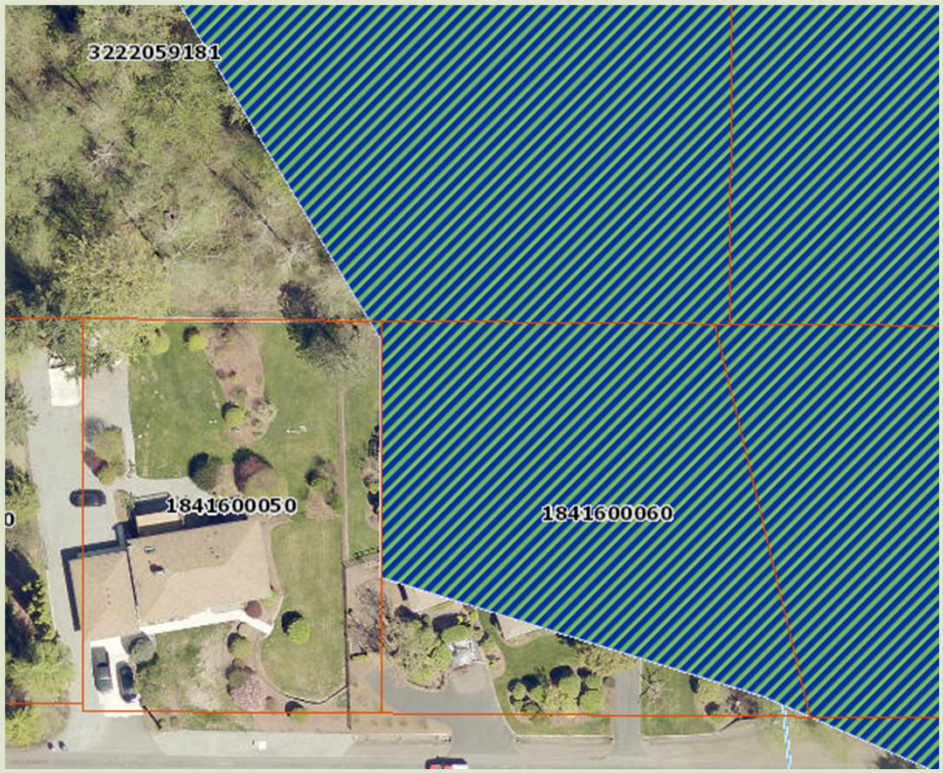
2. Category based on SPECIAL CHARACTERISTICS of wetland

CHARACTERISTIC	CATEGORY
Estuarine	I II
Wetland of High Conservation Value	I
Bog	I
Mature Forest	I
Old Growth Forest	I
Coastal Lagoon	I II
Interdunal	I II III IV
None of the above	

- Classification shall incorporate Best Available Science and use Ecology's wetland rating system.

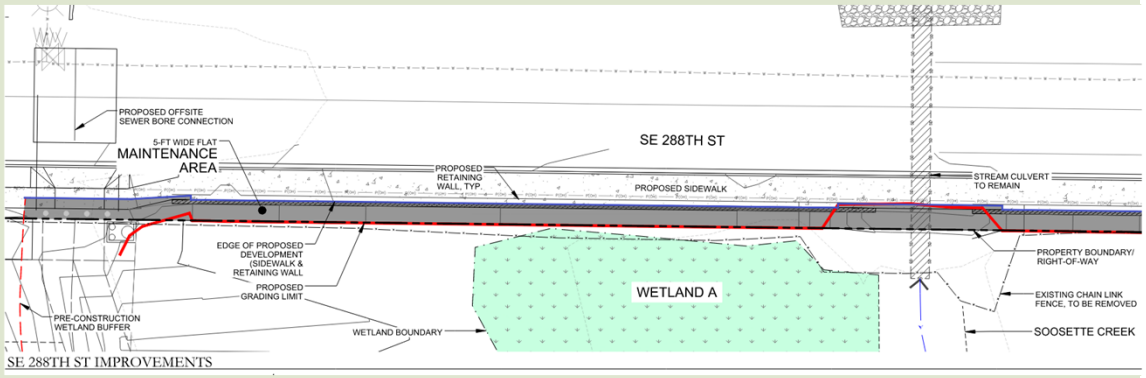
EXEMPTIONS AND NONCONFORMING USES SECTION

- Additions to single-family residences that were in existence before May 13, 2005, with a wetland or stream buffer may be allowable but must demonstrate through analysis that slope stability, flood conditions, and drainage have not changed.



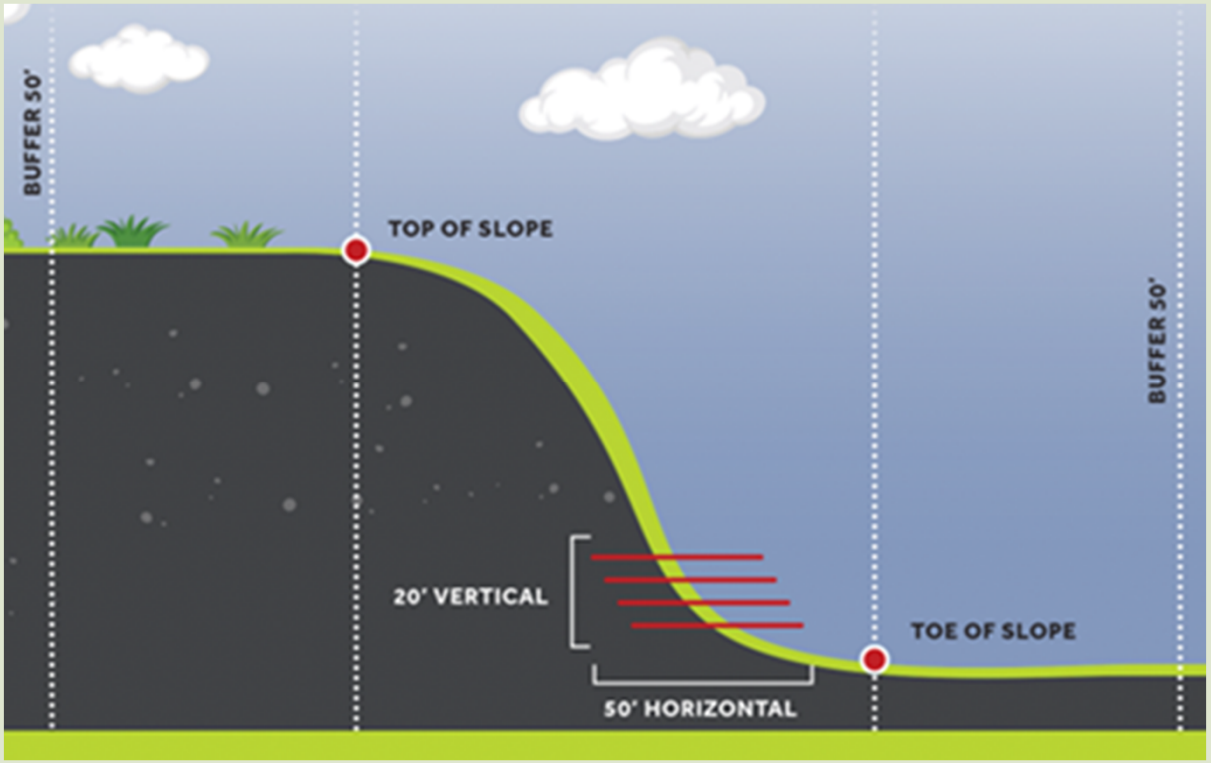
BUFFER AREAS AND SETBACK SECTION

- Functionally Disconnected Buffer



BUFFER AREAS AND SETBACK SECTION

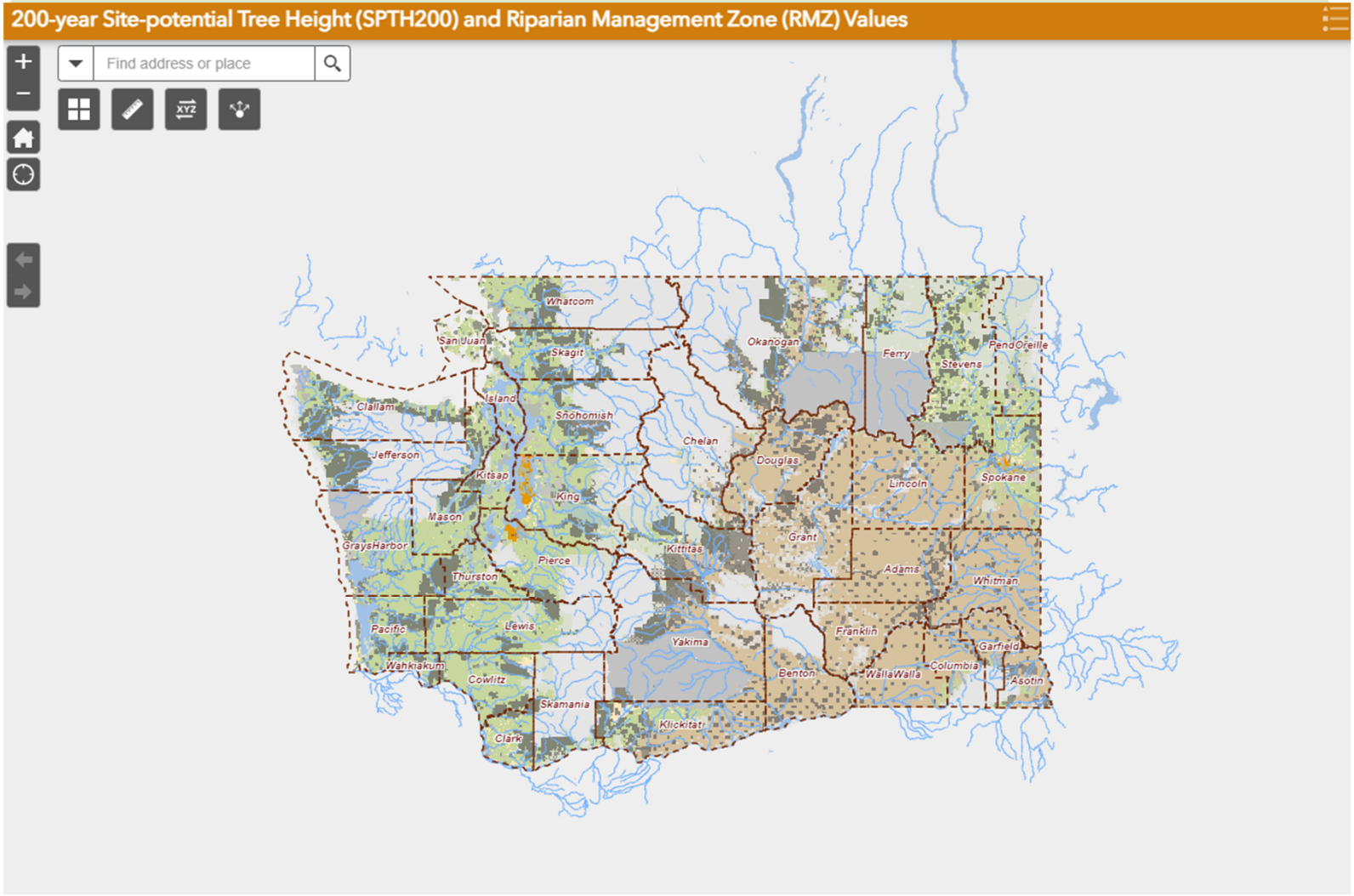
- Buffer = vertical height of the landslide hazard or 50 ft, whichever is greater



GEOLOGIC HAZARD AREAS

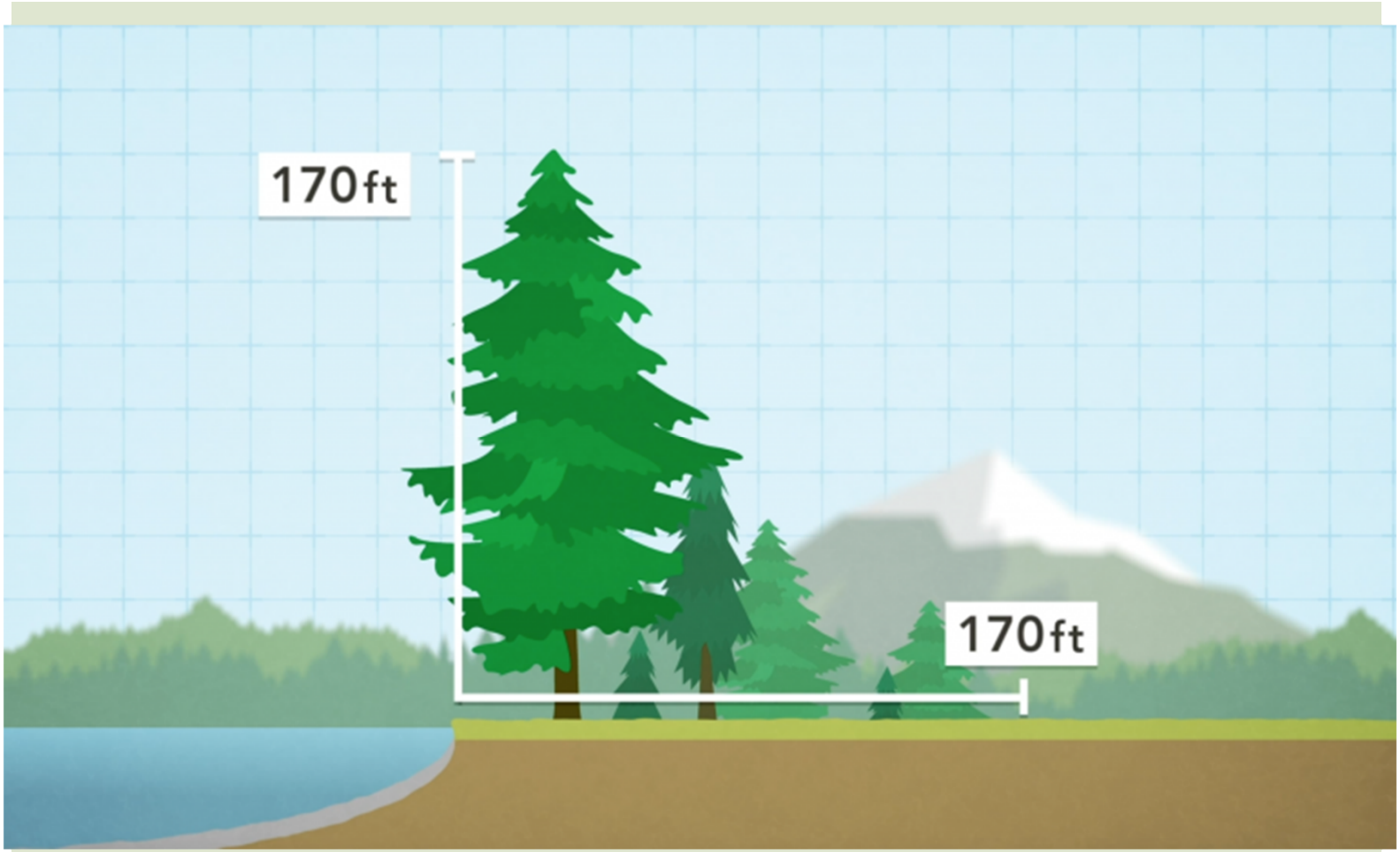
- Alteration of a Class IV landslide hazard area no longer requires the Reasonable Use Provision of ACC 16.10.150.

WDFW'S SPTH MAPPING TOOL:



STREAM REGULATIONS BACKGROUND

SERVICE ☐
ENVIRONMENT ☐
ECONOMY ☐
CHARACTER ☐
SUSTAINABILITY ☐
WELLNESS ☐
CELEBRATION



SITE POTENTIAL TREE HEIGHT (SPTH)

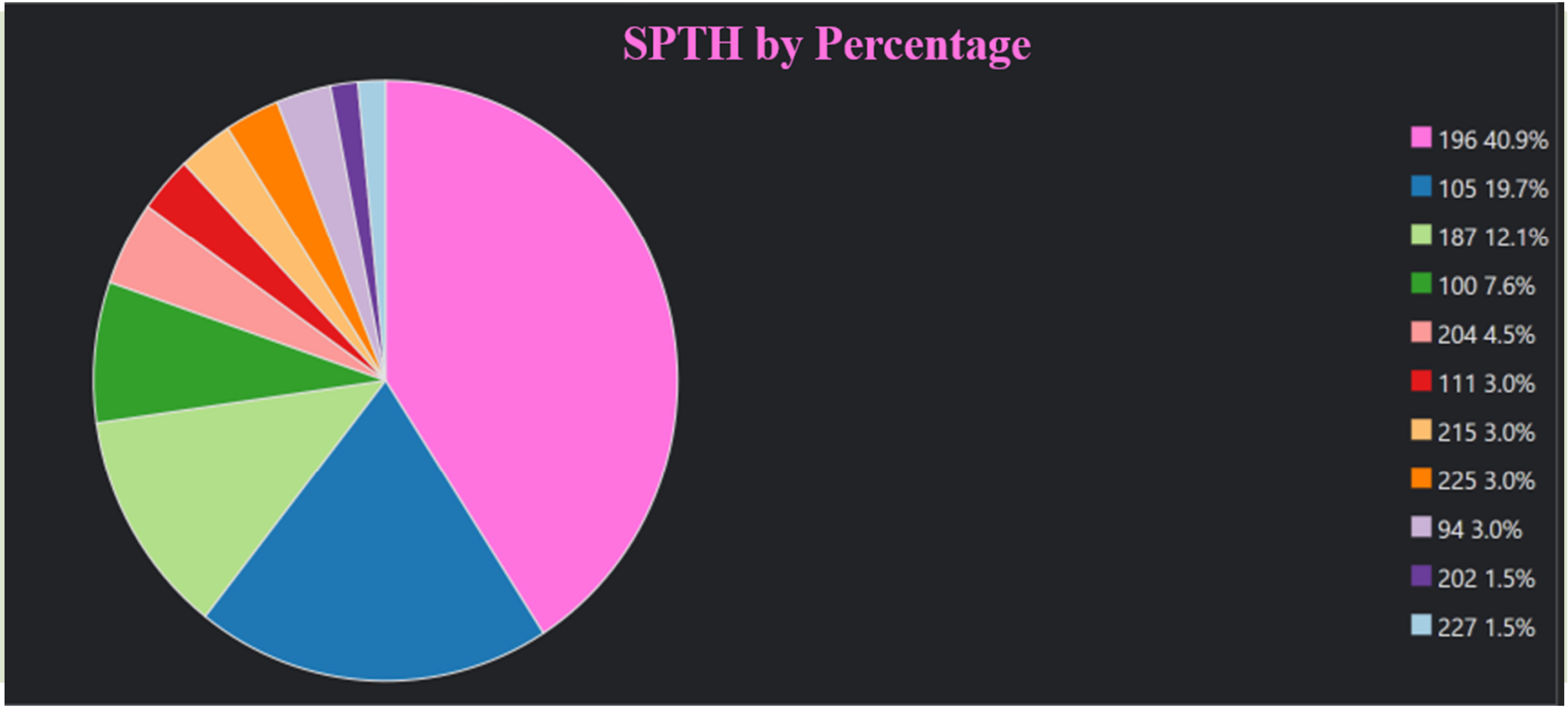
SERVICE ☐
ENVIRONMENT ☐
ECONOMY ☐
CHARACTER ☐
SUSTAINABILITY ☐
WELLNESS ☐
CELEBRATION

STREAM REGULATIONS

Facet Northwest's Technical Analysis

- Scientific Literature Review
- Evaluation of WDFW Guidance
- GIS Analysis
- Review of Regulatory Options

SITE POTENTIAL TREE HEIGHT (SPTH)



TECHNICAL ANALYSIS FINDINGS

- Vegetated riparian buffers are important for temperature control, habitat function, and water quality

- Science supports wider vegetated riparian buffers, with 100-feet commonly supported as a minimum width for water quality function

EXISTING BUFFERS

Stream Type	Minimum Buffer Width (in feet)
Type S	Per SMP
Type F	100
Type Np	50
Type Ns	50

PROPOSED STREAM BUFFERS

Stream Type	Existing Code		Proposed Code	
	Minimum buffer	Maximum buffer[1]	Standard Buffer[1]	Increased Buffer[2]
Type S	Per SMP	Per SMP	Per SMP	Per SMP
Type F	100 ft	150 ft	150 ft	200 ft
Type Np	50 ft	100 ft	100 ft	133 ft
Type Ns	50 ft	75 ft	100 ft	133 ft

*1 Director decision based on site-specific conditions, such as presence of critical habitat for ESA species.

*2 In addition to ESA review, an increase applies if the applicant does not implement applicable minimization measures and does not meet vegetated buffer standards.

VEGETATIVE STANDARD

To be considered fully functioning, a stream buffer (riparian management zone) must contain:

- i. An average of eighty percent (80%) native vegetation cover, with no more than ten percent (10%) noxious weed cover; and

- ii. A native plant community that includes tree, shrub, and groundcover proportions that mimic native forest for the region.

COMPARISON TO OTHER JURISDICTIONS

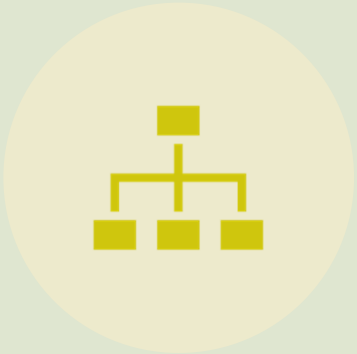
Kent (DRAFT; proposed to be adopted)	Burien (adopted)	Covington (adopted)	Maple Valley (adopted)
Type F: 112-150' (was 100') Type NP: 100' (was 40') Type NS: 100' (was 40')	Type F: 150' - 199' (was 100') Type Np: 100' – 133' (was 50') Type Ns: 100' – 133' (was 50')	Type F: 125' – 166' Type NP: 100' – 133' Type NS: 100' – 133'	Type F: 100' Type NP: 100' Type NS: 100'

Renton (adopted)	SeaTac (adopted)
Type F: 115' – 200' Type NP: 75' – 100' Type NS: 50' – 67'	Type F: 200' (was 100') Type NP: 100' (was 50') Type NS: 100' (was 25')

SUMMARY OF CHANGES CONT.

BEST AVAILABLE SCIENCE

STRENGTHEN PROTECTION OF CRITICAL AREAS



MAINTAIN FLEXIBILITY THROUGH A PERFORMANCE-BASED STRUCTURE

Department of Community Development

Planning • Building • Development Engineering • Permit Center
Economic Development • Code Enforcement

AUBURN VALUES

SERVICE

ENVIRONMENT

ECONOMY

CHARACTER

SUSTAINABILITY

WELLNESS

CELEBRATION

PLANNING COMMISSION STAFF REPORT

AGENDA SUBJECT/TITLE:
Critical Areas Ordinance (CAO) Update – Chapter 16.10 ACC Text Amendment

CITY FILE NO(s).:
ZOA25-0002

APPLICANT/AGENT/OWNERS:
City of Auburn

REQUEST:
Planning Commission to hold a public hearing, deliberate, and take action on proposed amendments to Chapter 16.10 Auburn City Code (ACC) - Critical Areas.

LOCATION:
City-wide

NOTIFICATION:
A Notice of Public Hearing (NOH) was issued on March 23, 2026.

HEARING DATE:
April 7, 2026

SEPA STATUS:
A Determination of Non-Significance (DNS) was issued on September 5, 2025 (SEP25-0017) for this non-project action.

STAFF:
Alyssa Tatro, Senior Planner, Dept. of Community Development

STAFF RECOMMENDATION:
Planning Commission to deliberate and take action to recommend to City Council approval of the proposed amendments to Chapter 16.10 ACC.

SUMMARY OF CODE CHANGES:
At a high level, the proposed Critical Areas Ordinance (CAO) update:

- Ensures consistency with the Growth Management Act (GMA) and Best Available Science (BAS);
- Incorporates updated guidance from the Department of Ecology, Department of Commerce, and Washington Department of Fish and Wildlife (WDFW);
- Improves clarity, organization, and internal consistency of Chapter 16.10 ACC; and
- Strengthens mitigation, monitoring, and long-term protection of critical areas.

The proposed amendments update multiple sections of Chapter 16.10 ACC. Most revisions are based on Ecology's Model Critical Areas Ordinance and are intended to ensure compliance with BAS while improving clarity and consistency

1. Definitions, Applicability, and Administrative Provisions

The proposed update includes overall changes to improve clarity and consistency in how the CAO is applied:

- Updates and additions to definitions, including terms related to habitat, climate resilience, engineered slopes, and updated watercourse terminology;
- Revisions to regulated activities, replacing a broad threshold with a more defined list of activities that result in alteration of critical areas or buffers;
- Clarifications to exemptions and nonconforming provisions, including standards for expansions to existing single-family residences within critical area buffers; and
- Updates to procedural provisions and director authority, including clarification of when critical area review is required based on mapped critical areas or site indicators.

These changes are primarily administrative and improve clarity, predictability, and consistency in application of the code.

2. Classification, Buffers Areas, and Critical Area Protections

The proposed amendments strengthen how critical areas are identified and protected and clarify how buffer standards are applied:

- Updates to classification and rating provisions to explicitly require the use of BAS and applicable state guidance, including Ecology wetland rating systems and WDFW habitat information;
- Revisions to buffer and setback provisions, including:
  - Addition of a functionally disconnected buffer provision where buffers may exclude areas separated by roads or development that no longer provide ecological function;
  - Clarification of buffer reduction mechanisms, including buffer averaging, minimization measures, and variances; and
  - Clarification that buffer reduction mechanisms are applied independently and not in combination;

- Updates to minimization measures, including reformatting and expansion to align with Ecology's Model Ordinance; and
- Updates to riparian and habitat-related language to improve consistency with WDFW guidance.

3. Geologic Hazard Areas

The proposed update includes revisions to geologic hazard area standards, particularly for landslide hazards:

- Establishment of a buffer for critical landslide hazard areas, based on slope height or a minimum distance;
- Revised standards allowing alteration of landslide hazard areas when supported by a geotechnical report demonstrating that the alteration will not increase risk or instability; and
- Additional provisions addressing vegetation removal, replacement planting, and geotechnical review requirements.

These updates allow for site-specific flexibility while maintaining safety and stability.

4. Mitigation, Monitoring, and Long-Term Protection

The proposed amendments significantly expand and clarify mitigation requirements to align with Ecology guidance and BAS:

- Emphasis on mitigation sequencing, requiring avoidance, minimization, rectification, reduction over time, and compensation in a defined order as required by BAS;
- Requirement for watershed-based mitigation, including preference for mitigation within the same drainage basin;
- Updates to wetland mitigation ratios and addition of explicit compensation requirements for buffer impacts to align with Ecology's model ordinance;
- Expanded mitigation plan requirements, including performance standards and monitoring expectations consistent with Ecology's model ordinance.

These changes improve the effectiveness and consistency of mitigation and support long-term protection of critical areas, the changes also come directly from Ecology's model ordinance and guidance documents.

5. Stream and Riparian Regulation Updates

The proposed update includes revisions to stream regulations informed by agency comments and additional technical analysis conducted following Planning Commission review.

At a high level, the proposed updates:

- Retain Auburn's existing stream typing framework;
- Increase standard stream buffer widths;
- Establish increased buffer widths under specific conditions;
- Incorporate vegetative buffer performance standards; and
- Update terminology and provisions to reflect riparian management concepts and incorporate minimization measures.

These updates modify Auburn's existing regulatory framework to incorporate BAS and agency guidance while maintaining flexibility and consistency with existing code provisions.

FINDINGS OF FACT:

Background Summary:

1. The Growth Management Act (GMA) requires jurisdictions to designate and protect critical areas using Best Available Science (BAS) when developing policies and development regulations.
2. Auburn completed its Periodic Comprehensive Plan Update in 2024 and is required to update development regulations, including Chapter 16.10 ACC, as a follow-on action under the GMA periodic review process.
3. The purpose of the CAO update is to ensure consistency with BAS, align with current state agency guidance, and improve clarity, consistency, and long-term protection of critical areas.
4. Since the last major update to Chapter 16.10 ACC, state agencies including Ecology and WDFW have issued updated guidance related to mitigation, habitat protection, and riparian science.
5. The proposed amendments are largely based on Ecology's Model Critical Areas Ordinance and are intended to ensure compliance with BAS while improving clarity and consistency.
6. The proposed text amendment was transmitted to the Washington State Department of Commerce in 2025 for agency review pursuant to RCW 36.70A.106. No comments were received.
7. The City received comments from state agencies, including WDFW, Department of Ecology, and Department of Natural Resources which informed revisions to the proposed code.
8. Planning Commission reviewed the proposed CAO update on September 16, 2025, including a section-by-section overview of proposed amendments.

9. At that time, no changes to stream buffer widths were proposed; however, agency comments from WDFW identified stream regulations as an area requiring additional evaluation.
10. WDFW comments raised concerns regarding stream buffer methodology and consistency with BAS.
11. Following the September 2025 meeting, the City retained Facet Northwest to conduct an Auburn-specific analysis of stream and riparian regulations.
12. This analysis included review of scientific literature, evaluation of the Site Potential Tree Height (SPTH) methodology, GIS analysis, and comparison of regulatory scenarios.
13. The analysis found that scientific literature supports wider vegetated buffers, with approximately 100 feet commonly identified as a minimum for water quality protection, and that vegetative condition is critical to buffer function.
14. Based on this work, staff developed a modified approach that increases buffer widths, incorporates performance-based standards, retains the stream typing framework, and does not adopt the full SPTH method.
15. These updates were presented to Planning Commission on March 3, 2026.
16. The proposed updates reflect BAS and are consistent with regional trends, where many jurisdictions have increased stream buffers and incorporated vegetation-based standards.
18. The GIS analysis demonstrated that many stream corridors overlap with wetlands, geologic hazard areas, and Urban Separator Overlay areas. These areas are already constrained or planned for lower intensity development, and the proposed buffer increases are therefore less likely to significantly impact development capacity in those specific locations.
19. The proposed changes represent a balanced approach that responds to BAS and agency guidance while reflecting Auburn's urban context.

Procedural Steps:

1. The proposed CAO update has been reviewed by Planning Commission at meetings on September 16, 2025, and March 3, 2026.
2. Pursuant to RCW 36.70A, the text amendment was transmitted to the Washington State Department of Commerce on August 14, 2025.
3. A SEPA Determination of Non-Significance (DNS) was issued on September 5, 2025. The comment period ended on September 19, 2025.
4. A Notice of Public Hearing (NOH) was issued on March 23, 2026. Pursuant to Chapter 14 ACC, the following noticing was conducted:

a. The NOH was published in the Seattle Times.

b. The NOH was posted in public locations, including City Hall, City Hall Annex, and the City's Public Land Use Notice webpage.

EXHIBITS:

1. PowerPoint Presentation
2. Chapter 16.10 ACC Text Amendment
3. Technical Memo prepared by Facet NW
4. WDFW Comments
5. Existing Stream Buffers Map
6. SPTH Buffers Map
7. Proposed Stream Buffers Map
8. Proposed Increased Stream Buffers Map
9. MBAKS Comment Letter 3-3-26
10. Response Letter to 3-3-26 MBAKS Comment Letter

EXHIBIT 3

FACET

TECHNICAL MEMORANDUM

Date:	February 20, 2026
To:	Steven Sturza – City of Auburn
Cc:	Alyssa Tatro, Alexandria Teague – City of Auburn
From:	Nell Lund, Sr. Ecologist
Project Name:	Auburn CAO Update - Streams
Facet Number:	2510.0746.00

CAO Update – Stream Regulations Review

Introduction

The City of Auburn is going through the periodic update process for their Critical Areas Ordinance (CAO). To align with requirements under the Growth Management Act, the City of Auburn must include best available science (BAS) when developing policies and development regulations. Based on comments received from the Washington Department of Fish and Wildlife (WDFW), the City is conducting a targeted review of proposed draft stream regulations.

The purpose of this memorandum is to provide a high-level summary of stream and riparian BAS, document the City's GIS analysis of conditions in Auburn, summarize City proposed stream regulations, and document how BAS was considered and incorporated in the CAO update.

Best Available Science Review Summary

Streams are a type of Fish and Wildlife Habitat Conservation Area (FWHCA) as defined by the Revised Code of Washington (RCW 36.70A.030). WDFW provides BAS summary in their publication, *Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications* (Quinn et al. 2020). Based on Volume 1, WDFW provides guidance in *Riparian Ecosystems, Volume 2: Management Recommendations* (Rentz et al. 2020). Other cited publications are provided in the reference list.

STREAM & RIPARIAN FUNCTIONS & VALUES

Composition, structure and functions of streams are tied to watershed and riparian conditions. Riparian ecosystem functions include stream morphology (e.g. streamflow and sedimentation processes), woody debris recruitment, microclimate and in-stream temperature, pollutant removal, and nutrient cycling. Streams and their associated riparian areas also provide important habitat for diverse terrestrial and aquatic wildlife species (Quinn et al. 2020).

Commonly recognized functions and processes that influence the habitat conditions within aquatic areas are briefly summarized below.

Water Quality: Metrics for water quality include temperature, sediment, and pollutants. Wildlife, including fish and amphibians, require cool clean water to meet their life history needs.

- Riparian vegetation influences stream temperatures and microclimate conditions such as air temperature, wind, light, and moisture. Factors affecting water temperature and microclimate include shade, orientation, relative humidity, ambient air temperature, wind, channel dimensions, groundwater, the hyporheic exchange zone where surface and groundwater interact (Quinn et al. 2020).
- Salmonids and amphibians are relatively sensitive to high temperatures, and have narrow thermal tolerance (Quinn et al. 2020, Bury 2008).
- A 100-foot-wide buffer is estimated to achieve 95 percent pollution removal and approximately 85 percent removal of surface nitrogen (Rentz et al. 2020).

Hydrologic Functions: Streams and riparian areas have complex and extensive connections to other surface waters and groundwater resources in a watershed (Quinn et al. 2020).

- Fish and wildlife are adapted to, and in some instances reliant upon, the natural variability in seasonal and flood flows within a system.
- Riparian vegetation reduces the quantity of surface water runoff through rainwater capture and evapotranspiration (Wynn and Mostaghimi 2006).
- Floodplains, wetlands, riparian vegetation and sinuous stream channels attenuate flood flows, which protects downstream areas from flooding.

Physical Habitat Characteristics: Riparian microclimate affects many ecological processes and functions, including plant growth, decomposition, nutrient cycling, succession, productivity, migration and dispersal of flying insects, soil microbe activity, and fish and amphibian habitat (Quinn et al. 2020; Brosofske, et al. 1997).

- Large woody debris (LWD) plays a significant role in the geomorphic formation of stream channels and in the creation of diverse channel habitat morphologies (Quinn et al. 2020).
- Streams migrate naturally which often results in complex natural geomorphology, floodplains, and heterogeneous ecosystems (Quinn et al 2020).

URBAN AREA IMPACTS

Water Quality Impacts:

- Urban areas tend to contribute a disproportionate amount of sediment and contaminants to receiving waters (Soranno et al. 1996). Some contaminants have significant effects on aquatic organisms. For example, coho salmon pre-spawn mortality is caused by a breakdown product of tire wear, 6PPD-quinone (Tian et al. 2021).
- Increased erosion and bank instability coupled with a reduction of forest cover simplify stream morphology, leading to incised, wider, and straighter stream channels (Konrad and Booth 2005).

- Removal of riparian vegetation impacts water quality by increasing stream temperatures (Murray et al. 2000, Moore et al. 2005, Gomi et al. 2006).

Hydrologic Function Impacts: Impervious surface area within a watershed impacts hydrologic functions.

- Impervious surface is positively correlated with high flow volumes, daily streamflow variability and negatively correlated with groundwater recharge rates and summer low flow volumes (Burges, Wigmosta, and Meena 1998; Cuo et al. 2009; Jones 2000; Konrad and Booth 2005).
- Urban development impacts stream flow by changing key metrics, including peak discharge, lag time, flood frequency and total runoff (Quinn et al. 2020).
- Less dynamic stream morphology is linked to accelerated water transport and reduced temporary instream flood storage capacity (Kaufmann and Faustini 2012).

Habitat Fragmentation & Degradation: Habitat loss, degradation, and fragmentation have profound impacts on wildlife and their ecosystems (Gaston 2010; Wiegand, Revilla, and Moloney 2005; Young et al. 2016).

- Habitat loss and fragmentation reduce biodiversity (MacArthur and Wilson 1967).
- Cumulative impacts of direct and indirect habitat alterations tend to reduce the habitat functions and values of wetlands and riparian areas (Azous and Horner 2010; Sheldon et al. 2005).

KEY PROTECTION STRATEGIES

Identification, classification, buffering and restrictions on adjacent land use are a common approach to critical area protections.

Identification: The ordinary high-water mark (OHWM) is typically used to determine the edge of surface waters for jurisdictional purposes. The OHWM should be determined in the field by a qualified biologist using appropriate resources.

- Those resources include *National Ordinary High Water Mark Field Delineation Manual for Rivers and Streams* (David et al. 2025), *Determining the Ordinary High Water Mark for Shoreline Management Act Compliance in Washington State* (Anderson et al. 2016), and *A Guide to Ordinary High Water Mark (OHWM) Delineation for Non-perennial Streams in the Western Mountains, Valleys, and Coast Region of the United States* (Mersel and Lichvar 2014).

Classification: DNR classifies streams and other water bodies using a "water typing system" based on various characteristics, fish use, and functions of a natural water feature (WAC 222-16-030). This system was developed by Department of Natural Resources as part of forest management practices. Many local jurisdictions have previously incorporated use of this water typing system in their CAOs for applying buffer widths to streams.

The latest riparian management zone guidance from WDFW does not use the water typing system but instead treats all streams equally and differentiates protection based on soil type and associated

dominant tree species (Rentz et al. 2020). More information on this approach is summarized under the Riparian Management Zones header below.

Buffers: Historically, most local jurisdictions in Washington state have managed stream and riparian habitats using fixed- or standard-width stream buffers. Using this approach, buffer widths have typically been determined based upon stream type characteristics and site-specific factors following WAC 222-16-030. The latest WDFW guidance recommends a conceptual shift from the fixed-width buffer approach regarding the way that streams and riparian areas are protected, as described in the next section.

Riparian Management Zones: WDFW's current recommendations for establishing RMZ widths are based primarily on a site potential tree height (SPTH) framework, where the width of the RMZ would be equivalent to one 200-year SPTH. The SPTH framework is based on a 1993 model developed by the Forest Ecosystem Management Assessment Team (FEMAT) to understand how riparian functions change with distance from a stream channel. This model, or relationship, is known as the FEMAT curves and it demonstrates that most riparian ecosystem functions occur within one 200-year SPTH (Figure 1).

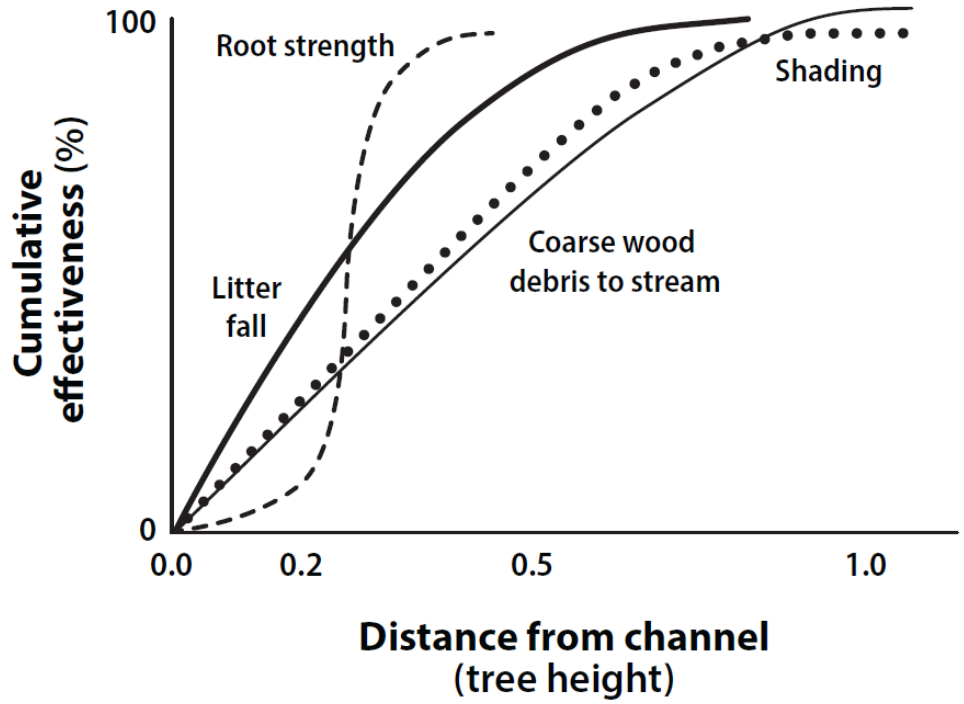


Figure 1. FEMAT curves figure, reproduced from Quinn et al. 2020 and Rentz et al. 2020.

Based on this model, WDFW recommends using tree height to estimate RMZ widths using their Riparian Ecosystems and Online SPTH Mapping Tool (WDFW Riparian Ecosystems Maps and Assistance) or *Guidelines for Determining Site Potential Tree Height from Field Measurements* (WDFW January 2025). The intent is to base protections on site potential to perform full riparian ecosystem

functions. To manage and protect riparian ecosystems, WDFW recommends measuring the RMZ from the ordinary high-water mark or channel migration zone, whichever is greater (Quinn et al. 2020; Rentz et al. 2020).

Other Stream Management Recommendations

The following WDFW riparian management recommendations for urban areas should also be considered for implementation (Rentz et al. 2020):

- maintaining and improving functions through regulatory and voluntary means,
- identifying and prioritizing restoration,
- maintaining and improving riparian connections, and
- applying stormwater management.

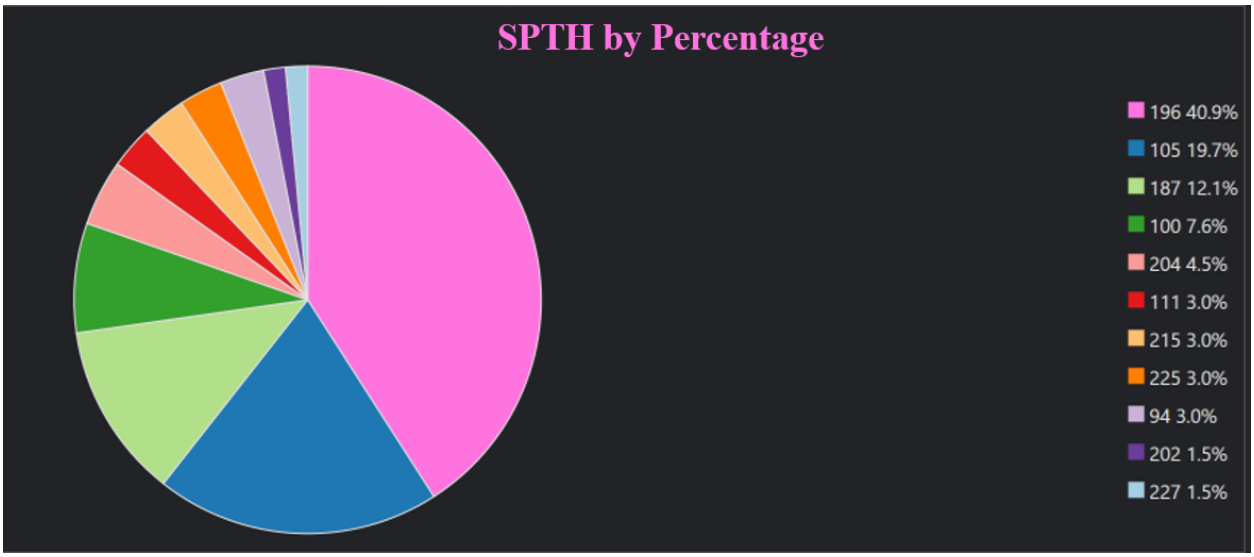
Auburn Streams / RMZ Review

ASSESSMENT APPROACH

City of Auburn planning staff and their GIS specialist compared SPTH values to current buffer widths and potential riparian buffer increases. Since the Green River and White River are regulated under the Shoreline Master Program (SMP), those waterbodies were excluded from the assessment. Streams within the City that are not mapped by DNR or are designated 'unknown' are presumed non-fish bearing for this assessment. Mapped wetlands and geologic hazard areas were included to show where critical area protections overlap.

SPTH VALUES

SPTH values in the City of Auburn range from 94 feet to 227 feet with a mean of 166 feet and a median of 196 feet (See enclosed 'SPTH Buffers Map' exhibit). The distribution of SPTH values is shown in the pie chart below.



The SPTH for Mill Creek along State Route 167 is 105 feet for most of the reach, which is mostly surrounded by wetlands. Green River tributaries on the east side of the City commonly have a SPTH value of 196 feet and have some overlap with landslide hazard areas. White River tributaries at the south end of the City are highly variable and range from 105 feet to 204 feet. Some overlap with wetlands that are mapped in the White River tributaries.

SPTH values are recommended by WDFW to achieve full riparian function for each stream segment based on site potential. Currently, stream buffers in Auburn are below the currently recommended SPTH values for full riparian functions. Non-fish bearing stream (Type Np and Ns) buffers, for example, are below the 100-foot minimum recommended to support water quality functions.

City Proposed Stream Regulations

The City did not propose substantive changes to stream protections in the October 2025 draft update of the Auburn Municipal Code (AMC), Chapter 16.10 Critical Areas. However, based on this BAS review and WDFW SPTH recommendations, the City is now proposing the following:

- Update riparian stream buffer widths as documented in Table 1 below.
- Measure riparian stream buffers from the ordinary high water mark. [Note: The Green River is regulated by the SMP. This update would only apply to streams regulated under the CAO.]
- Add minimization measures for streams to the code, similar to the wetlands section. These include directing lights away from the stream, routing untreated runoff away from the stream, following stormwater best management practices (BMPs), and keeping pets and people out of the buffer.
- Provide dense native vegetated buffer standards in the code.
- Require stream buffers to meet criteria for vegetation conditions and implement applicable minimization measures or be subject to a width increase.
- Incorporate the term 'riparian' into the stream code section to acknowledge the critical ecosystem functions riparian buffers provide.

The City plans to retain their existing classification system, consistent with the water typing system provided in WAC 222-16-030 as Type S, Type F, Type Np or Type Ns (AMC 16.10.080.E). This classification system is based on presence or absence of fish habitat, flow conditions, and location relative to shoreline jurisdiction. Note: The current code update does not review shoreline regulations under the City's Shoreline Master Program (SMP).

Auburn measures stream buffers from the ordinary high-water mark (OHWM) and assigns stream buffer widths based on the stream type under AMC 16.10.090.C.2 and 16.10.090.E.2, respectively.

Stream buffers under the current City code and proposed update are summarized in Table 1 below and in the enclosed exhibits. Under current City code, minimum buffer widths may be increased up to the maximum buffer value by the Director based on site-specific conditions, such as where endangered, threatened, or sensitive (ESA-listed) species have a primary association with critical area habitat. The

City code (AMC 16.10.090.E.2.b) provides a list of enhancement options an applicant can propose to justify a buffer width less than the maximum. These enhancement options include removal of fish barriers, adding in-stream log structures and habitat features, stream daylighting, and culvert improvements for fish passage. Under proposed code changes, minimization measures and vegetated buffer condition standards would be added to these buffer provisions.

Table 1. Stream Types and buffer widths under current and 10-2025 draft AMC 16.10.080 and 090.

Stream Type	10-2025 Draft Code		02-2026 Proposed Code	
	Minimum buffer	Maximum buffer[1]	Standard Buffer[1]	Increased Buffer[2]
Type S	Per SMP	Per SMP	Per SMP	Per SMP
Type F	100 ft	150 ft	150 ft	200 ft
Type Np	50 ft	100 ft	100 ft	133 ft
Type Ns	50 ft	75 ft	100 ft	133 ft

1 Director decision based on site-specific conditions, such as presence of critical habitat for ESA species.

2 In addition to ESA review, an increase applies if the applicant does not implement applicable minimization measures and does not meet vegetated buffer standards.

Auburn allows stream buffer averaging for Type F and Type Np waters that meet code criteria under AMC 16.10.090.E.2.d. Buffer averaging requires implementation of one or more stream enhancement measure, maintains the same total buffer area as the standard buffer, limits reduction at any given point to 25 percent, and results in equal or greater functions and values. Auburn proposes to retain this flexibility in their code update. The City adopted Ecology's 2024 Stormwater Management Manual for Western Washington and those best practices will be applied to maintain water quality standards.

Newly added provision AMC 16.10.090.E.2.e addresses functionally disconnected buffer areas, to exclude disconnected or functionally isolated stream buffer areas. A critical areas report is required to confirm such functional disconnectedness. The functionally disconnected buffer provision will be retained under the proposed update.

Discussion

As Auburn considers BAS for streams and riparian areas, we recognize stream regulations will be reviewed from an implementation feasibility perspective and are balanced with other Growth Management Act requirements. For example, the City considered zoning, existing land uses, and environmental permit administration when evaluating regulatory options.

The GIS analysis was conducted to support the City's review of stream / riparian protections relative to Comprehensive Planning goals and existing land uses (see enclosed exhibits). The proposed 150-foot Type F stream buffer is 77 percent of the median SPTH value of 196. As the FEMAT curve shows, the relationship between buffer width and cumulative effectiveness is not linear. The proposed buffer increase is near the point where width increases start to yield diminished returns in cumulative

effectiveness. The minimum 100-foot buffer is proposed for Type Np and Ns streams to maintain water quality.

Additionally, City of Auburn's 2024 Comprehensive Plan identifies urban separators. Urban separators are areas designated for low-density uses and are intended to protect resource lands, rural areas, and environmentally sensitive areas. Urban separators also create open space and wildlife corridors within and between communities.

The City of Auburn is incorporating BAS in their proposed CAO Stream update through the following measures.

- Riparian stream buffer widths are increasing to better align with SPTH values. The 150-foot riparian buffer for Type F streams is representative of average SPTH values in Auburn and aligns with highly effective riparian function per the FEMAT curve (see Figure 1 above). A 100-foot buffer will be applied to non-fish bearing streams to protect water quality consistent with BAS.
- Measure riparian stream buffers from the ordinary high water mark. [Note: Mapped channel migration zones (CMZ) in Auburn are along the Green River; those areas are regulated by the SMP.]
- The City plans to add minimization measures to the stream buffer code, by cross referencing or repeating those listed for wetlands under AMC 16.10.090.E.1.
- Auburn plans to add vegetation condition standards to stream buffer / riparian regulations under AMC 16.10.090.E.2.
- The City plans to apply a riparian buffer width increase if an applicant's project does not implement applicable minimization measures, and/or does not meet vegetation condition standards for buffers (Table 1 above).
- Where appropriate, use the term 'riparian' to document the importance of both in-stream and riparian areas as an ecosystem.

The following additional BAS-based recommendations for updates to the Auburn CAO are in review.

- Review AMC 16.10 for the use of the terms stream, stream type, stream buffer, riparian, and riparian management zone. After updates to stream classification (AMC 16.10.080) and stream buffers (16.10.090) are complete, review use of the above terms throughout the code for consistency and clarity.
- Cross-reference City stormwater management code requirements where applicable to strengthen critical area protections. Auburn has adopted Ecology's 2024 Stormwater Management Manual for Western Washington.

The proposed updates to Auburn stream regulations are the product of a thorough review of BAS and City-specific considerations for administration and implementation.

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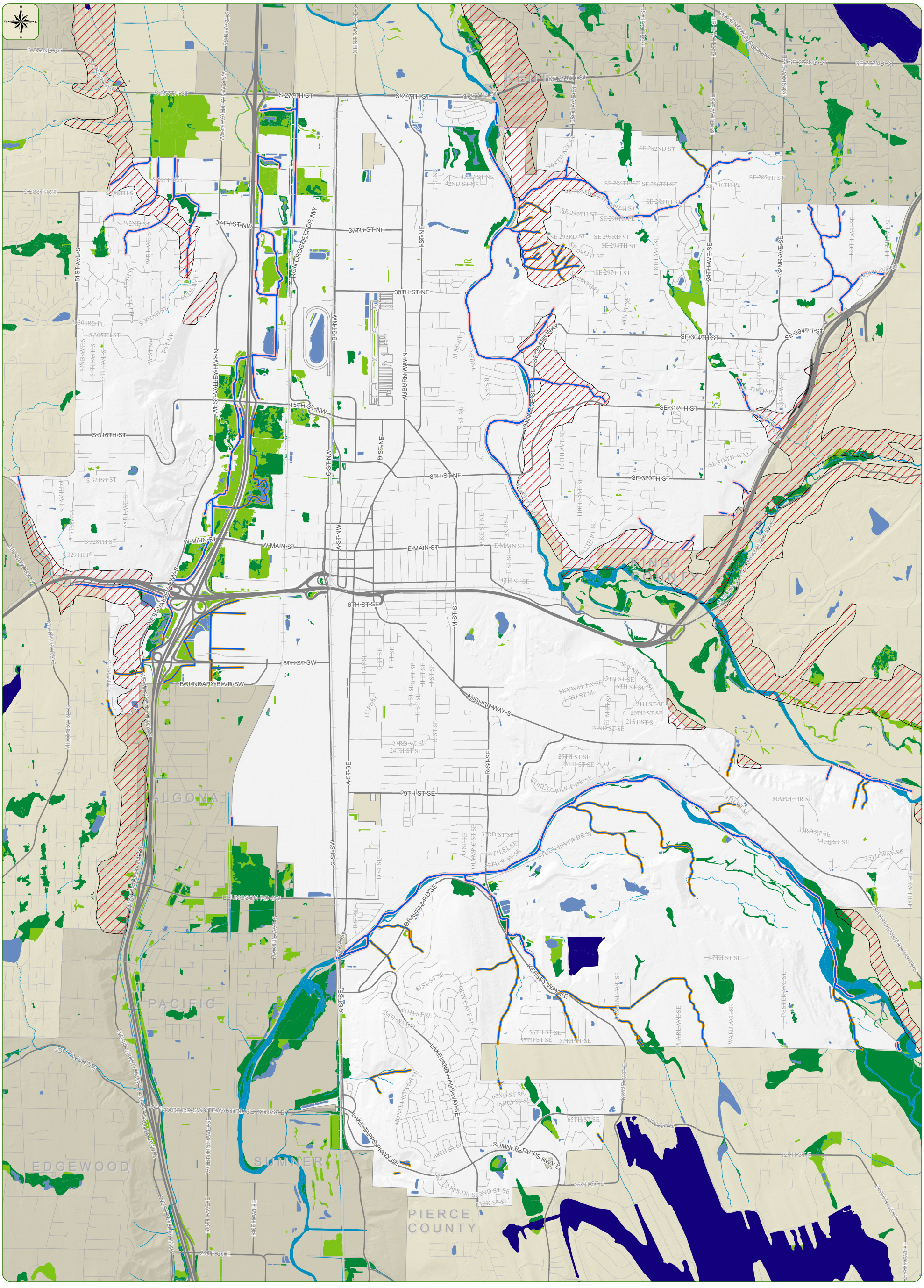
EXHIBIT 5

Existing Stream Buffers



Streams

Landslide Hazard

Fish Bearing Streams WDFW 100 Feet Buffer

Non Fish Bearing Streams Ecology 50 Feet Buffer

Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake

Other

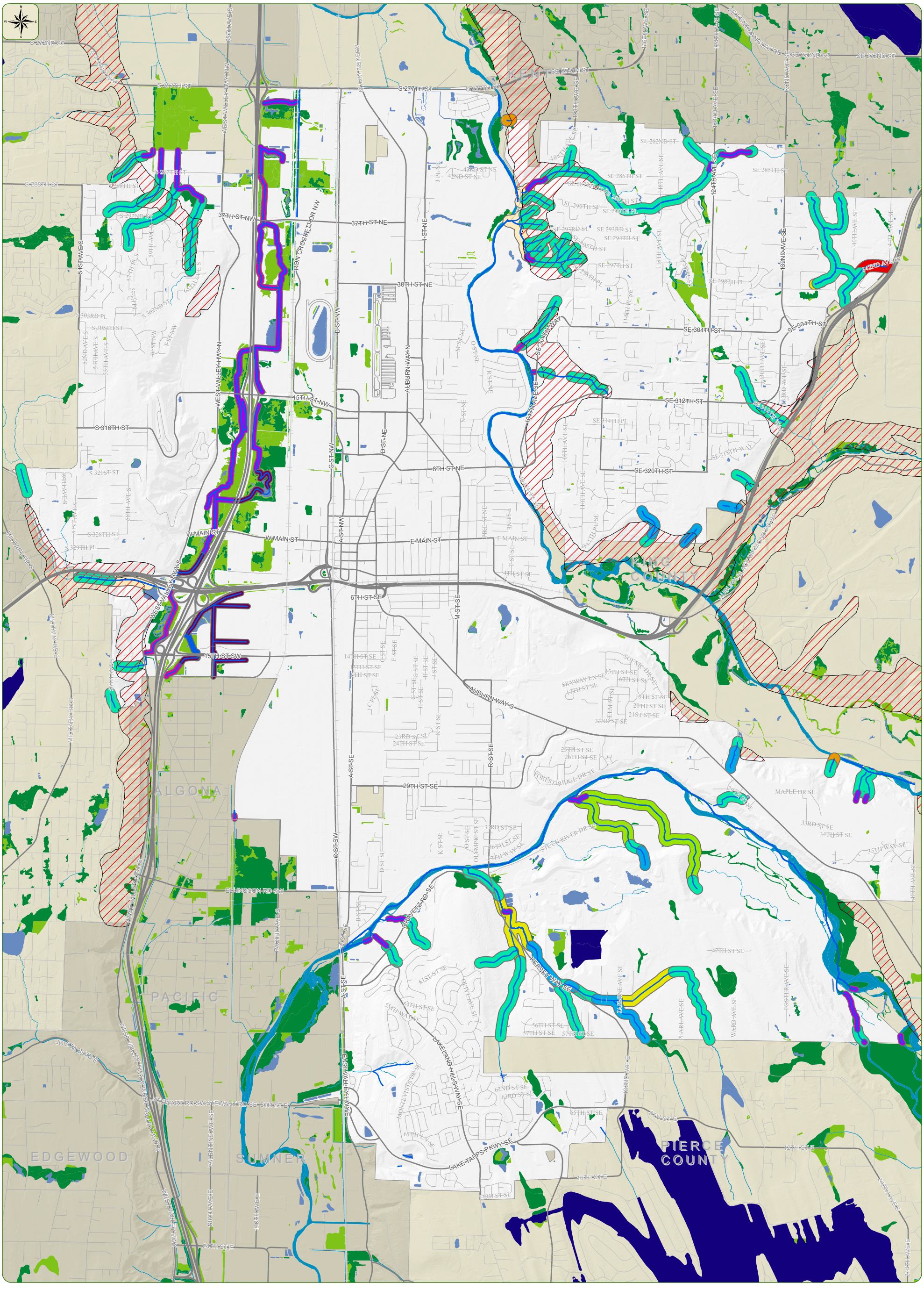
Riverine

Printed On: 2/17/2026
Map ID: 6366

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.

EXHIBIT 6

S P T H B u f f e r s



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Map ID: 6368

- Streams
- Landslide Hazard
- Streams SPTH 94 Feet Buffer
- Streams SPTH 100 Feet Buffer
- Streams SPTH 105 Feet Buffer
- Streams SPTH 111 Feet Buffer
- Streams SPTH 187 Feet Buffer
- Streams SPTH 196 Feet Buffer
- Streams SPTH 202 Feet Buffer
- Streams SPTH 204 Feet Buffer
- Streams SPTH 215 Feet Buffer
- Streams SPTH 225 Feet Buffer
- Streams SPTH 227 Feet Buffer

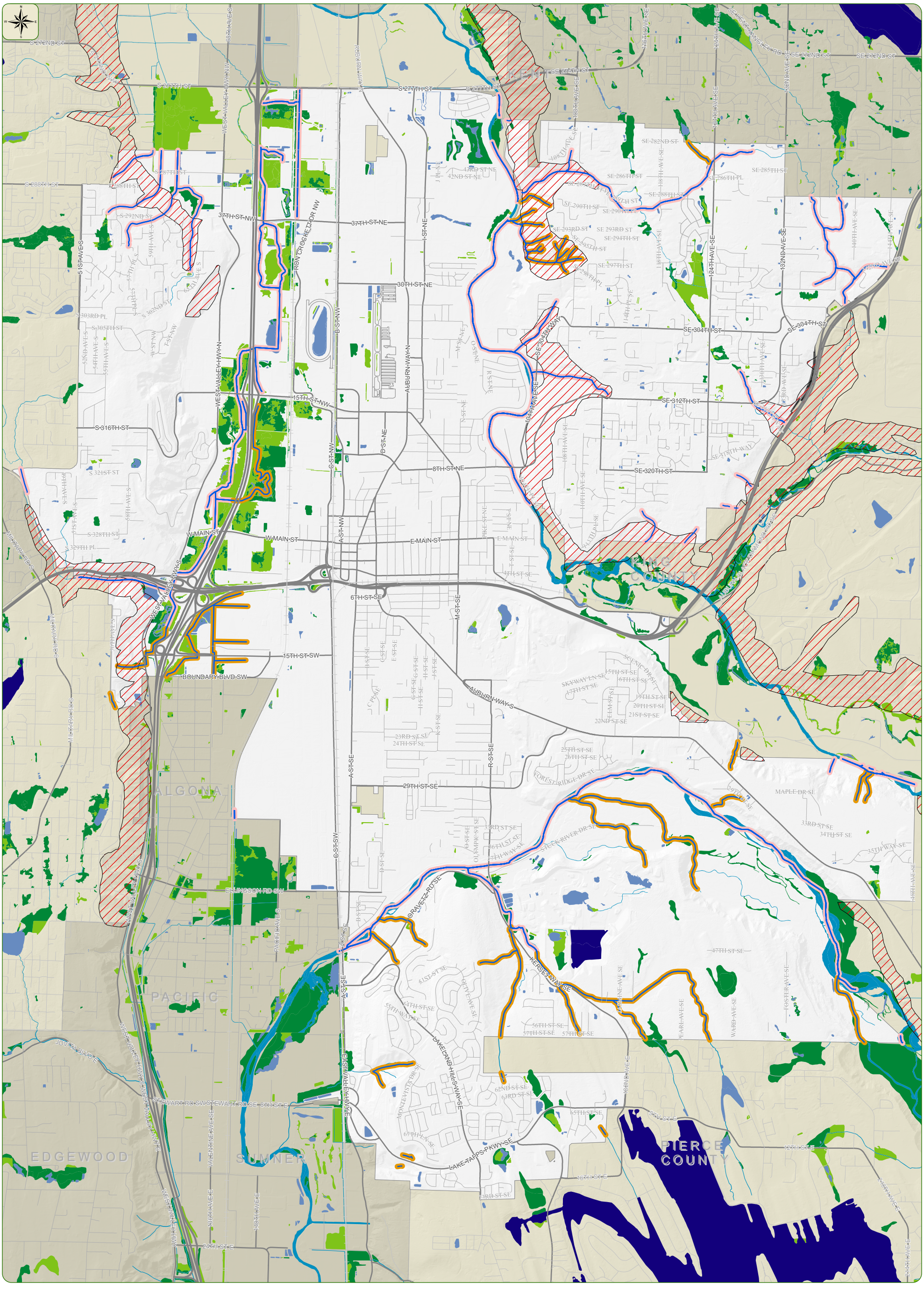
Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

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.

EXHIBIT 7

Proposed Stream Buffers



Printed On: 2/17/2026
Map ID: 6367

Streams
Landslide Hazard
Non Fish Bearing Streams 100 Feet Buffer
Fish Bearing Streams 150 Feet Buffer

Wetlands
Estuarine and Marine Deepwater
Estuarine and Marine Wetland
Freshwater Emergent Wetland
Freshwater Forested/Shrub Wetland

Freshwater Pond
Lake
Other
Riverine

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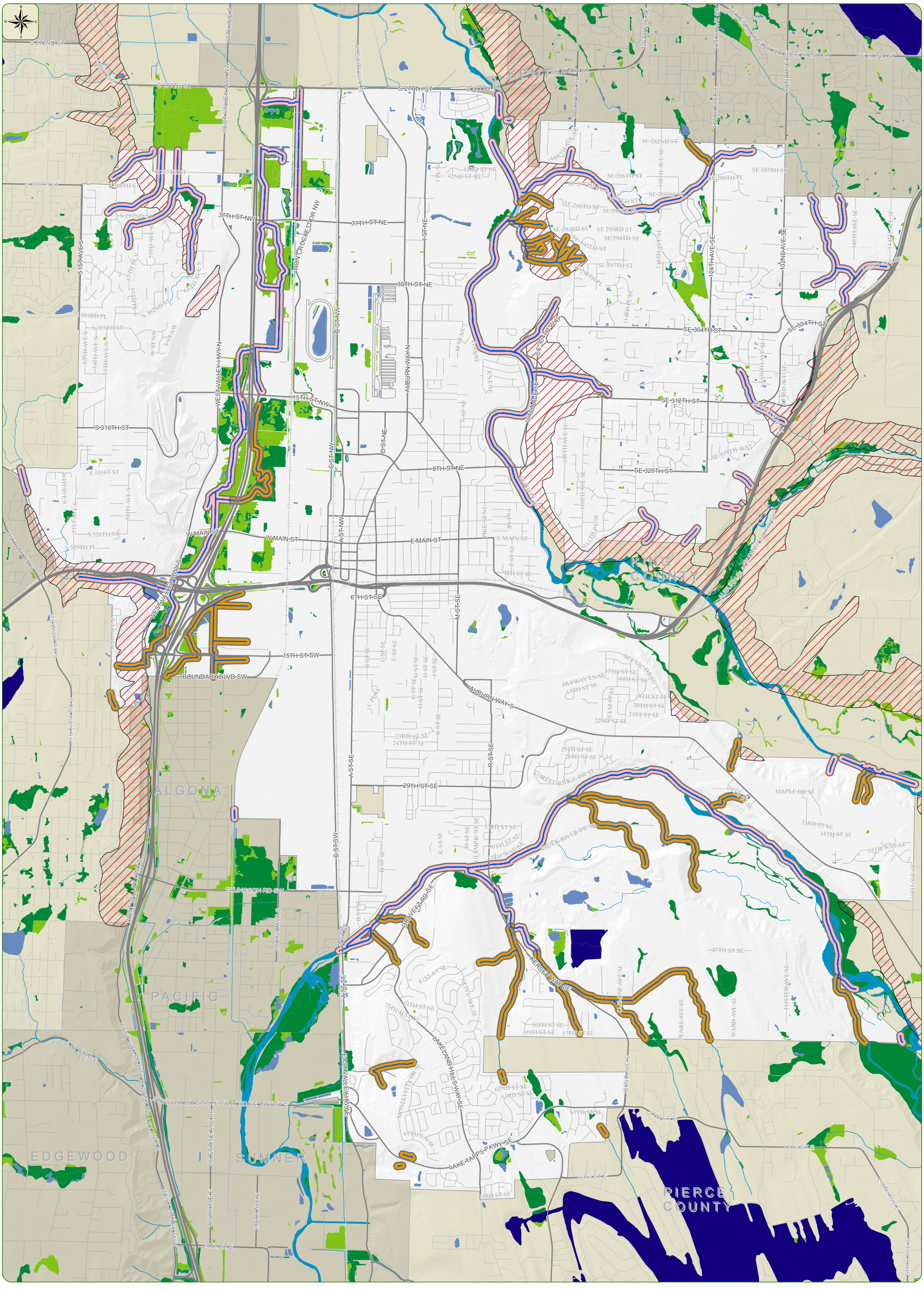
EXHIBIT 8

Proposed Increased Stream Buffers



Printed On: 2/18/2026
Map ID: 6369

Streams
Landslide Hazard
Fish Bearing Streams 200 Feet Buffer
Non Fish Bearing Streams 133 Feet Buffer

Wetlands
Estuarine and Marine Deepwater
Estuarine and Marine Wetland
Freshwater Emergent Wetland
Freshwater Forested/Shrub Wetland

Freshwater Pond
Lake
Other
Riverine

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ORDINANCE NO. 6999

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RELATING TO CRITICAL AREAS ORDINANCE UPDATE, AMENDING SECTIONS 16.10.010, 16.10.020, 16.10.030, 16.10.040, 16.10.050, 16.10.070, 16.10.080, 16.10.090, 16.10.100, 16.10.110, 16.10.130, 16.10.140, AND 16.10.150 OF THE AUBURN CITY CODE

WHEREAS, the Growth Management Act (Chapter 36.70A RCW) requires cities to periodically review and, if needed, revise development regulations to ensure consistency with state requirements; and

WHEREAS, the Growth Management Act further requires that development regulations protecting critical areas be based on Best Available Science and protect the functions and values of critical areas; and

WHEREAS, the City of Auburn adopted its Comprehensive Plan periodic update in 2024, which resulted in updates to development regulations, including Chapter 16.10 Auburn City Code (Critical Areas Ordinance); and

WHEREAS, the proposed amendments to Chapter 16.10 ACC are intended to incorporate Best Available Science, improve clarity and consistency in application, and strengthen protection of critical area functions and values; and

WHEREAS, the proposed amendments are based in part on Ecology's Model Critical Areas Ordinance, with the majority of changes sourced from the Model Ordinance, and current guidance from the Washington State Department of Ecology, Department of Commerce, and Washington Department of Fish and Wildlife; and

WHEREAS, the proposed amendments include updates to definitions, applicability, buffers and setbacks, geologic hazard regulations, mitigation standards, and monitoring requirements to improve implementation of critical area protections; and

WHEREAS, the proposed amendments were transmitted to the Washington State Department of Commerce for review on August 14, 2025, in accordance with RCW 36.70A.106, and the required 60-day review period has been completed; and

WHEREAS, environmental review for the proposed amendments was conducted in accordance with the State Environmental Policy Act (SEPA), and a Determination of Non-Significance (DNS) was issued, with no appeals filed; and

WHEREAS, during the review process, the City received comments from state agencies, including the Department of Ecology, Washington Department of Fish and Wildlife, and Department of Natural Resources; and

WHEREAS, the majority of agency comments related to consistency edits to ensure alignment with state guidance, including references to applicable manuals, terminology, and regulatory framework, and those comments have been incorporated into the proposed amendments; and

WHEREAS, the Planning Commission reviewed the proposed amendments at a public meeting on September 16, 2025; and

WHEREAS, comments from the Washington Department of Fish and Wildlife raised specific concerns regarding stream regulations and consistency with Best Available Science, warranting additional analysis; and

WHEREAS, in response to those comments, the City retained Facet Northwest, an Environmental Consultant, to conduct additional Auburn-specific analysis of stream

and riparian regulations, including review of scientific literature, evaluation of regulatory approaches, and analysis of local conditions; and

WHEREAS, that analysis concluded that updates to stream regulations are necessary to reflect Best Available Science and that a modified approach retaining the existing stream typing framework, while increasing buffer widths and incorporating performance-based vegetation standards, is appropriate for Auburn's urban context; and

WHEREAS, the proposed stream regulations increase buffer widths and incorporate a performance-based approach that recognizes both buffer width and vegetative condition as factors influencing ecological function; and

WHEREAS, the proposed approach maintains existing flexibility tools, including administrative discretion and buffer modification provisions; and

WHEREAS, the Planning Commission reviewed the updated stream regulations on March 3, 2026; and

WHEREAS, the Planning Commission held a public hearing on April 7, 2026, and provided a recommendation to the City Council on the amendments to Chapter 16.10 Auburn City Code.

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

Section 1. Amendment to City Code. Chapter 16.10 (Critical Areas Ordinance) Section 16.10.010, 16.10.020, 16.10.030, 16.10.040, 16.10.050, 16.10.070, 16.10.080, 16.10.090, 16.10.100, 16.10.110, 16.10.130, 16.10.140, and 16.10.150 of the Auburn City Code is amended to read as shown in Exhibit A.

Section 2. Implementation. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 3. Severability. The provisions of this Ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Ordinance, or the invalidity of the application of it to any person or circumstance, will not affect the validity of the remainder of this Ordinance, or the validity of its application to other persons or circumstances.

Section 4. Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbers, and any references thereto.

Section 5. **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:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Jason Whalen, City Attorney

Published: _____

Chapter 16.10
CRITICAL AREAS

Sections:

16.10.010 Purpose and intent.
16.10.020 Definitions.
16.10.030 Applicability – Regulated activities.
16.10.040 Exemptions and nonconforming uses.
16.10.050 Critical areas maps.
16.10.060 Relationship to other regulations.
16.10.070 Critical area review process and application requirements.
16.10.080 Classification and rating of critical areas.
16.10.090 Buffer areas and setbacks.
16.10.100 Alteration or development of critical areas – Standards and criteria – Prohibited uses.
16.10.110 Mitigation standards, location, and timing, wetland replacement ratios, and long-term protection requirements.
16.10.120 Performance standards for mitigation planning.
16.10.130 Monitoring program and contingency plan.
16.10.140 Procedural provisions.
16.10.150 Reasonable use provision.
16.10.160 Variances.
16.10.170 Special exception for public agencies and utilities.
16.10.180 Severability.

16.10.010 Purpose and intent.

A. The city of Auburn contains numerous areas that can be identified and characterized as critical or environmentally sensitive. Such areas within the city include wetlands, streams, fish and wildlife habitat conservation areas, geologic hazard areass, aquifer recharge areas, and flood hazards areas.

B. The city finds that these critical areas perform a variety of valuable and beneficial biological and physical functions that benefit the city and its residents. Alteration of certain critical areas may also pose a threat to public safety or to public and private property or the environment. The city therefore finds that identification, regulation and protection of critical areas are necessary to protect the public health, safety and general welfare. The city further finds that the functions of critical areas and the purpose of these regulations include the following:

1. *Wetlands.* Wetlands perform a variety of functions that include maintaining water quality; storing and conveying storm water and flood water; recharging groundwater; providing important fish and wildlife habitat; and serve as areas for recreation, education and scientific study, and aesthetic appreciation.

Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; and protect wetland resources from harmful intrusion.

The primary goals of wetland regulation are to avoid adverse effects to wetlands; to achieve no net loss of wetland function and value – acreage may also be considered in achieving the overall goal; to provide levels of protection that reflect the sensitivity of individual wetlands and the intensity of proposed land uses; and to restore and/or enhance existing wetlands, where possible.

2. *Streams* *and stream buffers (riparian management zone).* Streams and their associated riparian corridors provide important fish and wildlife habitat; help to maintain water quality; store and convey storm water and flood water; recharge groundwater; recruit large woody debris to create habitat structure; provide shade to maintain water temperatures and dissolved oxygen levels; support bank integrity and root reinforcement to reduce erosion; and serve as areas for recreation, education and scientific study and aesthetic appreciation. ~~Stream buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; and protect stream resources from harmful intrusion.~~

The primary goals of stream regulation are to avoid adverse effects to streams and associated riparian corridors; to achieve no net loss of functions and values of the larger ecosystem in which the stream is located; to protect fish and wildlife resources; to protect

water quality through appropriate management techniques; and, where possible, to provide for stream enhancement and rehabilitation.

3. *Fish and Wildlife Habitat Conservation Areas and Wildlife Habitat Corridors*. Wildlife habitat provides opportunities for food, cover, nesting, breeding and movement for fish and wildlife; maintains and promotes diversity of species and habitat; coordinates habitat protection with elements of the open space system; helps to maintain air and water quality; helps control erosion; serves as areas for recreation, education, scientific study, and aesthetic appreciation; and provides neighborhood separation and visual diversity within urban areas.

The primary goals of wildlife habitat regulation are to avoid adverse effects to critical habitats for fish and wildlife; to achieve no net loss of functions and values of the larger ecosystem in which the wildlife habitat is located; to implement the goals of the Endangered Species Act (ESA); to promote connectivity between habitat areas to allow for wildlife movement; to provide multi-purpose open space corridors; and where possible to provide for fish and wildlife habitat enhancement and rehabilitation that reflect the sensitivity of the species.

4. *Aquifer Recharge Areas.* Aquifer recharge areas provide a source of potable water and contribute to stream discharge/flow. Such areas contribute to the replenishing~~charge~~ of aquifers, and springs ~~and/or wells~~ and are susceptible to contamination of water supplies through infiltration of pollutants through the soil.

The primary goals of aquifer recharge protection regulations are to protect groundwater resources and water quality by maintaining the quantity of recharge; avoiding or limiting land use activities that pose potential risk of aquifer contamination; ~~to~~ minimizing~~e~~ or avoiding adverse effects to groundwater through the application of performance standards, ~~;~~ and ~~to~~ complying with the requirements of the Federal Safe Drinking Water Act and Washington Administrative Code that require Group A public water systems to develop and implement a wellhead protection program.

5. *Geologic~~ally~~ Hazard~~ous~~ Areas.* Geologic~~ally~~ hazard~~ous~~ areas means areas that, because of their susceptibility to erosion, sliding, earthquake, volcanic activity, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

The primary goals of regulating geologic hazards areas are to avoid and minimize potential impacts to life and property by regulating and/or limiting land uses where necessary, and to conduct appropriate levels of analysis and ensure sound engineering and construction practices to address identified hazards.

6. *Flood Hazard Areas.* Refer to Chapter 15.68 ACC Floodplain Development Management. Floodplains help to store and convey storm water and flood water; recharge groundwater; provide important areas for riparian habitat; and serve as areas for recreation, education, and scientific study. Development within floodplain areas can be hazardous to those inhabiting such development, and to those living upstream and downstream. Floods also cause substantial damage to public and private property that results in significant costs to the public and individuals.

The primary goals of flood hazard regulations are to limit or condition development within the regulatory floodplain to avoid substantial risk of damage to public and private property and that results in significant costs to the public and individuals; to avoid significant increases in peak storm water flows or loss of flood storage capacity; to protect critical habitat for fish and wildlife, and to meet the purposes set forth in Chapter 15.68 ACC. Requirements for the identification, assessment, alteration, and mitigation of flood hazard areas are contained in Chapter 15.68 ACC.

C. This chapter and other sections as incorporated by reference contain standards, procedures, criteria and requirements intended to identify, analyze, and mitigate potential impacts to the city's critical areas, and to enhance and restore degraded resources where possible. The general intent of these regulations is to avoid impacts to critical areas. In appropriate circumstances, impacts to specified critical areas resulting from regulated activities may be minimized, rectified, reduced and/or compensated for, consistent with the requirements of this chapter.

D. It is the further intent of this chapter to:

1. Comply with the requirements of the Growth Management Act (Chapter 36.70A RCW) and implement rules to identify and protect critical areas and to perform the review of development regulations required by RCW 36.70A.215;

2. Develop and implement a comprehensive, balanced and fair regulatory program that avoids impacts to critical resources where possible, that requires that mitigation be

performed by those affecting critical areas, and that thereby protects the public from injury, loss of life, property or financial losses due to flooding, erosion, landslide, seismic events, soil subsidence, or steep slope failure;

3. Implement the goals and policies of the Auburn comprehensive plan, including those pertaining to natural features and environmental protection, as well as goals relating to land use, housing, economic development, transportation, and adequate public facilities;

4. Serve as a basis for exercise of the city's substantive authority under the State Environmental Policy Act (SEPA) and the city's environmental review procedures, where necessary to supplement these regulations, while also reducing the city's reliance on project-level SEPA review;

5. Provide consistent standards, criteria and procedures that will enable the city to effectively manage and protect critical areas while accommodating the rights of property owners to use their property in a reasonable manner;

6. Provide greater certainty to property owners regarding uses and activities that are permitted, prohibited, and/or regulated due to the presence of critical areas;

7. Coordinate environmental review and permitting of proposals involving critical areas with existing development review and approval processes to avoid duplication and delay pursuant to the Regulatory Reform Act, Chapter 36.70B RCW;

8. Establish conservation and protection measures for threatened and endangered fish species in compliance with the requirements of the Endangered Species Act and the Growth Management Act requirements to preserve or enhance anadromous fisheries, WAC 365-195-925;

9. Alert members of the public, including appraisers, assessors, owners, potential buyers or lessees, to the development limitations of critical areas and their required buffers.

E. *Best Available Science.* The city has considered and included the best available science in developing these regulations, consistent with RCW 36.70A.172 and WAC 365-195-900, et seq. This has been achieved through research and identification of relevant technical sources of information, consultation with experts in the disciplines covered by this chapter, and consultation and requests for technical information regarding best available science from state and federal resource agencies.

Preparation of this chapter has included the use of relevant nonscientific information, including consideration of legal, social, policy, economic, and land use issues. This reflects the city's responsibilities under numerous laws and programs, including other provisions of the Growth Management Act, and the need to weigh and balance various factors as part of decision making to accomplish municipal objectives. This may result in some risk to the functions and values of some critical areas; however, it is recognized that the Growth Management Act requires the city to designate and protect critical areas. The city will also use its authority under the State Environmental Policy Act (SEPA) to identify, consider and mitigate, where appropriate, significant adverse effects on critical resources not otherwise addressed by the regulations of this chapter.

The city intends to review and monitor implementation of its critical areas regulations and to use an adaptive management approach. It will make adjustments to the regulations, as appropriate, in response to changing conditions, new information about best available science, or empirical data indicating the effectiveness of its regulatory program. This will occur in the context of the city's ongoing review and revision of its comprehensive plan and development regulations pursuant to the Growth Management Act.

Additional information, both scientific and nonscientific, regarding compliance with WAC 365-195-915(c), including identification of risks to resources and Washington State Department of Ecology guidance, is contained in the findings and conclusions and the overall record supporting adoption of Auburn's critical areas regulations. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 6295 § 3, 2010; Ord. 5894 § 1, 2005.)

16.10.020 Definitions.

For purposes of this chapter, the following definitions shall apply:

"Anadromous fish" means fish that spawn and rear in freshwater and mature in the marine environment, such as salmon, steelhead, sea-run cutthroat, and bull trout.

"Applicant" means the person, party, firm, corporation, or other entity that proposes or has performed any activity that affects a critical area.

"Aquifer" means ~~, generally, any~~underground layer of water bearing soil or rock ~~unit~~ formation. Specifically, an underground body of soil or rock formation that contains sufficient saturated

permeable material to conduct groundwater and capable of ~~and~~ yielding ~~economically~~ significant quantities of groundwater to wells or springs.

"Aquifer recharge area" ~~means areas with a critical recharging effect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.~~ are land areas that have a critical recharging effect on aquifers used for potable water, including designated areas, such as wellhead protection zones, where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.

"Artificially created wetlands" means wetlands created from nonwetland sites through purposeful, legally authorized human action, such as irrigation and drainage ditches, grass-lined swales, canals, retention or detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities.

Best Available Science. As defined in the Procedural Criteria for Adopting Comprehensive Plans and Development Regulations for Best Available Science at WAC 365-195-900, et seq.

"Buffer or buffer area, critical area" means a naturally vegetated, undisturbed, enhanced or revegetated zone surrounding a critical area that protects the critical area from adverse impacts to its integrity and value, and is an integral part of the resource's ecosystem.

"Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

"City" means the city of Auburn.

"Clearing" ~~means the removal of timber, brush, grass, ground cover or other vegetative matter from a site, which exposes the earth's surface of the site, or any actions which disturb the existing ground surface.~~ Means the destruction and removal of vegetation by manual, mechanical, or chemical methods.

"Climate resilience" means the capacity of ecosystems and infrastructure to recover and adapt to climate-related stressors including extreme weather, flooding, drought, and wildfire.

"Comprehensive plan" means the city of Auburn comprehensive plan as now adopted or hereafter amended.

"Critical area report" means a report prepared by a qualified professional~~consultant~~ to determine the presence, type, class, size, function and/or value of an area subject to these regulations. Also see "Stream or wetland reconnaissance report," "Wetland impact assessment report" and "Wildlife report."

"Critical areas" or "environmentally sensitive areas" means areas that possess important natural functions and embody a variety of important natural and community values. Such areas include wetlands, streams, fish and wildlife habitat, geologic~~ally~~ hazard~~ous~~ areas, aquifer recharge areas, ~~and~~ flood hazard areas, and any other areas designated as critical under state law, including but not limited to those defined in RCW 36.70A.030. If not conducted properly, development or alteration of such areas may cause significant impacts to the valuable functions and values of these areas and/or may generate risks to the public health and general welfare, and/or to public and private property.

"Critical erosion hazard areas" means lands or areas underlain by soils identified by the U.S. Department of Agriculture Soil Conservation Service (SCS) (now known as the Natural Resources Conservation Service) as having "severe" or "very severe" erosion hazards. This includes, but is not limited to, the following group of soils when they occur on slopes of 15 percent or greater: Alderwood-Kitsap (AkF), Alderwood gravelly sandy loam (AgD), Kitsap silt loam (KpD), Everett (EvD), and Indianola (InD). Additional soil groups may be identified through site-specific analysis.

"Critical geologic hazard areas" means lands or areas subject to high or severe risks of geologic hazard, including critical erosion hazard areas, critical landslide hazard areas, critical volcanic hazard areas, and critical seismic hazard areas.

"Critical habitat" or "critical wildlife habitat" means habitat areas associated with threatened, endangered, or sensitive species of plants or wildlife (pursuant to WAC 232-12-297(2.4), (2.5) and (2.6)) and which, if altered, could reduce the likelihood that the species will maintain and reproduce over the long term.

"Critical landslide hazard areas" means lands or areas where there is a high (Class III) or very high (Class IV) risk of landslide due to a combination of slope, soil permeability, and water.

"Critical seismic hazard areas" means lands or areas where there is a high risk of seismic events and damage.

"Delineation manual," "wetland delineation manual," or "wetland delineation methodology" means the methodology used for identification of wetlands and delineation of their boundaries and shall be done in accordance with the approved federal wetland delineation manual and the Western Mountains, Valleys, and Coast Regional supplement, as required by WAC 173-22-035.

"Department" means the city of Auburn department of community development or successor agency, unless the context indicates a different city department.

"Director" means the director of the city of Auburn department of community development or successor agency.

"Earth~~/earth~~ material" means naturally occurring rock, soil, stone, sediment, or combination thereof.

"Ecosystem functions" means the products, physical and biological conditions, and environmental qualities of an ecosystem that result from interactions among ecosystem processes and ecosystem structures. Ecosystem functions include, but are not limited to, sequestered carbon, attenuated peak streamflow, aquifer water level, reduced pollutant concentrations in surface and ground waters, cool summer in-stream water temperatures, and fish and wildlife habitat functions.

"Ecosystems values" are the cultural, social, economic, and ecological benefits attributed to ecosystem functions.

"Engineered slope" means a made slope that is specifically designed and constructed with the intention of maintaining stability and preventing failure.

"Enhancement" means the improvement of an existing viable wetland, stream or habitat area or the buffers established for such areas, through such measures as increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls, increasing structural diversity or removing plant or animal species that are not indigenous to the area. Enhancement also includes actions performed to improve the quality of an existing degraded wetland, stream, or habitat area. See also "Restoration."

"Erosion" means a process whereby wind, rain, water, and other natural agents mobilize and transport soil particles.

"Erosion hazard areas" means lands or areas that, based on a combination of slope inclination and the characteristics of the underlying soils, are susceptible to varying degrees of risk of erosion. Erosion hazard areas are classified as "low" (areas sloping less than 15 percent) or "high" (areas sloping 15 percent or more) on the following Soil Conservation Service (SCS), now known as the Natural Resources Conservation Service (NRCS), soil types: Alderwood-Kitsap (AkF), Alderwood gravelly sandy loam (AgD), Kitsap silt loam (KpD), Everett (EvD) and Indianola (InD). Additional soil groups may be identified through site-specific analysis.

"Excavation" means the removal or displacement of earth material by human or mechanical means.

"Existing and ongoing agricultural activities" means those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock. Such activity must have been in existence as of July 1, 1990 (the effective date of the Growth Management Act). The definition includes, but is not limited to, operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities or crops, and normal operation, maintenance or repair of existing serviceable structures, facilities, or improved areas. Activities, which bring an area into agricultural use from a previous nonagricultural use, are not considered part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted is proposed for conversion to a nonagricultural use or has lain idle for a period of longer than five years, unless the idle land is registered in a federal or state soils conservation program. Forest practices are not included in this definition.

"Exotic" means any species of plant or animal that is foreign and not indigenous to the lower Puget Sound area.

"Fill~~/fill~~ material" means a deposit of earth material placed by human or mechanical means.

"Filling" ~~means the act of transporting and placing (by any manner or mechanism) fill material from, to, or on any surface water body or wetland, soil surface, sediment surface, or other fill material.~~ means the act of transporting or placing (by any manner or mechanism) fill material from, to, or on any soil surface, natural vegetative covering of soil surface, or fill material (including temporary stockpiling of fill material).

"Fish habitat" or habitat that supports fish life means habitat that is used by fish life at any life stage and at any time of the year including potential habitat likely to be used by fish life, which could reasonably be recovered by restoration or management and includes off-channel habitat.

"Geologic~~ally~~ hazard~~ous~~ areas" means areas characterized by geologic, hydrologic, and topographic conditions that render them susceptible to erosion, sliding, earthquake, or other geological events.

"Geotechnical report" means a report prepared in accordance with the city's engineering design standards for geotechnical engineering and evaluation of soils.

"Grading" ~~means any excavating, filling, clearing, leveling or contouring of the ground surface by human or mechanical means.~~ means any excavating, filling, clearing, or re-contouring of the ground surface or combination thereof.

"Groundwater protection areas" means land areas designated by the city beneath which groundwater occurs that is a current or potential future source of drinking water for the city. Please see the definition of "aquifer recharge areas" for additional regulated areas.

"Habitat management" means management of land and its associated resources/features to maintain species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not imply maintaining all habitat or individuals of all species in all cases.

"Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in Chapter 173-303 WAC or Chapter 70.105 RCW.

"Hazard tree" means a tree that is considered a threat to life, property, or public safety. Due to their high habitat value, except when in the public right-of-way, hazard tree removal shall not adversely affect ecosystem functions to the extent practicable, encourage the creation of snags (Priority Habitat features) rather than complete tree removal, involve an avoidance and minimization of damage to remaining trees and vegetation, and require a qualified arborist to evaluate requests for hazard tree removal. When a hazard tree is within the right-of-way the City Engineer shall determine its removal.

"In-kind wetland mitigation" means replacement of wetlands with wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity.

"Injection well" means a well that is used for the subsurface emplacement of fluids. (From WAC 173-218-030.)

"Intentionally created streams" means streams created through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, and canals. This definition does not include stream modifications performed pursuant to city authorization, such as changes or redirection of stream channels.

"Lahar" means mudflows or debris flows associated with volcanic activity and which pose a threat to life, property, and structures.

"Landslide" means episodic downslope movement of a mass of soil or rock.

"Landslide hazard areas" means areas that, due to a combination of slope inclination, relative soil permeability, and hydrologic conditions are susceptible to varying degrees of risk of landsliding. Landslide hazard areas are classified as Classes I through IV based on the degree of risk as follows:

1. *Class I/Low Hazard.* Areas with slopes of 15 percent or less.

2. *Class II/Moderate Hazard.* Areas with slopes of between 15 percent and 40 percent and that are underlain by soils that consist largely of sand, gravel or glacial till.

3. *Class III/High Hazard.* Areas with slopes between 15 percent and 40 percent that are underlain by soils consisting largely of silt and clay.

4. *Class IV/Very High Hazard.* Areas with slopes steeper than 15 percent with identifiable zones of emergent water (e.g., springs or groundwater seepage), areas of identifiable landslide deposits regardless of slope and all areas sloping more steeply than 40 percent.

The slopes referenced above include only those where the surface drops 10 feet or more vertically within a horizontal distance of 25 feet and are not an engineered slope part of a project or development permitted by the city.

"Mature and old-growth forested wetlands" means wetlands containing mature or old-growth forested areas, generally requiring a century or more to develop. These systems represent two priority habitats, as defined by the Washington State Department of Fish and Wildlife.

"Mitigation" means activities which include:

1. Avoiding the impact altogether by not taking a certain action or parts of actions;

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

6. Monitoring the impact and taking appropriate corrective measures.

While monitoring without additional actions is not considered mitigation for the purposes of these regulations, it shall be part of a comprehensive mitigation program.

"Mitigation sequencing" means considering or performing mitigation actions, as defined in the definition of "mitigation," in a preferred sequence from (1) through (6). Avoidance is preferred and must be considered prior to pursuing other forms of mitigation.

"Monitoring and Adaptive Management" means the process of monitoring and improving permits, regulations, and programs to ensure the protection of critical areas.

"Native" means any species of plant or animals which are or were indigenous to the lower Puget Sound area.

"Natural heritage wetlands" means wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high quality, relatively undisturbed wetlands, or wetlands that support state-listed threatened or endangered plants.

"No net loss" refers to the actions taken to achieve and ensure no overall reduction in existing ecosystem functions and values or the natural systems constituting the protected critical areas. This may involve fully offsetting any unavoidable impacts to critical area functions and values pursuant to the Growth Management Act, WAC 365-196-830 'Protection of critical areas,' or as amended.

"Off-site mitigation" means performance of mitigation actions, pursuant to standards established in this chapter, on a site or in an area other than that proposed for conduct of a regulated activity.

"Out-of-kind mitigation" means replacement of wetlands or habitat with substitute wetlands or habitat whose characteristics do not closely approximate those adversely affected, destroyed, or degraded by a regulated activity.

"Permanent erosion control" means continuous on-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity, or pollutants after development, construction, or restoration.

"Plant association of infrequent occurrence" means one or more plant species which because of the rarity of the habitat and/or the species involved, or for other botanical or environmental reasons, do not often occur in the city of Auburn. Examples include but are not limited to:

1. Wetlands with a coniferous forested class or subclass consisting of trees such as western red cedar, Sitka spruce, or lodgepole pine growing on organic soils;

2. Bogs with a predominance of sphagnum moss, or those containing sphagnum moss, and typically including one or more species such as Labrador tea, sundew, bog laurel, or cranberry.

"Priority habitat and species (PHS)" means a classification by the Washington Department of Fish and Wildlife of habitats and species that require protective measures due to their sensitivity, rarity, or ecological importance.

"Qualified professional~~consultant~~," for purposes of these regulations, shall mean a person who has attained a degree from an accredited college or university in the subject matter necessary to evaluate the critical area in question (e.g., biology, ecology, or horticulture/arboriculture for wetlands, streams, wildlife habitat, and geology and/or civil engineering for geologic hazards, and hydrogeologist for aquifer recharge areas), and/or who is professionally trained and/or

certified or licensed by the state of Washington to practice in the scientific disciplines necessary to identify, evaluate, manage, and mitigate impacts to the critical area in question. In addition, a qualified professional~~consultant~~ for wetlands and streams must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the federal manual and supplements, preparing wetland reports, conducting function assessments, and development and implementing mitigation plans. A qualified professional~~consultant~~ for aquifer recharge areas must be a currently licensed Washington State geologist holding a current specialty license in hydrogeology.

"Reasonable use" means a legal concept articulated by federal and state courts in regulatory taking cases.

"Regulated activities" means activities that have a potential to significantly impact a critical area that is subject to the provisions of this chapter. Regulated activities generally include, but are not limited to, any filling, dredging, dumping or stockpiling, release of contaminants to soil or water, draining, excavation, flooding, clearing or grading, construction or reconstruction, driving pilings, obstructing, clearing, or harvesting.

"Restoration" means actions taken to re-establish wetland, stream or habitat functional values, and the characteristics that have been destroyed or degraded by past alterations (e.g., filling or grading). See also "Enhancement."

"Riparian management zone" (RMZ) means the area that has the potential to provide full riparian functions. In many forested regions of the state, this area occurs within one 200-year site-potential tree height measured from the edge of the stream channel. In situations where a CMZ is present, this occurs within one site potential tree height measured from the edges of the CMZ. In non-forest zones, the RMZ is defined by the greater of the outermost point of the riparian vegetative community or the pollution removal function, at 100 feet. For delineating RMZs, see the qualified professional resources in Appendix A of Washington Department of Fish and Wildlife's Guidelines for Determining Site Potential Tree Height from Field Measurements.

"Salmonids" means the family of fish which includes salmon, trout, and char.

~~"Secondary habitat" means areas that offer less diversity of animal and plant species than critical habitat but are important for performing the essential functions of habitat.~~

"Seismic hazard areas" means areas that, due to a combination of soil and groundwater conditions, are subject to risk of ground shaking, subsidence, or liquefaction of soils during earthquakes. These areas are typically underlain by soft or loose saturated soils (such as alluvium), have a shallow groundwater table, and are typically located on the floors of river valleys.

"Site" means the location containing a regulated critical area and on which a regulated activity is proposed. The location may be a parcel or portion thereof, or any combination of contiguous parcels where a proposed activity may impact a critical area.

"Slope" means an inclined earth surface, the incline of which is expressed as the ratio of horizontal distance to vertical distance. The slopes referenced above include only those where the surface drops 10 feet or more vertically within a horizontal distance of 25 feet.

"Sole source aquifer" means an area formally designated as such by the U.S. Environmental Protection Agency under the federal Safe Drinking Water Act.

"Spring" means a source of water where an aquifer comes in contact with the ground surface.

"Stream or wetland reconnaissance report" means a type of critical area report prepared by an applicant's qualified professional~~consultant~~ to describe a stream or wetland and to characterize its conditions, source of hydrologic support, wildlife, habitat values and water quality. The report may also include an analysis of impacts but generally does not include adequate impact assessment and definition of a mitigation proposal sufficient to meet all the requirements of a more comprehensive critical areas report.

"Streams" means those areas where surface waters produce a defined channel or bed that demonstrates clear evidence of the passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water year-round. This definition is not intended to include artificially created irrigation ditches, canals, stormwater or surface water devices, or other entirely artificial watercourses unless they are used by salmonids or created for the purposes of stream mitigation.

"Structural diversity, vegetative" means the relative degree of diversity or complexity of vegetation in a wildlife habitat area as indicated by the stratification or layering of different

plant communities (e.g., ground cover, shrub layer and tree canopy), the variety of plant species and the spacing or pattern of vegetation.

“Substrate” means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland, lake, stream, or river.

“Temporary erosion control” means on-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity, or pollutants during development, construction, or restoration.

~~“Tertiary habitat” means habitat that supports some wildlife but does not satisfy the definition of secondary or critical habitat.~~

“Tree” means any self-supporting perennial woody plant characterized by natural growth of one main stem or trunk with a definite crown, and maturing at a height of at least six feet above the ground.

“Tree base fee” means the current cost of the tree based on species and minimum code required installation size, installation (labor and equipment), maintenance for two years and fund administration.

"Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. Urban growth typically requires urban governmental services.

“Utility” includes natural gas, electric, telephone and telecommunications, cable communications, water, sanitary sewer or storm drainage and their respective facilities, lines, pipes, mains, equipment and appurtenances.

“Variance” means permission to depart from the requirements of the specific regulations of this title for a particular piece of property.

“Volcanic hazard areas” means areas identified by the U.S. Geological Survey (maps dated 1998 or as hereafter revised) as subject to a risk of large lahars with a recurrence interval of 500 to 1,000 years.

"Watercourse" as defined in WAC 220-660-030(154).

"Water dependent use" means a principal use which can only exist when the land/water interface provides biological or physical conditions necessary for the use.

"Wellhead Pprotection Aarea" means the portion of a well's, wellfield's or spring's zone of contribution within the 6-month, 1-year, 5-year, and 10-year time of travel boundary, or boundaries established using alternate criteria approved by the State Department of Health in those settings where groundwater time of travel is not a reasonable delineation criterion.

"Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands. (Definition taken from RCW 36.70A.030(23).) Wetlands shall be classified and rated according to the Washington State Wetland Rating System for Western Washington: 2014 Update, Version 2.0 or latest approved by Ecology.

"Wetland impact assessment report" means a report prepared by a qualified professionalconsultant that identifies, characterizes and analyzes potential impacts to wetlands consistent with applicable provisions of these regulations. A wetland impact assessment may be combined with and include a formal wetland delineation.

"Wetland mosaic" means an area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50 percent of the total area of the entire mosaic, including uplands and open water.

"Wildlife report" means a report prepared by a qualified professionalconsultant that evaluates plant communities and wildlife functions and values on a site, consistent with the format and requirements established by this chapter. The report also includes an analysis of impacts. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 6287 § 2, 2010; Ord. 5894 § 1, 2005.)

16.10.030 Applicability – Regulated activities.

A. The provisions of this chapter shall apply to any activity that potentially affects a critical area or its buffer unless otherwise exempt. Such regulated activities include but are not limited to:

1. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter, or materials of any kind;

2. Dumping, discharging or filling with any material;

3. Draining, flooding or disturbing the water level or water table, or diverting or impeding water flow;

4. Driving pilings or placing obstructions;

5. Constructing, reconstructing, demolishing, or altering the size of any structure or infrastructure;

6. Destroying or altering vegetation through clearing, grading, harvesting, shading, or planting vegetation that would alter the character of or impact a critical area;

7. Release of contaminants to soil or water;

~~8. Activities that result in significant changes in water temperature, physical or chemical characteristics of water sources, including quantity and pollutants; and~~

8~~9~~. Any other activity potentially affecting a critical area or buffer not otherwise exempt from the provisions of this chapter as determined by the director.

9. Activities that result in:

a. A significant change of water temperature,

b. A significant change of the physical or chemical characteristics of the sources of water to the wetland,

c. A significant change in the timing, frequency, depth, or duration of water entering or within the wetland,

d. Immediate and substantial erosion and/or sediment transport of surface soils,

e. Sloughing of exposed surface soils,

f. The emergence, or an increase in the flow, of water seeps or springs,

B. To avoid duplication, the following permits and approvals shall be subject to and coordinated with the requirements of this chapter: land clearing; grading; subdivision or short subdivision; building permit; planned unit development (if permitted by the city code); shoreline substantial development; variance; conditional use permit; and any other permits that may lead to the development or alteration of land.

C. Administrative actions, such as rezones, annexations, and the adoption of plans and programs, shall be subject to the requirements of this chapter. However, the director may, using discretion, permit any studies or evaluations required by this chapter to use methodologies and provide a level of detail appropriate to the administrative action proposed.
(Ord. 6733 § 3 (Exh. B), 2019; Ord. 6187 § 3, 2008; Ord. 5991 § 3, 2006; Ord. 5894 § 1, 2005.)

16.10.040 Exemptions and nonconforming uses.

A. The following activities performed on sites containing critical areas as defined by this chapter shall be exempt from the provisions of this chapter:

1. Existing and ongoing agricultural activities, as defined in this chapter;

2. Activities involving artificially created wetlands or streams intentionally created from nonwetland sites, including but not limited to grass-lined swales, irrigation and drainage ditches, retention or detention facilities, and landscape features, except wetlands or streams created as mitigation or that provide critical habitat for salmonids and except when the site contains another critical area;

3. Normal and routine maintenance, operation, repair and reconstruction of existing roads, streets, utilities and associated structures; provided, that reconstruction of any structures may not increase the impervious area and may not cause further encroachment on the critical area or its buffer, and may not result in adverse impacts to surface water and groundwater quality. Operation and maintenance includes vegetation management performed in accordance with best management practices that is part of ongoing maintenance of structures, infrastructure, or utilities; provided, that such management

actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species;

4. *Minor Utility and Street Projects.* Utility or street projects which have minor or short duration impacts to critical areas, as determined by the director in accordance with the criteria below, and which do not significantly impact the functions or values of a critical area(s); as determined through a critical areas report; provided, that such projects are constructed with best management practices and additional restoration measures are provided through a mitigation plan. Minor activities shall not result in the transport of sediment or increased storm water. Such allowed minor utility projects shall meet the following criteria:

a. There is no practical alternative to the proposed activity with less impact on critical areas;

b. The activity involves the placement of underground piping, conduit, traffic signal equipment, lighting equipment, utility pole(s), signs, anchor, or vault or other small component of a utility or street facility;

5. Normal maintenance, repair and reconstruction of residential or commercial structures, facilities and landscaping; provided, that reconstruction of any structures may not increase the previous floor area;

6. The addition of floor area within an existing building which does not increase the building footprint;

7. A one-time Aadditions to a legally established single-family residential structure in existence before May 13, 2005, located within a wetland or stream buffer may be permitted if all of the following criteria area met:

a. The addition is no greater than 500 square feet of building footprint over that in existence as of May 13, 2005;

b. The addition is not located closer to the critical area than the existing structure;

c. The addition is consistent with other applicable development regulations;

dc. Impacts on critical area functions are avoided consistent with the purpose and intent of this title and as demonstrated in a critical areas report by a qualified professional and as applicable mitigated through an approved mitigation plan~~consultant~~; and

ed. ~~There are no changes in slope stability, flood conditions or drainage;~~ Demonstrate through analysis by qualified professionals that other existing property conditions covered by this title (e.g. – slope stability, flood conditions, drainage) have not changed with the proposed addition;

8. Site investigative work and studies that are prerequisite to preparation of an application for development authorization including soils tests, water quality studies, wildlife studies and similar tests and investigations; provided, that any disturbance of the critical area shall be the minimum necessary to carry out the work or studies;

9. Educational activities, scientific research, and outdoor passive recreational activities, including but not limited to interpretive field trips, birdwatching and hiking, that will not have a significant effect on the critical area;

10. Emergency activities necessary to prevent an immediate threat to public health, safety, property or the environment which requires immediate action within a time too short to allow full compliance with this chapter as long as any alteration undertaken pursuant to this subsection is reported to the city as soon as possible. Only the minimum intervention necessary to reduce the risk to public health, safety or welfare and/or the imminent risk of damage to private property shall be authorized by this exemption. The director shall confirm that an emergency exists or existed and determine what, if any, additional applications and/or measures shall be required to protect the environment consistent with the provision of this section and to repair any damage to a pre-existing resource; the director shall determine a time limit between 1-2 years for restoration, rehabilitation, or replacement to minimize temporal loss of critical area functions and values;

11. Activities affecting previously legally filled wetlands;

12. Activities in storm and water quality basins and “wetlands” created by poorly maintained or plugged culverts or pipes~~lines~~, and artificially created ditches that are not used by fish~~salmonids~~;

13. Minor activities not mentioned above and determined by the director to have minimal impacts to a critical area, will not result in no net loss of ecological values and functions, and are constructed with best management practices and additional restoration measures are provided through a mitigation plan.

B. Notwithstanding the exemptions provided by this subsection, any otherwise exempt activities occurring in or near a critical area shall comply with the purpose and intent of these standards and shall consider on-site alternatives that avoid or minimize significant adverse impacts.

C. Exempt activities occurring in flood hazard areas shall not alter flood storage capacity or conveyance except in conformance with floodplain requirements of Chapter 15.68 ACC.

D. No property owner or other entity shall undertake exempt activities in subsection (A)(2), (7) or (13) of this section without first providing 14 calendar days' notice to the city in writing and receiving confirmation in writing that the proposed activity is exempt. In case of any question as to whether a particular activity is exempt from the provisions of this section, the director's determination shall govern and shall be confirmed in writing.

E. An established use or existing structure that was lawfully permitted prior to May 13, 2005, but which is not in compliance with this chapter, shall be deemed a nonconforming use as defined in ACC 18.04.650. Unless otherwise provided for, existing structures, which intrude into critical areas buffers, shall not be reconstructed in such a manner that results in the further intrusion into the buffer area. Structures or developments that are nonconforming solely due to being contrary to the provisions of this chapter shall not be subject to the nonconforming use provisions of Chapter 18.54 ACC. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 5894 § 1, 2005.)

16.10.050 Critical areas maps.

Maps have been developed by the city that show the general location of critical areas. These maps are available for reference at the city department of community development. These maps shall be used for informational purposes as a general guide only for the assistance of property owners and other interested parties; the boundaries and locations shown are generalized. The actual presence or absence, type, extent, boundaries and classification of critical areas on a specific site shall be identified in the field by a qualified

professional~~consultant~~ and determined by the city, according to the procedures, definitions and criteria established by this chapter. In the event of any conflict between the critical area location or designation shown on the city's maps and the criteria or standards of this section, the criteria, definition, and standards shall prevail. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 6287 § 2, 2010; Ord. 5894 § 1, 2005.)

16.10.060 Relationship to other regulations.

A. These critical area regulations shall apply as an overlay and in addition to zoning, land use and other regulations established by the city of Auburn. In the event of any conflict between these regulations and any other regulations of the city, the regulations which provide greater protection to critical areas shall apply.

B. Areas characterized by particular critical areas may also be subject to other regulations established by this chapter due to the overlap or multiple functions of some sensitive or critical areas. Wetlands, for example, may be defined and regulated according to the wetland, habitat and stream management provisions of this chapter. In the event of any conflict between overlapping regulations for multiple critical areas on the same site, the regulations which provide greater protection to critical areas shall apply.

C. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, shoreline substantial development permits, hydraulic project approval (HPA) permits, Army Corps of Engineers Section 404 permits, National Pollutant Discharge Elimination System (NPDES) permits). The applicant is responsible for complying with these requirements, apart from the process established in this chapter. Where applicable, the director will encourage use of information such as permit applications to other agencies or special studies prepared in response to other regulatory requirements to support required documentation submitted for critical areas review. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 5894 § 1, 2005.)

16.10.070 Critical area review process and application requirements.

A. *Pre-Application Conference.* A pre-application ~~conference~~ meeting is available and encouraged prior to submitting an application for a project permit.

B. *Application Requirements.*

1. *Timing of Submittals.* Concurrent with submittal of a State Environmental Policy Act (SEPA) checklist, or concurrent with submittal of an application for projects exempt from SEPA, a critical area report must be submitted to the city for review when the city believes that a critical area may be present. The purpose of the report is to determine the extent, characteristics and functions of any critical areas located on or potentially affected by activities on a site where regulated activities are proposed. The report will also be used by the city to determine the appropriate critical area classification and, if applicable, to establish appropriate buffer requirements.

2. *Report Contents.* Reports and studies required to be submitted by this chapter shall contain, at a minimum, the information indicated in the provisions of this chapter applicable to each critical area. The director may tailor the information required to reflect the complexity of the proposal and the sensitivity of critical areas that may potentially be present.

C. *Consultant Qualifications and City Review.* All reports and studies required of the applicant by this section shall be prepared by a qualified professional~~consultant~~ as that term is defined in these regulations. The city may retain a qualified professional~~consultant~~ paid for by the applicant to review and confirm the applicant's reports, studies and plans if the following circumstances exist:

1. The city has technical information that is unavailable to the applicant; or

2. The applicant has provided inaccurate or incomplete information on previous proposals or proposals currently under consideration.

D. *Review Process.* This section is not intended to create a separate critical area review permit for development proposals. To the extent possible, the city shall consolidate and integrate the review and processing of critical area-related aspects of proposals with other land use and environmental considerations and approvals. Any permits required by separate codes or regulations, such as floodplain development permits or shoreline substantial development

permits, shall continue to be required. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 6295 § 4, 2010; Ord. 5894 § 1, 2005.)

16.10.080 Classification and rating of critical areas.

A. To promote consistent application of the standards and requirements of this chapter, critical areas within the city of Auburn shall be rated or classified according to their characteristics, function and value, and/or their sensitivity to disturbance.

B. Classification of critical areas shall be determined by the director based on consideration of the following factors and in the following order:

1. Consideration of the technical reports submitted by qualified professionals~~consultants~~ in connection with applications subject to these regulations;

2. Application of the criteria contained in these regulations; and

3. Critical areas maps maintained by the department of community development.

C. Classification shall incorporate Best Available Science as defined under WAC 365-195-900., and utilize statewide classification schemes, such as Ecology's Wetland Rating System, WDFW Priority Habitats and Species maps, and the Washington Geologic Information Portal.

D~~C~~. *Wetland Classification.* Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Western Washington: 2014 Update, Version 2.0,~~2014 Update (Ecology Publication No. 14-06-029,~~ or as revised and approved by Ecology~~)~~. Wetland rating categories shall not change due to illegal modifications.

1. "Category I wetlands" include wetlands which: represent unique or rare wetland types, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime, or provide a high level of functions, as indicated by a rating system score of 23 points or more on the classification system referenced above.

2. "Category II wetlands" provide high levels of some functions, being difficult, though not impossible to replace, and have a moderately high level of functions, scoring between 20 and 22 points.

3. "Category III wetlands" have a score between 16 and 19 points, generally have been disturbed in some way and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

4. "Category IV wetlands" have the lowest levels of functions, scoring fewer than 16 points and are often heavily disturbed. These are wetlands that should be able to be replaced, or in some cases be improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

5. "Artificially created wetlands" are purposefully created landscape features, ponds and storm water detention or retention facilities. Artificially created wetlands do not include wetlands created as mitigation, and wetlands modified for approved land use activities. Purposeful creation must be demonstrated to the director through documentation, photographs, statements and/or other evidence. Artificial wetlands intentionally created from nonwetland sites are excluded from regulation under this section.

E~~D~~. *Stream Classification.* Streams shall be classified according to the water typing system as provided in WAC 222-16-030, as amended, and designated as Type S, Type F, Type Np, and Type Ns.

1. "Type S streams" are those natural streams identified as "shorelines of the state" under Chapter 90.58 RCW and the city of Auburn shoreline master program.

2. "Type F streams" are those natural streams that are not Class I streams and are either perennial or intermittent and have one of the following characteristics:

   a. Contain fish habitat; or

   b. Has significant recreational value, as determined by the director.

3. "Type Np streams" are those natural streams with perennial (year-round) or intermittent flow and do not contain fish habitat.

4. "Type Ns streams" are those natural streams and drainage swales with channel width less than two feet taken at the ordinary high water mark, that do not contain fish habitat.

5. "Intentionally created streams" are those manmade streams defined as such in these regulations, and do not include streams created as mitigation. Purposeful creation must be demonstrated through documentation, photographs, statements and/or other evidence. Intentionally created streams may include irrigation and drainage ditches, grass-lined swales and canals. Intentionally created streams are excluded from regulation under this section, except manmade streams that provide "critical habitat," as designated by federal or state agencies, for salmonids, or streams that contain fish. Intentionally created streams must install fish exclusion devices when applicable.

FE. *Fish and Wildlife Habitat Conservation Areas.* ~~*Wildlife Habitat Classification.*~~ Land managed to maintain populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. Fish and Wildlife habitat conservation areas are listed in WAC 365-190-130 and the following list are those that are present in the City of Auburn: ~~shall be classified as critical, secondary or tertiary according to the criteria in this section:~~

1. *"Critical habitat"* are those habitat areas which meet any of the following criteria:

   a. Areas where endangered, threatened, and sensitive species have a primary association; ~~The documented presence of species or habitat listed by federal or state agencies as "endangered," "threatened," or "sensitive"; or~~

   b. The presence of unusual nesting or resting sites such as heron rookeries;

   c. Category I wetlands, as defined in these regulations; ~~or~~

   d. Waters of the State or Type S streams, as defined in these regulations.

   e. Streams and rivers planted with game fish by a governmental or tribal entity; and

   f. Habitats and species of local importance.

2. *"Priority habitat"* are those habitat areas that require protective measures due to their sensitivity, rarity, or ecological importance, and ~~"Secondary habitat" is habitat which is valuable to fish and wildlife and~~ support~~s~~ a wide variety of species due to its undisturbed

nature, a diversity of plant species and structure, presence of water, or the area's size, location, or seasonal importance.

~~3. "Tertiary habitat" is habitat which is not classified as critical or secondary. It is habitat which, while supporting some wildlife and performing other valuable functions, does not currently possess essential characteristics necessary to support diverse wildlife communities. Tertiary habitat also includes habitat which has been created purposefully by human actions to serve other or multiple purposes, such as open space areas, landscape amenities, and detention facilities.~~

GF. *Aquifer Recharge Areas.* The following areas are hereby designated as aquifer recharge areas subject to review under this chapter:

1. *Type I.*

a. Sole source aquifers and wellhead protection areas designated pursuant to the Federal Safe Drinking Water Act and WAC 246-290-135.

b. Areas established for special protection pursuant to a groundwater management program as described by Chapters 90.44, 90.48 and 90.54 RCW and Chapters 173-100 and 173-200 WAC.

c. Any other area meeting the definition of "areas with a critical recharging effect on aquifers used for potable water" as described in Chapter 365-190 WAC and the Auburn comprehensive plan, including groundwater protection areas Nos. 1 through 3 as designated in the "Water Resource Protection Report" prepared for the city by the Pacific Groundwater Group, December 2000.

2. *Type II.*

a. Groundwater protection area No. 4 as designated in the "Water Resource Protection Report" prepared for the city by the Pacific Groundwater Group, December 2000.

b. Any other area within the city that is not otherwise designated or that is added to the city via annexation shall be treated as a Type II aquifer recharge area.

G. *Geologic ~~ally~~ Hazard Area~~ous~~ Classifications.* Geologically hazardous areas shall be classified according to the criteria in this section:

1. *Critical Erosion Hazard Areas.* Critical erosion hazard areas are lands or areas underlain by soils identified by the U.S. Department of Agriculture Soil Conservation Service (SCS), now known as the Natural Resources Conservation Service, as having "severe" or "very severe" erosion hazards. This includes the following group of soils when they occur on slopes of 15 percent or greater: Alderwood-Kitsap (AkF), Alderwood gravelly sandy loam (AgD), Kitsap silt loam (KpD), Everett (EvD), and Indianola (InD).

2. *Landslide Hazard Areas.* Landslide hazard areas are classified as Class I, Class II, Class III, or Class IV as follows:

a. *Class I/Low Hazard.* Areas with slopes of 15 percent or less.

b. *Class II/Moderate Hazard.* Areas with slopes of between 15 percent and 40 percent and that are underlain by soils that consist largely of sand, gravel, or glacial till.

c. *Class III/High Hazard.* Areas with slopes between 15 percent and 40 percent that are underlain by soils consisting largely of silt and clay.

d. *Class IV/Very High Hazard.* Areas with slopes steeper than 15 percent with mappable zones of emergent water (e.g., springs or groundwater seepage), areas of known (mappable) landslide deposits regardless of slope, and all areas with slopes 40 percent or greater.

3. *Seismic Hazard Areas.* Seismic hazard areas are lands that, due to a combination of soil and groundwater conditions, are subject to severe risk of ground shaking, subsidence, or liquefaction of soils during earthquakes. These areas are typically underlain by soft or loose saturated soils (such as alluvium), have a shallow groundwater table and are typically located on the floor of river valleys. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 6287 § 2, 2010; Ord. 5894 § 1, 2005.)

16.10.090 Buffer areas and setbacks.

A. *General Provisions.* The establishment of on-site buffers, buffer areas or setbacks shall be required for all development proposals and activities in or adjacent to wetlands, streams, fish and wildlife habitat conservation areas, and geologic~~ally~~ hazard~~ous~~ areas. The purpose of the buffer shall be to protect the integrity, function, value, and resources of the subject critical area

(in the case of wetlands, streams, and/or fish and wildlife habitat conservation areas), and/or to protect life, property and resources from risks associated with development on unstable or critical lands (in the case of geologically hazardous areas). Buffers shall typically consist of an undisturbed area of native vegetation retained or established to achieve the purpose of the buffer. No buildings or structures shall be allowed within the buffer unless as otherwise permitted by this section. If the site has previously been disturbed, the buffer area shall be revegetated pursuant to an approved enhancement plan. Buffers shall be protected during construction by placement of a temporary barricade, notice of the presence of the critical area and implementation of appropriate erosion and sedimentation controls. Restrictive covenants or conservation easements may be required to provide long-term preservation and protection of buffer areas.

B. Required buffer widths shall reflect the sensitivity of the particular critical area and resource or the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity proposed to be conducted on or near the critical area.

C. Buffers shall be measured as follows:

1. Wetland buffers – the buffer shall be measured perpendicular from the wetland edge as delineated and marked in the field using the approved federal wetland delineation manual and the Western Mountains, Valleys, and Coast Regional supplement. Wetland delineations are valid for five years; after such date the city shall determine whether a revision or additional assessment is necessary;

2. Stream buffers – the buffer shall be measured perpendicular from the ordinary high water mark;

3. Geologically hazardous area buffers shall be required for critical landslide hazard areas and shall be measured from the top and toe and along the sides of the slope.

D. *Buffer Width Variances.* A variance from buffer width requirements may be granted by the city subject to the variance criteria set forth in ACC 16.10.160. Minor variances, defined as up to and including 10 percent of the requirement, shall be considered by the director. Variance requests which exceed 10 percent shall be considered by the hearing examiner. Variances to buffer widths can only be made to the standard buffer widths noted in ACC 16.10.090(E)(1)(a)(ii) and cannot be combined with buffer averaging provisions of ACC 16.10.090(E)(1)(b).

E. Buffer widths shall be established for specific critical areas according to the following standards and criteria:

1. Wetland buffers shall be established per the following table. Different buffer width requirements may apply to various portions of a site, without requiring averaging or variances, based on the site plan, the intensity of land uses in various locations, and differences in the category of wetland.

Wetland Category	Minimum Buffer Width (in feet) with Minimization Measures Listed in ACC 16.10.090(E)(1)(a)(iii)			Minimum Buffer Width (in feet) without Minimization Measures Listed in ACC 16.10.090(E)(1)(a)(iii)		
	Habitat Score*			Habitat Score*		
	Low (3-5)	Medium (6-7)	High (8-9)	Low (3-5)	Medium (6-7)	High (8-9)
Category I	75	110	225	100	150	300
Category II	75	110	225	100	150	300
Category III	60	110	225	80	150	300
Category IV	40	40	40	50	50	50

***** As determined per ACC 16.10.080(C).

a. Standard buffer widths as noted in subsection (E)(1) of this section in the table heading "without Minimization Measures" may be reduced to the buffer width in the table heading "with Minimization Measures," if all of the following minimization measures are implemented and as follows:

i. The reduced buffer widths from implementing the minimization measures in table ACC 16.10.090E(1)(a)(ii) cannot be further reduced by critical areas variance or buffer averaging.

ii.~~For~~For wetlands that score six points or more for habitat function, a relatively undisturbed, vegetated riparian corridor at least 100 feet wide between the wetland and any other priority habitat as defined by the Washington Department of Fish and Wildlife (WDFW). ~~is protected between the wetland and any other~~

~~Priority Habitats as defined by the Washington State Department of Fish and Wildlife~~. The corridor must be protected for the entire distance between the wetland and the Priority Habitat consistent with ACC 16.10.110(E~~D~~). Presence or absence of a nearby habitat must be confirmed by a qualified biologist.

iii. For wetlands that score three to five habitat points, only the minimization measures are required. The following minimization measures are applicable to wetlands and streams and stream buffers (riparian management zones).

~~Disturbance~~	~~Required Measures to Minimize Impacts~~
~~Lights~~	~~- Direct lights away from wetland~~
~~Noise~~	~~- Locate activity that generates noise away from wetland~~ ~~- If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source~~ ~~- For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10-foot heavily vegetated buffer strip immediately adjacent to the activity~~
~~Toxic runoff~~	~~- Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered~~ ~~- Establish covenants limiting use of pesticides within 150 feet of wetland~~ ~~- Apply integrated pest management~~
~~Storm water runoff~~	~~- Retrofit storm water detention and treatment for roads and existing adjacent development~~ ~~- Prevent channelized flow from lawns that directly enters the buffer~~ ~~- Use Low Intensity Development techniques~~
~~Change in water regime~~	~~- Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns~~

~~Disturbance~~	~~Required Measures to Minimize Impacts~~
~~Pets and human disturbance~~	~~- Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion~~ ~~- Place wetland and its buffer in a separate tract or protect with a long-term conservation easement~~
~~Dust~~	~~- Use best management practices to control dust~~

Examples of disturbances	Activities and uses that cause disturbances	Examples of measures to minimize impacts
Lights	• Parking lots • Commercial/Industrial • Residential • Recreation (e.g., athletic fields) • Agricultural buildings	• Direct lights away from wetland/stream • Only use lighting where necessary for public safety and keep lights off when not needed • Use motion-activated lights • Use full cut-off filters to cover light bulbs and direct light only where needed • Limit use of blue-white colored lights in favor of red-amber hues • Use lower-intensity LED lighting • Dim light to the lowest acceptable intensity
Noise	• Commercial • Industrial • Recreation (e.g., athletic fields, bleachers, etc.) • Residential • Agriculture	• Locate activity that generates noise away from wetland/stream • Construct a fence to reduce noise impacts on adjacent wetland/stream and buffer • Plant a strip of dense shrub vegetation adjacent to wetland/stream buffer
Toxic runoff	• Parking lots • Roads • Commercial/industrial • Residential areas • Application of pesticides • Landscaping • Agriculture	• Route all new, untreated runoff away from wetland and/or stream and buffer while ensuring wetland and/or stream is not dewatered • Establish covenants limiting use of pesticides within 150 ft. of wetland and/or stream and buffer • Apply integrated pest management (Note: These examples are not necessarily adequate for minimizing

		toxic runoff if threatened or endangered species are present at the site.)
Stormwater runoff	• Parking lots • Roads • Residential areas • Commercial/industrial • Recreation • Landscaping/lawns • Other impermeable surfaces, compacted soil, etc.	Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized or sheet flow from lawns that directly enter the buffer • Infiltrate or treat, detain, and disperse new runoff from impervious surfaces and lawns
Pets and human disturbances	• Residential areas • Recreation	• Use privacy fencing • Plant dense native vegetation to delineate buffer edge and to discourage disturbance • Place wetland/stream and its buffer in a separate tract • Place signs around the wetland and/or stream and buffer every 50-200 ft., and for subdivisions place signs at the back of each residential lot • When platting new subdivisions, locate greenbelts, stormwater facilities, or other lower-intensity land uses adjacent to wetland/stream and buffers
Dust	• Tilled fields • Roads	• Use best management practices to control dust

b. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

i. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower-rated area.

ii. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.

iii. The total area of the buffer after averaging is equal to the area required without averaging.

iv. The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever buffer is greater.

v. Averaging applies only to standard buffer widths, not reduced widths.

c. Certain uses and activities which are consistent with the purpose and function of the wetland buffer and do not detract from its integrity may be permitted by the director within the buffer depending on the sensitivity of the wetland. Examples of uses and activities with minimal impacts which may be permitted in appropriate cases include permeable pedestrian trails, viewing platforms, and utility easements. Trails and easements should be limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer 25 percent of the wetland buffer area, and located to avoid removal of significant trees. Trails should be limited to pervious surfaces no more than eight feet in width for pedestrian use only. Raised boardwalks utilizing nontreated pilings may be acceptable.

d. Where existing buffers are degraded, the director may allow limited filling within the buffer when the applicant demonstrates that the buffer will be enhanced according to standards of this chapter, including revegetation, appropriate soil preparation, will not result in slopes exceeding 25 percent, and there will be no net loss of wetland or buffer functions and values.

e. *Functionally Disconnected Buffer Areas*. Buffers may exclude areas that are functionally and effectively disconnected from the wetland by an existing public or private road or legally established development, as determined by the director. Functionally and effectively disconnected means that the road or other significant development blocks the protective measures provided by a buffer.

Significant developments shall include built public infrastructure such as roads and railroads, and private developments such as homes or commercial structures. The director shall evaluate whether the interruption will affect the entirety of the buffer. Individual structures may not fully interrupt buffer function. In such cases, the allowable buffer exclusion should be limited in scope to just the portion of the buffer that is affected. Where questions exist regarding whether a development functionally

disconnects the buffer, or the extent of that impact, the director may require a critical area report to analyze and document the buffer functionality.

2. Stream buffers (riparian management zones) shall be established as follows:

Stream Type	Minimum Buffer Width (in feet)	Increased Buffer Width (in feet)[1] (Applicable when the buffer does not meet vegetation standards of ACC 16.10.090(E)(2)(a)
Type S	Per SMP	Per SMP
Type F	150~~00~~	200
Type Np	100~~50~~	133
Type Ns	100~~50~~	133

1 In addition to ESA review, an increase applies if the applicant does not implement applicable minimization measures under ACC 16.10.090(E)(1)(a)(iii) and does not meet vegetated buffer standards.

a. The applicable minimum buffer for Type S streams is listed in the city's shoreline master program (SMP). Required buffer widths for all other types are established based upon stream type. The minimum buffer widths in the table above assume the buffer is vegetated with a native plant community appropriate for the ecoregion. To be considered fully functioning, a stream buffer (riparian management zone) must contain:

i. An average of eighty percent (80%) native vegetation cover, with no more than ten percent (10%) noxious weed cover; and

ii. A native plant community that includes tree, shrub, and groundcover strata in proportions that mimic native forest for the region.

b. If the existing buffer does not meet the vegetative buffer standards above, the buffer must be:

i. Densely planted to create the appropriate native plant community through the implementation of a buffer enhancement plan per ACC 16.10.110;

ii. Include impact minimization measures described in ACC 16.10.090(E)(1)(a)(iii); and

iii. If applicable, a habitat corridor is provided connecting the habitats described in ACC 16.10.090(E)(a)(ii); or

iv. Be widened by thirty-three percent (33%) to ensure that the buffer provides adequate functions to protect the stream.

c~~b~~. The minimum buffer widths required in this section may be increased by the director up to a maximum of 33~~50~~ percent for Type F, ~~and~~ Ns, and Np streams ~~and up to 100 percent for Type Np streams~~ in response to site-specific conditions and based on the report information submitted to characterize the functions and values of the stream. This includes, but is not limited to, situations where the critical area serves as habitat for areas where endangered, threatened, and sensitive species have a primary association ~~threatened, endangered or sensitive species~~. The applicant may propose to implement one or more enhancement measures, listed in order of preference below, which will be considered in establishing buffer requirements:

i. Removal of fish barriers to restore accessibility to anadromous fish.

ii. Enhancement of fish habitat using log structures incorporated as part of a fish habitat enhancement plan.

iii. Enhancement of wildlife habitat by adding structures that are likely to be used by wildlife, including wood duck houses, bat boxes, nesting platforms, snags, root wads/stumps, birdhouses, and heron nesting areas.

iv. Additional mitigating measures may include but are not limited to:

(A) Landscaping outside the buffer area with native vegetation or a reduction in the amount of clearing outside the buffer area;

(B) Planting native vegetation within the buffer area, especially vegetation that would increase value for fish and wildlife, increase stream bank or slope stability, improve water quality, or provide aesthetic/recreational value;

(C) Creating a surface channel where a stream was previously culverted or piped;

(D) Removing or modifying existing stream culverts (such as at road crossings) to improve fish passage and flow capabilities which are not detrimental to fish;

(E) Upgrading retention/detention facilities or other drainage facilities beyond required levels; or

(F) Similar measures determined applicable by the director.

c. No structures or improvements shall be permitted within the stream buffer area, including buildings, decks, docks, except as otherwise permitted or required under the city's adopted shoreline master program, or under one of the following circumstances:

i. When the improvements are part of an approved enhancement, restoration or mitigation plan; or

ii. For construction of new public roads and utilities, and accessory structures, when no feasible alternative location exists; or

iii. Construction of foot trails, according to the following criteria:

(A) Designed to minimize impact of permeable materials;

(B) Designed to minimize impact on the stream system;

(C) Of a maximum width of 12 feet;

(D) Located within the outer half of the buffer, i.e., the portion of the buffer that is farther away from the stream; or

iv. Construction of footbridges; or

v. Construction of educational facilities, such as viewing platforms and informational signs.

d. Buffer width averaging may be allowed for Type F and Type Np streams only; provided, that all of the following are demonstrated by the applicant:

i. One or more of the enhancement measures identified in subsections (E)(2)(b)(i) through (E)(2)(b)(iv) of this section are implemented;

ii. The total area contained within the buffer after averaging is no less in area than contained within the standard buffer prior to averaging;

iii. The buffer width averaging will result in stream functions and values equal or greater than before averaging; and

iv. The buffer width is not reduced by more than 25 percent in any location than the buffer widths established by this chapter.

~~e. Stream buffer widths may be reduced by the director on a case-by-case basis by up to 25 percent if an applicant demonstrates that a reduction will not result in any adverse impact to the stream. Further, if an existing buffer is vegetated, a buffer enhancement plan may be required to demonstrate how the function and values of the buffer and stream will be improved. If the existing buffer has been disturbed and/or is not vegetated, an enhancement plan shall be required that identifies measures to enhance the buffer functions and values and provide additional protection for the stream function and values. Enhancement plans are subject to approval by the director.~~

e. *Functionally Disconnected Buffer Areas*. If a portion of a stream buffer (riparian management zone) is determined to be functionally disconnected or isolated and physically separated from the watercourse due to existing, legally established public roadways public roadways, railroads, or other legally established structures, the director may exclude this area from a riparian management zone provided:

i. The area does not provide any of the primary riparian management zone functions of bank stability, shade, pollution control, wildlife habitat corridor connection, or recruitment of large woody debris;

ii. A critical areas report confirms the area of the riparian management zone as being functionally isolated and physically separated from the watercourse.

3. Fish and *Wildlife Habitat Conservation Areas.*

a. Buffer widths for critical habitat areas shall be determined by the director based on consideration of the following factors: species recommendations of the Department of Fish and Wildlife; recommendations contained in the wildlife report and the nature and intensity of land uses and activities occurring on the site and on adjacent sites. ~~Buffers shall not be required for secondary or tertiary habitat.~~ When designated Priority Habitat or Species are present, buffer widths shall conform to the best available science guidance. The director may require a critical area report prepared by a qualified professional to document compliance.

~~b. Buffer widths for critical habitat areas may be modified by averaging buffer widths or by enhancing or restoring buffer quality.~~

b~~c~~. Certain uses and activities which are consistent with the purpose and function of the buffer for critical habitat areas and do not detract from its integrity may be permitted by the director within the buffer depending on the sensitivity of the habitat area. Examples of uses and activities with minimal impact which may be permitted in appropriate cases include permeable pedestrian trails and viewing platforms and utility easements; provided, that any impacts to the buffer resulting from permitted facilities shall be mitigated. When permitted, such facilities shall generally be located as far from the critical habitat area as possible.

4. ~~*Geologically*~~ *Critical Landslide Hazard~~ous~~ Areas.*

a. Required buffer widths for critical landslide~~geologically~~ hazard~~ous~~ areas shall reflect the sensitivity of the critical landslide~~geologically~~ hazard~~ous~~ area in question and the types and the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the area.

b. ~~Required buffers may vary in width. The widths of the buffer shall reflect the sensitivity of the geologically hazardous area in question and the types and density of uses proposed on or adjacent to the geologic hazard. In determining the appropriate buffer width, the director shall consider the recommendations contained in any geotechnical report required by these regulations and prepared by a qualified consultant.~~ Minimum buffer width from critical landslide hazard areas shall be equal to the vertical height of the landslide hazard or 50 feet, whichever is greater, for all critical landslide hazard areas that measure 10 feet or more in vertical elevation change from

top to toe of slope, as identified in the geotechnical report, maps, and field-checking. No disturbance may occur within the buffer except as provided within this chapter.

c. Buffers may be reduced to a minimum width of 15 feet when the applicant demonstrates through the geotechnical report that the reduction will adequately protect the critical landslide~~geologic~~ hazard area and the proposed development through use of proposed engineering techniques. ~~(Ord. 6733 § 3 (Exh. B), 2019; Ord. 5894 § 1, 2005.)~~

d. To increase the functional attributes of the buffer, the department may require that the buffer be enhanced through planting of indigenous species. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 5894 § 1, 2005.)

16.10.100 Alteration or development of critical areas – Standards and criteria – Prohibited uses.

Alteration of specific critical areas and/or their buffers may be allowed by the director subject to the criteria of this section. Alteration shall implement the mitigation standards as identified in ACC 16.10.110, and the performance standards of ACC 16.10.120 and the monitoring requirements of ACC 16.10.130.

A. *Wetlands.*

1. *Category I Wetlands.* Alterations of Category I wetlands shall be avoided subject to the reasonable use provisions of this chapter.

2. *Category II Wetlands.*

a. Alteration and mitigation shall comply with the mitigation performance standards and requirements of these regulations;

b. Where enhancement, restoration or creation is proposed, replacement ratios shall comply with the requirements of these regulations; and

c. No net loss of wetland functions and values may occur.

3. *Category III and IV Wetlands.*

a. Alteration and mitigation shall comply with the mitigation performance standards and requirements of these regulations;

b. Where enhancement, restoration or creation is proposed, replacement ratios shall comply with the requirements of these regulations; and

c. No net loss of wetland functions and values may occur.

d. The following wetlands may be exempt from the requirement to avoid impacts and they may be filled if the impacts are fully mitigated based on the remaining actions. If available, impacts should be mitigated through the purchase of credits from an in-lieu fee program or mitigation bank, consistent with the terms and conditions of the program or bank. Mitigation requirements may be determined using the credit/debit tool described in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report (Ecology Publication No. 10-06-011, or as revised and approved by Ecology). In order to verify the following conditions, a critical area report for wetlands meeting the requirements in ACC 16.10.060 must be submitted.

i. All non-federally-regulated Category IV wetlands less than 4,000 square feet that:

(A) Are not associated with riparian areas or their buffers.

(B) Are not associated with shorelines of the state or their associated buffers.

(C) Are not part of a wetland mosaic.

(D) Do not score six or more points for habitat function based on the 2014 update to the Washington State Wetland Rating System for Western Washington: 2014 Update Version 2.0 ~~(Ecology Publication No. 14-06-029~~, or as revised and approved by Ecology~~)~~.

(E) Do not contain a priority habitat or a priority area for a priority species identified by the Washington Department of Fish and Wildlife, do not contain federally listed species or their critical habitat, or species of local importance identified in ACC 16.10.080(E).

ii. Wetlands less than 1,000 square feet that meet the above criteria and do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this chapter.

B. *Streams.*

1. Relocation of a Type F, Np and Ns stream exclusively to facilitate general site design shall not be allowed. Relocation of a stream may take place only when it is part of an approved mitigation or enhancement/restoration plan. Consultation with Washington Department of Fish and Wildlife (WDFW) and a functional assessment demonstrating equal or improved aquatic and riparian ecosystem function, and no net loss of stream functions, is recommended. ~~and will result~~The result shall be ~~in~~ equal or better habitat and water quality, and will not diminish the flow capacity of the stream.

2. Bridges shall be used to cross Type S streams; boring/micro-tunneling, or other forms of trenchless technologies may be considered for utility crossings if it would result in the same or lower impacts as bridging.

3. Culverts are allowable only under the following circumstances:

a. Only in Type F, Type Np, and Type Ns streams;

b. When fish passage will not be impaired;

c. When the following design criteria are met:

i. All new culverts shall be designed following guidance provided in the Washington Department of Fish and Wildlife's document: Water Crossing Design Guidelines, 2013 (or most recent version thereof). The applicant shall obtain a HPA from the Department of Fish and Wildlife;

ii. Culverts will include gradient controls and creation of pools within the culvert for Type F streams;

iii. Gravel substrate will be placed in the bottom of the culvert to a minimum depth of one foot for Type F and Type Np streams;

d. The applicant or successors shall, at all times, keep any culvert free of debris and sediment to allow free passage of water and, if applicable, fish. This responsibility shall

be part of the required long-term preservation measure and may be subject to securing all the necessary approvals for any ongoing maintenance.

4. The city may require that an existing culvert be removed from a stream as a condition of approval, unless the culvert is not detrimental to fish habitat or water quality, or removal would be a long-term detriment to fish or wildlife habitat or water quality.

C. *Fish and Wildlife Habitat Conservation Areas.*

1. *Critical Habitat.* Alterations of critical habitat shall be avoided, subject to the reasonable use provisions of this chapter.

2. *Priority ~~Secondary~~ Habitat.* Alterations of ~~secondary~~priority habitat may be permitted; provided, that the applicant consults with Washington Department of Fish and Wildlife (WDFW), demonstrates no net loss of habitat, mitigates adverse impacts consistent with the performance standards of ACC 16.10.120, and other requirements of this chapter.

~~3. *Tertiary Habitat.* Alterations of tertiary habitat are permitted consistent with applicable provisions of these regulations and provided that no other regulated critical area is present.~~

D. *Aquifer Recharge Areas.* The following land uses and activities applied for on or after the effective date of the ordinance codified in this chapter, as amended, shall be prohibited in Type I aquifer recharge areas:

1. Class V injection wells that inject industrial, municipal, or commercial waste fluids (as defined in WAC 173-218-030);

2. Surface impoundments for treating, storing and disposing of dangerous waste (as defined in WAC 173-303-040 and 173-304-100);

3. Waste piles for treating or storing solid waste (as defined in WAC 173-303-040, 173-303-660 and 173-304-420);

4. Hazardous waste treatment, storage, and disposal (as defined in WAC 173-303-040);

5. All types of solid waste landfills (as defined in WAC 173-304-100);

6. On-site sewage systems (as defined in Chapter 246-272A WAC) except as related to R-C, residential conservancy zoned properties and properties located within sole source aquifer

(community well sites not classified as groundwater protection areas) five- and 10-year time of travel areas. On-site sewage systems may be allowed in instances that there are no other means of sewage disposal and the applicant can demonstrate to the King County health department that the system can meet treatment standard N, as provided in WAC 246-272A-0110. Should an on-site sewage system be unable to meet these requirements, the applicant may apply for a critical areas variance in accordance with this chapter.

7. Recycling facilities that accept, store, or use hazardous substances as defined in WAC 173-218-030.

8. Underground storage of hazardous substances as defined in WAC 173-218-030, excluding the underground storage of petroleum and other substances as regulated by Chapter 173-360A WAC;

9. Use, storage, treatment, or production of perchlorethylene (PCE) or tetrachloroethylene (PERC), other than in closed-loop systems that do not involve any discharge of chemicals;

10. Petroleum refining, reprocessing, and storage, excluding the underground storage of petroleum products and other substances as regulated by Chapter 173-360A WAC;

11. Petroleum-product pipelines not associated with underground storage of petroleum and other regulated substances as regulated by Chapter 173-360 WAC; and

12. Storage or distribution of gasoline treated with the additive methyl tertiary butyl ether (MTBE).

E. *Geologic~~ally~~ Hazard~~ous~~ Areas.*

1. *General Standards.*

a. The city may approve, condition or deny proposals for the alteration of geologically hazardous areas, as appropriate, based on the degree to which the significant risks posed by critical hazard areas to public and private property and to public health and safety can be mitigated. The objective of mitigation measures shall be to render a site containing a critical geologic hazard as safe as one not containing such hazard or one characterized by a low hazard. In appropriate cases, conditions may include limitations of proposed uses, modification of density, alteration of site layout and other appropriate changes to the proposal. Where potential impacts cannot be effectively

mitigated or where the risk to public health, safety and welfare, public or private property, or important natural resources is significant notwithstanding mitigation, the proposal shall be denied.

b. When development is permitted in geologic hazard areas by these regulations, an applicant and/or its qualified professional shall provide assurances which, at the city's discretion, may include one or more of the following:

i. A letter from the geotechnical engineer and/or geologist who prepared the geotechnical report required by these regulations, stating that the risk of damage from the proposal, both on site and off site, is minimal subject to the conditions set forth in the report, that the proposal will not increase the risk of occurrence of the potential geologic hazard, and that measures to eliminate or reduce risks have been incorporated into its recommendations;

ii. A letter from the applicant, or the owner of the property if not the applicant, stating its understanding and acceptance of any risk of injury or damage associated with development of the site and agreeing to notify any future purchasers of the site, portions of the site, or structures located on the site of the geologic hazard;

iii. A legally enforceable hold harmless agreement, which shall be recorded as a covenant and noted on the face of the deed or plat, and executed in a form satisfactory to the city, acknowledging that the site is located in a geologic hazard area; the risks associated with development of such site; and a waiver and release of any and all claims of the owner(s), their directors, employees, or successors, or assigns against the city of Auburn for any loss, damage, or injury, whether direct or indirect, arising out of issuance of development permits for the proposal; and

iv. Posting of a bond, guarantee or other assurance device approved by the city to cover the cost of monitoring, maintenance and any necessary corrective actions.

2. *Specific Standards.*

a. *Critical~~Class IV~~ Landslide Hazard Areas.* ~~Alteration shall be prohibited subject to the reasonable use provisions of this chapter.~~

i. Alterations to landslide hazard areas may be permitted based on the findings and recommendations of a geotechnical engineer (report, letter, etc.) that is prepared consistently with the requirements of this chapter and certifying that the development complies with the criteria in subsection (1) of this section.

ii. Unless otherwise provided or as a necessary part of an approved alteration, removal of any vegetation from a critical landslide hazard area or buffer shall be prohibited, except for removal of dead or diseased trees as verified by an arborist that pose danger to life or property or except for removal of tree(s) within the public right-of-way by order of the City Engineer to address public safety.

iii. Vegetation on slopes within a landslide hazard area or buffer which has been damaged by human activity or infested by noxious and invasive weeds may be replaced with native vegetation pursuant to an enhancement plan. The use of hazardous substances, pesticides, and fertilizers in landslide hazard areas and their buffers is prohibited, unless otherwise approved by the director.

iv. All alterations shall be undertaken in a manner to minimize disturbance to the landslide hazard area, slope, and vegetation, unless the alterations are necessary for slope stabilization.

b. *Critical Seismic Hazard Areas.*

i. For one-story and two-story residential structures, the applicant shall conduct an evaluation of site response and liquefaction potential based on the performance of similar structures under similar foundation conditions; or

ii. For all other proposals, the applicant shall conduct an evaluation of site response and liquefaction potential including sufficient subsurface exploration to provide a site coefficient (S) for use in the static lateral force procedure described in the International Building Code.

c. *Erosion Hazard Areas.*

i. Clearing in an erosion hazard area is not limited to time of year, except when such restrictions are recommended in the geotechnical report and approved by the City.

~~When development is permitted in geologically hazardous areas by these regulations, an applicant and/or its qualified consultant shall provide assurances which, at the city's discretion, may include one or more of the following:~~

~~i. A letter from the geotechnical engineer and/or geologist who prepared the geotechnical report required by these regulations, stating that the risk of damage from the proposal, both on site and off site, is minimal subject to the conditions set forth in the report, that the proposal will not increase the risk of occurrence of the potential geologic hazard, and that measures to eliminate or reduce risks have been incorporated into its recommendations;~~

~~ii. A letter from the applicant, or the owner of the property if not the applicant, stating its understanding and acceptance of any risk of injury or damage associated with development of the site and agreeing to notify any future purchasers of the site, portions of the site, or structures located on the site of the geologic hazard;~~

~~iii. A legally enforceable hold harmless agreement, which shall be recorded as a covenant and noted on the face of the deed or plat, and executed in a form satisfactory to the city, acknowledging that the site is located in a geologically hazardous area; the risks associated with development of such site; and a waiver and release of any and all claims of the owner(s), their directors, employees, or successors, or assigns against the city of Auburn for any loss, damage, or injury, whether direct or indirect, arising out of issuance of development permits for the proposal; and~~

~~iv. Posting of a bond, guarantee or other assurance device approved by the city to cover the cost of monitoring, maintenance and any necessary corrective actions.~~

F. *Flood Hazard Areas.* Development standards are defined by Chapter 15.68 ACC. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 5894 § 1, 2005.)

16.10.110 Mitigation standards, location, and timing, wetland replacement ratios, and long-term protection requirements.

A. *Mitigation Standards.* Adverse impacts to critical area functions and values shall be mitigated. Mitigation must follow the sequence of avoidance, minimization, rectification/rehabilitation, reduction of impacts over time, and compensation, in that order. Proposals relying on compensatory mitigation shall demonstrate ~~Mitigation actions shall generally be implemented in the preferred sequence identified in this chapter. Proposals which include less preferred and/or compensatory mitigation shall demonstrate that:~~

1. All feasible and reasonable measures as determined by the department have been taken to avoid~~reduce~~ impacts ~~and losses~~ to the critical area; including, where applicable; ~~or to avoid impacts where avoidance is required by these regulations;~~

a. Alternative building locations on the property;

b. Adjustments to the project footprint and orientation;

c. Modification of building setbacks where feasible, as a first option before encroaching into critical areas and/or buffer; and

d. Multi-story design or alternate building design.

2. The restored, created or enhanced critical area or buffer will be as viable and enduring as the critical area or buffer area it replaces; and

3. No overall net loss will occur in wetland or stream functions and values. The mitigation shall be functionally equivalent to or greater than the altered wetland or stream in terms of hydrological, biological, physical, and chemical functions.

4. Mitigation shall occur within the same drainage basin using a watershed approach. However, when the applicant can demonstrate that a mitigation site in a different sub-drainage basin is ecologically preferable, it should be used.

B. *Location and Timing of Mitigation.*

1. The preferred location of mitigation is on site when ecologically preferable to other identified alternatives. Mitigation may be allowed off site when it is determined by the director that on-site mitigation is not ecologically preferable to other identified alternatives, or, in the case of wetlands, where the affected site is identified as appropriate for off-site mitigation in the Mill Creek Special Area Management Plan (SAMP), April 2000. The burden of proof shall be on the applicant to demonstrate that mitigation cannot be provided on site or is consistent with the SAMP. If it is determined that on-site mitigation is not ecologically preferable to other identified alternatives, mitigation shall be provided in the same drainage basin as the permitted activity on property owned, secured, or controlled by the applicant, or provided by the applicant using alternative mitigation options such as mitigation banking or in-lieu fee programs. The mitigation should result in no net loss to the critical area functions impacted and associated watershed. Where mitigation is authorized to be located outside the city limits, the applicant shall assure to the satisfaction of the director that other requirements of this chapter will be met, including but not limited to, monitoring and maintenance.

2. ~~In-kind mitigation shall be provided except when the applicant demonstrates, and the director concurs, that greater functional and habitat value can be achieved through out-of-kind mitigation.~~ All off-site mitigation must provide equivalent or greater ecological functions and be consistent with the provisions of this chapter. Where mitigation is located outside the city limits, the applicant shall demonstrate to the satisfaction of the director that long-term protection, maintenance, and monitoring requirements of ACC 16.10.110 and ACC 16.10.130 will be met

3. ~~When wetland, stream or habitat mitigation is permitted by these regulations, the mitigation project shall occur near an adequate water supply (river, stream, groundwater) with a hydrologic connection to the critical area to ensure a successful mitigation or restoration. A natural hydrologic connection is preferential as compared to one which relies upon manmade or constructed features requiring routine maintenance.~~ In-kind mitigation shall be provided unless the applicant demonstrates, and the director concurs, that on-site mitigation is not feasible and out-of-kind mitigation will result in equal or greater ecological or habitat function. Out-of-kind mitigation may be approved only where it provides equal or greater benefits to critical area functions.

4. ~~Any mitigation plan shall be completed before initiation of other permitted activities, unless a phased or concurrent schedule that assures completion prior to occupancy has~~

~~been approved by the department.~~ Mitigation for wetlands, streams, and habitat conservation areas shall occur in a location that has a sufficient and reliable water source, including surface water or groundwater, with a hydrologic connection to the impacted critical area. Preference shall be given to locations with natural hydrologic connections over those that rely on artificial or constructed systems requiring regular maintenance.

5. Timing of Compensatory Mitigation. It is preferred that compensatory mitigation projects be completed prior to activities that will impact wetlands. At the least, compensatory mitigation shall be completed immediately following wetland impacts and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

6. The applicant shall provide documentation demonstrating that the chosen mitigation location and schedule will achieve no net loss of ecological functions and values and that the mitigation site will be protected in perpetuity consistent with ACC 16.10.130.

C. *Wetland and Buffer Replacement Ratios.*

1. ~~Where wetland alterations are permitted by the director, the applicant shall enhance or create areas of wetlands in order to compensate for wetland losses. The compensation shall be determined according to acreage, function, type, location, timing factors and projected success of enhancement or creation.~~ Wetland compensatory mitigation ratios shall account for the wetland category, the proposed impact area and functions, the quality and functions of the mitigation site, location factors, and timing of mitigation. To protect functions and values more fully, and as an alternative to the mitigation ratios found in Section ACC 16.10.110(C)(2) of this Chapter, the director may allow mitigation based on the Credit-Debit Method developed by the Department of Ecology in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of [Western Washington (Ecology Publication # 10-06-011), see ACC 16.10.110(D) for information on credits from an approved in-lieu fee program.

2. ~~The following acreage replacement and enhancement ratios shall be implemented; however, the department may vary these standards if the applicant can demonstrate and the director agrees that the variation will provide adequate compensation for lost wetland area, functions and values, or if other circumstances as determined by the director justify the variation. In no case shall the amount of mitigation be less than the area of affected wetland. The director may at his discretion increase these standards where mitigation is to~~

~~occur off-site or in other appropriate circumstances.~~ The following acreage replacement ratios shall be used when impacts to wetlands are permitted. These ratios are based on the category of the wetland and the type of mitigation proposed. Ratios apply to permanent, direct impacts to wetlands.

~~3. Category IV wetlands can be mitigated by either: (a) meeting one of the replacement ratios listed in the following table; or (b) filled and mitigated consistent with ACC 16.10.100(A)(3)(d).~~

~~Category and Type of Wetland~~Category of impacted wetland (based on score for function)	Creation or Reestablishment	Rehabilitation	Preservation*	Enhancement
~~Category I: Bog, Natural Heritage Site~~	~~Not considered possible~~	~~Case by case~~		~~Case by case~~
~~Category I: Mature Forested~~	~~6:1~~	~~12:1~~		~~24:1~~
Category I~~: Based on Functions~~	4:1	8:1	16:1	16:1
Category II	3:1	6:1	12:1	12:1
Category III	2:1	4:1	8:1	8:1
Category IV	1.5:1	3:1	6:1	6:1

*Preservation ratios apply only when used in combination with reestablishment or creation at no less than a 1:1 ratio.

3. Category IV wetlands may be mitigated either by using the replacement ratios identified in subsection (2) or, when permitted by state and federal regulatory agencies, through authorized fill and compensatory mitigation.

4. Buffer Mitigation Ratios. Impacts to buffers shall be mitigated at a minimum 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

D. *In-Lieu Fee (ILF) Mitigation:* Credits from an approved in-lieu fee program may be used when all the following apply:

1. The director determines that it would provide appropriate compensation for the proposed impacts and on-site mitigation is infeasible.

2. The proposed use of credits is consistent with the terms and conditions of the approved ILF program instrument.

3. Projects using ILF credits shall have debits associated with the proposed impacts calculated by the applicant's qualified wetland professional using the credit assessment method specified in the approved instrument for the ILF program.

4. The impacts are located within the service area specified in the approved ILF instrument.

E~~D~~. Long-term protection of regulated wetlands, streams, fish and wildlife habitat conservation areas, geologically hazardous areas, aquifer recharge areas, and any associated buffer(s) shall be provided by one of the following methods:

1. For subdivisions, short subdivisions, and binding site plans, the critical area and its buffer shall be protected long-term by one of the following measures in the following order of preference:

a. The critical area and its buffer shall be placed in a separate tract on which development is prohibited and a note shown on the face of the plat indicating that the homeowners or homeowners' association is responsible for maintenance of the tract. If the city agrees to accept dedication of the tract, a city-approved note shall be shown on the face of the plat indicating that the city is responsible for long-term ownership and maintenance of the tract and there shall be adequate provisions for city access to the tract from a public street, as approved by the director.

b. The critical area and its buffer shall be protected by execution of an easement dedicated to the city, a conservation organization or land trust, or similarly preserved

through a permanent protective mechanism acceptable to the city. Access to the easement must be assured from the public street.

2. For all other developments, the critical area and its buffer shall be protected by execution of an easement dedicated to the city, a conservation organization, or land trust or similarly preserved through a permanent protective mechanism acceptable to the city. The legal description, depicted location, limitations associated with the critical area and its buffer, and access from the public street shall be included within the easement document. The easement provisions shall be reviewed and acceptable to the city prior to recording with the King County recorder or Pierce County auditor. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 6476 § 1, 2013; Ord. 5894 § 1, 2005.)

3. For any critical area mitigation site required by this chapter, long-term protection shall be provided using one of the protective mechanisms described in subsections (E)(1) or (E)(2) of this section and recorded prior to final plat approval or issuance of any occupancy permit.

F. *Mitigation Plan Requirements.* All required mitigation plans shall meet the requirements of RCW 90.74.020. When a project involves wetland, streams, and/or buffer impacts, a mitigation plan prepared by a qualified wetland professional shall be required, meeting the following minimum standards:

1. The report shall include a written plan and plan sheets that contain, at a minimum, the elements listed below. Full guidance can be found in Wetland Mitigation in Washington State–Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication #06-06-011b, or as revised).

a. The written report shall be prepared by a qualified wetland professional and contain, at a minimum:

i. The name and contact information of the applicant; the name, qualifications, and contact information of the primary author(s) of the compensatory mitigation plan; a description of the development proposal; a summary of the impacts and proposed compensation concept; identification of all the local, state, and federal wetland-related permits required for the project; and a vicinity map for the project.

ii. Description of how the development project has been designed to avoid, minimize, or reduce adverse impacts to wetlands.

iii. Description of the existing wetland and buffer areas proposed to be altered. Include acreage or square footage, water regime, vegetation, soils, functions, landscape position, and surrounding land uses. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating.

iv. Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions, including acreage or square footage of wetlands and uplands, water regime, sources of water, vegetation, soils, functions, landscape position, and surrounding land uses. Estimate future conditions in this location if the compensation actions are not undertaken.

v. Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, established, or restored compensatory mitigation areas. Include illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.

vi. A description of the proposed actions for compensation of wetland and buffer areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and expected categories of wetlands.

vii. A description of the proposed mitigation construction, activities and timing of activities and where appropriate as determined by the director a description and documentation of the as-built conditions.

viii. Performance standards (measurable standards for years post-installation) for wetland and buffer areas, a monitoring schedule, a maintenance schedule, and actions proposed by year.

ix. A discussion of ongoing management practices that will protect wetlands after the development project has been implemented, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands).

x. A bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation and oversight, maintenance at least twice per year for up to ten years, annual monitoring field work and reporting, contingency actions for a maximum of the total required number of years for monitoring, and removal of all non-natural site implements (e.g., irrigation equipment, construction fencing, plant protectors, weed barrier fabric) by the end of the monitoring period.

xi. Proof of establishment of Notice on Title for the remaining wetlands and buffers on the development project site (if any) and a legal site protection mechanism for the compensatory mitigation areas.

b. The scaled plan sheets shall contain, at a minimum:

i. Mapped, ground-verified edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, and location of proposed wetland and/or buffer compensation actions.

ii. Existing topography, ground-verified, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed in the compensation area(s). Also include existing cross-sections (estimated one-foot intervals) of wetland areas on the development site that are proposed to be altered and of the proposed areas of wetland and buffer compensation.

iii. Conditions expected from the proposed actions on site, including future hydrogeomorphic classes, vegetation community types (e.g., Cowardin class), and future hydroperiods.

iv. Required wetland buffers for existing wetlands and proposed compensation areas. Also identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this Chapter.

v. A planting plan for the compensation area, including all species by proposed community type and hydroperiod, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, and timing of installation.

16.10.120 Performance standards for mitigation planning.

The performance standards in this section shall be incorporated into mitigation plans submitted to the city for impacts to critical areas.

A. *Wetlands and Streams.*

1. Use plants native to the Puget Lowlands or Pacific Northwest ecoregion; non-native, introduced plants or plants listed by the Washington State Department of Agriculture as noxious weeds (Chapter 16-750 WAC) shall not be used;

2. Use plants adapted to and appropriate for the proposed habitats and consider the ecological conditions known or expected to be present on the site. For example, plants assigned a facultative wetland (FACW) wetland indicator status should be used for sites with soils that are inundated or saturated for long periods during the growing season. Use nearby reference wetlands or aerial photos to identify plants suitable to the site conditions and hydrologic regimes planned for the mitigation site. Avoid planting significant areas of the site with species that have questionable potential for successful establishment, such as species with a narrow range of habitat tolerances;

3. Utilize plant species' heterogeneity and structural diversity that emulates native plant communities described in "Natural Vegetation of Oregon and Washington" (Franklin, J.F. and C.T. Dyrness, 1988) or other regionally recognized publications on native landscapes;

4. Specify plants that are commercially available from native-plant nurseries or available from local sources. If collecting some or all native plants from donor sites, collect in accordance with ecologically accepted methods, such as those described in the "Washington Native Plant Society's Policy on Collection and Sale of Native Plants," that do not jeopardize the survival or integrity of donor plant populations;

5. Use perennial plants in preference to annual species; the use of annual species should be limited to a temporary basis in order to provide erosion control, support the establishment of perennial plants, or if mitigation monitoring determines that native plants are not naturally colonizing the site or if species diversity is unacceptably low compared to approved performance standards;

6. Use plant species high in food and cover value for native fish and wildlife species that are known or likely to use the mitigation site (according to reference wetlands, published information, and professional judgment);

7. Install a temporary irrigation system and specify an irrigation schedule and responsible party to maintain unless a sufficient naturally occurring source of water is demonstrated. Temporary irrigation facilities shall be removed after the time specified by the qualified professional~~consultant~~;

8. Identify methods of soil preparation. For stream substrate or wetland soils, at least one foot of clean inorganic and/or organic materials, such as cobble, gravel, sand, silt, clay, muck, soil, or peat, as appropriate, shall be ensured. The stream substrate or wetland soils shall be free from solid, dangerous, or hazardous substance as defined by Chapter 70.105 RCW and implementing rules;

9. Confine temporary stockpiling of soils to upland areas. Identify construction access routes and measures to avoid resultant soil compaction. Unless otherwise approved by the director, comply with all applicable best management practices for clearing, grading, and erosion control to protect any nearby surface waters from sediment and turbidity;

10. Show densities and placement of plants; these should be based on the ecological tolerances of species proposed for planting, as determined by a qualified professional~~consultant~~;

11. Provide sufficient specifications and instructions to ensure proper placement and spacing of seeds, tubers, bulbs, rhizomes, springs, plugs and transplanted stock, and other habitat features, and to provide a high probability of success, and to reduce the likelihood of prolonged losses of wetland functions from proposed development;

12. Do not rely on fertilizers and herbicides to promote establishment of plantings; if fertilizers are used, they must be applied per manufacturer specifications to planting holes in organic or controlled release forms, and never broadcast on the ground surface; if herbicides are used to control invasive species or noxious weeds and to help achieve performance standards, only those approved for use in aquatic ecosystems by the Washington Department of Ecology shall be used; herbicides shall only be used in conformance with all applicable laws and regulations and be applied per manufacturer specifications by an applicator licensed in the state of Washington; and

13. Include the applicant's mitigation plan consultant in the construction process to ensure the approved mitigation plan is completed as designed. At a minimum, the consultant's participation will include site visits to inspect completed rough and final grading, installation of in-water or other habitat structures, and to verify the quality and quantity of native plant materials before and after installation;

14. *Signs and Fencing of Wetlands and Streams Critical Areas.*

a. *Temporary Markers.* The outer perimeter of the critical area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur, and verified by the department prior to the commencement of authorized activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.

b. *Permanent Signs.* As a condition of any permit or authorization issued pursuant to this chapter, the department may require the applicant to install permanent signs along the boundary of a critical area or buffer. Permanent signs shall be made of metal face and attached to a metal post, firmed anchored, or other materials of equal durability approved by the director. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the director:

Sensitive Area Boundary

"Help protect and care for this area. Trampling or cutting vegetation, placing fill or garbage, and any other activities that may disturb the sensitive area are prohibited, as regulated under Auburn City Code Chapter 16.10.

Please contact city of Auburn at 253-931-3090 with questions or concerns."

c. *Fencing.*

i. The director shall condition any permit or authorization issued pursuant to this chapter to require the application to install a permanent fence at the edge of the critical area or buffer, when fencing will prevent future impacts on the critical area.

ii. The applicant shall be required to install a permanent fence around the critical area or buffer when domestic grazing animals are present or may be introduced on site.

iii. Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

iv. Fencing shall include a permanent natural wood split-rail fence, such as cedar or other non-pressure-treated wood, with fence posts set in concrete footings, or similar, as approved by the director.

B. *Wetlands.* Do not exceed a maximum water depth of 6.6 feet (two meters) at mean low water unless approved as part of a planned interspersion of wetland vegetation classes and deep-water habitats.

1. Do not exceed a slope of 25 percent (4H:1V) in the wetland unless it can be clearly demonstrated by supporting documentation that wetland hydrology and hydric soils capable of supporting hydrophytic (wetland) vegetation will be created on steeper slopes;

2. Do not exceed a slope of 25 percent (4H:1V) in the wetland buffer; and

3. Limit deep-water habitat (greater than 6.6 feet at mean low water) in compensatory wetland to no more than 60 percent of the total area, and approach this limit only when deep-water habitat is highly interspersed with wetland vegetation classes, including aquatic bed, emergent, scrub-shrub, and forested.

C. *Fish and Wildlife Habitat Conservation Areas.*

1. Incorporate relevant performance standards from subsections A and B of this section, as determined by the director;

2. Include the following additional mitigation measures in mitigation planning:

a. Locate buildings and structures in a manner that minimizes adverse impacts on critical habitats used by threatened or endangered species and identified by the Washington State Department of Fish and Wildlife, NOAA Fisheries, and U.S. Fish and Wildlife Service;

~~b. Integrate retained habitat into open space and landscaping;~~

b~~c~~. Wherever possible, consolidate critical habitats into larger, unfragmented, contiguous blocks;

c~~d~~. Use native plant species for landscaping of disturbed or undeveloped areas and in any habitat enhancement or restoration activities;

d~~e~~. Create habitat heterogeneity and structural diversity that emulates native plant communities described in Natural Vegetation of Oregon and Washington (Franklin, J.F. and C.T. Dyrness, 1988) or other regionally recognized publications on native landscapes;

e~~f~~. Remove and/or control any noxious weeds or exotic animals which are problematic to the critical habitat area as determined by the director or consultant hired by the city to review the mitigation plan; and

f~~g~~. Preserve significant or existing native trees, preferably in stands or groups, consistent with achieving the goals and standards of this chapter; the plan shall reflect the report prepared pursuant to ACC 16.10.070.

D. *Geologic~~ally~~ Hazard~~ous~~ Areas.*

1. Incorporate relevant performance standards from the preceding subsections, as determined by the director;

2. The following additional performance standards shall be reflected in proposals within geologically hazardous areas:

a. A geotechnical report shall be prepared to identify and evaluate potential hazards and to formulate mitigation measures;

b. Construction methods will not adversely affect geologic hazards or will reduce adverse impacts on geologic hazards;

c. Site planning shall minimize disruption of existing topography and natural vegetation;

d. Impervious surface coverage shall be minimized;

e. Disturbed areas shall be replanted with permanent vegetation as soon as feasible pursuant to a mitigation or landscape plan;

f. Clearing and grading shall be limited to between April 1st and October 31st unless the geotechnical report specifically addresses measures necessary to perform clearing and grading during other portions of the year;

g. The limited use of retaining walls that minimize disturbance or alteration of existing natural slope areas is preferred over graded slopes;

h. Temporary erosion and sedimentation controls, pursuant to an approved plan, shall be implemented during construction;

i. A drainage plan shall be prepared for large projects as required by the city engineer;

j. Development shall not increase instability or create a hazard to the site or adjacent properties, or result in a significant increase in sedimentation or erosion.

E. *Aquifer Recharge Areas.* Protective measures are required of all development except an individual single-family or two-family (duplex) dwelling unit. Development applications shall include the following minimum measures and incorporate the appropriate responses:

1. *Type I Aquifer Recharge Areas.*

a. Indicate how hazardous substances shall be stored and used such that any unauthorized release or discharge of the hazardous substances is prevented.

b. Specify that pesticides, herbicides, and fertilizers shall be applied in strict conformance with manufacturer's instructions and by persons licensed to perform such applications, if applicable.

c. Document hazardous substances management procedures, including, but not limited to, operations plans, drawings and as-built diagrams, emergency response and spill cleanup plans, and employee training documentation. This information can be provided in the form of copies of permits or other documentation required by other authorities.

d. Indicate that any fill material shall be documented to be free of contaminants that exceed Method A and Method B soil cleanup standards specified in Chapter 173-340 WAC prior to placement on the ground, if applicable.

e. Specify that any contaminant release reported to the Washington State Department of Ecology (Ecology) per Chapter 173-340 WAC shall also be reported to the city of Auburn public works department concurrent with notification of Ecology.

f. Include a provision that the implementation of the protective measures will be maintained during the life of the project. Updates shall occur whenever there is a change in use or business occupancy or when there are significant changes in facility operations or hazardous substances management. A copy of the plan is to be available for review by city inspectors at the business or businesses within the development. The plan should cover the facility site in general as well as have a section(s) specific to any tenants within the development.

2. *Type II Aquifer Recharge Areas.* Property owners shall implement best management practices for water resource protection. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 5894 § 1, 2005.)

16.10.130 Monitoring program and contingency plan.

A. For all actions requiring a mitigation plan, a monitoring program shall be prepared and implemented by the applicant to evaluate the success of the mitigation project and to determine necessary corrective actions. This program shall determine if the original goals and objectives are being met. The monitoring program shall be reviewed and approved by the city prior to implementation. The monitoring program shall include a contingency plan in the event that implementation of the mitigation plan is inadequate or fails.

B. A performance and maintenance security is required to ensure the applicant's compliance with the terms of the approved mitigation plan. The amount of the performance security shall equal 125 percent of the cost of the mitigation project for to be provided prior to construction commencing and for the length of the monitoring period after construction is complete; the director may agree to reduce the security in proportion to work successfully completed over the period of the security.

C. Incorporate the following into monitoring programs prepared to comply with this chapter:

1. Appropriate, accepted, and unbiased qualitative or precise and accurate quantitative sampling methods to evaluate the success or failure of the project compared to performance standards approved by the city;

2. Quantitative sampling methods that include permanent photopoints installed at the completion of construction and maintained throughout the monitoring period and shall also include permanent transects, sampling points (e.g., quadrants or water quality or quantity monitoring stations), and wildlife monitoring stations;

3. Clearly stipulated qualitative and quantitative sampling methods that are approved by the city before implementation by the project proponent;

4. Appropriate qualitative and/or quantitative performance standards that will be used to measure the success or failure of the mitigation. For wetlands, streams and habitat areas these will include, at a minimum, standards for plant survival and diversity, including structural diversity, the extent of wetland hydrology, hydric soils, and habitat types and requirements as appropriate; all proposed standards are subject to review and approval by the city or the professional consultant selected by the city to review the mitigation monitoring plan. The qualitative and/or quantitative performance standards shall generally address the following subject areas:

a. Requirements for survival of plantings;

b. Requirements for plant density or percentage cover by plants;

c. Requirements for plant diversity (species composition diversity, structural diversity – tree, shrub, and groundcover layers, deciduous and evergreen, etc.);

d. Requirements that are staged over time so that different performance standards must be met as the mitigation area matures;

e. Measures to verify that the type and amount of functional areas that are part of the mitigation plan are successfully established (e.g., identify steps that will be implemented to confirm that the amount and type of created wetland meets the criteria of a wetland);

f. Requirements specifically limiting occurrence of exotic and nuisance plant species;

g. Requirements for ongoing preservation and protection measures such as continued existence in good condition of fencing and critical area signage. Also, avoidance of disturbance, trampling and the accumulation of litter or debris within the critical area and its buffer.

5. Monitoring programs for a minimum period of five years for buffer enhancement and other types of mitigation programs that include, at a minimum, preparation of an as-built plan upon completion of construction; biannual monitoring and preparation of annual monitoring reports following implementation; and a maintenance plan. More stringent monitoring requirements or longer monitoring periods may be required on a case-by-case basis for more complex mitigation plans (e.g., ten~~10~~ years or more when forested or scrub-shrub wetlands are the intended result);

6. Monitoring reports shall be submitted to the director by December 1st of the year in which monitoring is conducted. The reports are to be prepared by a qualified professional~~consultant~~ and must contain all qualitative and quantitative monitoring data, photographs, and an evaluation of each of the applicable performance standards. If performance standards are not being met, appropriate corrective or contingency measures must be identified and communicated to the director and upon concurrence, implemented to ensure that performance standards will be met;

7. Provision for the extension of the monitoring period beyond the minimum time frame if performance standards are not being met at the end of the initial five-year period; and provision for additional financial securities or bonding to ensure that any additional monitoring and contingencies are completed to ensure the success of the mitigation. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 5894 § 1, 2005.)

16.10.140 Procedural provisions.

A. *Interpretation and Conflicts.* The director shall have the authority to administer the provisions of this chapter, to make determinations with regard to the applicability of the regulations, to interpret the intent of unclear provisions, to require additional information, to determine the level of detail and appropriate methodologies for critical area reports and studies, to prepare application forms and informational materials as required, and to promulgate procedures and rules for unique circumstances not anticipated within standards and procedures contained in

this section. The director shall also determine whether critical area review is required based on the presence or proximity of mapped critical areas or indicators on a project site. Administrative interpretations may be appealed to the hearing examiner as prescribed in ACC 18.70.050.

B. *Penalties and Enforcement.* Compliance with these regulations and penalties for their violation shall be enforced pursuant to the procedures set forth in Chapter 1.25 ACC.

C. *Appeals of Critical Area Review Decisions.* Appeals of critical area review decisions shall be governed by the procedures set forth in ACC 18.70.050. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 5894 § 1, 2005.)

16.10.150 Reasonable use provision.

A. The standards and requirements of these regulations are not intended, and shall not be construed or applied in a manner, to deny all reasonable use of private property. If an applicant demonstrates to the satisfaction of the hearing examiner that strict application of these standards would deny all reasonable economic use of a property, development may be permitted subject to appropriate conditions.

B. Applications for a reasonable use exception shall be processed as a Type III decision, pursuant to ACC 14.03.030 and Chapter 2.46 ACC.

C. An applicant for relief from strict application of these standards shall demonstrate that all of the following criteria are met:

1. ~~No reasonable use with less impact on the critical area and its buffer is possible.~~

   There is no feasible and reasonable on-site alternative to the activities proposed, considering possible changes in site layout, reductions in density, configuration, and/or building size, that would allow a reasonable and economically viable use with fewer adverse impacts to critical areas and buffers. ~~and similar factors, that would allow a reasonable and economically viable use with fewer adverse impacts;~~

2. The proposed development activities, as conditioned, will result in the minimum possible impacts to affected critical areas;

3. All reasonable mitigation measures have been implemented or assured;

4. The proposal is consistent with the general purposes and intent of this chapter and the public interest.

5~~The~~. The inability to derive reasonable use is not the result of the applicant's actions or that of a previous property owner, such as by segregating or dividing the property and creating an undevelopable condition; and

6~~5~~. The applicant shall demonstrate that the use would not cause a hazard to life, health or property.

D. ~~Any alteration of a critical area approved under this section shall be subject to appropriate conditions and will require mitigation construction authorized by an approved mitigation plan.~~ Any authorization of a reasonable use exception shall be the minimum necessary to allow for reasonable economic use of the property, and shall include conditions of approval and mitigation as necessary to protect critical areas and their functions and values to the maximum extent practicable.

E. The burden of proof shall be on the applicant to provide evidence in support of the application and to provide sufficient information on which any decision has to be made.

F. Any alteration of a critical area approved under this section shall be subject to an approved mitigation plan consistent with ACC 16.10.110 and 16.10.120.

G~~F~~. Approval of a reasonable use exception shall not eliminate the need for any other permit or approval otherwise required for a proposal by applicable city codes.

H~~G~~. Except when application of this title would deny all reasonable use of a site, an applicant who seeks an exception from the regulations of the title shall pursue a variance as provided in ACC 16.10.160. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 6442 § 13, 2012; Ord. 5894 § 1, 2005.)

16.10.160 Variances.

Applications for variances to the strict application of the terms of this chapter to a property may be submitted to the city. Minor variances, defined as up to and including 10 percent of the requirement, may be granted by the director as a Type II decision as defined by Chapter 14.03

ACC. Variance requests which exceed 10 percent may be granted by the hearing examiner as a Type III decision, pursuant to ACC 14.03.030 and Chapter 2.46 ACC. Approval of variances from the strict application of the critical area requirements shall conform to the following criteria:

A. There are unique physical conditions peculiar and inherent to the affected property which make it difficult or infeasible to strictly comply with the provisions of this section;

B. The variance is the minimum necessary to accommodate the building footprint and access;

C. The proposed variance would preserve the functions and values of the critical area, and/or the proposal does not create or increase a risk to the public health, safety and general welfare, or to public or private property;

D. The proposed variance would not adversely affect surrounding properties adjoining;

E. Adverse impacts to critical areas resulting from the proposal are minimized; and

F. The special circumstances or conditions affecting the property are not a result of the actions of the applicant or previous owner. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 6442 § 14, 2012; Ord. 5894 § 1, 2005.)

16.10.170 Special exception for public agencies and utilities.

A. If the application of this chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section.

B. *Exception Request and Review Process.* An application for a public agency and utility exception shall be made to the city and shall include a critical area identification form; critical area report, including mitigation plan, if necessary; and any other related project documents such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC). The director shall prepare a recommendation to the hearing examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with public agency and utility exception review criteria in subsection D of this section.

C. *Hearing Examiner Review.* The hearing examiner shall review the application and director's recommendation, and conduct a public hearing pursuant to the provisions of Chapter 2.46 ACC.

The hearing examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the public agency and utility exception criteria in subsection D of this section.

D. *Public Agency and Utility Review Criteria.* The criteria for review and approval of public agency and utility exceptions follow:

1. There is no other practical alternative to the proposed development with less impact on critical areas;

2. The application of this chapter would unreasonably restrict the ability to provide utility services to the public;

3. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

4. The proposal protects critical area functions and values to the extent feasible and provides for mitigation in accordance with the provisions of this chapter; and

5. The proposal is consistent with other applicable regulations and standards.

E. *Burden of Proof.* The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 6442 § 15, 2012; Ord. 5894 § 1, 2005.)

16.10.180 Severability.

If any provision of these regulations or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of these regulations or the application to other persons or circumstances shall not be affected. (Ord. 6733 § 3 (Exh. B), 2019; Ord. 5894 § 1, 2005.)

Disclaimer: The city clerk's office has the official version of the Auburn City Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: www.auburnwa.gov

Hosted by General Code.

CITY OF AUBURN WASHINGTON

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 7014 (Krum) (25 Minutes)
An Ordinance relating to Battery Energy Storage Systems, amending Sections 18.07.020, 18.23.030, 18.35.030, Chapter 18.29 and establishing two new Sections 18.04.174 and 18.31.240 of the Auburn City Code

Meeting Date:
April 13, 2026

Department:
Community Development

Attachments:
BESS Study Session Presentation, BESS PC Memos and Staff Report, Ord. No. 7014, Exhibit A, Exhibit B, Exhibit C, Exhibit D, Exhibit E, Exhibit F

Budget Impact:

Administrative Recommendation:
For discussion only.

Background for Motion:

Background Summary:
Battery Energy Storage Systems (BESS) are systems which store and release electrical energy generated by the grid or on-site generation sources. These systems have increased in popularity in our region due to evolving legislation and economic incentives for utilities and end users. In 2019, Senate Bill (SB) 5116 established statutory milestones which require the State's electrical supply to be free of greenhouse gas emissions by 2045.

In 2021, Puget Sound Energy (PSE) published an Integrated Resource Plan which contains their goals and policies over the next planning period for the agency. Of which Battery Energy Storage Systems are identified as a central component to the Utility's "Distributed Energy Resource" goals of providing 3,222 MW of capacity by 2045. PSE also consulted with Power Systems Consultants to perform a qualitative and quantitative analysis for siting of possible energy storage systems within the PSE electrical system.

Based on permit records, development interests for what would be classified under the proposed code as Tier I (residential-scale), Tier II (mid-scale) and Tier III (utility-scale) BESS facilities appear to be driven by the policy goals and initiatives set by our regional electrical service provider. In 2024, a private BESS facility developer, Plus Power, submitted a land use application for what would be classified as a Tier III system under the proposed Code. This project site located near M St NW with the project name "Christopher Energy BESS".

Through staff's review of the 2024 application, it became evident that the existing Code does not clearly define BESS as a permitted or conditional use, nor does it establish siting, safety, or scale-based standards." As of 2026, other projects in feasibility have been studied through the pre-application process, but none have initiated applications at this time.

Subsequently, the City instituted a moratorium on the application, processing, and issuance of development permits until a policy framework was established. This moratorium was adopted by the Auburn City Council on May 5, 2025 (under Ordinance No. 6978), extended on November 3, 2025 (under Ordinance No. 6995), and is set to expire on May 11, 2026, unless development regulations are adopted or an extension is approved. If regulations are not adopted prior to expiration, the City will lose its ability to regulate BESS siting under an interim control.

According to the Washington State Fire Marshal's Office, the State Building Code Council of Washington State (SBCC) has extended a previously approved emergency rule to allow fire code officials to utilize the 2023 edition of National Fire Protection Association (NFPA) 855 for the Installation of Energy Storage Systems. This emergency rule is supported by regulatory agencies and the industry when it was first introduced in November of 2022 to the SBCC. The existing emergency rule expired in May of 2023 and with the delay of the implementation of the 2021 Washington State Codes it was necessary to create an extension.

An amended Chapter 12 of the 2021 International Fire Code (IFC) was also approved by the SBCC for Off-Cycle Rule making. This Chapter is particularly relevant for the installation and maintenance of batteries and energy storage systems (ESS). The proposed changes bring forward the latest Code language from the 2024 IFC into the Washington State 2021 Fire Code.

The 2021 WA State Fire Code also has two new sections addressing Lithium-ion batteries and powered mobility devices such as electric scooters and bikes. Section 322 Lithium-Ion and Lithium Metal Batteries and section 323 Powered Micromobility Devices and Powered Industrial Trucks were developed to help address the hazards associated with the use of lithium-ion batteries. The new Code language is from the 2024 IFC (International Fire Code) and was brought forward early in Washington State to assist in regulating this industry. The 2021 IBC amendments, including Chapter 12 of the IFC (2024), were adopted as law on March 15, 2024.

Staff held a roundtable discussion on October 2, 2025, with Labor Unions, the Valley Regional Fire Authority, the Muckleshoot Indian Tribe, and Puget Sound Energy to better understand BESS technology and its potential impacts.

The City has initiated the text amendment based on ACC 18.68.025(A)(1)(b) *"change in text in response in state and/or federal laws"* as regulations pertaining to electrical storage systems (ESS) which include BESS have greatly expanded with the adoption of the 2021 Building Code on March 15, 2024.

Staff presented and discussed the proposed text amendments with the Planning Commission on December 2, 2025, January 6, 2026, February 3, 2026, and April 7, 2026, respectively. Staff memos provided to the Planning Commission for the aforementioned meetings detail the purpose and scope of the amendments to Title 18 "Zoning" ACC.

Following the conclusion of the Public Hearing on April 7, 2026, and subsequent deliberations, the Auburn Planning Commission, following a positive motion, made a recommendation to the Auburn City Council on the approval of the proposed Battery Energy Storage System text amendments, provided in Exhibits A through F.

Councilmember: Tracy Taylor **Staff:** Jason Krum

STUDY SESSION

ENERGY STORAGE SYSTEM CODE UPDATE

PRESENTED BY
GABRIEL CLARK, PLANNER II
APRIL 13, 2026

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

AUBURN VALUES

SERVICE
ENVIRONMENT
ECONOMY
CHARACTER
SUSTAINABILITY
WELLNESS
CELEBRATION

PURPOSE

- Define tiers, separated by capacity
- Determine appropriate zones
- Determine appropriate land use approval pathways
- Coordinate existing regulations with proposed development standards

APPLICABLE REGULATIONS

- Washington Administrative Code (WAC) 51-54A- 1207
- International Fire Code (IFC) Chapter 12
- National Fire Protection Association (NFPA)
- City of Auburn Engineering Design Standards

APPLICABLE SECTIONS IN CITY CODE

- ACC 18.04.174 Definitions
- ACC 18.07.020 Residential Use Table
- ACC 18.23.030 Commercial and Industrial Use Table
- Chapter 18.29 DUC
- ACC 18.31.240 Supplemental Development Standards
- ACC 18.31.030 Special Purpose Use Table

TIER I

- Allowed as a Type I decision
- Stored energy capacity limited to 100 kWh
- Accessory to primary use

TIER II

- Require an administrative or conditional use land approval
- Energy capacity up to 4 MWh
- Restricted to higher intensity land uses

TIER III

Aerial view of the completed 250MW BESS at Torrens Island, South Australia. Image: Wärtsilä-AGL

- Require a conditional land use approval
- Stored energy capacities in excess of 4 MWh
- Restricted to heavy commercial and industrial land uses

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

ZONING CLASSIFICATION RESIDENTIAL

	RC	R-1	R-2	R-3	R-4	R-NM	R-F
Tier I	P	P	P	P	P	P	P
Tier II	X	X	X	C	C	C	X
Tier III	X	X	X	X	X	X	X

ZONING CLASSIFICATION
COMMERCIAL & INDUSTRIAL

	DUC	C-1	C-2	C-AG	M-1	M-2
Tier I	P	P	P	P	P	P
Tier II	C	X	C	X	A	C
Tier III	X	X	C	X	C	C

ZONING CLASSIFICATION
SPECIAL PURPOSE

	P-1	I	OS
Tier I	P	P	P
Tier II	A	A	X
Tier III	X	X	X

PUBLIC COMMENTS

- Concerns over fire safety
- Concerns over environmental precautions
- Concerns regarding the permitted thresholds

RECOMMENDATION

- Planning Commission recommends to City Council approval of the Battery Energy Storage System text amendments included as Exhibits A through F.

QUESTIONS?

Department of Community Development

Planning • Building • Development Engineering • Permit Center
Economic Development • Code Enforcement

AUBURN VALUES

SERVICE

ENVIRONMENT

ECONOMY

CHARACTER

SUSTAINABILITY

WELLNESS

CELEBRATION

CITY OF AUBURN WASHINGTON

MEMORANDUM

TO: Judi Roland, Chair, Planning Commission
Bill Stewart, Vice-Chair, Planning Commission
Planning Commission Members

FROM: Gabriel Clark, Planner II
Department of Community Development

DATE: November 18th, 2025

RE: City File No. ZOA24-0004 – City of Auburn Battery Energy Storage Code

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I. INTRODUCTION AND BACKGROUND

Battery Energy Storage Systems also known as BESS are systems of rechargeable batteries that help to moderate the demand for electricity on our grid. During peak usage or extreme weather events, BESS can react quickly, providing additional electricity. In extreme cases BESS protect sensitive equipment such as transformers, transmission lines, switches and other infrastructure from overload preventing blackouts or long-term service outages.

BESS are found in a variety of applications and are scalable based on the need. On the smaller scale, they can be installed at a private residence, constructed at a wastewater treatment plant or a hospital, to a stand-alone storage facility in a larger scale application.

Figure 1 Residential BESS

Figure 2 Commercial BESS

In response to industry interest in developing these facilities within the City, staff proposes to revise Title 18 "Zoning" to reflect the specific uses of these facilities. The revisions include identifying which zones would be best suited for the size threshold and appliable land use intensities. King County Ordinance (Attachment 2) for example, identifies 2 Megawatts (MW) as the transition point between what is considered accessory use as seen in figure 1 to commercial applications seen in figures 2 and 3.

Figure 3 Commercial BESS

To fully understand how BESS interacts with the grid, the diagram on the following page depicts an outline of the energy grid in a simplified manner. Within the grid are four elements (1) generation, (2) transmission, (3) distribution, and (4) consumption that needs to be defined.

(1) Generation occurs at established power generation facilities such as wind and solar stations located east of the Cascades and as far as Stillwater County, Montana.
(2) The electricity generated needs to travel from its source, to the location of demand. This can be over many hundreds of miles and requires high voltage transmission lines.
(3) When the high voltage electricity enters the region of demand (Auburn) it needs to be brought down to save levels for distribution.
(4) Consumers, both residential and commercial demand the electricity and demand can shift rapidly given the environmental conditions.

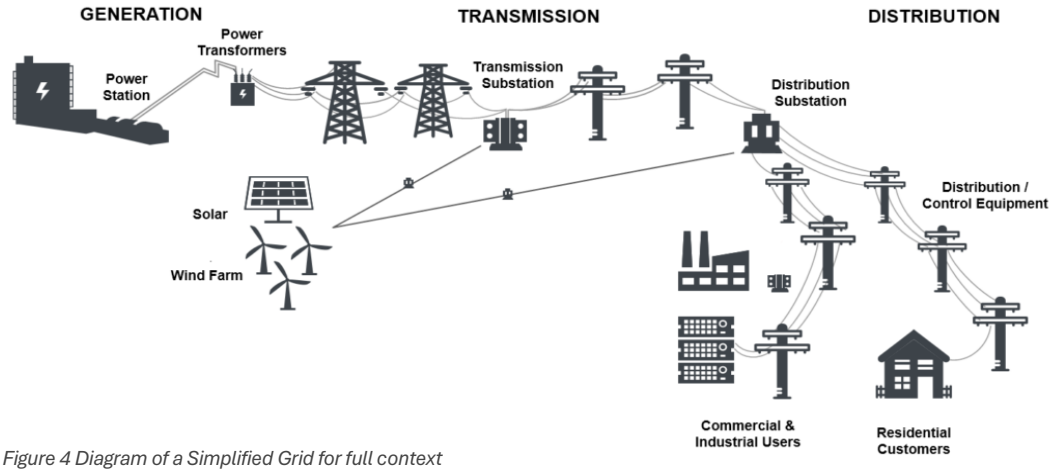


Figure 4 Diagram of a Simplified Grid for full context see attachment 14

In 2019 and forward, the Washington State Legislature passed a series of laws affirming the region's commitment to climate resiliency and reduction in carbon emissions.

- ***The Clean Energy Transformation Act (SB 5116, 2019)*** - defines specific milestones which require the State's electricity supply to be free of greenhouse gas emissions by 2045. (Attachment 3)
- ***The Climate Commitment Act (SB 5126, 2021)*** - established the cap-and-invest program, a market-based system that cost-effectively limits and lowers climate pollution and generates revenue for climate and air quality projects. (Attachment 4)

FUNDED BY WASHINGTON'S CLIMATE COMMITMENT ACT

As a result, enormous pressure is building for the region's utility providers and local jurisdictions to work together to become free of greenhouse gas emissions by the mid-century. Puget Sound Energy (PSE) produced its first Integrated Resource plan (IRP) (Attachment 5) which identifies the regional needs, its shortcomings, and sectors of energy production to reduce impacts on its customers while reducing total carbon emissions.

The IRP identifies the trajectory of investments into cleaner natural gas, battery storage systems and renewable energy sources.

Changes in the wholesale electricity market within the Western Interconnect (WI) means the region is tightening supply as customers require power from clean energy sources. This includes governments, industries, and customers. "Since 2016 nearly 15,000 MW of clean energy resources, namely intermittent wind and solar, and 500 MW of batteries have been added to the WI. At the same time, 12,000 MW of traditional dispatchable coal and natural gas resources have been retired or mothballed."

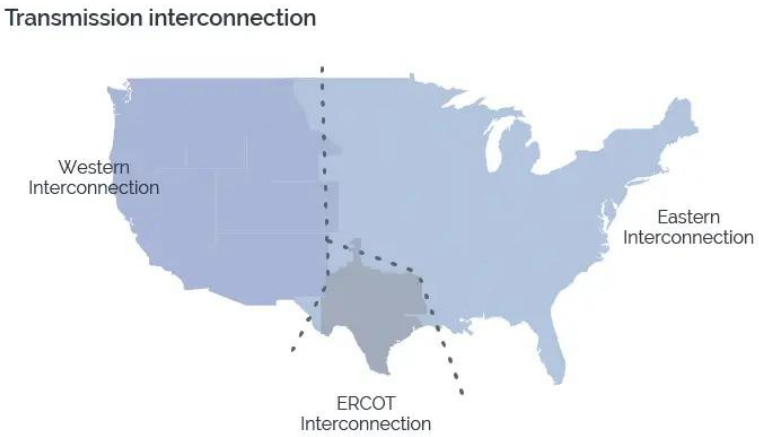


Figure 5 Transmission Interconnections in the United States

As a result of a tightening supply, volatility has also increased. On average, wholesale energy prices remain low in the Pacific Northwest. However, spikes in energy prices are becoming more frequent. "Notable events include the summer of 2018, when high regional temperatures coincided with forecasted outages at

Colstrip, and March 2019, when regional cold temperatures coincided with reduced Westcoast Pipeline and Jackson Prairie storage availability. Most recently, in August 2020, a west-wide heatwave cased many entities in the region to ta a range of actions from energy alerts to rolling blackouts. To combat the future energy needs as the region transitions to clean energy sources, PSE has identified six elements in the preferred energy portfolio. More information on these elements can be found in the IRP.

(1) Accelerated Acquisition of Energy Conservation
(2) Increased Demand Response
(3) Integration of Distributed Energy Resources (BESS)
(4) Significant Investments in Renewable Resources
(5) Additional Need for Flexible Capacity
(6) Firm Resource Adequacy Qualifying Capacity Contracts.

The table on the following page shows a summary of the forecasted need for additional electrical sources in the preferred portfolio. The capacity if resource additions is measured in terms of peak hourly capacity over a planning horizon of 24 years. The preferred portfolio illustrates a diverse mix of demand and supply side resources that meet the project capacity needs of the region. Resource additions are added incrementally across three planning periods; 2022-2025, 2026-2031, and 2032-2045.

Figure 1-4: Electric Preferred Portfolio,
Incremental Nameplate Capacity of Resource Additions

Resource Type	Incremental Resource Additions			Total
	2022-2025	2026-2031	2032-2045	
Distributed Energy Resources				
Demand-side Resources[1]	256 MW	440 MW	1,061 MW	1,757 MW
Battery Energy Storage	25 MW	175 MW	250 MW	450 MW
Solar	80 MW	180 MW	420 MW	680 MW
Demand Response	29 MW	167 MW	21 MW	217 MW
DSP Non-wire Alternatives[2]	22 MW	28 MW	68 MW	118 MW
Total Distributed Energy Resources	412 MW	990 MW	1,820 MW	3,222 MW
Renewable Resources				
Wind	400 MW	1100 MW	1750 MW	3,250 MW
Solar	-	398 MW	300 MW	698 MW
Biomass	-	-	105 MW	105 MW
Renewable + Storage Hybrid	-	-	375 MW	375 MW
Total Renewable Resources	400 MW	1,498 MW	2,530 MW	4,428 MW
Peaking Capacity with Biodiesel	-	255 MW	711 MW	966 MW
Firm Resource Adequacy Qualifying Capacity Contracts	574 MW	405 MW	-	979 MW

Demand-side resources which includes a broad energy efficiency program and implementation which may free 1,757 MW of energy that may have otherwise been wasted. This may include

local and state policies on energy efficiency. Solar readiness and photovoltaic systems installed on customer's roofs or properties account for a planned 680 MW of total capacity resources. BESS also makes 14% of the total capacity resource additions in the distributed resource application and is significantly more responsive to changing demands than the development of a large-scale generating station.

The Economic Development Element of the Comprehensive Plan (Attachment 6) describes Auburn as a proud blue-collar community; leading in manufacturing employment since the construction of the freight terminus for the Trans-Continental Railroad in the early 20th Century. This momentum has not shifted as our community strength and core values continue to be reflected in our land use practices, and economic development achievements. Our residents are highly educated and experienced in manufacturing, construction, and wholesale trade and deserve to continue to be supported by policies that promote the rapidly changing construction and manufacturing industry. Figure 7 depicts the top industries by sector within the City.

As a result of regional manufacturing and other industries, Auburn's median household income in 2021 was $79,415. The high concentration of the well-paying jobs in the City reflects a job to unit of housing ratio at 1.48 which means the region benefits from the City's continued evolution as a manufacturing center for the Puget Sound. As this relates to affordability, the City recognizes the need for attainable housing and has implemented land use and zoning changes to increase the capacity of housing throughout the City (Attachment 7 – Housing Needs and Availability Assessment).

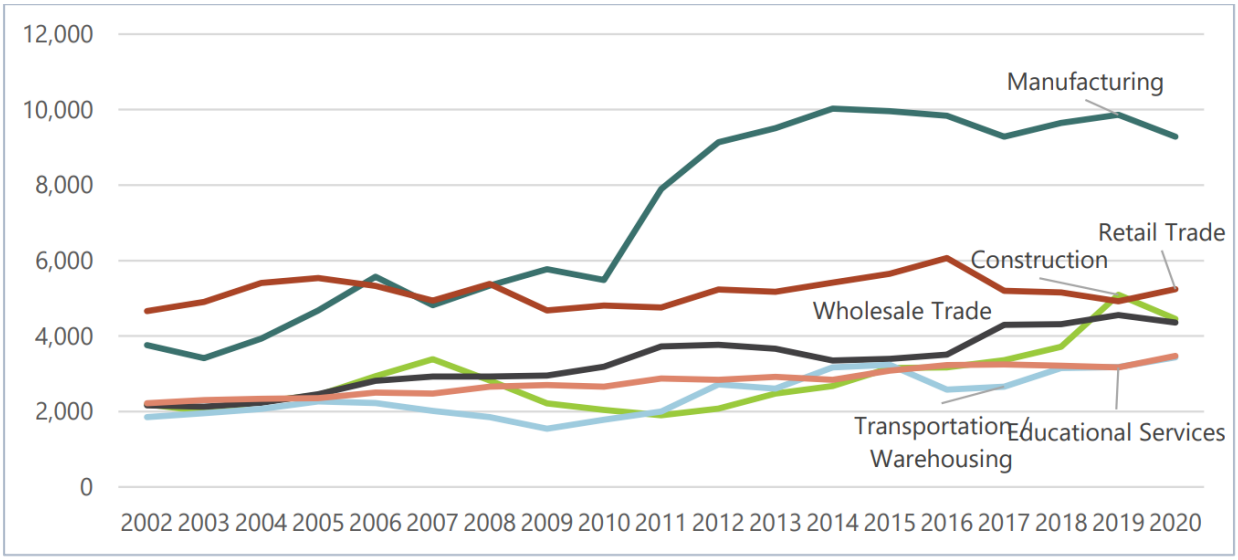


Figure 7 Top Industry Sectors in Auburn (2002-2020)

In harmony with the existing conditions identified by the IRP, and market pressures for development of Commercial BESS facilities (Attachment 15), the City does recognize the need to update its Zoning Ordinance. Title 18 "Zoning" does not have a clear path forward for private developers or utilities to develop these facilities within the City. The Department of Community

Development is working to develop additional land use policies to guide the siting, construction, and operation of these facilities.

As a result, staff requested City Council of the City of Auburn to pass a 6-month development moratorium on the acceptance, processing, and approval of BESS until proper development standards are implemented. (See attachment 8)

As staff continued to research the development of the code, it became understood that discussion with industry leaders was essential to understand the implications of developing or prohibiting BESS.

In October of 2025, staff organized a roundtable meeting with industry leaders to discuss the future of BESS in our community. A copy of the notes generated from the meeting has been provided to you as Attachment 10. To summarize the discussion:

(1) Labor unions representing construction trades were supportive of the City to continue to research these facilities as they provide expert technical training and experience.
(2) PSE provided information on the need for cities and counties to permit BESS near areas near existing infrastructure and expressed the deep need for grid stabilization that BESS can create.
(3) The Muckleshoot Tribe of Indians expressed their desire for microgrids and also shared concerns of potential environmental impacts related to fires and construction.
(4) Valley Regional Fire Authority also expressed concerns with fire hazards and clarified of new state requirements in the International Fire Codes (IFC) Chapter 1207 and National Fire Protection Association (NFPA) Chapter 855.

Staff requested council to consider a six-month extension to the moratorium. Which is set to expire at the beginning of May 2026. (See attachment 9)

Staff conducted a survey which included 101 community development offices throughout the State. The survey resulted in 10 responses, and 13 separate conversations on how each of the jurisdictions regulate BESS. The data collected shows BESS, when permitted are subject to a variety of land use approvals. These approvals include Type II and Type III processes and are typically applied to commercial and industrial land use designations, though there are several exceptions. (Attachment 11)

The applicable zoning classification for BESS varied between Cities and Counties. Counties that permitted BESS did so broadly and allowed BESS to be installed alongside solar generation facilities in rural areas for example. In cities like Sumner, Puyallup, Mountlake Terrace additional land use approvals are required and mainly concentrate in the commercial and industrial zones of the City.

Another trend that was observed in the data was the definition of BESS. Some jurisdictions allow BESS to be included within “Substation or other Public Utility”, and other jurisdictions define BESS separately. While the code and its applications are unique to the jurisdiction that utilizes it,

the City of Auburn intends to define BESS as a separate land use activity. The separate definition would direct these infrastructure investments in areas of the City that have existing supportive infrastructure and space where the potential visual, noise, and potential environmental impacts are consistent with existing land use designations.

Title 18 "Zoning," divides the City into zones where the location, height, and use of buildings, the use of land, the size of setback areas, and other open space, and the provision of off-street parking and loading are regulated and restricted in accordance with the Comprehensive Plan for the City. These zones and regulations are deemed necessary and are made with reasonable consideration, among other things, as to the character of each zone and its particular suitability for specific uses (such as BESS), the need for such uses, the common rights and interests of all within the zone as well as those of the general public, and with the view of conserving and encouraging the most appropriate use of land throughout the City and to prevent and abate public nuisances.

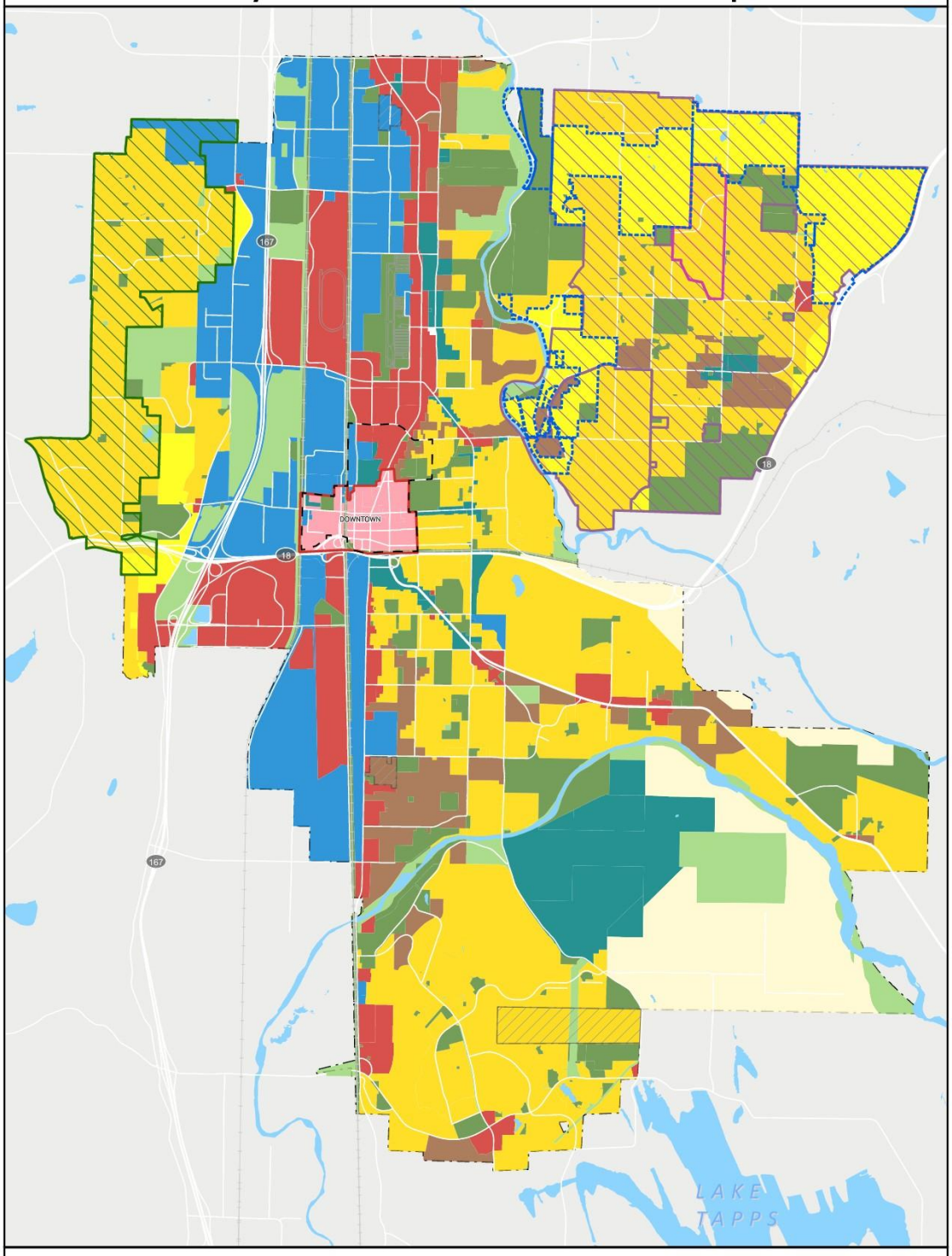
While staff recognizes the opportunities and investment BESS may bring, the City wants to ensure development is orderly and reflects the intent of the Zoning Ordinance. The purpose of the Zoning Ordinance is outlined in Section 18.02.030; BESS is described and how it meets or does not meet the purpose of Title 18.

Purpose Statement	*Conformance with Title 18*
Provide adequate public facilities and services, including utilities, roads, schools, and parks in conjunction with development;	BESS provides emergency back-up generation during periods of black-outs or power outages allowing public facilities and services to continue to operate. This includes services such as City administration, hospital operation, Fire Department Administration, or regional load shedding. In conjunction with residential development, BESS may pose development challenges. Depending on the proposal, BESS can occupy areas that would otherwise be used for residential purposes. To ensure BESS is able to meet the provisions of this title, additional land use review is required for specific zones. A table on page 8 of the report outlines the basic information pertaining on project review types ensuring compatibility with the spirit and intent of each zoning classification.
Provide housing with essential light, air, privacy, and open space;	The zones in which permitted BESS will have specific regulations developed to ensure the provided housing continues to support light, air, privacy and open space. The measures include setbacks, screening, and additional landscape requirement.

Facilitate safe and efficient movement of traffic on the City's streets	Throughout the City of Auburn, many of our traffic signals use BESS as a way to continue normal operation even with energy disruption. Traffic impacts seen by commercial BESS would be negligible after the site is in operation. Maintenance and inspection teams would be the only of the few seen at the site during normal operation. There may be temporary traffic impacts or revisions during the construction periods.
Stabilize and enhance property values	The argument that BESS decreases or improves property values is multifaced and shall be reviewed on a project by project basis. BESS that conforms to the screening and landscaping requirements of the DUC zone may not have as large of a potential negative impact to property values in the surrounding vicinity. Compared to a Utility-scale facility that is exposed and occupies a large portion of the area may have some negative impacts and may not be considered under a proposal. While impacts vary by context, it is important to understand appropriate siting and design can mitigate potential negative effects.
Facilitate adequate provisions for doing public and private business and thereby safeguard the community's structure upon which the prosperity and welfare of all depends	BESS, when meeting the adequate provisions of the Title can safeguard the community's structure upon which the prosperity and welfare depends. Allowance of BESS and alternative energy systems can indeed capture development and financial capital furthering Auburn's manufacturing, construction, and administrative industries. These industries provide well-paying jobs and will help Auburn transition to clean energy infrastructure.
Through such achievements, help ensure safety and security of home life. Foster good citizenship, and create and preserve a more healthful, serviceable, and attractive municipality and environment in which to live.	The response to ensure BESS aligns with the purpose of the Zoning Ordinance in Title 18, includes a specific look into the operations and available site conditions that are unique to each site. Involving the community when input is needed fosters good citizenry and active public discourse. BESS also could allow the continuation of governmental services in times of crises aiding to the safety and security of the home life.

Figure 8 Alignment of BESS with Title 18

City of Auburn Land Use Map



As reviewed in the section above staff understands the need for the City's Zoning Ordinance to be updated to reflect the policies and goals of climate and energy resilience. Following, is a staff analysis on how BESS integrates with the community for each zone. In most cases, BESS will be applied as an accessory to a primary use such as a residence to emergency back-up for commercial purposes and would be permitted in all zones.

As mentioned earlier, King County has adopted 2 MW (Attachment 1) as the threshold which separates accessory use from commercial use. In the context of Auburn, staff proposes the threshold to be delineated at 1 MW.

Commercial uses of BESS are the uses accessory or standalone which surpass the threshold quantity of 1 Megawatt (MW). Commercial applications of BESS are substantially larger than what is deemed as "accessory use" per ACC 18.04.020:

> *"Accessory use" means a use, a building or structure, or part of a building or other structure which is subordinate to and the use of which is incidental to that of the main building, structure or use on the same lot, including a residential garage. If an accessory building is attached to the main building by a common wall or roof, such accessory building shall be considered a part of the main building. Parking areas will not be considered an accessory use under this definition. See related definitions for "Accessory use, manufactured home community" and "Accessory use, residential."*

The following table presents a visual representation of the proposed zones and project review requirements for Commercial applications of BESS within the City. The use is analyzed further with the intent of each appliable zone. These determinations are not final and may be subject to change.

As a reference, PSE provided staff with a model ordinance as a recommended guidance document for amending City code to allow for BESS throughout the City. Seen in Attachment 12, this ordinance is useful for understanding the legal requirements, but does not account for the scope of BESS in the individual zones as analyzed below.

SECTION 3. Table X.X of the City Land Use Code is hereby amended to read as follows:

Land Use	Zone classification					
	Rural	Resource	Industrial	Commercial	Residential	All Other Zones
Battery Energy Storage System						
Consumer Scale Battery Energy Storage System						

Zoning Classification	*Type I*	*Type II*	*Type III*	*Not Permitted*
Downtown Urban Center		X		
C-1, Light Commercial				X
C-2, Heavy Commercial		X		
I, Institutional			X	
M-1, Light Industrial	X			
M-2, Heavy Industrial	X			
LF – Airport Lading Field				X
OS – Open Space				X
P-1, Public Use			X	
R-1, Residential 1 DU/Acre				X
R-2, Residential Low				X
R-3, Residential Moderate				X
R-4, Residential High				X
R-NM Neighborhood Mixed Use				X
RC, Residential Conservancy				X
RF, Residential Flex				X
Planned Unit Development District (PUD)				X
R-MHC, Residential Mobile Home Community				X
Lakeland Hills PUD				X

Figure 9 Land Use Activity and Applicability Table

Downtown Urban Center – *Staff Analysis*

The intent of the Downtown Urban Center (DUC) Zone is to create a distinct and strong identity for downtown Auburn. The DUC Zone is intended to produce a concentration and mixture of commercial, office, medical, retail, residential, and civic uses that attract shoppers, visitors, and workers. Development that occurs within the downtown urban center zone often requires architectural and site design review which can be either Type I or Type II decisions made by staff.

While the physical form of BESS may not always align with the intended character of a zone particularly where space is typically reserved for shops, hotels, housing, or professional offices, there is a strong case for allowing BESS through the Type III review process when serving institutional needs.

BESS can provide critical emergency and backup power to essential facilities such as hospitals, City Hall, and other public buildings that require uninterrupted power during outages. Without the option to site BESS in this area, these institutions would remain reliant on diesel generators, which are noisy, emit air pollutants, and require regular fuel replacement every 6–12 months unless treated with stabilizers.

There are specific sites, and applications of BESS that require additional review and public input which supports the decision for a Type III Quasi-Judicial review and decision made by the hearing examiner.

For these reasons, staff recommends Commercial BESS be conditionally permitted in the DUC.

C-1, Light Commercial – *Staff Analysis*
Support for siting BESS within the C-1 Zone is limited due to land use priorities and compatibility concerns. Many C-1 parcels boarder low and moderate intensity residential zones and are intended to serve as future local commercial destinations.

The purpose of the C-1 Zone is to promote a vibrant mix of small-scale, pedestrian oriented uses. BESS facilities are typically enclosed and occupy the full extent of the parcel, which can diminish the zone's ability to meet its intended character and functions.

For these reasons, commercial scale BESS installations are recommended to be prohibited from the C-1 Zone.

C-2, Heavy Commercial -*Staff Analysis*
The C-2 Zone supports a broad range of medium to high intensity land uses. While the zone is primarily intended for retail, commercial, entertainment, and professional services, it also accommodates high intensity uses such as low intensity industrial activities and utility infrastructure through additional land use approvals.

A significant portion of the zone is located along the valley floor West of Auburn Way which physically separates the C-2 Zoned parcels from a majority of the residentially zoned properties and remains underutilized. This area is well-suited for the development of BESS, offering both design flexibility and proximity to existing infrastructure.

For these reasons, staff recommends that commercial scale BESS be permitted through the Type II administrative land use review process in the C-2 Zone.

I – Institutional Zone – *Staff Analysis*
The Institutional Zone (I) is designed to support public-serving uses such as educational, cultural, and civic facilities. Distributed through the City, this zone meets both local and regional needs.

Historically, public and institutional facilities in this zone that require on-site power generation have relied on diesel generators. This mirrors the patterns seen in the DUC zone. However, diesel generators are noisy, polluting, and require frequent fuel replacement and maintenance.

For these reasons, staff recommends that commercial scale BESS be allowed in the I Zone through the Type III conditional land use review process.

M-1, Light Industrial and M-2, Heavy Industrial – *Staff Analysis*
The City's industrial zones are designed to accommodate a broad spectrum of industrial, manufacturing, and commercial activities. Residential uses are not permitted unless they are already established, ensuring that these zones remain focused economic development and operational flexibility as outlined in the Comprehensive Plan.

The M-1 Zone supports industrial and commercial uses based on the nature of operations rather than the products produced such as warehousing and packaging. The M-2 Zone allows even greater flexibility, including activities that process raw materials and may have more substantial impacts on surrounding areas.

Given the purpose of these zones, the operational characteristics of BESS, and the presence of high-capacity transmission infrastructure, industrial areas are well suited for BESS installations. Impacts to nearby residents are minimal and unlikely to exceed those of existing permitted uses in the M-1 and M-2 Zones.

For these reasons, staff recommends that commercial scale BESS be permitted outright in the industrial zones.

LF – Airport Landing Field District – *Staff Analysis*
The Comprehensive Plan identifies airport hazards as threats to the safety of airport users and nearby properties. Obstruction-type hazards, in particular, can reduce the available area for aircraft to land, take off, and maneuver safely.

To protect public health, safety, and general welfare, it is essential to prevent the creation of such hazards.

While BESS are not inherently dangerous, their presence within the LF District introduces potential risks. In the event of an aircraft collision, BESS could trigger cascading impacts such as fire, explosion, or widespread power outages. Additionally, the infrastructure required to support BESS, particularly high-voltage transmission lines often exceeds 65 feet in height surpassing the 45-foot maximum height limit for the LF Zone.

For these reasons and regulatory constraints, staff recommends commercial scale BESS be prohibited within the LF Zone.

OS – Open Space Zone – *Staff Analysis*
The OS zone is intended to permit land uses that tend to be managed in a largely undeveloped character, including passive parks, watersheds, natural and urban conservancy shoreline districts, significant wildlife habitats, and areas with significant development restrictions.

Permitting BESS in the OS Zone would require a demonstrated trend toward development, which is inconsistent with the zone's preservation-focused intent. While limited utility infrastructure, such as substations, or transmission lines is allowed, these facilities are typically modest in scale and impact compared to the potential footprint of a commercial scale BESS installation.

Given the City's commitment to preserving these areas to the fullest extent possible, staff recommends commercial scale BESS be prohibited within the OS Zone.

P-1 Public Use Zone – *Staff Analysis*
The P-1 Zone, similar in purpose to the Institutional Zone, is intended to support public-services at a community and regional scale. It provides space for cultural, educational, recreational, and civic facilities such as schools parks, and government offices. The P-1 Zone is often located within or near residential zones.

While BESS are generally developed in serve of the public good, their function does not completely align with the core intent of the P-1 Zone, which emphasizes active, community oriented uses. BESS would be best suited for facilities that rely on on-site power generation mirroring the patterns in the Institutional and DUC zones. BESS could remove the reliance on diesel generation and improve the overall reliability of the services provided.

For these reasons, staff proposes commercial BESS be allowed in the P-1 Zone through the Type III conditional land use review process.

Residential Zones – *Staff Analysis*
Residential Zones are intended to support a range of housing types, from single family homes to multistory apartment buildings while maintaining a focus on residential character and livability. Commercial and industrial activities are either significantly restricted or outright prohibited in these areas to preserve neighborhood integrity and minimize incompatible land uses.

Given these limitations, and the intent of residential zoning, staff recommends, that commercial scale BESS be prohibited in all residential zones.

II. SUMMARY OF KEY CODE CHANGES

Staff is working to prepare revisions to Title 18 "Zoning," and more specifically the following Chapters:

- Chapter 18.04 ACC "Definitions"
- Chapter 18.07 ACC "Residential Zones"
- Chapter 18.23 ACC "Commercial and Industrial Zones"
- Chapter 18.29 ACC "DUC Downtown Urban Center District"
- Chapter 18.31 ACC "Supplemental Development Standards"
- Chapter 18.35 ACC "Special Purpose Zones"

The Washington State Amendments to the International Building Code IBC 2021 and the International Fire Code, Washington Administrative Code (WAC) 51-54A-1207 (attachment 13) contains development standards for stationary and mobile electrical energy storage systems (BESS). Thus, reducing the burden of developing code that would eventually be in conflict with the State's trajectory of clean and resilient energy.

Residential Zones

- Changes to this chapter include a revision to the use table ACC 18.07.020 to show commercial applications of BESS as prohibited with "X."
- There may be additional development standards for accessory uses referenced in the supplemental development standards captured in Chapter 18.31 ACC.

Commercial and Industrial Zones

- Changes to this chapter include the use table ACC 18.23.030 to show "X" in the C-1 zone, "A" in the C-2 Zone, and "P" in both the M-1 and M-2 zones.
- There may be additional development standards referenced in the supplemental development standards captured in Chapter 18.31 ACC.

DUC Downtown Urban Center District

- Changes to this chapter include the inclusion of BESS to the Uses/activities requiring an administrative use permit.
- There may be additional development standards referenced in the supplemental development standards captured in Chapter 18.31 ACC.

Special Purpose Zones

- Changes to this chapter include the use table ACC 18.35.030 to show "X" in the P-1 zone, "X" in the I zone, and "X" in the OS zone.
- There may be additional development standards for accessory uses referenced in the supplemental development standards contained in Chapter 18.31 ACC.

Supplemental Development Standards

- The inclusion of additional siting and screening requirements. Such as accessory uses of BESS being required to be sited behind the front façade of the structure.
- Minor changes to required landscaping to prevent taller shrubbery from overtopping the wall.
- Code will include references to code books such as the International Fire Codes 1207 and National Fire Protection Association 855 standards to reduce the administrative burden on planning staff.
- Code will include specific standards for commissioning, decommissioning, and operation. These standards will be referenced from IFC 1207 and other standards.

III. TEXT AMENDMENT

Draft text amendments have not been prepared for this meeting. Planning Services expects a draft version of code to be presented to Planning Commission at the January 6th meeting.

IV. STAFF REQUEST

Staff requests Planning Commission to read through the items listed in the memo and corresponding attachments.

V. ATTACHMENTS

(1) Staff Presentation
(2) King County Ordinance No. 19824
(3) SB 5116 – Clean Energy Transformation Act
(4) SB 5126 – Climate Commitment Act
(5) 2021 PSE Integrated Resource Plan
(6) City of Auburn Economic Development Element
(7) Housing Needs and Characteristics Assessment Update
(8) City of Auburn Ordinance No. 6978 Establishment of 6-month Moratorium
(9) Round Table Meeting Notes
(10) City of Auburn Ordinance No. 6995 6-month Moratorium Extension
(11) Outreach and Survey Materials
(12) PSE Model Ordinance
(13) WAC 51-54A1207 Electrical Energy Storage Systems
(14) Outline and Functions of the US Energy Grid
(15) PSC Energy Storage System Location Study

VI. GLOSSARY OF KEY TERMS

(1) Accessory Energy Storage System (Accessory ESS / Accessory BESS)
A battery energy storage system with a capacity below the City's proposed 1-megawatt (MW) threshold. These systems are subordinate to a primary use—such as a residence or small facility—and provide backup power or limited grid support.

(2) Administrative Use Permit (Type II Review)
An administrative land-use decision made by staff to determine whether a proposed use—such as a Commercial BESS in the C-2 Zone—meets zoning and development standards.

(3) Battery Energy Storage System (BESS)
A system of rechargeable batteries that stores electricity for later use. BESS improves grid stability, captures excess renewable energy, and provides backup power for homes, businesses, and essential facilities.

(4) Clean Energy Transformation Act (CETA)
Washington State legislation (SB 5116, 2019) that requires electric utilities to transition to 100% clean electricity by 2045, increasing demand for renewable energy and storage technologies.

(5) Climate Commitment Act (CCA)
Washington State legislation (SB 5126, 2021) establishing a cap-and-invest program that limits carbon emissions and funds climate and air-quality initiatives.

(6) Commercial Energy Storage System (Commercial ESS / BESS)
A battery energy storage system that exceeds the City's proposed 1-megawatt (MW) threshold. These systems may serve utility-scale or standalone commercial functions and require higher-level land-use review.

(7) Conditional Use Permit (Type III Review)
A quasi-judicial land-use process requiring a public hearing and decision by the Hearing Examiner. This review level is recommended for siting Commercial BESS in zones where community input and compatibility review are necessary.

(8) Distributed Energy Resources (DERs)
Small-scale energy technologies located near where energy is consumed, such as rooftop solar or BESS. DERs improve grid flexibility and local resilience.

(9) Downtown Urban Center (DUC)
A mixed-use zone intended for commercial, residential, civic, and medical uses. Commercial BESS may be permitted through Type III review when serving institutional or public-service needs.

(10) Energy Storage System (ESS)
A general term for installations that store energy for later use, including batteries, control systems, and power-conversion equipment. ESS systems help balance supply and demand on the electrical grid.

(11) Industrial Zones (M-1 Light Industrial and M-2 Heavy Industrial)
Zones intended for industrial, manufacturing, and commercial uses. These areas contain compatible infrastructure and are proposed to allow Commercial BESS outright.

(12) International Fire Code (IFC) Section 1207 / NFPA 855
State-adopted safety standards governing the design, installation, operation, and fire-protection requirements for energy storage systems. These standards will be referenced in Auburn's zoning updates.

(13) Integrated Resource Plan (IRP)
Puget Sound Energy's long-term energy planning document, identifying future energy needs, renewable resource integration, and the role of BESS in meeting regional capacity and reliability goals.

(14) Megawatt (MW)
A unit of electrical power equal to one million watts. Used to differentiate between accessory-scale (<1 MW) and commercial-scale (>1 MW) battery storage facilities.

(15) Moratorium
A temporary halt on accepting or processing specific development applications. Auburn established two consecutive six-month moratoriums on BESS projects to allow time for research and zoning updates.

(16) Open Space (OS) Zone
A zone intended to preserve passive parks, watersheds, habitat areas, and environmentally sensitive lands. Commercial BESS is proposed to be prohibited in this zone.

(17) Public Use (P-1) Zone
A zone intended for civic, recreational, and community-serving public facilities. Commercial BESS may be allowed through Type III review when supporting essential public uses.

(18) Quasi-Judicial Review

A formal land-use decision-making process involving public hearings and fact-finding, typically associated with conditional use permitting for projects such as Commercial BESS in sensitive zones.

(19) Residential Zones

Zones intended primarily for housing. Commercial BESS is proposed to be prohibited in all residential zones, while accessory-scale BESS remains allowed.

(20) Supplemental Development Standards (ACC 18.31)

Citywide development requirements that apply across multiple zones, including screening, siting, landscaping, and safety standards applicable to BESS installations.

(21) Transmission, Distribution, Generation, and Consumption

The four functional components of the electrical grid:

- *Generation*: where electricity is produced.
- *Transmission*: long-distance, high-voltage transport.
- *Distribution*: local delivery at safe voltages.
- *Consumption*: end-use by households, businesses, and institutions.

BESS supports all stages by storing and releasing energy as needed.

PLANNING COMMISSION

ENERGY STORAGE SYSTEM CODE UPDATE

PRESENTED BY
GABRIEL CLARK, PLANNER II
DECEMBER 2, 2025

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

AUBURN VALUES

SERVICE
ENVIRONMENT
ECONOMY
CHARACTER
SUSTAINABILITY
WELLNESS
CELEBRATION

BATTERY ENERGY STORAGE SYSTEMS

- Battery Energy Storage Systems (BESS) vary widely in their uses and installation types; their primary function is to store electrical energy during periods of low demand and discharge at periods of high demand

- Other functions include:
  - Load Shedding
  - Load Sharing
  - Smoothing and dispatching from renewable energy sources
  - Emergency power storage

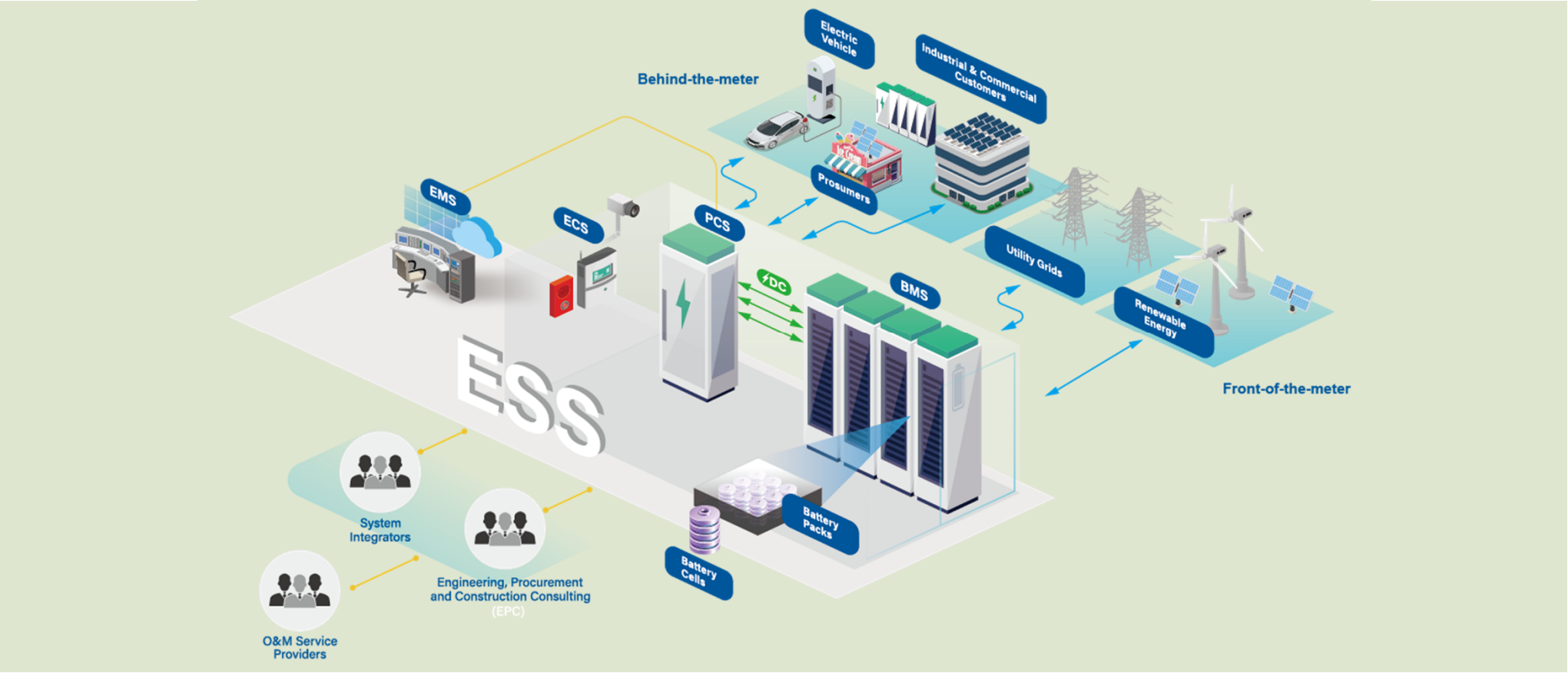
ACCESSORY AND COMMERCIAL

Accessory

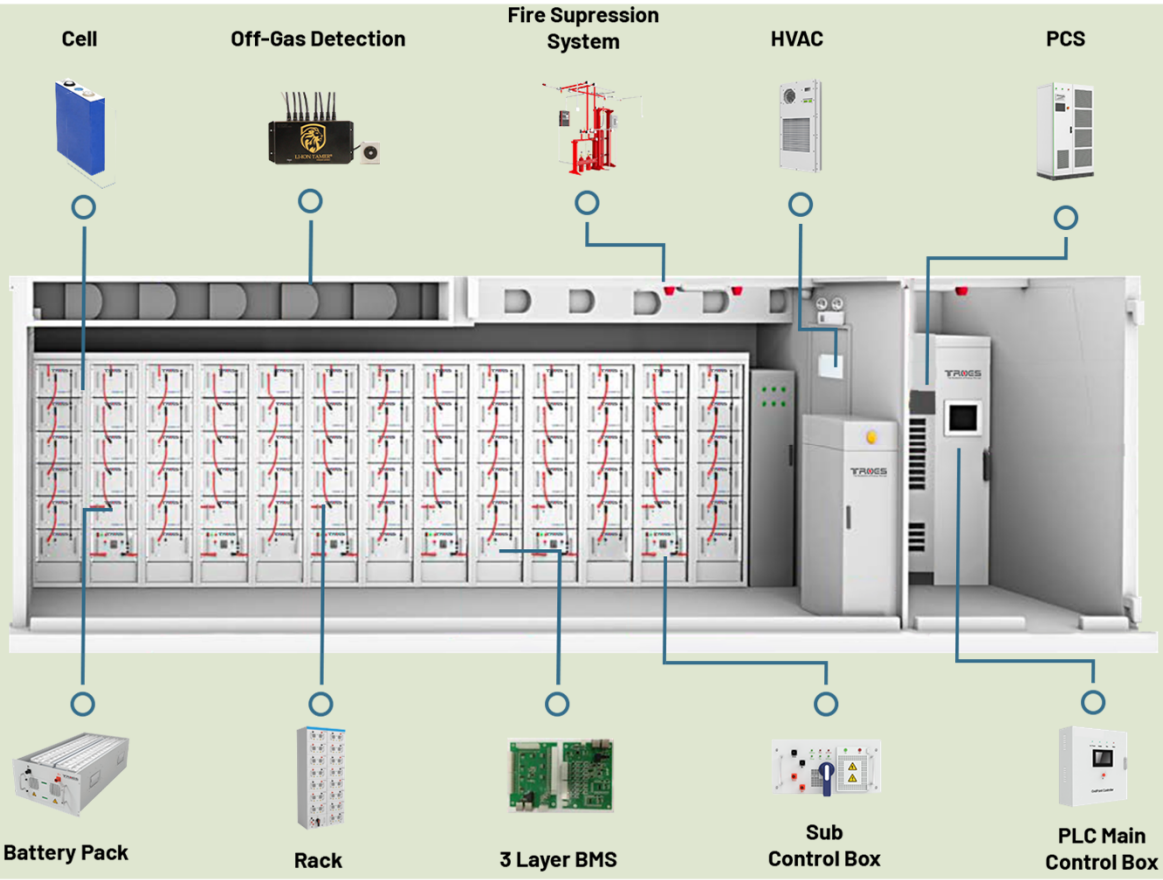
Commercial

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

COMMERCIAL BESS



CROSS SECTION OF A BESS CABINET



WHY A LITHIUM-ION BATTERY?

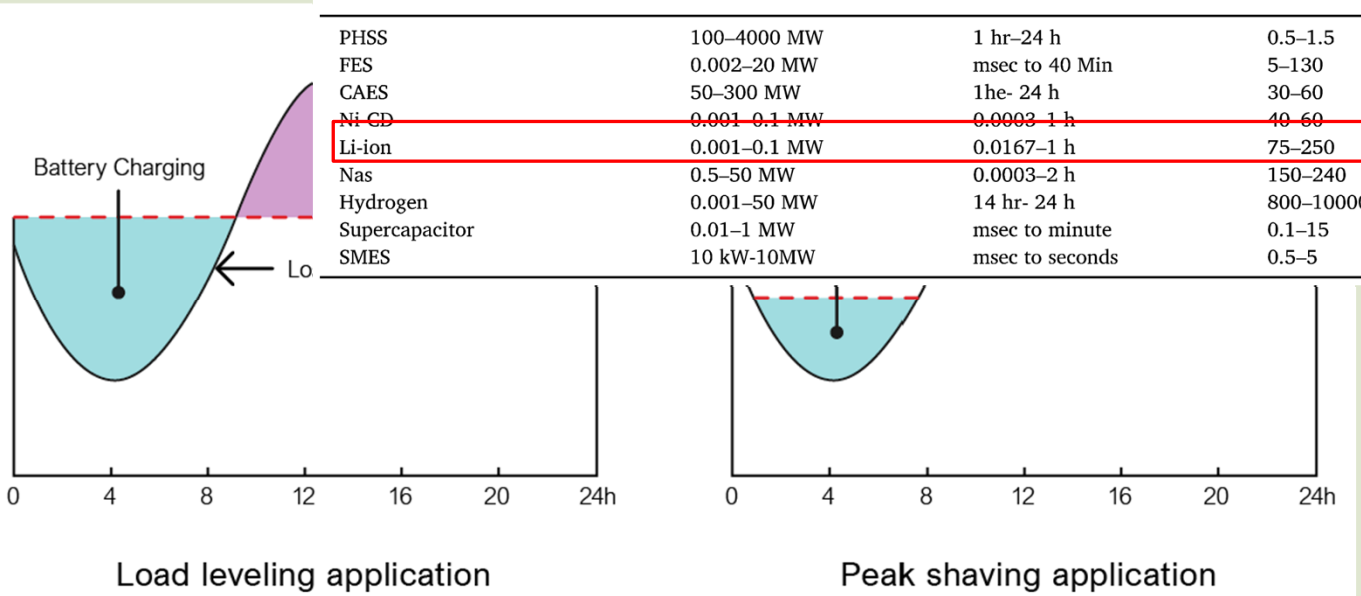
- Lithium-ion batteries are a very common method of storing electrical energy for usage and may be charged and discharged
- Examples:

CONOMY • CHARACTER • S

PRIMARY FUNCTIONS VISUALIZED

Table 14
General technical specifications of energy storage techniques [1,10,186,187].

Energy storage system	Power Rating	Discharge	Energy density Wh/kg	Energy cost €/KWh	Lifetime Efficiency
PHSS	100–4000 MW	1 hr–24 h	0.5–1.5	50–150	70–85 %
FES	0.002–20 MW	msec to 40 Min	5–130	1000–3500	90–95 %
CAES	50–300 MW	1he- 24 h	30–60	10–120	70–80 %
~~Ni-CD~~	~~0.001–0.1 MW~~	~~0.0003–1 h~~	~~40–60~~	~~200–1000~~	~~60–91 %~~
Li-ion	0.001–0.1 MW	0.0167–1 h	75–250	200–1800	85–100 %
Nas	0.5–50 MW	0.0003–2 h	150–240	200–900	85–90 %
Hydrogen	0.001–50 MW	14 hr- 24 h	800–10000	1–15	20–50 %
Supercapacitor	0.01–1 MW	msec to minute	0.1–15	300–4000	90-95^
SMES	10 kW-10MW	msec to seconds	0.5–5	700–7000	80–90 %



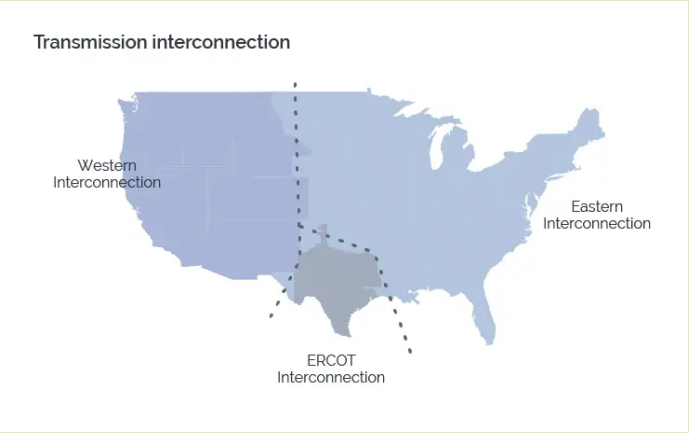
Load leveling application

Peak shaving application

WHAT IS THE DEMAND?

Figure 1-4: Electric Preferred Portfolio,
Incremental Nameplate Capacity of Resource Additions

Resource Type	Incremental Resource Additions			Total
	2022-2025	2026-2031	2032-2045	
Distributed Energy Resources				
Demand-side Resources[1]	256 MW	440 MW	1,061 MW	1,757 MW
Battery Energy Storage	25 MW	175 MW	250 MW	450 MW
Solar	80 MW	180 MW	420 MW	680 MW
Demand Response	29 MW	167 MW	21 MW	217 MW
DSP Non-wire Alternatives[2]	22 MW	28 MW	68 MW	118 MW
Total Distributed Energy Resources	412 MW	990 MW	1,820 MW	3,222 MW
Renewable Resources				
Wind	400 MW	1100 MW	1750 MW	3,250 MW
Solar	-	398 MW	300 MW	698 MW
Biomass	-	-	105 MW	105 MW
Renewable + Storage Hybrid	-	-	375 MW	375 MW
Total Renewable Resources	400 MW	1,498 MW	2,530 MW	4,428 MW
Peaking Capacity with Biodiesel	-	255 MW	711 MW	966 MW
Firm Resource Adequacy Qualifying Capacity Contracts	574 MW	405 MW	-	979 MW



FUNDED BY WASHINGTON'S
CLIMATE COMMITMENT ACT

EXISTING STANDARDS

- International Fire Code (IFC) and National Fire Protection Association (NFPA)
  - Chapter 12 of the Washington State IFC (Est. March 2024)
  - 2023 edition of the NFPA 855 Standard Installation of Stationary Energy Storage Systems
- International Building Code (IBC) siting and construction standards

DEVELOPING STANDARDS

- Comprehensive guidance on siting, construction, and operation of ESS facilities
  - Identification of applicable zones
  - Application procedures and decision types
  - Defining the thresholds
  - Developing supplemental standards

QUESTIONS?

Department of Community Development

Planning • Building • Development Engineering • Permit Center
Economic Development • Code Enforcement

AUBURN VALUES

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CITY OF AUBURN WASHINGTON

MEMORANDUM

TO: Judi Roland, Chair, Planning Commission
Bill Stewart, Vice-Chair, Planning Commission
Planning Commission Members

FROM: Gabriel Clark, Planner II
Department of Community Development

DATE: December 26th, 2025

RE: City File No. ZOA24-0004 – City of Auburn Battery Energy Storage Code

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I. INTRODUCTION AND BACKGROUND

Battery Energy Storage Systems (BESS) are systems of rechargeable batteries that balance the demand for electricity on our grid. During peak usage or extreme weather events, BESS can react quickly, providing electricity. In extreme cases BESS protects sensitive equipment such as transformers, transmission lines, switches and other infrastructure from overloads, preventing blackouts or long-term service outages.

At the December 2nd meeting, staff presented background information which described the purpose of the code updates. At this meeting staff will introduce the land use tables of each zone and the proposed "project permit decision" (Title 14 ACC) applicable to each tier of BESS.

Figure 1 BESS, Tier I [residential accessory BESS cabinet]

Figure 2 BESS, Tier II [commercial BESS cabinet]

Figure 3 BESS, Tier III [utility BESS station, image includes BESS cabinets, accessory buildings, and substation connections]

How is the Capacity of BESS Measured?
The capacity of BESS is measured in two separate ways, one being a Watt-Hour (Wh) and the second being a Watt (W).

A **Watt-hour** is the **capacity of electrical energy** in watts (W) BESS can **store and discharge over time (h).** A typical BESS operates in capacities of kilowatt-hours (kWh) and a megawatt-hours (MWh). Think of this portion of BESS as a **reservoir to a dam**, which can contain many hundreds to millions of gallons of water to be sent over the spillway.

A **Watt (W)** is the **maximum amount of energy** that **BESS can charge or discharge**. A typical BESS has charging and dishcarging capacities in kilowatts (kW) to megawatts (MW). Think of this portion of BESS to the **spillway of a dam**, this portion of the dam controlls the amount of water that can exit the system.

The appropriate capacity to regulate is the Wh component of BESS since it limits the amount of stored energy at the site. This size limitation also restricts the number of BESS cabinets and the scale of the facility which is more appropriate when considerting the siting within the City. WAC 51-54A-1207 has established precident to regulate this capacity as it targets the sizing of these systems.

If the City were to regulate only the W component, then the threshold quantities would be a muut point and BESS of larger scales could be installed in areas the City origionally saw as unfit for operation leading to an inneffective code.

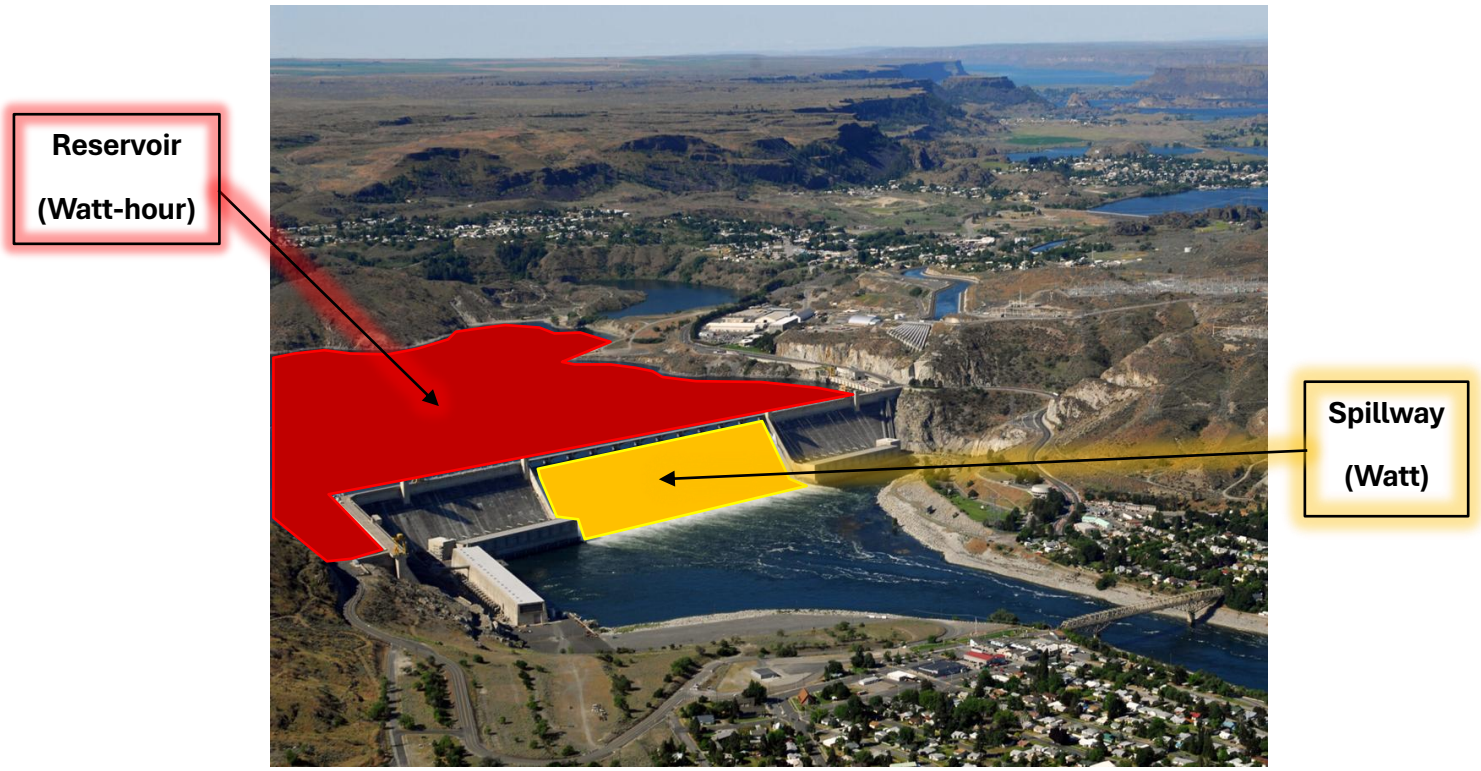

Figure 4 Grand Coulee Dam [comparing watt-hour to a reservoir and watt to the spillway]

Regulatory Breakdown

The regulations that determine the design, siting, construction, and operation are based on several standards including Washington Administrative Code (WAC), the International Building Code (IBC), International Fire Code (IFC), National Fire Protection Association (NFPA), Underwriters Laboratories (UL), and Auburn City Code (ACC).

State Regulations

Chapter 51-54A WAC contains the State building code and its amendments and regulatory information pertaining to electrical energy storage systems. These regulations are proposed do be adiopted by reference to Auburn City Code.

As shown in Table 1207.1.1 (Figure 4), the State requires all electrical energy storage systems exceeding the prescribed thresholds to comply with the minimum standards of the section. These are dependant on the type of technology used. The minium standards of WAC 51-54A-1207 include submitting 1) construction documents, 2) a hazard mitigation analysis, 3) commissioning and decommissioning plans and 4) testing standards, size and separation requirements, and explosion control documents to the permitting jurisdiction.

TABLE 1207.1.1
Energy Storage System (ESS) Threshold Quantities

Technology	Energy Capacity[a]
Capacitor ESS	3 kWh
Flow batteries[b]	20 kWh
Lead-acid batteries, all types	70 kWh[c]
Lithium-ion batteries	20 kWh
Sodium nickel chloride batteries	70 kWh
Nickel-cadmium batteries (Ni-Cd), Nickel Metal Hydride (Ni-MH), and Nickel Zinc (Ni-Zn) batteries	70 kWh
Nonelectrochemical ESS[d]	70 kWh
Other battery technologies	10 kWh
Other electrochemical ESS technologies	3 kWh
Zinc manganese dioxide batteries (Zn-MnO2)	70 kWh

For SI: 1 kilowatt-hour = 3.6 megajoules.
[a] Energy capacity is the total energy capable of being stored (nameplate rating), not the usable energy rating. For units rated in amp-hours, kWh shall equal rated voltage times amp-hour rating divided by 1,000.
[b] Shall include vanadium, zinc-bromine, polysulfide-bromide and other flowing electrolyte-type technologies.
[c] Fifty gallons of lead-acid battery electrolyte shall be considered equivalent to 70 kWh.
[d] Covers nonelectrochemical technologies such as flywheel and thermal ESS.

Figure 5 Threshold Quantities Table [a table depicting energy storage capacities in kilowatt hours which trigger state requirements]

II. SUMMARY OF KEY CODE CHANGES

Staff is preparing revisions to Title 18 "Zoning," to incorporate these changes.

- Chapter 18.04 ACC "Definitions"
- Chapter 18.07 ACC "Residential Zones"
- Chapter 18.23 ACC "Commercial and Industrial Zones"
- Chapter 18.29 ACC "DUC Downtown Urban Center District"
- Chapter 18.31 ACC "Supplemental Development Standards"
- Chapter 18.35 ACC "Special Purpose Zones"

Given that the City is granted the authority to develop regulatory standards, the proposed code will contain the following standards to supplement the regulatory minimums provided by statute.

Threshold Quantities

The capacity thresholds for each tier of BESS are dervied from the State's standards for each type of battery technology (per WAC 51-54A-1207). These are the most used and readily available to the consumer. Table 1207.1.1 (Figure 4) includes specific thresholds to which these standards apply. Additionally, the state has set the precident to measure the energy storage capacity by watt-hour versus watt. As described in the introduction and background, codes regulating watt-hour are critical to establishing boundaries for the size and scope of BESS.

BESS, Tier I operate in energy capacities of up to the threshold quantities identified in Table 1207.1.1. BESS that are below the threshold quantities for their specific battery chemistry do not

require the applicant to submit additional application materials such as a hazard mitigation plan, commissioning plans, decommissioning plans, and other materials.

This is generally considered sufficient for residential accessory use and is comperable home back up generators. Compliance with the building, electrical, fire, and City codes and UL certification is required.

BESS, Tiers II and III are larger in scale and surpass the threshold quantities listed in Table 1207.1.1. As a result State law requires the proponent of the project to meet the minimum requirements of WAC 51-54A-1207. The proposed City Code intends to adopt by reference each of these standards and as amended to ensure any development is regulated by the latest available standards.

Permitted Zoning Districts
Figure 5 depicts the land use approval process for each Tier of BESS.

BESS, Tier I is permitted in most zoning districts.

BESS, Tier II is allowed in the high density residential and commercial zones with exception of the R-F zone. This tier would be allowed through the administrative use permit process contained in Chapter 18.64 ACC.

BESS, Tier III is limited to the City's highest intensity zones. This tier would be allowed as an administrative or conditional use process contained in Chapter 18.64 ACC.

Figure 6 Land Use Approval Process

Zoning District	BESS, Tier I	BESS, Tier II	BESS, Tier III
RC	P	X	X
R-1	P	X	X
R-2	P	X	X
R-3	P	A	X
R-4	P	A	X
R-NM	P	A	X
R-F	P	X	X
C-1	P	A	X
C-2	P	A	C
C-AG	P	A	X
M-1	P	A	A
M-2	P	A	A
P-1	P	A	X
I	P	A	X
OS	P	A	X
DUC	P	A	X

***P = Permitted, A = Administrative Review, C = Conditional Review**

III. TEXT AMENDMENT

Draft text amendments are shown by strikeout/underline and are attached to this memo as Attachments 2 through 6.

IV. STAFF REQUEST

Staff requests Planning Commission to review the items listed in the memo and corresponding attachments.

V. ATTACHMENTS

(1) Presentation
(2) ACC 18.04.174 Text Amendment
(3) ACC 18.07.020 Text Amendment
(4) ACC 18.23.030 Text Amendment
(5) Chapter 18.29 ACC Text Amendment
(6) ACC 18.35.030 Text Amendment
(7) PSE Response

VI. GLOSSARY OF KEY TERMS

(1) Battery Energy Storage System (BESS)
A system of rechargeable batteries that stores electricity for later use. BESS improves grid stability, captures excess renewable energy, and provides backup power for homes, businesses, and essential facilities.

(2) International Building Code (IBC)
Guidelines and requirements for the design, construction, and maintenance of buildings. Aiming to protect the health, safety, and well-being of the occupants and the surrounding community.

(3) International Fire Code (IFC)
A set of regulations designed to safeguard life and property from fire and explosion hazards. It covers various topics including emergency planning, fire department access, automatic sprinkler systems, fire alarm systems, and the storage and use of hazardous materials.

(4) Kilowatt Hour (kWh)
A unit of energy that represents the amount of electricity generated or consumed over a period of one hour. One kilowatt hour is the equivalent energy to using a 1,000 watt microwave for 1 hour. This is a smaller unit of measurement and is most found on your monthly electrical bill. The average household in the US consumes 30 kWh per day.

(5) National Fire Protection Association
A nonprofit organization dedicated to eliminating death, injury, property damage, and economic loss due to fire, electrical, and related hazards.

(6) Megawatt Hour (MWh)

A unit of energy that represents the amount of electricity generated or consumed over a period of one hour. One Megawatt hour is equal to 1,000 kilowatt hours. The same 1,000-watt microwave could operate for 1 thousand hours or approximately 300 to 1,000 homes for one hour.

(7) Stored Energy Capacity

The total capacity of a BESS in either kilowatt hours or megawatt hours.

(8) Supplemental Development Standards (ACC 18.31)

Citywide development requirements that apply across multiple zones, including screening, siting, landscaping, and safety standards applicable to BESS installations.

(9) WAC 51-54A-1207

Washington State's adopted safety standards for electrical energy storage systems. Including fire protection, hazard mitigation, separation distances, and commissioning requirements.

PLANNING COMMISSION

ENERGY STORAGE SYSTEM CODE UPDATE

PRESENTED BY
GABRIEL CLARK, PLANNER II
JANUARY 6, 2026

Department of Community Development

Planning • Building • Development Engineering • Permit Center
Economic Development • Code Enforcement

AUBURN VALUES

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WELLNESS

CELEBRATION

OBJECTIVE

- Define how BESS are ***sized***
- Identify ***Tiers and thresholds*** of BESS
- Identify ***applicable*** zoning districts
- Determine appropriate land use ***approval***

PROJECT PERMIT DECISIONS

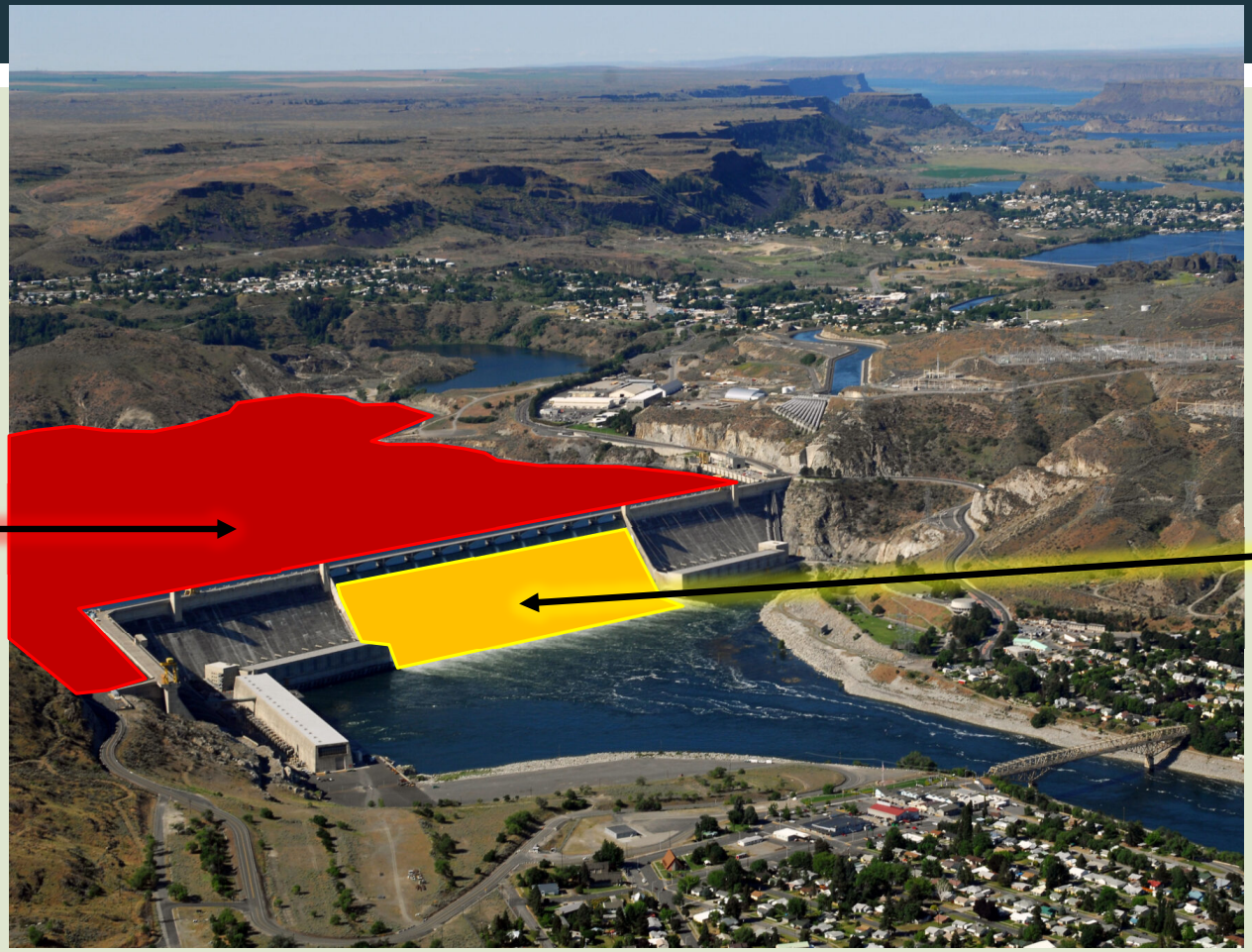
- Type I: Administrative decisions made by *staff*
- Type II: Administrative decisions with *public notice*
- Type III: Quasi-judicial decision by *hearing examiner*

WATTHOUR VERSUS WATT

- Watt-hour – the ***capacity*** of energy BESS can ***store and discharge over time***

- Watt– the ***maximum amount of energy*** BESS can ***charge or discharge***

WATT-HOUR VERSUS WATT



THRESHOLD QUANTITIES
WAC 51-54A-1207

TABLE 1207.1.1
Energy Storage System (ESS) Threshold Quantities

Technology	Energy Capacity[a]
Capacitor ESS	3 kWh
Flow batteries[b]	20 kWh
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Nonelectrochemical ESS[d]	70 kWh
Other battery technologies	10 kWh
Other electrochemical ESS technologies	3 kWh
Zinc manganese dioxide batteries (Zn-MnO2)	70 kWh

For SI: 1 kilowatt-hour = 3.6 megajoules.

a Energy capacity is the total energy capable of being stored (nameplate rating), not the usable energy rating. For units rated in amp-hours, kWh shall equal rated voltage times amp-hour rating divided by 1,000.

b Shall include vanadium, zinc-bromine, polysulfide-bromide and other flowing electrolyte-type technologies.

c Fifty gallons of lead-acid battery electrolyte shall be considered equivalent to 70 kWh.

d Covers nonelectrochemical technologies such as flywheel and thermal ESS.

BESS EXAMPLE TIER 1: RESIDENCE

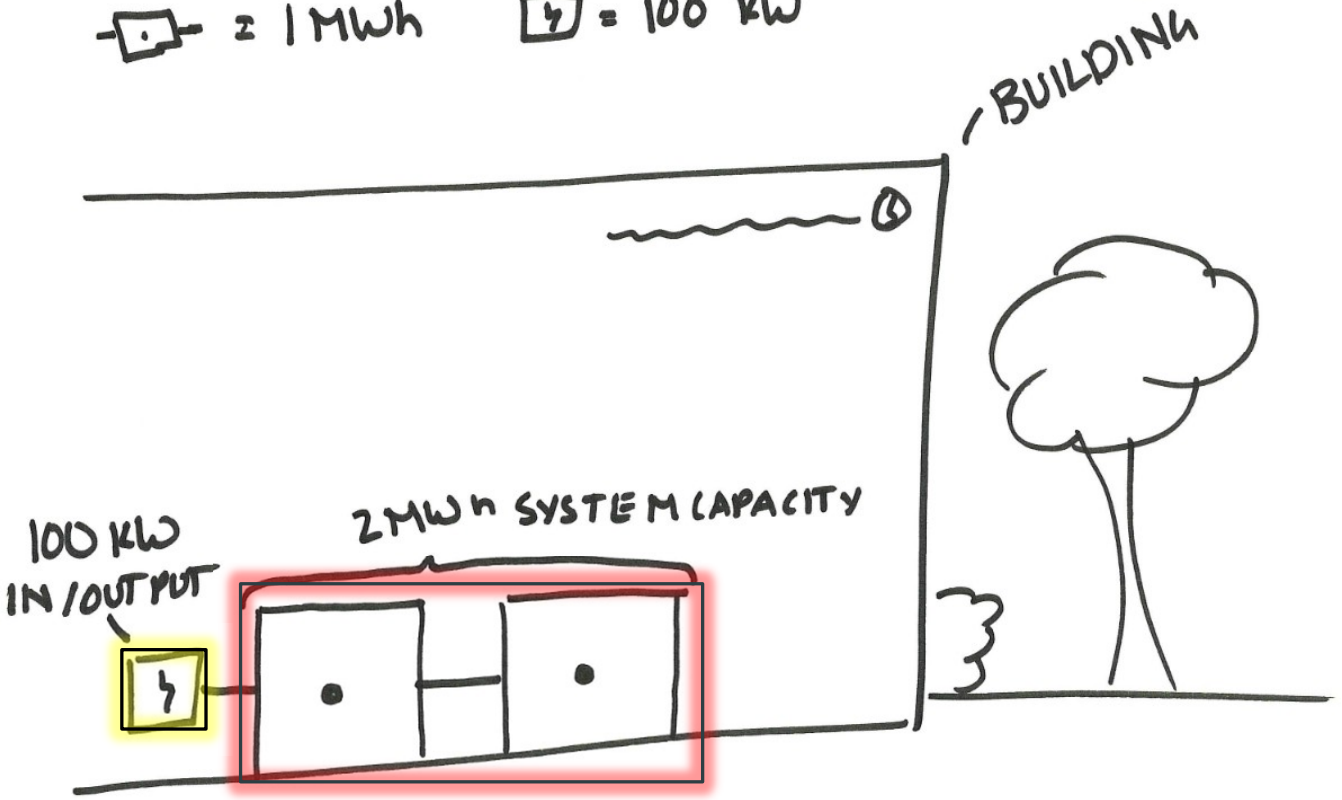
SYSTEM RATING: 10 kW / 20 kWh

= 10 kWh = 10 kW

BESS EXAMPLE TIER II : WAREHOUSE

SYSTEM RATING : 100 kW / 2MWh

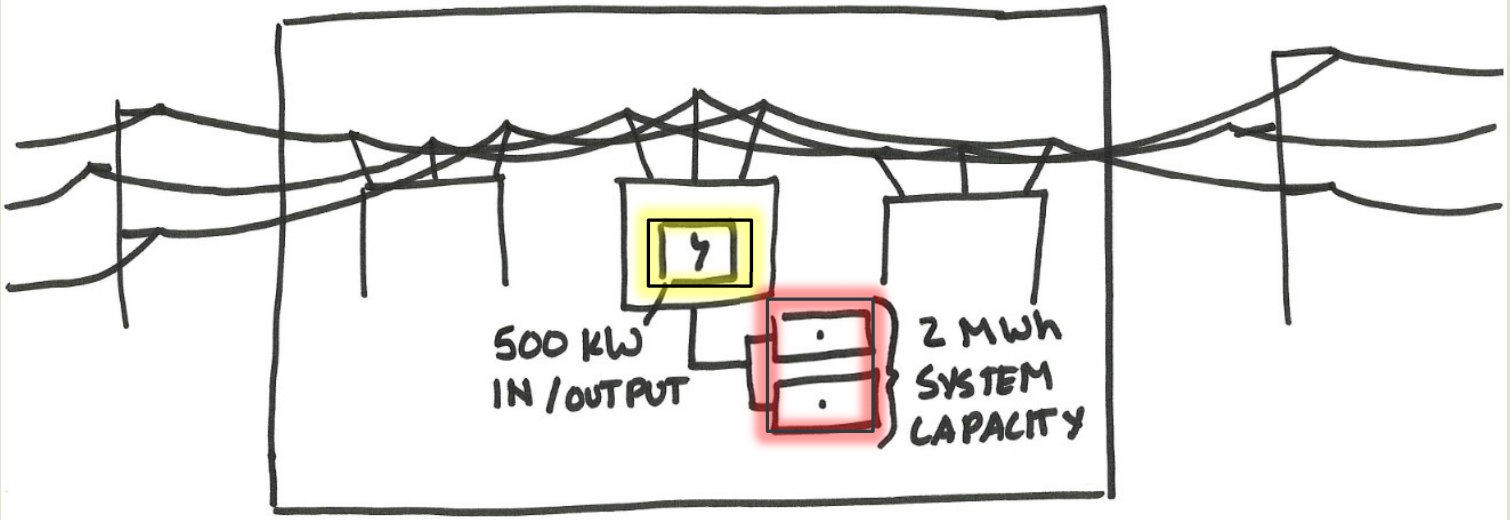
= 1 MWh = 100 kW



BESS EXAMPLE TIER II : SUBSTATION

SYSTEM RATING : 500 KW / 2 MWh

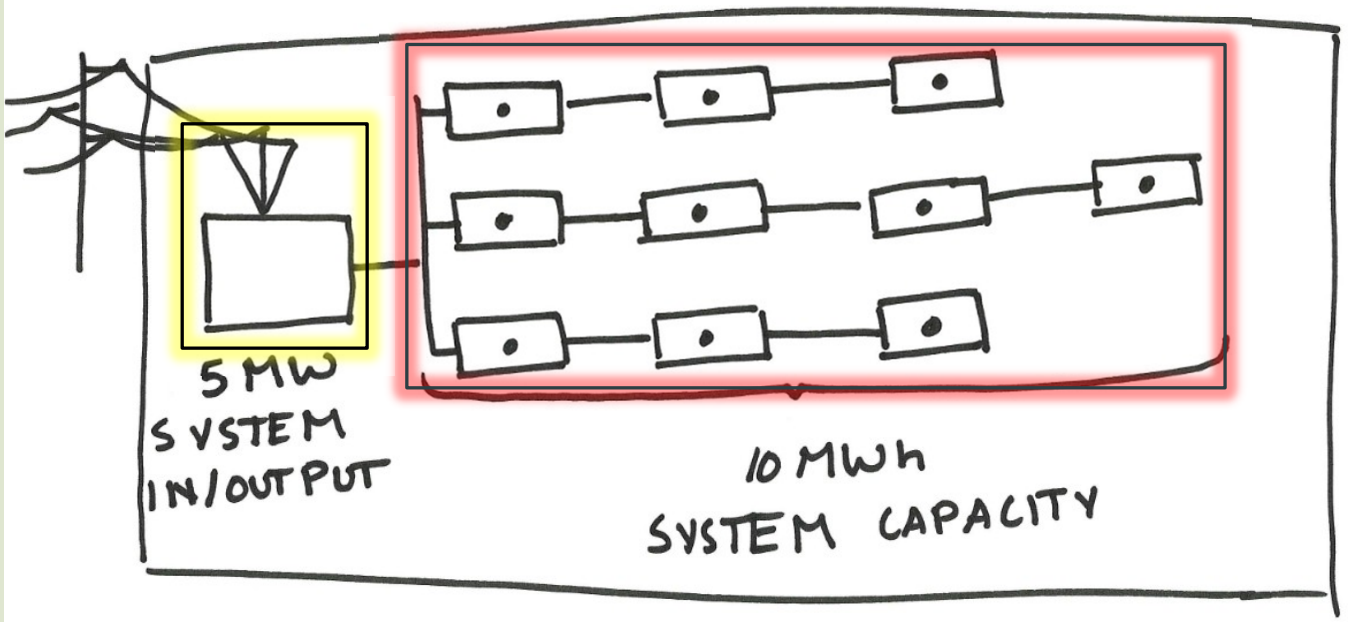
= 1 MWh = 500 kW



BESS EXAMPLE TIER III : STAND ALONE

SYSTEM RATING : 5MW / 10 MWh

= 1 MWh = 5MW



TIER I

- Allowed as a Type I decision
- Stored Energy Capacity limit to Table 1207.1.1
- Accessory to primary use

TIER II

- Allowed as a Type II decision
- Energy capacity up to 2 MWh
- Restricted to higher intensity land uses

TIER III

- Allowed as a Type II or Type III decision
- Stored energy capacities in excess of 2 MWh
- Restricted to heavy commercial and industrial land uses

ZONING CLASSIFICATION RESIDENTIAL

	RC	R-1	R-2	R-3	R-4	R-NM	R-F
Tier I	P	P	P	P	P	P	P
Tier II	X	X	X	A	A	A	X
Tier III	X	X	X	X	X	X	X

ZONING CLASSIFICATION
COMMERCIAL & INDUSTRIAL

	DUC	C-1	C-2	C-AG	M-1	M-2
Tier I	P	P	P	P	P	P
Tier II	A	A	A	A	A	A
Tier III	X	X	C	X	A	A

ZONING CLASSIFICATION – SPECIAL PURPOSE

	P-1	I	OS
Tier I	P	P	P
Tier II	A	A	A
Tier III	X	X	X

QUESTIONS FOR CONSIDERATION

- Does Planning Commission understand the difference between a Watt and a Watt-hour?

QUESTIONS FOR CONSIDERATION

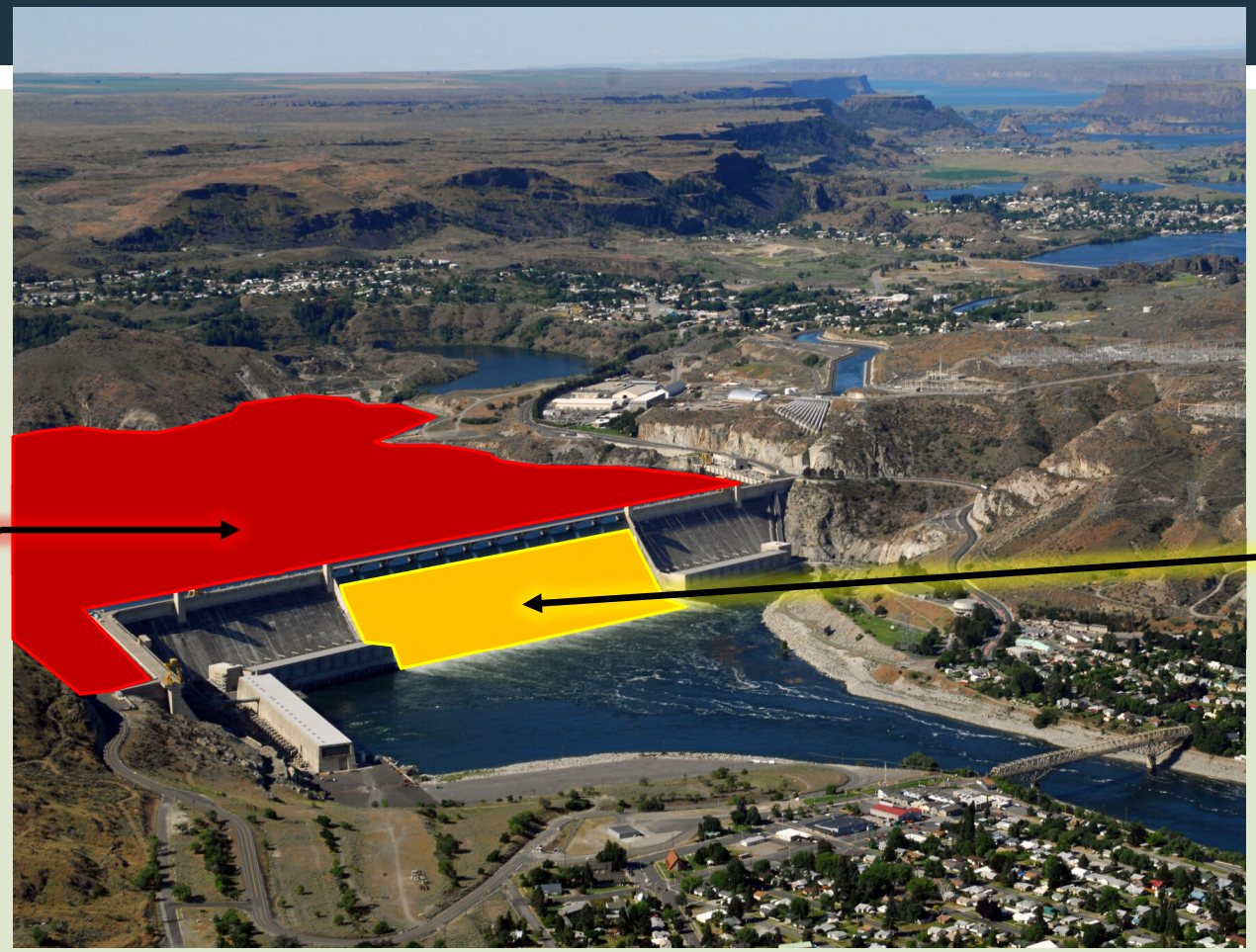
- Does Planning Commission understand the intent to regulate Watt-hour versus Watt?

WATTHOUR VERSUS WATT

- Watt-hour – the ***capacity*** of energy BESS can ***store and discharge over time***

- Watt– the ***maximum amount of energy*** BESS can ***charge or discharge***

QUESTIONS FOR CONSIDERATION



QUESTIONS FOR CONSIDERATION

- Does Planning Commission feel comfortable with the recommended zoning classifications and permit project decision types?

OBJECTIVE

- ~~Define how BESS are *sized*~~ ✓
- ~~Identify *Tiers and thresholds* of BESS~~ ✓
- ~~Determine appropriate land use *approval*~~ ✓
- ~~Identify *applicable* zoning districts~~ ✓

PROPOSED TIMELINE

JAN
- Present code to Planning Commission

FEB
- Planned Planning Commission Meeting

MAR
- Planned Public Hearing

APR
- Planned Council Study Session and Action

QUESTIONS?

Department of Community Development

Planning • Building • Development Engineering • Permit Center
Economic Development • Code Enforcement

AUBURN VALUES

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MEMORANDUM

TO: Judi Roland, Chair, Planning Commission
Bill Stewart, Vice-Chair, Planning Commission
Planning Commission Members

FROM: Gabriel Clark, Planner II
Department of Community Development

DATE: January 14th, 2026

RE: City File No. ZOA24-0004 – City of Auburn Battery Energy Storage Code

---

I. INTRODUCTION AND BACKGROUND

Battery Energy Storage Systems, also known as BESS, are systems of rechargeable batteries that moderate the demand for electricity on our grid. During peak usage or extreme weather events, BESS can react quickly, providing electricity. In extreme cases BESS protect sensitive equipment such as transformers, transmission lines, switches and other infrastructure from overload preventing blackouts or long-term service outages.

Figure 1 BESS, Tier I

Figure 2 BESS, Tier II

Figure 3 BESS, Tier III

At the December 2nd, 2025, meeting, staff presented background information which described the purpose of the code updates. At this meeting staff will introduce the land use tables of each zone and the proposed "project permit decision" (Title 14 ACC) applicable to each tier of BESS.

At the January 6th, 2026, meeting, staff presented contextual information to describe how BESS are sized, what the intention of the regulations were, and formalized land use approval pathways for each tier of BESS. Staff also briefed Planning Commission with a memo from Puget Sound Energy advising staff to increase the threshold quantities of each tier to align with existing end-user installations. A primary concern was limiting capacities with the Tier I systems which are permitted in residential zones.

At the February 3rd, 2026, meeting, staff will present the proposed development standards, staff comments received, and notification of any public comments received during the SEPA process.

II. SUMMARY OF KEY CODE CHANGES

Staff is preparing revisions to Title 18 "Zoning," to incorporate these changes.

Given that the City is granted the authority to develop regulatory standards, the proposed code will contain the following standards to supplement the regulatory minimums provided by statute.

Land Use Tables

Revisions to Chapters 18.04 "Deffinitions," 18.07 "Residential Zones," 18.23 "Commercial and Industrial Zones," 18.29 "DUC Downtown Urban Center District," and 18.35 "Special Purpose

Zones" do not change substationally. Changes are limited to expanding "BESS" to "Battery Energy Storage System" in the land use tables where BESS has not been defined.

Supplemental Development Standards
In conjunction with Community Development, Public Works, Valley Regional Fire Authority, and Legal staff members, a set of supplemental standards to regulate the development of BESS throughout the City have been developed. These supplemental standards also include regulations adopted by the State of Washington and the International Code Councils and their amendments.

The structure of the code includes general standards which apply to each of the three Tiers, followed by two sections which offer specific requirements for each tier.

General Standards
General standards include references to citations such as the Washington Administrative Code (WAC) 51-54A-1207, International Building Code (IBC), and the International Fire Code (IFC) 1207 which provides supplemental standards for BESS facilities, fire suppression, secondary containment, and spill neutralization. These three codebooks provide the foundation for the City's regulations, as such adopting the WAC, IBC, and IFC by reference allows the City to incorporate standards of the best available science without needing to perform a code cycle update.

This subsection also places general restrictions on BESS. These restrictions inclde prohibiting the construction or siting of BESS within critical areas and the floodplain. According to the United States Department of Transportation, lithium batteries have been classified as a hazardous substance. Per our floodplain development code, Chapter 15.68 ACC, hazardous materials and substances are prohibited from being located within the floodplain.

Additionally, Chapter 16.10 ACC prohibits development within the City's regulated critical areas and its buffers. As a result, BESS will be subject to the standard buffer widths aplicable to each critical area.

BESS facilities that are below the threshold quantities table identified in WAC 51-54A-1207 would be exempt from portions of the chapter.

The next three sections will provide context for the three tiers of BESS; Tier I, Tier II, and Tier III.

BESS, Tier I
BESS, Tier I is intended to serve residential and small commercial customers due to the restricted energy storage capacity of 100 kWh. These systems are required to be installed in one of the four prescribed locations specified by WAC 51-54A-1207. If located on the exterior of a structure, then some amount of screening would be required. This could include a fence or located behind the front façade of the structure.

It should be noted that when the energy storage capacity of BESS, Tier I surpasses the thresholds set by the threshold quantity table of WAC 51-54A-1207, the applicant would be required to submit commissioning plans, construction documents, hazard mitigation analyses, as well as meet additional requirements of the WAC.

BESS, Tier II and Tier III
BESS, Tier II is intended to serve moderate intensity residential and commercial customers as the threshold is designated at 4 MWh. The structure of this section incorporates language from Title 18 "Zoning" ACC, the model ordinance, and the WAC.

Similarly, BESS, Tier III systems are systems with energy storage capacities beyond 4 MWhs and are intended to serve micro and regional grids. Tier III systems follow the same list of requirements to Tier II systems.

At this capacity, large-scale fire testing, vegetation control, secondary containment, access, hydrant spacing, and financial securities are required.

System testing, location, fencing, and vegetation controls are standards contained in the WAC, IFC, or IBC standards.

Staff has worked with the Valley Regional Fire Authority to determine the minimum applicable standards for emergency vehicle access and availability of hydrants. Included in the proposed code are two standards (1) access and (2) hydrant spacing.

Valley Regional Fire Authority had significant concerns regarding access to the site, especially if the site is served by a dead-end road. If a fire were to break out, a secondary access point would provide a safe alternative to approach the site and avoid any additional exposure to the smoke.

If a BESS facility is proposed in an area where hydrants do not meet the minimum commercial hydrant spacing requirements contained within the City of Auburn Engineering Design Standards, the applicant is required to install hydrants to the minimum specification.

Since BESS, Tier II and Tier III are larger systems intended to support moderate to large commercial/residential projects and the grids, staff determined the applicant of such system shall provide a financial security or bond equal to 125% of the estimated costs associated to decommissioning. The decommissioning security will aid to protect the interests of the City and the applicant in the event of failure or abandonment.

The financial security will operate in a similar manner to a mitigation or landscape bond. When the BESS facility is decommissioned in accordance with the approved decommissioning plan the city may release the bond back to the owner of the facility. In the event the facility is abandoned or ceases to operate consistenly, the City reserves the right enter the facility to decommission the facility and utilize the available bond to cover the costs associated with the site.

The site may be in operation for a number of decades resulting the need for language where the financial security can be renewed on a regular basis to ensure the security maintains its position with rising costs due to inflation. Staff are refining the language to ensure the requirement is clear.

III. STAFF COMMENTS

Staff has colleced the first round of comments from Public Works department, Valley Regional Fire Authority, Legal Departlent, Building Division, and Development Engineering Divisions of the City.

To summarize the comments:

1. Public Works has concerns over the existence of critical areas on sites where a BESS facility may be sited and whether the City has the authority to have additional restrictions for these sites.

    a. Staff response: BESS and their impacts on critical areas are a concern of the City. Development of a site which contains critical areas shall conform to the minimum local, federal, and state requirements. Within the City of Auburn Title 16 "Environment" of the Auburn City Code provides explicit restrictions on the development of critical areas. For projects that do have temporary or permanent impacts, ACC 16.10.100 provides standards for alteration or development of critical areas which requires mitigation strategies, monitoring, and implements replacement/enhancement ratios. BESS shall meet the standard buffer width required by the applicable critical area.

    To reduce risk, the City proposes to incorporate a financial security component which will provide the property owner or City with a direct source of funds to decommission and restor the site to prior conditions when the BESS was planned.

    This financial security will be a required component of the decommissioning plan.

2. Public Works had a concern with the language pertaining to noise. Public Works Staff pointed to Chapter 8.28 ACC "Noise" which contains what are considered public disturbances.

    a. Staff response: Planning will incorporate by reference Chapter 8.28 ACC "Noise" into the proposed code.

3. Public Works and Development Engineering provided recommendations for updated language pertaining to secondary containment for Tier II and Tier III systems.

    a. Staff response: Planning staff will update the language to include requirements for BESS facilities to meet the minimum standards of City standards, International Fire Code (IFC) and NPDES requirements.

4. Public Works Staff provided comments for the required decommissioning bond.

    a. Staff response: The applicant and/or owner of the BESS project will be required by code to obtain a financial security and will not be released until the criteria of the decommissioning bond have been satisfied. The exact bond and duration of the bond is still under review. Staff is working with the City's Legal department to identify what type of security is the most risk adverse.

5. Valley Regional Fire Authority (VRFA) provided comments regarding secondary emergency vehicle access (EVA) and hydrant spacing.

    a. Staff response: staff has incorporated VRFAs comments to include a secondary EVA route and compliance with the City of Auburn Engineering Design Standards for commercial hydrant spacting for sites that do not meet these standards.

IV. SEPA

A DNS has been distributed to agencies and parties of record for comment. In accordance to WAC 197-11-340 the City will not act on the proposal for a period of 14 days. The comment period began on January 28th and is set to expire at 5:00 PM February 11th 2026.

Staff will provide comments received from agencies and the public at the February 3rd Meeting.

V. TEXT AMENDMENT

Draft text amendments are shown by strikeout/underline and are attached to this memo as Attachment 2.

VI. STAFF REQUEST

Staff requests Planning Commission to review the items listed in the memo and corresponding attachments.

VII. ATTACHMENTS

(1) Staff Presentation
(2) ACC 18.31.240 Text Amendment
(3) Model Ordinance (PSE)
(4) WAC 51-54A-1207

VIII. GLOSSARY OF KEY TERMS

(1) Battery Energy Storage System (BESS)

A system of rechargeable batteries that stores electricity for later use. BESS improves

grid stability, captures excess renewable energy, and provides backup power for homes, businesses, and essential facilities.

(2) Buffer or Buffer Area, Critical Area

Means a naturally vegetated, undisturbed, enhanced or revegetated zone surrounding a critical area that protects the critical area from adverse impacts to its integrity and value, and is an integral part of the resource's ecosystem.

(3) Critical Areas or Environmentally Sensitive Areas

Means areas that possess important natural functions and embody a variety of important natural and community values. Such areas include wetlands, streams, fish and wildlife habitat, geologically hazardous areas, aquifer recharge areas, and flood hazard areas. If not conducted properly, development or alteration of such areas may cause significant impacts to the valuable functions and values of these areas and/or may generate risks to the public health and general welfare, and/or to public and private property.

(4) Floodplain or Flood Prone Area

Means any land area susceptible to being inundated by water from any source.

(5) International Building Code (IBC)

Guidelines and requirements for the design, construction, and maintenance of buildings. Aiming to protect the health, safety, and well-being of the occupants and the surrounding community.

(6) International Fire Code (IFC)

A set of regulations designed to safeguard life and property from fire and explosion hazards. It covers various topics including emergency planning, fire department access, automatic sprinkler systems, fire alarm systems, and the storage and use of hazardous materials.

(7) Kilowatt Hour (kWh)

A unit of energy that represents the amount of electricity generated or consumed over a period of one hour. One kilowatt hour is the energy equivalent to using a 1,000-watt microwave for 1 hour. This is a smaller unit of measurement and is most found on your monthly electrical bill. The average household in the US consumes 30 kWh per day.

(8) National Fire Protection Association

A nonprofit organization dedicated to eliminating death, injury, property damage, and economic loss due to fire, electrical, and related hazards.

(9) Megawatt Hour (MWh)

A unit of energy that represents the amount of electricity generated or consumed over a period of one hour. One Megawatt hour is equal to 1,000 kilowatt hours. The same 1,000-watt microwave could operate for 1 thousand hours or approximately 300 to 1,000 homes for one hour.

(10) Special Flood Hazard Area (SFHA)

Means the land subject to inundation by the base flood. Special flood hazard areas are designated on Flood Insurance Rate Maps with the letters "A" or "V" including "AE

(Floodway),” “AO,” “AH,” “A1-99”, and “VE.” The special flood hazard area is also referred to as the area of special flood hazard or SFHA.

(11) Stored Energy Capacity

The total capacity of a BESS in either kilowatt hours or megawatt hours.

(12) Supplemental Development Standards (ACC 18.31)

Citywide development requirements that apply across multiple zones, including screening, siting, landscaping, and safety standards applicable to BESS installations.

(13) WAC 51-54A-1207

Washington State’s adopted safety standards for electrical energy storage systems. Including fire protection, hazard mitigation, separation distances, and commissioning requirements.

PLANNING COMMISSION

ENERGY STORAGE SYSTEM CODE UPDATE

PRESENTED BY
GABRIEL CLARK, PLANNER II
FEBRUARY 3RD, 2026

Department of Community Development

Planning • Building • Development Engineering • Permit Center
Economic Development • Code Enforcement

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OBJECTIVE

- Describe the proposed development standards
- Take feedback on proposed development standards

REFERENCE BOOKS AND STANDARDS

- WAC 51-54A-1207 (incorporates International Building Codes (IBC))
- International Fire Code (IFC) 1207
- City of Auburn Engineering Design Standards
- National Pollutant Discharge Elimination System (NPDES)

STRUCTURE OF SUPPLEMENTAL STANDARDS

- General – includes references and standards applicable to all BESS
- Tiers – describes requirements for each tier

GENERAL STANDARDS

- Minimum requirements specified by the referenced code books
- Noise generated from a BESS facility shall remain below adopted thresholds
- BESS and equipment shall be UL 9540 certified

GENERAL STANDARDS

- Restricted from the Floodplain and Special Flood Hazard Area
- Critical Area buffer widths
- Required documentation when triggered by WAC 51-54A-1207

GENERAL STANDARDS

- City of Auburn GIS
- City of Auburn Critical Areas Code (Chapter 16.10 ACC)

BESS, TIER I STANDARDS

- Restricted to 100 kWh in capacity
- Permitted installation locations
- Minimum screening requirements

BESS, TIER II AND TIER III STANDARDS

- BESS, Tier II capacity threshold of 4 MWh
- BESS, Tier III capacities above 4 MWh
- Vegetation control, secondary containment, access, hydrant spacing, application documents, and financial securities

PROPOSED TIMELINE

FEB

- Planning Commission Meeting

MAR

- Planned Public Hearing

APR

- Planned Council Study Session and Action

QUESTIONS?

Department of Community Development

Planning • Building • Development Engineering • Permit Center
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PLANNING COMMISSION STAFF REPORT

AGENDA SUBJECT/TITLE:
Battery Energy Storage System Code Update

CITY FILE NO(s).:
ZOA24-0004

APPLICANT/AGENT/OWNERS:
City of Auburn

REQUEST:
Planning Commission to hold a public hearing, deliberate, and take action to recommend that City Council approve proposed regulations for Battery Energy Storage Systems.

LOCATION:
City-wide.

NOTIFICATION:
Hearing Notice was published in the Seattle Times and posted on the City's Land Use Notice webpage and physically at City Hall and City Hall Annex on March 27, 2026.

HEARING DATE:
April 7th, 2026

SEPA STATUS:
A SEPA Environmental Checklist – Non-Project Action, was prepared by the City of Auburn as Lead Agency. A Determination of Non-Significance (DNS) was issued on January 28, 2026, with the appeal period expiring on February 25, 2026.

STAFF:
Gabriel Clark, Planner II, Dept. of Community Development

STAFF RECOMMENDATION:
Planning Commission to deliberate and take action to recommend that City Council approve proposed Battery Energy Storage System text amendments included in this staff report as Exhibits 2 through 7. The proposed code updates modify Chapters 18.04 "Definitions," Chapter 18.07 "Residential Zones," Chapter 18.23 "Commercial and Industrial Zones," Chapter 18.29 "Downtown Urban Center District," Chapter 18.31 "Supplemental Development Standards," and Chapter 18.35 "Special Purpose Zones."

SUMMARY OF CODE CHANGES:
The proposal is a non-project action to amend portions of Title 18 "Zoning" Auburn City Code (ACC) to establish regulations for the development of Battery Energy Storage Systems within City limits. The proposed changes include amendments to the following chapters.

- Chapter 18.04 ACC "Definitions"
- Chapter 18.07 ACC "Residential Zones"
- Chapter 18.23 ACC "Commercial and Industrial Zones"
- Chapter 18.29 ACC "Downtown Urban Center District"
- Chapter 18.31 ACC "Supplemental Development Standards"
- Chapter 18.35 ACC "Special Purpose Zones"

The proposed changes include defining BESS, designating proper land use approval pathways for each zone and tier, and the establishment of development standards specific to each tier of BESS. These amendments may permit Tier I (Accessory) in most zones with a capacity of up to 100 kWhs; may permit Tier II (Commercial/Industrial) in high density commercial, industrial and residential zones with a capacity of up to 4 MWhs through an administrative or conditional land use review process; and may permit Tier III (Regional/Utility) with capacities over 4 MWhs within the Heavy Commercial and Industrial zones through an administrative or conditional use permit process.

FINDINGS OF FACT:

Background Summary:
1. Battery Energy Storage Systems (BESS) are systems which store and release electrical energy generated by the grid or on-site generation sources. These systems have increased in popularity in our region due to evolving legislation and economic incentives for utilities and end users. In 2019, Senate Bill (SB) 5116 established statutory milestones which require the State's electrical supply to be free of greenhouse gas emissions by 2045 (see Exhibit 8).

2. In 2021 Puget Sound Energy (PSE) published an Integrated Resource Plan which contains the Public Utility District's goals and policies over the next planning period for the agency. Of which Battery Energy Storage Systems are identified as a central component to the Utility's "Distributed Energy Resource" goals of providing 3,222 MW of capacity by 2045 (see Exhibit 8).

3. In 2021 PSE consulted with Power Systems Consultants to perform a qualitative and quantitative analysis for siting of possible energy storage systems within the PSE electrical system. This report identified several sites suitable for BESS in and near the City of Auburn (see Exhibit 8).

4. Based on permit records, development interests for what would be classified under the proposed code as Tier II and Tier III BESS facilities seems to be driven by the policy goals and initiatives set by our regional electrical service provider. As of the date of this report, one system named "Christopher Energy BESS" has submitted land use applications in 2021 and again in 2024. Other projects in feasibility have been studied through the pre-application process, but none have initiated applications at this time.

5. As staff initiated reviews of the 2024 submission, it became evident that the intended use, impacts, and existing policy framework could not effectively facilitate the development of these systems city-wide. Subsequently, the City instituted a moratorium on the application, processing, and issuance of development permits until a policy framework was established. This moratorium was adopted by the Auburn City Council on May 5, 2025, extended on November 3, 2025 and is set to expire on May 11, 2026, unless development regulations are adopted or an extension is approved.

6. According to the Washington State Fire Marshal's Office, the State Building Code Council of Washington State (SBCC) has extended a previously approved emergency rule to allow fire code officials to utilize the 2023 edition of National Fire Protection Association (NFPA) 855 for the Installation of Energy Storage Systems. This emergency rule is supported by regulatory agencies and the industry when it was first introduced in November of 2022 to the SBCC. The existing emergency rule expired in May of 2023 and with the delay of the implementation of the 2021 Washington State Codes it was necessary to create an extension.

   An amended Chapter 12 of the 2021 International Fire Code (IFC) was also approved by the SBCC for Off-Cycle Rule making. This chapter is particularly relevant for the installation and maintenance of batteries and energy storage systems (ESS). The proposed changes bring forward the latest code language from the 2024 IFC into the Washington State 2021 Fire Code.

   The 2021 WA State Fire Code also has two new sections addressing Lithium-ion batteries and powered mobility devices such as electric scooters and bikes. Section 322 Lithium-Ion and Lithium Metal Batteries and section 323 Powered Micromobility Devices and Powered Industrial Trucks were developed to help address the hazards associated with the use of lithium-ion batteries. The new code language is from the 2024 IFC (International Fire Code) and was brought forward early in Washington State to assist in regulating this industry. The 2021 IBC amendments including Chapter 12 of the IFC (2024) were adopted as law on March 15th, 2024.

7. Staff held a roundtable discussion on October 2, 2025, with labor unions, the Valley Regional Fire Authority, the Muckleshoot Indian Tribe, and Puget Sound Energy to better understand BESS technology and its potential impacts.

Procedural Steps:

8. By authorization of the Revised Code of Washington (RCW) 36.70A.390, the City Council of Auburn established a six-month moratorium on the application, processing, or approval of Battery Energy Storage Systems by passage of Ordinance No. 6978 on May 5, 2025.

9. By authorization of RCW 36.70A.390 the City Council of Auburn extended the moratorium six additional months by passage of Ordinance No. 6995 on November 3, 2025.

10. Staff presented and discussed the proposed text amendments with the Planning Commission on December 2, 2025, January 6, 2026, and February 3, 2026, respectively. Staff memos provided to Planning Commission for the aforementioned meetings detail the purpose and scope of the amendments to Title 18 "Zoning" ACC (see Exhibits 8, 10, and 12).

11. In accordance with RCW 36.70A.106(1) the Planning Staff provided the proposed development regulations to the Department of Commerce for a 60-day comment review period on January 2, 2026, with a comment period deadline of March 3, 2026. The Department of Commerce acknowledged the request assigning review reference number 2026-S-11392. At the time this report was completed, the Department of Commerce did not provide any comments on the proposed text amendments.

12. A SEPA Environmental Checklist – Non-Project Action, was prepared by the City of Auburn as Lead Agency. A Determination of Non-Significance (DNS) was issued on January 28, 2026, with the appeal period expiring on February 25, 2026. Comments received are provided in Exhibit 14.

13. ACC 18.68.025 outlines what text amendments may be initiated by the City or the Public.
    A. *City-Initiated Text Amendments*
        1. The Director of Community Development may initiate an amendment to the text of this title [Title 18] for the following purposes:
            a. Change the text to increase the consistency with the comprehensive plan in compliance with ACC 14.22.050, Conformance and consistency.
            b. Change the text in response to changes in state and/or federal laws.
            c. Change the text to correct errors, which are determined by the director of community development to be substantive and beyond the scrivener's error.
            d. Change the text to increase internal consistency if this title (Zoning).
        2. The Mayor may request the Director of Community Development to initiate an amendment to the text of this title, or at the request of the Mayor on behalf of the City Council or Planning Commission.

14. Staff has initiated the text amendment based on ACC 18.68.025(A)(1)(b) *"change in text in response in state and/or federal laws"* as regulations pertaining to electrical storage systems (ESS) which include BESS have greatly expanded (see Exhibit 12) with the adoption of the 2021 Building Code on March 15, 2024.

15. ACC 18.68.030 outlines the procedural requirements to complete a Substantive Zoning Text Amendment.
    B. A "Zoning Text Amendment" is an application to change the text of ACC Title 18. This type of application or initiation shall be processed as a legislative nonproject decision, consistent with ACC 14.03.060. Public notice shall be provided consistent with ACC Title 14.
        1. Substantive Zoning Text Amendments. For the purposes of this chapter, substantive zoning text amendments shall be distinguished from procedural or administrative amendments in accordance with the following: "Substantive" matters relate to regulations that define or limit what can be done in terms of conduct, use or action (e.g., what land use may be made of property, what requirements apply to development, and what public infrastructure may be required of certain developments). "Procedural" or "administrative" matters are those that relate to the process of how an application to take such action must be pursued (e.g., time limits for decisions and appeals, what forms must be used, and where or how applications must be submitted. Essentially, "procedural" or "administrative" matters are the mechanical rules by which substantive issues may be pursued.) Substantive text amendments shall be reviewed by the

Planning Commission, and the Planning Commission shall conduct a public hearing and make a recommendation before being presented to the City Council for consideration and action.

16. A Notice of Public Hearing (NOH) will be issued on March 25, 2026. Pursuant to ACC 18.68.030(B)(1), the following methods of noticing for the Planning Commission public hearing were conducted:
    a. The NOH was published in the Seattle Times on March 25, 2026.
    b. The NOH was posted at two public locations (City Hall and City Annex).
    c. The NOH was posted on City's Public Land Use Notice webpage.

17. A public hearing is scheduled by the Planning Commission on April 7, 2026. The City has received many comments pertaining to the NOH, however Staff will provide any additional comments received to Planning Commission at the time of the scheduled Public Hearing.

EXHIBITS:

1. BESS Presentation
2. ACC 18.04.174 Text Amendment
3. ACC 18.07.020 Text Amendment
4. ACC 18.23.020 Text Amendment
5. Chapter 18.29 ACC Text Amendment
6. ACC 18.31.240 Text Amendment
7. ACC 18.35.030 Text Amendment
8. 12/2/2025 Planning Commission Memo
9. 12/2/2025 Planning Commission Presentation
10. 1/6/2026 Planning Commission Memo
11. 1/6/2026 Planning Commission Presentation
12. 2/3/2026 Planning Commission Memo
13. 2/3/2026 Planning Commission Presentation
14. Public Comments Received

PLANNING COMMISSION

ENERGY STORAGE SYSTEM CODE UPDATE

PRESENTED BY
GABRIEL CLARK, PLANNER II
APRIL 7, 2026

Department of Community Development

Planning • Building • Development Engineering • Permit Center
Economic Development • Code Enforcement

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PURPOSE

- Define tiers, separated by capacity
- Determine appropriate zones
- Determine appropriate land use approval pathways
- Coordinate existing regulations with proposed development standards

APPLICABLE SECTIONS IN CITY CODE

- ACC 18.04.174 Definitions
- ACC 18.07.020 Residential Use Table
- ACC 18.23.030 Commercial and Industrial Use Table
- Chapter 18.29 DUC
- ACC 18.31.240 Supplemental Development Standards
- ACC 18.31.030 Special Purpose Use Table

APPLICABLE REGULATIONS

- Washington Administrative Code (WAC) 51-54A- 1207
- International Fire Code (IFC) Chapter 12
- National Fire Protection Association (NFPA)
- City of Auburn Engineering Design Standards

TIER I

- Allowed as a Type I decision
- Stored energy capacity limited to 100 kWh
- Accessory to primary use

TIER II

- Allowed as a Type II decision
- Energy capacity up to 4 MWh
- Restricted to higher intensity land uses

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TIER III

Aerial view of the completed 250MW BESS at Torrens Island, South Australia. Image: Wärtsilä-AGL

- Allowed as a Type II or Type III decision
- Stored energy capacities in excess of 4 MWh
- Restricted to heavy commercial and industrial land uses

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ZONING CLASSIFICATION RESIDENTIAL

	RC	R-1	R-2	R-3	R-4	R-NM	R-F
Tier I	P	P	P	P	P	P	P
Tier II	X	X	X	C	C	C	X
Tier III	X	X	X	X	X	X	X

ZONING CLASSIFICATION
COMMERCIAL & INDUSTRIAL

	DUC	C-1	C-2	C-AG	M-1	M-2
Tier I	P	P	P	P	P	P
Tier II	C	X	C	X	A	C
Tier III	X	X	C	X	C	C

ZONING CLASSIFICATION
SPECIAL PURPOSE

	P-1	I	OS
Tier I	P	P	P
Tier II	A	A	X
Tier III	X	X	X

PUBLIC COMMENTS

- Concerns over fire safety
- Concerns over environmental precautions
- Concerns regarding the permitted thresholds

RECOMMENDATION

- Planning Commission to recommend to City Council approval of the Battery Energy Storage System text amendments included as Exhibits 2 through 7.

QUESTIONS?

Department of Community Development

Planning • Building • Development Engineering • Permit Center
Economic Development • Code Enforcement

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ORDINANCE NO. 7014

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RELATING TO BATTERY ENERGY STORAGE SYSTEMS, AMENDING SECTIONS 18.07.020, 18.23.030, 18.35.030, CHAPTER 18.29 AND ESTABLISHING TWO NEW SECTIONS 18.04.174 AND 18.31.240 OF THE AUBURN CITY CODE

WHEREAS, Energy Storage Systems (ESS) including Battery Energy Storage Systems (BESS) are defined as installations designed to store critical electrical energy for later use, typically consisting of batteries, power conversion systems, and control equipment. A primary function of Energy Storage Systems is to store excess electricity generated by the grid during periods of low demand or high renewable energy production, such as from solar or wind sources, the stored energy can then be discharged when demand is high or when renewable energy generation is low, stabilizing the electrical grid and improving overall efficiency and reliability; and

WHEREAS, the City's development regulations, specifically the land use category of "Utility facilities and substations" in Auburn City Code (ACC) 18.07.030 and "Utility transmission or distribution line or substation" in ACC 18.23.030, are not currently defined to include the recent technological changes and business models in Energy Storage Systems or supporting infrastructure, but are understood to include public regional utility (PSE) agencies that provide public services such as transformers, substations, pumpstations and smaller scale infrastructure; and

WHEREAS, the Auburn City Council adopted a six-month moratorium under Ordinance No. 6978 on May 5, 2025, and a six-month extension under Ordinance No. 6995 on November 3, 2025; and

WHEREAS, Pursuant to Chapter 36.70A of the Revised Code of Washington (RCW), requires that a text amendment shall be amended with public participation; and

WHEREAS, pursuant to the Washington Administrative Code (WAC) 197-11-340, the City of Auburn issued a Determination of Nonsignificance on January 28, 2026, under City File No. SEP24-0021; and

WHEREAS, pursuant to RCW 36.70A.106, the draft text amendments were transmitted to the Washington State Department of Commerce on January 2, 2026. The 60-day notice comment period ended on March 3, 2026, and no comments were received from the Department of Commerce; and

WHEREAS, a Notice of Public Hearing was issued on March 27, 2026, pursuant to ACC 14.03.060, the Notice of Public Hearing was distributed to the Seattle Times, posted at two public locations (City Annex and City Hall), and posted on the City's Public Land Use Notice webpage; and

WHEREAS, following the conclusion of the public hearing on April 7, 2026, and subsequent deliberations, the Auburn Planning Commission made a recommendation to the Auburn City Council on the approval of the proposed Battery Energy Storage System text amendments as described in Section 1 of this Ordinance; and

WHEREAS, the Auburn City Council reviewed the recommendations of the Auburn Planning Commission for the Battery Energy Storage System zoning text amendments at the April 13th, 2026, Study Session.

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

Section 1. Amendment to City Code. These amendments establish definitions, use classifications, and development standards for Battery Energy Storage Systems, including a tiered regulatory framework. Section 18.04.174 of the Auburn City Code is established to read as shown in Exhibit A. Section 18.07.020 of the Auburn City Code is amended to read as shown in Exhibit B. Section 18.23.030 of the Auburn City Code is amended to read as shown in Exhibit C. Chapter 18.29 of the Auburn City Code is amended to read as shown in Exhibit D. Section 18.31.240 of the Auburn City Code is established to read as shown in Exhibit E. Section 18.35.030 of the Auburn City Code is amended to read as shown in Exhibit F.

Section 2. Implementation. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 3. Severability. The provisions of this Ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Ordinance, or the invalidity of the application of it to any person or circumstance, will not affect the validity of the remainder of this Ordinance, or the validity of its application to other persons or circumstances.

Section 4. Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbers, and any references thereto.

Section 5. 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:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Jason Whalen, City Attorney

Published: _____

EXHIBIT A

Chapter 18.04
DEFINITIONS

Sections:

18.04.174 Battery energy storage system (BESS)

18.04.174 Battery energy storage systems (BESS)

"Battery energy storage systems" means a rechargeable energy storage system consisting of batteries, battery chargers, controls, and associated electrical equipment designed to store and distribute electrical power. These systems are typically used to provide standby or emergency power, an uninterruptable power supply, load shedding, load sharing, or similar capabilities.

The Auburn City Code is current through Ordinance 7002, passed October 6, 2025.

Disclaimer: The city clerk's office has the official version of the Auburn City Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: www.auburnwa.gov

Hosted by General Code.

18.07.020 Uses.

Table 18.07.020. Permitted Use Table – Residential Zones

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	**Zoning Designations**						
	RC	**R-1**	**R-2**	**R-3**	**R-4**	**R-NM**	**R-F**
A. Residential Uses.							
Accessory dwelling units subject to the provisions contained in Chapter 18.32 ACC	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]
Accessory use, residential	P	P	P	P	P	P	P
Adult family home	P	P	P	P	P	P[1]	P
Apartments (7 units or more)	X	X	X	P[11]	P	P	X
Bed and breakfast or short-term rentals	P	P	P	P	P	X	P
Caretaker apartment	X	X	X	X	X	P	X
Communal residence	P	P	P	P	P	X	P
Foster care homes	P	P	P	P	P	X	P
Group residence facilities (7 or more residents)	X	X	X	P	P	P	P
Group residence facilities (6 or fewer residents)	P	P	P	P	P	P	P
Keeping of animals[4]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]
Middle housing subject to the provisions in Chapter 18.25 ACC (2 to 6 units)	P	P	P	P	P	P	P

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	**Zoning Designations**						
	RC	**R-1**	**R-2**	**R-3**	**R-4**	**R-NM**	**R-F**
Neighborhood recreational buildings and facilities owned and managed by the neighborhood homeowners' association	A[6]	A[6]	A[6]	A[6]	A[6]	P	P
Use as dwelling units of (1) recreational vehicles that are not part of an approved recreational vehicle park, (2) boats, (3) automobiles, and (4) other vehicles	X	X	X	X	X	X	X
Renting of rooms, for lodging purposes only, to accommodate not more than two persons in addition to the family or owner occupied unit[8]	P	P	P	P	P	P	P
Residential care facilities including but not limited to assisted living facilities, convalescent homes, continuing care retirement facilities	P	P	P	P	P	P	P
Single-unit detached dwellings, new	P	P	P	X	X	X	P
Supportive housing (permanent), subject to the provisions of ACC 18.31.160	P	P	P	P	P	P	P
Swimming pools, tennis courts and similar outdoor recreation uses only accessory to residential or park uses	P	P	P	P	P	P	P
Townhouses (attached)	X	X	X	X	P	P	P
Transitional housing	P	P	P	P	P	P	P
B. Commercial Uses.							

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	**Zoning Designations**						
	RC	**R-1**	**R-2**	**R-3**	**R-4**	**R-NM**	**R-F**
Commercial horse riding and bridle trails	A	X	X	X	X	X	X
Commercial recreation facility, indoor	X	X	X	X	P	P	X
Commercial retail establishment	X	X	A	A	P	P	A
Convenience store	X	X	X	X	P	P	X
Daycare, limited to a mini daycare center. Daycare center, preschool or nursery school may also be permitted but must be located on an arterial	X	P	P	P	P	P	P
Grocery or specialty food store	X	X	X	A	P	P	A
Home-based (or family) daycare as regulated by RCW 35.63.185 and through receipt of approved city business license	P	P	P	P	P	P	P
Home occupations subject to compliance with Chapter 18.60 ACC	P	P	P	P	P	P	P
Marijuana cooperative	X	X	X	X	X	X	X
Marijuana processor	X	X	X	X	X	X	X
Marijuana producer	X	X	X	X	X	X	X
Marijuana-related business	X	X	X	X	X	X	X
Marijuana researcher	X	X	X	X	X	X	X
Marijuana retailer	X	X	X	X	X	X	X

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	**Zoning Designations**						
	RC	**R-1**	**R-2**	**R-3**	**R-4**	**R-NM**	**R-F**
Marijuana transporter business	X	X	X	X	X	X	X
Mixed-use development[310]	X	X	X	P	P	P	P
Personal service shop	X	X	A	P	P	P	P
Nursing homes	X	X	X	X	C	C	C
Privately owned and operated parks and playgrounds and not homeowners' association-owned recreational area	X	A	A	A	A	P	P
Professional offices	X	X	A	A	P[9]	P	P
Restaurant, café, or coffee shop	X	X	A	A	P	P	A
Neighborhood retail establishment	X	X	A	A	P	P	P
C. Resource Uses.							
Agricultural enterprise:[7]							
When 50 percent, or more, of the total site area is dedicated to active agricultural production during the growing season, and with 52 or less special events per calendar year	A[7]	X	X	X	X	X	X
When less than 50 percent of the total site area is dedicated to active agricultural production during the growing season, or with more than 52 special events per calendar year	C[7]	X	X	X	X	X	X

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	**Zoning Designations**						
	RC	**R-1**	**R-2**	**R-3**	**R-4**	**R-NM**	**R-F**
Agricultural type uses are permitted provided they are incidental and secondary to the single-family use:							
Agricultural crops and open field growing (commercial)	P	X	X	X	X	X	X
Barns, silos and related structures	P	X	X	X	X	X	X
Commercial greenhouses	P	X	X	X	X	X	X
Pasturing and grazing[4]	P	X	X	X	X	X	X
Public and private stables[4]	P	X	X	X	X	X	X
Roadside stands, for the sale of agricultural products raised on the premises. The stand cannot exceed 300 square feet in area and must meet the applicable setback requirements.	P	X	X	X	X	X	X
Fish hatcheries	C	X	X	X	X	X	X
D. Government, Institutional, and Utility Uses.							
Civic, social and fraternal clubs	X	X	X	X	A	A	A
Government facilities	A	A	A	A	A	A	A
Hospitals (except animal hospitals)	X	X	X	X	X	C	C
Municipal parks and playgrounds	A	P	P	P	P	P	P

P = Permitted A = Administrative C = Conditional Use X = Not Permitted							
Land Uses	**Zoning Designations**						
	RC	**R-1**	**R-2**	**R-3**	**R-4**	**R-NM**	**R-F**
Museums	X	X	X	X	A	A	A
Religious institutions, less than one acre lot size[12]	A	A	A	A	A	A	A
Religious institutions, one acre or larger lot size[12]	C	C	C	C	C	C	C
Transmitting towers	C	C	C	C	C	C	C
Type 1-D wireless communications facility (see ACC 18.04.912(W) and 18.31.100)	P	P	P	P	P	P	P
Eligible facilities request (EFR) (wireless communications facility – See ACC 18.04.912(H))	P	P	P	P	P	P	P
Utility facilities and substations	C[5]	C[5]	C[5]	C[5]	C[5]	C[5]	C[5]
Battery Energy Storage Systems, Tier I	P[13]	P[13]	P[13]	P[13]	P[13]	P[13]	P[13]
Battery Energy Storage Systems, Tier II	X	X	X	C[13]	C[13]	C[13]	x
Battery Energy Storage Systems, Tier III	X	X	X	X	X	X	X
Small wireless facilities (ACC 18.04.912(Q))	P	P	P	P	P	P	P

1 An accessory dwelling unit may be permitted with an existing single-unit residence pursuant to Chapter 18.32 ACC.

2 Please see the supplemental development standards for animals in ACC 18.31.220.

3 Individual uses that make up a mixed-use development must be permitted within the zone. If a use making up part of a mixed-use development requires an administrative or conditional use permit, the individual use must apply for and receive the administrative or conditional use approval, as applicable.

4 Proximity of pasture or livestock roaming area to wells, surface waters, and aquifer recharge zones is regulated by the King or Pierce County board of health, and property owners shall comply with the provisions of the board of health code.

5 Excludes all public and private utility facilities addressed under ACC 18.02.040(E).

6 Administrative use permit not required when approved as part of a subdivision or binding site plan.

7 Agricultural enterprise uses are subject to supplemental development standards under ACC 18.31.210, Agricultural enterprises development standards.

8 An owner occupant that rents to more than two persons but no more than four persons is required to obtain a city of Auburn rental housing business license and shall meet the standards of the International Property Maintenance Code.

9 As component of mixed-use developments and/or office ground floor uses permitted up to 5,000 square feet.

10 Commercial uses permitted outright, or allowed administratively or conditionally in this table may be allowed as part of mixed-use development.

11 Apartment buildings and mixed-use development consisting of no more than 20 units and three stories per lot is permitted.

12 Reference ACC 18.31.165 for standards related to homeless encampments hosted by a religious organization.

13 Reference ACC 18.31.240 for standards related to Battery Energy Storage Systems (BESS).

(Ord. 6977 § 1 (Exh. A), 2025; Ord. 6959 § 1 (Exh. A), 2024; Ord. 6799 § 5 (Exh. E), 2020; Ord. 6642 § 4, 2017; Ord. 6600 § 9, 2016; Ord. 6565 § 2, 2015; Ord. 6560 § 9, 2015; Ord. 6477 § 8, 2013; Ord. 6369 § 2, 2011; Ord. 6363 § 3, 2011; Ord. 6269 § 3, 2009; Ord. 6245 § 5, 2009.)

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18.23.030 Uses.

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

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

C. *Uses Affected by the Airport Overlay.* Refer to Chapter 18.38 ACC to determine whether uses are separately prohibited by that chapter or will be required to comply with additional regulations that are associated with the airport overlay.

Table 18.23.030. Permitted, Administrative, Conditional and Prohibited Uses by Zone, Commercial and Industrial Zones

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

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE						P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	**Zoning Designation**					**Standards for Specific Land Uses**
	C-1	**C-2**	**C-AG**	**M-1**	**M-2**	
Manufacturing, assembling and packaging – Medium intensity	X	A	X	P	P	ACC 18.31.180
Manufacturing, assembling and packaging – Heavy intensity	X	X	X	X	A	ACC 18.31.180
Marijuana processor	X	X	X	C	C	Chapter 18.59 ACC
Marijuana producer	X	X	X	C	C	Chapter 18.59 ACC
Marijuana researcher	X	X	X	C	C	Chapter 18.59 ACC
Marijuana retailer	X	C	X	C	C	Chapter 18.59 ACC
Marijuana transporter business	X	X	X	C	C	Chapter 18.59 ACC
Outdoor storage, incidental to principal permitted use on property	X	P	X	P	P	ACC 18.57.020(A)
Storage – Personal household storage facility (mini-storage)	P	P	X	P	P	ACC 18.57.020(B)
Warehousing and distribution	X	X	X	P	C	ACC 18.57.020(C)
Warehousing and distribution, bonded and located within a designated foreign trade zone	X	P	X	P	P	

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE						P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	**Zoning Designation**					**Standards for Specific Land Uses**
	C-1	**C-2**	**C-AG**	**M-1**	**M-2**	
Wholesaling with on-site retail as an incidental use (e.g., coffee, bakery)	X	P	X	P	P	
RECREATION, EDUCATION AND PUBLIC ASSEMBLY USES						
Commercial recreation facility, indoor	P	P	P	P	A	
Commercial recreation facility, outdoor	X	A	A	P	A	ACC 18.57.025(A)
Conference/convention facility	X	A	X	A	X	
Library, museum	A	A	X	A	X	
Meeting facility, public or private	P	P	X	A	A	
Movie theater, except drive-in	P	P	P	X	X	
Private school – Specialized education/training (for profit)	A	P	P	P	P	
Religious institutions, lot size less than one acre	P	P	A	A	A	ACC 18.31.165
Religious institutions, lot size more than one acre	P	P	A	A	A	ACC 18.31.165
Sexually oriented businesses	X	P	X	P	P	Chapter 18.74 ACC

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE						P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	**Zoning Designation**					**Standards for Specific Land Uses**
	C-1	**C-2**	**C-AG**	**M-1**	**M-2**	
Sports and entertainment assembly facility	X	A	X	A	A	
Studio – Art, dance, martial arts, music, etc.	P	P	P	P	A	
RESIDENTIAL						
Apartment units, as part of a mixed-use development [2]	X	P	P	P	X	ACC 18.57.030
Apartments, standalone	X	X	X	X	X	
Caretaker apartment	P	P	X	P	P	
Indoor emergency housing or shelter	P	P	P	A	A	ACC 18.31.160
Live/work unit, as part of a mixed-use development [2]	X	P	P	P	X	
Live/work unit, standalone [3]	X	X	X	X	X	
Work/live unit, as part of a mixed-use development [2]	X	P	P	P	X	
Work/live unit, standalone [3]	X	X	X	X	X	
Marijuana cooperative	X	X	X	X	X	

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE						P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	**Zoning Designation**					**Standards for Specific Land Uses**
	C-1	**C-2**	**C-AG**	**M-1**	**M-2**	
Nursing home, assisted living facility	P	P	C	X	X	
Senior housing[2]	X	A	X	X	X	
Supportive housing (permanent)	P	P	P	A	A	ACC 18.31.160
Transitional housing	P	P	P	A	A	ACC 18.31.160
RETAIL						
Building and landscape materials sales	X	P	X	P	P	ACC 18.57.035(A)
Community retail establishment	P	P	P	P	P	
Construction and heavy equipment sales and rental	X	X	X	A	P	
Convenience store	A	P	X	P	P	
Drive-through espresso stands	A	P	A	P	A	
Drive-through facility, including banks and restaurants	A	P	P	P	P	ACC 18.52.040
Entertainment, commercial	A	P	X	A	A	
Groceries, specialty food stores	P	P	P	P	X	

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE						P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	**Zoning Designation**					**Standards for Specific Land Uses**
	C-1	**C-2**	**C-AG**	**M-1**	**M-2**	
Neighborhood retail establishment	P	P	P	P	P	
Nursery	X	P	A	P	P	ACC 18.57.035(C)
Outdoor displays and sales associated with a permitted use (auto/vehicle sales not included in this category)	P	P	P	P	P	ACC 18.57.035(D)
Regional retail establishment	X	P	P	P	A	
Restaurant, cafe, coffee shop	P	P	P	P	P	
Tasting room	P	P	P	P	P	
Tavern	P	P	P	P	A	
Wine production facility, small craft distillery, small craft brewery	P	P	P	P	P	
SERVICES						
Animal daycare (excluding kennels and animal boarding)	A	P	A	P	P	ACC 18.57.040(A)
Animal sales and services (excluding kennels and veterinary clinics)	P	P	P	P	P	ACC 18.57.040(B)

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE						P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	**Zoning Designation**					**Standards for Specific Land Uses**
	C-1	**C-2**	**C-AG**	**M-1**	**M-2**	
Banking and related financial institutions, excluding drive-through facilities	P	P	P	P	P	
Catering service	P	P	A	P	P	
Daycare, including mini daycare, daycare center, preschools or nursery schools	P	P	P	P	X	
Dry cleaning and laundry service (personal)	P	P	P	P	P	
Equipment rental and leasing	X	P	X	P	P	
Kennel, animal boarding	X	A	X	A	A	ACC 18.57.040(C)
Government facilities; this excludes offices and related uses that are permitted outright	A	A	A	A	A	
Hospital	P	P	X	P	P	
Lodging – Hotel or motel	P	P	P	A	A	
Medical – Dental clinic	P	P	P	P	X	
Mortuary, funeral home, crematorium	P	P	X	P	X	
Personal service shops	P	P	P	P	X	

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE						P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	**Zoning Designation**					**Standards for Specific Land Uses**
	C-1	**C-2**	**C-AG**	**M-1**	**M-2**	
Pharmacies	P	P	P	X	X	
Print and copy shop	P	P	P	P	X	
Printing and publishing (of books, newspaper and other printed matter)	A	P	P	P	P	
Professional offices	P	P	P	P	P	
Repair service – Equipment, appliances	A	P	P	P	P	ACC 18.57.040(D)
Veterinary clinic, animal hospital	P	P	P	P	X	
Youth community support facility	P	X	X	X	X	ACC 18.57.040(E)
TRANSPORTATION, COMMUNICATIONS AND INFRASTRUCTURE						
Ambulance, taxi, and specialized transportation facility	X	A	X	P	P	
Broadcasting studio	P	P	X	P	P	
Heliport	X	C	X	C	C	
Motor freight terminal[1]	X	X	X	X	X	See Footnote No. 1
Parking facility, public or commercial, surface	P	P	P	P	X	

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE						P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	**Zoning Designation**					**Standards for Specific Land Uses**
	C-1	**C-2**	**C-AG**	**M-1**	**M-2**	
Parking facility, public or commercial, structured	P	P	P	P	X	
Battery Energy Storage Systems, Tier I	P	P	P	P	P	ACC 18.31.240
Battery Energy Storage Systems, Tier II	X	C	X	A	C	ACC 18.31.240
Battery Energy Storage Systems, Tier III	X	C	X	C	C	ACC 18.31.240
Towing storage yard	X	X	X	A	P	ACC 18.57.045(A)
Utility transmission or distribution line or substation	A	A	A	A	A	
Wireless communications facility (WCF) (See ACC 18.04.912(W))	*	*	*	*	*	*See ACC 18.31.100 for use regulations and zoning development standards.
Eligible facilities request (EFR) (wireless communications facility) (See ACC 18.04.912(H))	P	P	P	P	P	
Small wireless facilities (ACC 18.04.912(Q))	P	P	P	P	P	
VEHICLE SALES AND SERVICES						

PERMITTED, ADMINISTRATIVE, CONDITIONAL AND PROHIBITED USES BY ZONE						P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	**Zoning Designation**					**Standards for Specific Land Uses**
	C-1	**C-2**	**C-AG**	**M-1**	**M-2**	
Automobile washes (automatic, full or self-service)	A	P	P	P	P	ACC 18.57.050(A)
Auto parts sales with installation services	A	P	P	P	P	
Auto/vehicle sales and rental	A	P	X	P	P	ACC 18.57.050(B)
Fueling station	A	P	P	P	P	ACC 18.57.050(C)
Mobile home, boat, or RV sales	X	P	X	P	P	
Vehicle services – Repair/body work	X	P	X	P	P	ACC 18.57.050(D)
OTHER						
Any commercial use abutting a residential zone which has hours of operation outside of the following: Sunday: 9:00 a.m. to 10:00 p.m. or Monday – Saturday: 7:00 a.m. to 10:00 p.m.	A	A	A	A	A	
Other uses may be permitted by the planning director or designee if the use is determined to be consistent with the intent of the zone and is of the same general character of the uses permitted. See ACC 18.02.120(C)(6), Unclassified Uses.	P	P	P	P	P	

1 Any motor freight terminal, as defined by ACC 18.04.635, in existence as of the effective date of the ordinance codified in this section, is an outright permitted use in the M-1 and M-2 zones. Any maintenance,

alterations and additions to an existing motor freight terminal which are consistent with ACC 18.23.040, Development standards, are allowed.

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

3 Any standalone live/work units or standalone work/live units vested prior to the effective date of the ordinance codified in this chapter are outright permitted uses.

(Ord. 6977 § 1 (Exh. A), 2025; Ord. 6959 § 1 (Exh. A), 2024; Ord. 6885 § 1 (Exh. A), 2022; Ord. 6838 § 1 (Exh. A), 2021; Ord. 6799 § 6 (Exh. F), 2020; Ord. 6728 § 3 (Exh. C), 2019; Ord. 6688 § 1 (Exh. 1), 2018; Ord. 6644 § 2, 2017; Ord. 6642 § 9, 2017; Ord. 6508 § 1, 2014; Ord. 6433 § 26, 2012.)

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EXHIBIT D

Chapter 18.29

DUC DOWNTOWN URBAN CENTER DISTRICT

Sections:

18.29.050 Use limitations.
18.29.054 Uses/activities requiring a conditional use permit.

18.29.050 Use limitations.

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

A. The following uses are prohibited in all DUC zoning districts:

1. Battery Energy Storage Systems, Tier III.

18.29.054 Uses/activities requiring a conditional use permit.

A. The following uses/activities may be permitted in the DUC Core 75, Core 125, and H-W Districts when a conditional use permit has been issued pursuant to the provisions of Chapter 18.64 ACC:

1. Battery Energy Storage System, Tier II.

B. The following uses/activities may be permitted in the DUC M-1 when a conditional use permit has been issued pursuant to the provisions of Chapter 18.64 ACC:
1. Heliport.
2. All marijuana-related businesses.
3. Battery Energy Storage System, Tier II.

EXHIBIT E

Chapter 18.31

SUPPLEMENTAL DEVELOPMENT STANDARDS

Sections:

18.31.240 Battery energy storage systems (BESS)

18.31.240 Battery energy storage systems (BESS)

A. *Purpose.* The requirements contained in this section are intended to capture the minimum requirements set by International Code Councils, National Laboratories, and State Law. This section contains general and specific standards applicable to all BESS, and specific standards for each tier of BESS.

B. *General Standards.*

1. Adoption by reference. WAC 51-54A-1207 including any amendments thereto, are adopted by reference as if fully set forth in addition to IBC, IFC, and NFPA.

2. Setbacks. BESS shall comply with the minimum setback requirements of the underlying zoning district.

3. Noise. Average operational noises heard at the property line to adjacent land uses shall subject to Chapter 8.28 ACC and be limited to;

a. Residential: 60 decibels.

b. Commercial: 65 decibels.

c. Industrial: 70 decibels.

4. Safety. BESS and equipment shall be UL 9540 certified in accordance with IFC 1207.

5. Floodplain. BESS sited on properties which contain the 100-year floodplain or Special Flood Hazard Area (SFHA) shall be subject to the definitions and minimum development standards contained in Chapter 15.68 ACC.

6. Critical Areas. In areas which contain regulated critical areas defined in Chapter 16.10 ACC, BESS shall be subject to the standard buffer widths, applicable to each critical area.

7. Supplemental Information Required for Applications. For BESS installations that surpass the energy storage capacities identified in the Threshold Quantities table of WAC 51-54A-1207 the permit application shall contain the following information:

a. Construction Documents. The applicant shall include all information specified in WAC 51-54A-1207.

b. Commissioning Plan. The applicant shall submit a commissioning plan consistent with the requirements of WAC 51-54A-1207.

c. Decommissioning Plan. The applicant shall submit a decommissioning plan consistent with the requirements of WAC 51-54A-1207.

d. Hazard Mitigation Analysis. The applicant shall submit a hazard mitigation analysis consistent with the requirements of WAC 51-54A-1207.

C. *BESS, Tier I.*

1. Capacity Threshold. BESS, Tier I shall be limited to 100 kWh of total system capacity.

2. Location. BESS, Tier I may be installed only in the following locations as specified in WAC 51-54A-1207:

a. Within utility closets, basements, and storage or utility spaces.

b. In attached or detached garages and detached accessory structures.

c. On exterior walls.

d. Outdoors on the ground.

3. Screening. If installed exterior to the structure, BESS, Tier I shall be screened from the public right-of-way and located behind the extent of the front façade of the primary structure on the property.

D. BESS, Tier II and BESS, Tier III

1. Capacity Threshold. BESS, Tier II shall not exceed a total energy capacity of 4 MWh. BESS Tier, III includes systems with a total energy capacity beyond 4 MWhs.

2. System Testing. Large-scale fire testing shall be conducted on a representative BESS in accordance with UL 9540A by the methods contained in Chapter 12 IFC.

3. Location. If located within rooms, areas, or walk in structures, capacities shall not exceed the maximum allowable quantities contained in WAC 51-54A-1207.

4. Fencing. BESS that does not occur within an enclosed principal structure shall be fenced with a self-locking gate in accordance to Chapter 12 IFC. Fencing shall comply with ACC 18.31.020 applicable to the zone in which the site is located.

5. Vegetation Control. Areas within 10 feet on each site of outdoor BESS shall be cleared of combustible vegetation and other combustible growth per Chapter 12 IFC .

6. Secondary Containment and Spill Neutralization. Secondary containment facilities shall meet the applicable standards contained in the current National Pollutant Discharge Elimination System (NPDES) and the City of Auburn Engineering Design Standards and as amended. Secondary spill containment and neutralization shall comply with Chapter 12 IFC.

7. Access. Where access to a facility is provided from a street that would otherwise function as a dead-end, a minimum of one secondary emergency vehicle access (EVA) route shall be provided to allow alternate emergency repose access and staging.

The secondary EVA shall be designed and constructed in accordance with the City of Auburn Engineering Design Standards and applicable fire code requirements and shall provide a continuous, unobstructed route suitable for emergency vehicle operations.

8. Hydrant Spacing. Hydrant spacing shall meet the minimum requirements for commercial structures in the City of Auburn Engineering Design Standards and as amended.

9. Insurance. The permit applications shall contain the information cited by ACC 18.31.240(B)(7) including:

a. Insurance. The owner and/or operator of the BESS facility shall maintain liability insurance to include pollution liability for the project with the City of Auburn named as loss payee and/or additional insured, with coverage extending to decommissioning activities. The insurance shall cover the estimated costs associated with decommissioning activities specified by the decommissioning plan. The insurance policy shall be active until all requirements of the decommissioning plan are satisfied. Proof of insurance shall be provided to the City of Auburn prior to permit issuance and annually after that.

i. Abandonment. BESS shall be considered abandoned when it ceases to operate consistently or when permits issued for the facility have been suspended or revoked. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the City of Auburn may, at its discretion, enter the property and utilize the available insurance for the removal of the facility and restore the site in accordance with the approved decommissioning plan.

10. Land Use Decision. In respect to the land use decision required by the applicable zoning district, by authorization of an administrative use or conditional use permit, the planning director or designee, or hearing examiner may attach thereto conditions regarding the location, character, and other features of the proposed structure or use as they may deem necessary to carry out the intent and purpose of this title and in the public interest.

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EXHIBIT F

18.35.030 Uses.

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

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

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

Permitted, Administrative, Conditional and Prohibited Uses by Zone				**P – Permitted** **C – Conditional** **A – Administrative** **X – Prohibited**
LAND USE	**Zoning Designations**			**Standards for Specific Land Uses**
	P-1	**I**	**OS**	
MARIJUANA-RELATED BUSINESSES				
Marijuana processor	X	X	X	
Marijuana producer	X	X 18.	X	
Marijuana researcher	X	X	X	
Marijuana retailer	X	X	X	
Marijuana transporter business	X	X	X	

Permitted, Administrative, Conditional and Prohibited Uses by Zone				P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	**Zoning Designations**			**Standards for Specific Land Uses**
	P-1	**I**	**OS**	
PUBLIC				
Animal shelter, public	P	X	X	
Government facilities; this excludes offices and related uses that are permitted outright	P	P	C	
Municipal parks and playgrounds	P	P	P	
RECREATION, EDUCATION AND PUBLIC ASSEMBLY				
Campgrounds	X	P	P	
Recreational vehicle parks, private	X	P	X	
Cemetery, public	P	A	X	
Cemetery, private	X	A	X	
College, university, public	A	A	X	
Commercial recreation facility – Indoor	X	P	X	
Commercial recreation facility – Outdoor	X	A	C	ACC 18.57.025(A)
Conference/convention facility	X	A	X	

Permitted, Administrative, Conditional and Prohibited Uses by Zone				**P – Permitted** **C – Conditional** **A – Administrative** **X – Prohibited**
LAND USE	**Zoning Designations**			**Standards for Specific Land Uses**
	P-1	**I**	**OS**	
Library, museum	P	P	A	
Meeting facility, public or private	P	P	A	
Private school – specialized education/training (for profit)	X	P	X	
Public schools (K-12) and related facilities	P	X	X	
Religious institutions, lot size less than one acre	X	P	X	
Religious institutions, lot size more than one acre	X	P	X	
Studio – Art, dance, martial arts, music, etc.	X	X	X	
RESIDENTIAL				
Middle housing subject to the provisions in Chapter 18.25 ACC (2 to 6 units)	X	A[1]	X	
Home occupation	X	P	P	Chapter 18.60 ACC
Live/work, work/live unit	X	A	X	
Apartments (7 or more units)	X	A[2]	X	
One single-unit detached dwelling	X	X	P[4]	

Permitted, Administrative, Conditional and Prohibited Uses by Zone				P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	**Zoning Designations**			**Standards for Specific Land Uses**
	P-1	**I**	**OS**	
Nursing home, assisted living facility	X	P	X	
Senior housing	X	A	X	
RETAIL				
Marijuana cooperative	X	X	X	
Restaurant, cafe, coffee shop, excluding drive-through facilities	P	A	X	
SERVICES				
Banking and related financial institutions, excluding drive-through facilities[3]	X	X	X	
Daycare, including mini daycare, daycare center, preschools or nursery schools	X	P	A	
Home-based daycare	X	P	P	
Medical services – Clinic or urgent care[3]	X	X	X	
Mortuary, funeral home, crematorium	X	X	X	
Professional offices	X	A	A	

Permitted, Administrative, Conditional and Prohibited Uses by Zone				P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	**Zoning Designations**			**Standards for Specific Land Uses**
	P-1	**I**	**OS**	
Personal service shops	X	X	X	
Pharmacies	X	X	X	
TRANSPORTATION, COMMUNICATIONS AND INFRASTRUCTURE				
Battery Energy Storage Systems, Tier I	P	P	P	See ACC 18.31.240
Battery Energy Storage Systems, Tier II	A	A	X	See ACC 18.31.240
Battery Energy Storage Systems, Tier III	X	X	X	See ACC 18.31.240
Utility facilities, substations, utility transmission or distribution line	X	X	A	See ACC 18.02.040(E)
Wireless communications facility (WCF) (See ACC 18.04.912(W))	*	*	*	*See ACC 18.31.100 for use regulations and zoning development standards.
Eligible facilities request (EFR) (Wireless communications facility) (See ACC 18.04.912(H))	P	P	P	
Small wireless facilities (ACC 18.04.912(Q))	P	P	P	

Permitted, Administrative, Conditional and Prohibited Uses by Zone				P – Permitted C – Conditional A – Administrative X – Prohibited
LAND USE	**Zoning Designations**			**Standards for Specific Land Uses**
	P-1	**I**	**OS**	
Emergency wireless communications facility (EWCF)	X	P	X	See ACC 18.04.912 and 18.31.100
OTHER USES THAT ARE NOT LISTED				
Other uses may be permitted by the planning director or designee if the use is determined to be consistent with the intent of the zone and is of the same general character of the uses permitted	P	P	P	

Notes:

1 Minimum lot area not applicable; duplexes must meet other development standards of the I zone.

2 Minimum lot area not applicable; apartments must meet other development standards of the I zone, dwellings; provided, that 2,400 square feet of lot area is provided for each dwelling unit.

3 Permitted within a public college or university as an amenity or service provided to students: A stand-alone bank or medical services/clinic is not permitted.

4 One single-unit detached dwelling unit per existing legal lot. No residential subdivisions permitted in the open space zone.

(Ord. 6959 § 1 (Exh. A), 2024; Ord. 6894 § 1 (Exh. B), 2022; Ord. 6799 § 9 (Exh. I), 2020; Ord. 6716 § 1 (Exh. A), 2019; Ord. 6677 § 3, 2018; Ord. 6642 § 11, 2017; Ord. 6434 § 1, 2012.)

The Auburn City Code is current through Ordinance 7002, passed October 6, 2025.

Disclaimer: The city clerk's office has the official version of the Auburn City Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: www.auburnwa.gov

Hosted by General Code.

CITY OF AUBURN WASHINGTON

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 7017 (Thomas) (30 Minutes)
An Ordinance amending the City's 2025-2026 Biennial Budget

Meeting Date:
April 13, 2026

Department:
Finance

Attachments:
2026 BA4, 2 - Ord 7017 BA#4 Transmittal memo, 3 - Ord 7017 BA#4 Ordinance, 2026 BA4 Ord No 7017 Schedule A, 2026 BA4 Ord No 7017 Schedule B

Budget Impact:

Administrative Recommendation:
For discussion only.

Background for Motion:

Background Summary:
Ordinance No. 7017 (Budget Amendment #4) represents the fourth Budget Amendment for the 2025-2026 Biennium. This amendment consists of true-ups of 2026 beginning balances, carry forwards of unspent 2025 budget authority, adjustments to capital project and equipment budgets, recognition of new grant awards and their associated expenditures, operating expenditure adjustments, and Cumulative Fund reimbursements of expenditures related to the 2025-2026 flood event.

For details, see the attached transmittal memorandum and supporting materials.

Councilmember: Hanan Amer

Staff: Jamie Thomas

2025/2026 Budget Amendment #4

CITY COUNCIL STUDY SESSION

APRIL 13, 2026

Budget Adjustment #4

Types of Adjustments

1. Fund Balance True Up
2. Carry Forward items from 2025
3. New programs with new offsetting revenue
4. New Programs
5. Sales Tax Change Impacts
6. Flood Impacts
7. Capital Project Adjustments

General Fund – Summary of Changes

1. $19.9 million increase Beginning Fund Balance
2. $4.4 million carryforward items from 2025 (17 items)
   - Includes $2.8million in ARPA
3. $693,316 in programs with new revenue (12 items)
4. $587,885 in new programs (7 items)
5. $91,340 in sales tax impacts
6. $479,729 in flood impact

General Fund – Carry Forward Fund Balance Impact

Type	Description	Department	Revenue	Expenditure	Net Impact
Fund Balance True Up		All	$ -	$ -	$ 19,939,825
Carry Forward	City Wide Strategic Plan	Mayor/Council	-	125,000	(125,000)
Carry Forward	Multicultural Festival	Administration	-	836	(836)
Carry Forward	Amerigroup Grant	Administration	11,824	11,824	-
Carry Forward	Lighting Install at ARC	Legal/HS	-	16,700	(16,700)
Carry Forward	Stuck River Rd and Rainier Vista SubArea	Community Development	599,174	599,174	-
Carry Forward	Comp Plan Updates	Community Development	-	82,800	(82,800)
Carry Forward	CDBG Grant	Human Services	477,931	477,931	-
Carry Forward	PD Grants	PD	149,074	64,248	84,826
Carry Forward	Public Art Maintenance	Parks, Art, Rec	-	4,105	(4,105)
Carry Forward	Senior Center Furniture	Parks, Art, Rec	-	20,414	(20,414)
Carry Forward	Childcare Room Flooring	Parks, Art, Rec	-	10,000	(10,000)
Carry Forward	Kiwanis Club Sponsorships Fund	Parks, Art, Rec	-	8,435	(8,435)
Carry Forward	Tourism Grants	Parks, Art, Rec	42,430	24,430	18,000
Carry Forward	Veteran's Memorial Park Pavers	Parks, Art, Rec	-	43,000	(43,000)
Carry Forward	Roadway Painting	Public Works		47,000	(47,000)
Carry Forward	CTR Grant	Public Works	77,670	47,670	30,000
Total Carry Forward and Fund Balance True Up Impacts			**$ 1,358,103**	**$ 1,583,567**	**$ 19,714,361**

General Fund – New Items Fund Balance Impact

Type	Description	Department	Revenue	Expenditure	Net Impact
New Revenue	2026/2027 Public Defense Funds	HR	$ 33,950	$ 33,950	$ -
New Revenue	Recording Fees	Community Development	15,000	15,000	-
New Revenue	Port of Seattle Grant - Economic Dev	Community Development	120,000	120,000	-
New Revenue	Traffic Equipment Grant	PD	3,000	3,000	-
New Revenue	Main Street Traffic Signal Repair	Public Works	244,900	233,930	10,970
New Revenue	Golf Course Theft	Parks, Art, Rec	9,416	9,416	-
New Revenue	Cascade Bike Club Grants	Parks, Art, Rec	162,613	162,613	-
New Revenue	DSHS Special Rec Grant	Parks, Art, Rec	20,000	20,000	-
New Revenue	KCD Farmers Market Grant	Parks, Art, Rec	25,000	25,000	-
New Revenue	Senior Center VSHSL Grant	Parks, Art, Rec		(453)	453
New Revenue	Mary Olson Farm Events	Parks, Art, Rec	10,000	10,000	-
New Revenue	Golf Course Operations Support	Parks, Art, Rec	60,860	60,860	-
New Program	2026 Downtown Events	Community Development		25,000	(25,000)
New Program	Document Accessibility	Non-Departmental		3,775	(3,775)
New Program	Utility Costs	Non-Departmental		107,568	(107,568)
New Program	CBPS Compliance - ARC	Non-Departmental		15,000	(15,000)
New Program	CBA Agreements	Non-Departmental		50,509	(50,509)
New Program	Annual Software Licenses	Non-Departmental		315,377	(315,377)
New Program	Flock Safety Camera Additions	PD		70,656	(70,656)
Sales Tax	Public Works Vendors	Public Works		51,000	(51,000)
Sales Tax	Parks Vendors	Parks, Art, Rec		8,990	(8,990)
Sales Tax	Security Patrol and Monitoring	Non-Deparmental		31,350	(31,350)
ARPA	Misc	Various		2,799,115	(2,799,115)
Flood Recovery			479,729	479,729	-
Total Impact of New Items			**$ 1,184,468**	**$ 4,651,385**	**$ (3,466,917)**

All Other Funds - Summary of Changes

1. $88.4 million increase Beginning Fund Balance
2. $2,796,569 carryforward items from 2025 (9 items)
3. $1,081,053 in new programs (6 items)
4. $5,306,245 in programs with new revenue (5 items)
5. $34,650 in sales tax impacts
6. $1,966,305 in flood impact

All Other Funds – Detailed Requests

Type	Description	Fund	Revenue	Expenditure	Net Impact
Carry Forward	ERP System Replacement	Cumulative Reserve	$ -	$ 1,539,840	$ (1,539,840)
Carry Forward	CDBG Funds	Capital Improvement Fund	467,342	467,342	-
Carry Forward	ARPA for Annual Traffic Signals	Capital Improvement Fund	50,000	-	50,000
Carry Forward	Traffic Safety Program	Capital Improvement Fund	150,000	150,000	-
Carry Forward	FCS Contract	Water/Sewer/storm	-	23,000	(23,000)
Carry Forward	Ecology Grant	Solid Waste	65,707	65,707	-
Carry Forward	Mower Replacment	Cemetery/ERR	19,000	19,000	-
Carry Forward	Tree Removal	Cemetery	-	13,250	(13,250)
Carry Forward	Misc Projects	Facilities	-	518,430	(518,430)
New Program	Tourism Grants	Hotel/Motel	-	18,000	(18,000)
New Program	Document Accessibility	Water/Sewer/Storm	15,100	11,325	3,775
New Program	CBA Adjustments	ALL	-	127,019	(127,019)
New Program	IT Cost Recovery	Water/Sewer/Storm/IT	370,970	55,593	315,377
New Program	Water Meter Replacements	Water	-	750,000	(750,000)
New Program	Stormwater Management Action Plan	Storm	-	119,116	(119,116)
New Revenue	15th Street Bridge Deck	Transportation	3,695,000	4,087,000	(392,000)
New Revenue	King County Parks Levy	Parks Construction Fund	775,000	-	775,000
New Revenue	WA Ecology Capacity Grant	Storm	120,000	-	120,000
New Revenue	AWOS Beacon Grant - WSDOT	Airport	19,245	19,245	-
New Revenue	Airport T-Hanger Upgrades	Airport	1,200,000	1,200,000	-
Flood Recovery	Flood Impact	Cumulative Reserve	-	1,966,305	(1,966,305)
Sales Tax Impacts	Sales Tax	Cemetery/Facilities	33,000	34,650	(1,650)
Total Adjustments - All Other Funds			**$ 6,980,364**	**$ 11,184,822**	**$ (4,204,458)**

Next Steps:

April 20, 2026

- Adopt BA#4

Interoffice Memorandum

To: City Council

From: **Jamie Thomas, Finance Director**

CC: Nancy Backus, Mayor

Date: April 6, 2026

Re: Ordinance #7017 – 2025-2026 Budget Amendment #4

The City's biennial 2025-2026 budget was approved by Council as two one-year appropriations. Budget Amendment #4 will be the fourth budget amendment for the biennium and will update the 2026 appropriations. For details on specific requests to amend the biennial budget, please refer to the accompanying ***Schedule A, Summary of 2026 Budget Adjustments by Fund***. The purpose of this budget amendment is to:

1. True up 2026 beginning balances to 2025 ending balances; and
2. Carry forward unspent 2025 budget authority for programs and costs that were budgeted and not completed; and
3. Adjust capital project and equipment purchase budgets; and
4. Recognize new grant awards and their associated expenditures; and
5. Adjust operational expenditures; and
6. Recognize the effect of newly-taxable services defined by the Department of Revenue in 2025; and
7. Reimburse funds via the Cumulative Reserve for 2026 expenditures related to the flood event.

Net Effects on 2026 Fund Balance: The fund balance (or ending working capital for proprietary funds) of a fund is affected when revenues and expenditures within a fund are not equal. If revenues exceed expenditures, fund balance increases; if expenditures exceed revenues, fund balance decreases. Budget Amendment No. 4 has the following effects on fund balance by fund type:

• General Fund (Fund 001)	$ 16,247,444
• Special Revenue Funds (Funds 1*)	23,375,751
• Debt Service Funds (Funds 2*)	22,305
• Governmental Capital Funds (Funds 3*)	7,187,260
• Enterprise Funds (Funds 4*)	50,230,288
• Internal Service Funds (Funds 5*)	3,111,163
• Agency Funds (Funds 6*)	106,050
• Permanent Funds (Funds 6*)	101,473
NET EFFECT ON FUND BALANCE	**$ 100,381,734**

Beginning balance true-up: This amendment adjusts 2026 budgeted beginning fund balances to be equal to 2025 ending fund balances. The net effect on fund balance from this adjustment is:

• General Fund	$ 19,939,825
• Special Revenue Funds	27,291,896
• Debt Service Funds	22,305
• Governmental Capital Funds	6,362,260
• Enterprise Funds	51,182,722
• Internal Service Funds	3,287,142
• Agency Funds	106,050
• Permanent Fund	101,473
NET EFFECT ON FUND BALANCE	**$ 108,293,673**

Carry forward 2025 budget authority: The main purpose of the first budget amendment of the year is to carry forward remaining budget authority for identified programs and costs that were budgeted and not completed in the prior year. The requested unspent expenditure authority from 2025 to be carried forward into the 2026 budget year for all funds is $8,495,736, including $2,725,615 for projects whose costs are mitigated by ARPA funding. These expenditures are offset by $3,402,137 of revenues, for a net effect on fund balance of -$5,093,599.

Total 2025 to 2026 carryforwards have the following effects by fund type:

• General Fund (Fund 001)	$ -3,049,079
• Special Revenue Funds (Funds 1*)	-1,539,840
• Governmental Capital Funds (Funds 3*)	50,000
• Proprietary Funds (Funds 4*)	-55,250
• Internal Service Funds (Funds 5*)	-499,430
NET EFFECT ON FUND BALANCE	**$ -5,093,599**

Adjust capital project budgets: These requests represent changes to project budgets to align with updated timelines and project scopes in accordance with strategic planning. Shown below is the additional expenditure authority requested, along with the additional expenditure authority and net effect on citywide fund balance:

• Water meter replacements[1]	$ -750,000
• Airport T-Hangar upgrades (cp2518)[2]	0
• Purchase dump trailer for Housing Repair Program[3]	0
• Adjust Neighborhood Traffic Safety Program recording[4]	0
NET EFFECT ON FUND BALANCE	**$ -750,000**

[1] Adds budget for a project to replace approximately 1,000 water meters. The cost of this project was factored into the rate study that determined the current water rates.
[2] This project is funded by a $1.2M Community Aviation Revitalization Board (CARB) loan.
[3] This request moves authority for purchase from the General Fund to ERR, so there is no effect on fund balance.
[4] This program is currently split across Fund 102 (General Transportation) and Fund 328 (General Governmental Capital Projects). It has been determined this entire project should be recorded in Fund 328.

Grant awards and adjustments: These requests recognize the receipt of new grants not previously budgeted, true-ups of previously approved grant budgets to award amounts, and authorization of associated grant expenditures. As such, there is generally a net-zero effect on fund balance for these requests unless a grant match is required. What is shown below is the additional expenditure authority requested, which in each case is offset by a corresponding adjustment to revenue. These requests include:

• WSDOT: 15th Street NW bridge deck (cp2520)[5]	$ 4,087,000
• Cascade Bicycle Club: Bike Program	162,613
• Port of Seattle: Economic Development	120,000
• WA Dept of Ecology: NPDES0 Permit[6]	0
• WSDOT: Commute Trip Reduction[7]	47,670
• Other grants (three total)[8]	78,950
NEW EXPENDITURE AUTHORITY	**$ 4,496,233**
NET EFFECT ON FUND BALANCE	**$ -242,000**

Adjust Operating Budget: These requests represent changes to the operating budget due to revisions of existing budget authority and requests for new budget authority. Presented below is the new expenditure authority requested, net of interfund activity.

• Main Street traffic signal repair[9]	$ 233,930
• Teamsters collective bargaining agreement	177,528
• Stormwater management action plan	119,116
• Facilities utility cost recovery[10]	107,528
• Twenty additional Flock safety cameras[11]	70,656
• Golf operations support position (temp/seasonal)[12]	60,860
• Increase King County Parks Levy funding[13]	0
• Other operating adjustments (ten total)[14]	112,563
NEW EXPENDITURE AUTHORITY	**$ 882,221**
NET EFFECT ON FUND BALANCE	**$ 232,955**

[5] Requires $390,000 of City matching funds.
[6] This grant results in an increase of ending balance of $120,000 as the associated expenditures were previously budgeted.
[7] Due to the timing of grant reimbursements, this grant will result in an increase of $30,000 to ending balance.
[8] WA Office of Public Defense SPAR grant ($33,950), King Conservation District farmer's market grant ($25,000), Department of Social and Health Services (DSHS) specialized recreation programs grant ($20,000).
[9] Expense offset by insurance recovery, resulting in a $10,970 increase to fund balance due to the timing of recoveries.
[10] Reimburses the Facilities fund for 2025 utility expenses and adds the amount to Facilities expenditure authority to offset reduced budget available for carryforward. The change to ending balance is $107,568.
[11] Approved by Resolution 5809.
[12] Green fees in 2026 were increased in anticipation of funding this position.
[13] The King County Parks Levy is anticipated to provide Auburn $775,000 more than currently budgeted. There is currently no expenditure authority associated with this request.
[14] Increase funding for 2026 downtown events ($25,000), move translation services from Public Works to Communications ($23,500), website document accessibility compliance ($15,100), Auburn Resource Center Clean Buildings Bill compliance ($15,000), increase King and Pierce County recording fees ($15,000), Mary Olson Farm Events ($10,000), golf course theft insurance recovery ($9,416), IT software maintenance cost recovery ($0), Tourism fund grants ($0), true up VSHSL grant (-453).

Sales Tax Increase: Due to new Department of Revenue regulations effective 2025, several categories of services previously not subject to sales tax have become taxable. This amendment recognizes the additional expense anticipated to be incurred due to the new regulation.

• School zone cameras	51,000
• Security and patrol monitoring	33,000
• Parks advertising and live presentations	$ 8,990
NEW EXPENDITURE AUTHORITY	**$ 92,990**
NET EFFECT ON FUND BALANCE	**$ -92,990**

Flood Mitigation: Due to flooding in late 2025 and early 2026, many departments had to incur unbudgeted expenses to repair and replace equipment and infrastructure. This amendment includes reimbursement to the applicable funds from the Cumulative Reserve fund, as well as an increase in expenditure authority in affected departments commensurate with the emergency expenses.

• Flood mitigation	$ 1,966,305
NEW EXPENDITURE AUTHORITY	**$ 1,966,305**
NET EFFECT ON FUND BALANCE	**$-1,966,305**

Interfund Activity: The following interfund transfers and allocations are necessary to facilitate the amendments listed above.

• Interfund Activity	$ 4,880,786
NEW EXPENDITURE AUTHORITY	**$ 4,880,786**
NET EFFECT ON FUND BALANCE	**$ 0**

The following tables summarize the current and revised budget as a result of this amendment.

Table 1: 2026 Budget as Amended

2026 Amended Budget	**$ 454,016,914**
Budget Amendment #4 (Ord #7017)	121,069,823
Budget as Amended	**$ 575,086,737**

Attachments:

- ❖ 1. Proposed Ordinance #7017 (budget adjustment #4)
- ❖ 2. Summary of proposed 2026 budget adjustments by fund and department (Schedule A)
- ❖ 3. Summary of proposed changes to the amended 2026 budget by fund (Schedule B)

ORDINANCE NO. 7017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING THE CITY'S 2025-2026 BIENNIAL BUDGET

WHEREAS, at its November 18, 2024 regular meeting, the Auburn City Council enacted Ordinance No. 6848, which adopted the City's 2025-2026 Biennial budget (Budget); and

WHEREAS, the City Council has amended the Budget three times since adoption (by enacting Ordinance No. 6975 on May 19, 2025, Ordinance No. 6991 on August 4, 2025 and Ordinance No. 7000 on November 17, 2025); and

WHEREAS, the City deems it necessary to amend the Budget to appropriate additional funds into the various Budget funds outlined in the schedules attached to this Ordinance; and

WHEREAS, the City Council has approved this Ordinance by one more than its majority in accordance with RCW 35A.34.200.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Amendment of the 2025-2026 Biennial Budget. Pursuant to RCW 35A.34, the City hereby amends its 2025-2026 Biennial Budget to reflect the revenues and expenditures shown on Schedules "A" and "B", attached hereto and incorporated herein by reference.

Section 2. Implementation. The Mayor is authorized to utilize the revenue and expenditure amounts shown on Schedules "A" and "B" attached to this

Ordinance. A copy of these Schedules are on file with the City Clerk and available for public inspection. The Mayor is further authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 3. Severability. The provisions of this Ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of the application of it to any person or circumstance, will not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 4. Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbers, and any references thereto.

Section 5. **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:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Jason Whalen, City Attorney

Published: _____

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	Beg. Fund Balance	Revenues	Expenditures	Ending Fund Balance
General Fund (#001)				
2026 Adopted Budget	**33,158,530**	**106,950,907**	**114,023,485**	**26,085,952**
Previous Budget Amendments	(113,868)	3,174,633	2,407,500	653,265
2026 Amended Budget	**33,044,662**	**110,125,540**	**116,430,985**	**26,739,217**
BA#4 (Ordinance #7017, Proposed):	**19,939,825**	**2,542,571**	**6,234,952**	**16,247,444**
Mayor/Council				
Carry Forward Decision Package PLN.0056 - Citywide Strategic Plan	**-**	**-**	**125,000**	**(125,000)**
Administration				
GR2507 Multicultural Festival CF	**-**	**-**	**836**	**(836)**
Amerigroup Grant CF MS2310	**-**	**11,824**	**11,824**	**-**
Human Resources				
2026-27 OPD Public Defense Improvement Funds GR2601	**-**	**33,950**	**33,950**	**-**
City Attorney's Office				
Carry Forward Lighting Install Contract at ARC	**-**	**-**	**16,700**	**(16,700)**
Community Development				
2026 Downtown Events	**-**	**-**	**25,000**	**(25,000)**
Stuck River Rd and Rainier Vista Sub Area Plan	**-**	**599,174**	**599,174**	**-**
King and Pierce County Recording Fees	**-**	**15,000**	**15,000**	**-**
MS2203 CF Comp Plan Updates	**-**	**-**	**82,800**	**(82,800)**
Port of Sea Econ Dev Gr GR2508	**-**	**120,000**	**120,000**	**-**
Purchase of Housing Repair Trailer	**-**	**-**	**-**	**-**
Human Services				
CF CDBG Grant & CP2227/CP2609	**-**	**477,931**	**477,931**	**-**
Police				
PD Grant CF	**-**	**149,074**	**64,248**	**84,826**
PD Traffic Equip Grant pd2603	**-**	**3,000**	**3,000**	**-**
Public Works				
MS2208 Inc Vendor Sales Tax	**-**	**-**	**51,000**	**(51,000)**
Main St Traffic Signal Repair	**-**	**244,900**	**233,930**	**10,970**
Translation Services (ARPA)	**-**	**-**	**23,500**	**(23,500)**

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	Beg. Fund Balance	Revenues	Expenditures	Ending Fund Balance
Parks, Arts & Rec				
Golf Course Theft Insurance Recovery	-	9,416	9,416	-
Golf Operations Support - S59	-	60,860	60,860	-
Public Art Maintenance CF	-	-	4,105	(4,105)
CF Senior Center Furniture Contract	-	-	20,414	(20,414)
Advertising and Live Presentation Tax	-	-	8,990	(8,990)
CF Childcare Room Flooring Contract	-	-	10,000	(10,000)
CF Kiwanis Club Scholarship Funds	-	-	8,435	(8,435)
spevnt 2025 & 2026 Tourism Grants	-	42,430	24,430	18,000
CF Cascade Bike Grant GR2503	-	162,613	162,613	-
DSHS Grant Special Rec GR2603	-	20,000	20,000	-
ms0806 KCD 2026 Farm Mkt Grnt	-	25,000	25,000	-
GR2402 Senior Center VSHSL	-	-	(453)	453
Mary Olson Farm 2026 Events	-	10,000	10,000	-
MS2314 Vet Park Plaza Pavers	-	-	43,000	(43,000)
Streets				
CF - Roadway Paint and Thermo	-	-	47,000	(47,000)
CTR Program Grant GR2505	-	77,670	47,670	30,000
Non-Departmental				
Website Document Accessibility Compliance (DocAccess)	-	-	3,775	(3,775)
Facilites - 2025 Utilities Over Budget Reimburstment	-	-	107,568	(107,568)
Auburn Recourse Center - CBPS Compliance	-	-	15,000	(15,000)
Sales Tax Expense for Security Patrol and Security Monitoring Services	-	-	31,350	(31,350)
City-wide Teamster Adj	-	-	50,509	(50,509)
F518 IT Cost Recovery	-	-	315,377	(315,377)
CP2503 ARPA Funding Authority	-	-	50,000	(50,000)
Carry Forward of Operating ARPA Projects to 2026	-	-	2,725,615	(2,725,615)
True Up 2026 Beginning Balance	19,939,825	-	-	19,939,825
Flood Mitigation Recovery - EM2502	-	479,729	479,729	-
Flock Safety Camera Additions	-	-	70,656	(70,656)
Revised 2026 Budget - Fund 001	**52,984,487**	**112,668,111**	**122,665,937**	**42,986,661**

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	Beg. Fund Balance	Revenues	Expenditures	Ending Fund Balance
General Transportation Fund (#102)				
2026 Adopted Budget	**5,168,764**	**10,602,973**	**9,162,300**	**6,609,437**
Previous Budget Amendments	(432,598)	-	-	(432,598)
2026 Amended Budget	**4,736,166**	**10,602,973**	**9,162,300**	**6,176,839**
BA#4 (Ordinance #7017, Proposed):	**10,556,400**	**3,695,000**	**4,087,000**	**10,164,400**
True Up 2026 Beginning Balance	**10,556,400**	**-**	**-**	**10,556,400**
CP2512 Xfer F102 FB to F328	**-**	**-**	**-**	**-**
15th St NW Bridge Deck Preserv	**-**	**3,695,000**	**4,087,000**	**(392,000)**
Revised 2026 Budget - Fund 102	**15,292,566**	**14,297,973**	**13,249,300**	**16,341,239**
Hotel/Motel Tax Fund (#104)				
2026 Adopted Budget	**477,680**	**178,500**	**177,100**	**479,080**
Previous Budget Amendments	(155,999)	-	-	(155,999)
2026 Amended Budget	**321,681**	**178,500**	**177,100**	**323,081**
BA#4 (Ordinance #7017, Proposed):	**64,262**	**-**	**18,000**	**46,262**
True Up 2026 Beginning Balance	**64,262**	**-**	**-**	**64,262**
spevnt 2025 & 2026 Tourism Grants	**-**	**-**	**18,000**	**(18,000)**
Revised 2026 Budget - Fund 104	**385,943**	**178,500**	**195,100**	**369,343**
Arterial Street Preservation Fund (#105)				
2026 Adopted Budget	**1,756,224**	**2,168,000**	**2,186,000**	**1,738,224**
Previous Budget Amendments	2,244,355	-	-	2,244,355
2026 Amended Budget	**4,000,579**	**2,168,000**	**2,186,000**	**3,982,579**
BA#4 (Ordinance #7017, Proposed):	**2,864,097**	**-**	**-**	**2,864,097**
True Up 2026 Beginning Balance	**2,864,097**	**-**	**-**	**2,864,097**
Revised 2026 Budget - Fund 105	**6,864,676**	**2,168,000**	**2,186,000**	**6,846,676**

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	Beg. Fund Balance	Revenues	Expenditures	Ending Fund Balance
Drug Forfeiture Fund (#117)				
2026 Adopted Budget	**654,270**	**263,700**	**408,486**	**509,484**
Previous Budget Amendments	(6,121)	-	-	(6,121)
2026 Amended Budget	**648,149**	**263,700**	**408,486**	**503,363**
BA#4 (Ordinance #7017, Proposed):	**175,437**	**-**	**-**	**175,437**
True Up 2026 Beginning Balance	**175,437**	**-**	**-**	**175,437**
Revised 2026 Budget - Fund 117	**823,586**	**263,700**	**408,486**	**678,800**
Recreation Trails Fund (#120)				
2026 Adopted Budget	**61,320**	**7,500**	**-**	**68,820**
Previous Budget Amendments	(97)	-	-	(97)
2026 Amended Budget	**61,223**	**7,500**	**-**	**68,723**
BA#4 (Ordinance #7017, Proposed):	**2,406**	**-**	**-**	**2,406**
True Up 2026 Beginning Balance	**2,406**	**-**	**-**	**2,406**
Revised 2026 Budget - Fund 120	**63,629**	**7,500**	**-**	**71,129**
Cumulative Reserve Fund (#122)				
2026 Adopted Budget	**33,171,351**	**80,000**	**825,600**	**32,425,751**
Previous Budget Amendments	7,121,141	-	-	7,121,141
2026 Amended Budget	**40,292,492**	**80,000**	**825,600**	**39,546,892**
BA#4 (Ordinance #7017, Proposed):	**4,297,190**	**-**	**3,506,145**	**791,045**
MS2410 2025 CF	**-**	**-**	**1,539,840**	**(1,539,840)**
True Up 2026 Beginning Balance	**4,297,190**	**-**	**-**	**4,297,190**
Flood Mitigation Recovery - EM2502	**-**	**-**	**1,966,305**	**(1,966,305)**
Revised 2026 Budget - Fund 122	**44,589,682**	**80,000**	**4,331,745**	**40,337,937**

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	Beg. Fund Balance	Revenues	Expenditures	Ending Fund Balance
Mitigation Fees Fund (#124)				
2026 Adopted Budget	**3,441,291**	**1,236,900**	**2,794,373**	**1,883,818**
Previous Budget Amendments	820,797	-	-	820,797
2026 Amended Budget	**4,262,088**	**1,236,900**	**2,794,373**	**2,704,615**
BA#4 (Ordinance #7017, Proposed):	**9,332,104**	**-**	**-**	**9,332,104**
True Up 2026 Beginning Balance	**9,332,104**	**-**	**-**	**9,332,104**
Revised 2026 Budget - Fund 124	**13,594,192**	**1,236,900**	**2,794,373**	**12,036,719**
2020 LTGO A&B Refunding Bonds Fund (#232)				
2026 Adopted Budget	**509,036**	**1,501,400**	**1,501,300**	**509,136**
Previous Budget Amendments	(32,936)	-	-	(32,936)
2026 Amended Budget	**476,100**	**1,501,400**	**1,501,300**	**476,200**
BA#4 (Ordinance #7017, Proposed):	**22,305**	**-**	**-**	**22,305**
True Up 2026 Beginning Balance	**22,305**	**-**	**-**	**22,305**
Revised 2026 Budget - Fund 232	**498,405**	**1,501,400**	**1,501,300**	**498,505**
Parks Construction Fund (#321)				
2026 Adopted Budget	**490,199**	**711,300**	**685,000**	**516,499**
Previous Budget Amendments	(23,724)	106,000	106,000	(23,724)
2026 Amended Budget	**466,475**	**817,300**	**791,000**	**492,775**
BA#4 (Ordinance #7017, Proposed):	**1,460,210**	**775,000**	**-**	**2,235,210**
True Up 2026 Beginning Balance	**1,460,210**	**-**	**-**	**1,460,210**
King County Parks Levy	**-**	**775,000**	**-**	**775,000**
Revised 2026 Budget - Fund 321	**1,926,685**	**1,592,300**	**791,000**	**2,727,985**

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	Beg. Fund Balance	Revenues	Expenditures	Ending Fund Balance
Capital Improvements Fund (#328)				
2026 Adopted Budget	**1,561,564**	**13,270,500**	**13,250,000**	**1,582,064**
Previous Budget Amendments	5,725,552	-	-	5,725,552
2026 Amended Budget	**7,287,116**	**13,270,500**	**13,250,000**	**7,307,616**
BA#4 (Ordinance #7017, Proposed):	**(2,204,319)**	**667,342**	**617,342**	**(2,154,319)**
CF CDBG Grant & CP2227/CP2609	**-**	**467,342**	**467,342**	**-**
CP2503 ARPA Funding Authority	**-**	**50,000**	**-**	**50,000**
True Up 2026 Beginning Balance	**(2,204,319)**	**-**	**-**	**(2,204,319)**
CP2512 Xfer F102 FB to F328	**-**	**150,000**	**150,000**	**-**
Revised 2026 Budget - Fund 328	**5,082,797**	**13,937,842**	**13,867,342**	**5,153,297**
Local Revitalization Fund (#330)				
2026 Adopted Budget	**17,333**	**1,000**	**-**	**18,333**
Previous Budget Amendments	30,004	-	-	30,004
2026 Amended Budget	**47,337**	**1,000**	**-**	**48,337**
BA#4 (Ordinance #7017, Proposed):	**305,788**	**-**	**-**	**305,788**
True Up 2026 Beginning Balance	**305,788**	**-**	**-**	**305,788**
Revised 2026 Budget - Fund 330	**353,125**	**1,000**	**-**	**354,125**
Real Estate Excise Tax Fund (#331)				
2026 Adopted Budget	**5,398,962**	**1,840,000**	**1,569,700**	**5,669,262**
Previous Budget Amendments	4,867,000	-	-	4,867,000
2026 Amended Budget	**10,265,962**	**1,840,000**	**1,569,700**	**10,536,262**
BA#4 (Ordinance #7017, Proposed):	**6,800,581**	**-**	**-**	**6,800,581**
True Up 2026 Beginning Balance	**6,800,581**	**-**	**-**	**6,800,581**
Revised 2026 Budget - Fund 331	**17,066,543**	**1,840,000**	**1,569,700**	**17,336,843**

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	Beg. Fund Balance	Revenues	Expenditures	Ending Fund Balance
Water Fund (#430)				
2026 Adopted Budget	**3,381,662**	**22,200,250**	**23,286,921**	**2,294,991**
Previous Budget Amendments	4,733,730	-	287,275	4,446,455
2026 Amended Budget	**8,115,392**	**22,200,250**	**23,574,196**	**6,741,446**
BA#4 (Ordinance #7017, Proposed):	**15,239,780**	**-**	**820,455**	**14,419,325**
Website Document Accessibility Compliance (DocAccess)	**-**	**-**	**3,775**	**(3,775)**
City-wide Teamster Adj	**-**	**-**	**34,849**	**(34,849)**
F518 IT Cost Recovery	**-**	**-**	**18,531**	**(18,531)**
Carry forward remaining FCS contract	**-**	**-**	**13,300**	**(13,300)**
True Up 2026 Beginning Balance	**15,239,780**	**-**	**-**	**15,239,780**
Water Meter Replacements	**-**	**-**	**750,000**	**(750,000)**
Revised 2026 Budget - Fund 430	**23,355,172**	**22,200,250**	**24,394,651**	**21,160,771**
Sewer Fund (#431)				
2026 Adopted Budget	**14,725,640**	**11,505,000**	**12,425,228**	**13,805,412**
Previous Budget Amendments	3,458,647	-	21,900	3,436,747
2026 Amended Budget	**18,184,287**	**11,505,000**	**12,447,128**	**17,242,159**
BA#4 (Ordinance #7017, Proposed):	**16,851,805**	**284,043**	**329,555**	**16,806,293**
Website Document Accessibility Compliance (DocAccess)	**-**	**-**	**3,775**	**(3,775)**
City-wide Teamster Adj	**-**	**-**	**17,706**	**(17,706)**
F518 IT Cost Recovery	**-**	**-**	**18,531**	**(18,531)**
Carry forward remaining FCS contract	**-**	**-**	**5,500**	**(5,500)**
True Up 2026 Beginning Balance	**16,851,805**	**-**	**-**	**16,851,805**
Flood Mitigation Recovery - EM2502	**-**	**284,043**	**284,043**	**-**
Revised 2026 Budget - Fund 431	**35,036,092**	**11,789,043**	**12,776,683**	**34,048,452**

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	Beg. Fund Balance	Revenues	Expenditures	Ending Fund Balance
Storm Drainage Fund (#432)				
2026 Adopted Budget	**8,802,355**	**14,180,200**	**15,452,074**	**7,530,481**
Previous Budget Amendments	477,474	-	3,200	474,274
2026 Amended Budget	**9,279,829**	**14,180,200**	**15,455,274**	**8,004,755**
BA#4 (Ordinance #7017, Proposed):	**15,731,248**	**120,000**	**166,785**	**15,684,463**
Website Document Accessibility Compliance (DocAccess)	**-**	**-**	**3,775**	**(3,775)**
City-wide Teamster Adj	**-**	**-**	**21,163**	**(21,163)**
F518 IT Cost Recovery	**-**	**-**	**18,531**	**(18,531)**
Carry forward remaining FCS contract	**-**	**-**	**4,200**	**(4,200)**
True Up 2026 Beginning Balance	**15,731,248**	**-**	**-**	**15,731,248**
WA Ecology Capacity Grt npdes0	**-**	**120,000**	**-**	**120,000**
Stormwater Management Action Plan	**-**	**-**	**119,116**	**(119,116)**
Revised 2026 Budget - Fund 432	**25,011,077**	**14,300,200**	**15,622,059**	**23,689,218**
Sewer Metro Sub Fund (#433)				
2026 Adopted Budget	**4,600,626**	**24,515,000**	**24,472,000**	**4,643,626**
Previous Budget Amendments	317,585	-	-	317,585
2026 Amended Budget	**4,918,211**	**24,515,000**	**24,472,000**	**4,961,211**
BA#4 (Ordinance #7017, Proposed):	**621,214**	**-**	**-**	**621,214**
True Up 2026 Beginning Balance	**621,214**	**-**	**-**	**621,214**
Revised 2026 Budget - Fund 433	**5,539,425**	**24,515,000**	**24,472,000**	**5,582,425**
Solid Waste Fund (#434)				
2026 Adopted Budget	**2,349,471**	**34,866,600**	**34,040,130**	**3,175,941**
Previous Budget Amendments	(416,980)	-	-	(416,980)
2026 Amended Budget	**1,932,491**	**34,866,600**	**34,040,130**	**2,758,961**
BA#4 (Ordinance #7017, Proposed):	**822,153**	**65,707**	**65,707**	**822,153**
Ecology Grant CF LSWF25	**-**	**65,707**	**65,707**	**-**
True Up 2026 Beginning Balance	**822,153**	**-**	**-**	**822,153**
Revised 2026 Budget - Fund 434	**2,754,644**	**34,932,307**	**34,105,837**	**3,581,114**

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	Beg. Fund Balance	Revenues	Expenditures	Ending Fund Balance
Airport Fund (#435)				
2026 Adopted Budget	**1,409,851**	**2,512,400**	**2,973,025**	**949,226**
Previous Budget Amendments	(71,487)	-	700	(72,187)
2026 Amended Budget	**1,338,364**	**2,512,400**	**2,973,725**	**877,039**
BA#4 (Ordinance #7017, Proposed):	**1,318,349**	**1,219,245**	**1,219,245**	**1,318,349**
True Up 2026 Beginning Balance	**1,318,349**	**-**	**-**	**1,318,349**
cp2335 AWOS Beacon WSDOT Grant	**-**	**19,245**	**19,245**	**-**
cp2518 Airport T-Hangar Upgrades (F Row)	**-**	**1,200,000**	**1,200,000**	**-**
Revised 2026 Budget - Fund 435	**2,656,713**	**3,731,645**	**4,192,970**	**2,195,388**
Cemetery Fund (#436)				
2026 Adopted Budget	**1,096,017**	**1,696,800**	**2,098,241**	**694,576**
Previous Budget Amendments	(71,096)	-	2,220	(73,316)
2026 Amended Budget	**1,024,921**	**1,696,800**	**2,100,461**	**621,260**
BA#4 (Ordinance #7017, Proposed):	**598,173**	**-**	**39,682**	**558,491**
Sales Tax Expense for Security Patrol and Security Monitoring Services	**-**	**-**	**1,650**	**(1,650)**
City-wide Teamster Adj	**-**	**-**	**5,782**	**(5,782)**
CEM Interfund Allocation Carry Forward	**-**	**-**	**19,000**	**(19,000)**
True Up 2026 Beginning Balance	**598,173**	**-**	**-**	**598,173**
CF CEM Tree Removal Contract	**-**	**-**	**13,250**	**(13,250)**
Revised 2026 Budget - Fund 436	**1,623,094**	**1,696,800**	**2,140,143**	**1,179,751**
Insurance Fund (#501)				
2026 Adopted Budget	**1,215,996**	**5,609,318**	**5,771,818**	**1,053,496**
Previous Budget Amendments	(65,962)	-	-	(65,962)
2026 Amended Budget	**1,150,034**	**5,609,318**	**5,771,818**	**987,534**
BA#4 (Ordinance #7017, Proposed):	**87,382**	**-**	**-**	**87,382**
True Up 2026 Beginning Balance	**87,382**	**-**	**-**	**87,382**
Revised 2026 Budget - Fund 501	**1,237,416**	**5,609,318**	**5,771,818**	**1,074,916**

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	Beg. Fund Balance	Revenues	Expenditures	Ending Fund Balance
Workers' Comp Fund (#503)				
2026 Adopted Budget	**3,663,569**	**1,225,300**	**1,060,400**	**3,828,469**
Previous Budget Amendments	101,010	-	-	101,010
2026 Amended Budget	**3,764,579**	**1,225,300**	**1,060,400**	**3,929,479**
BA#4 (Ordinance #7017, Proposed):	**(105,435)**	**-**	**-**	**(105,435)**
True Up 2026 Beginning Balance	**(105,435)**	**-**	**-**	**(105,435)**
Revised 2026 Budget - Fund 503	**3,659,144**	**1,225,300**	**1,060,400**	**3,824,044**
Facilities Fund (#505)				
2026 Adopted Budget	**398,740**	**4,932,800**	**4,947,759**	**383,781**
Previous Budget Amendments	(381,075)	204,620	204,620	(381,075)
2026 Amended Budget	**17,665**	**5,137,420**	**5,152,379**	**2,706**
BA#4 (Ordinance #7017, Proposed):	**637,763**	**827,793**	**1,364,503**	**101,053**
Facilites - 2025 Utilities Over Budget Reimburstment	**-**	**107,568**	**107,568**	**-**
Auburn Recourse Center - CBPS Compliance	**-**	**15,000**	**15,000**	**-**
2025 to 2026 Carry Forward Funds - Facilities Department	**-**	**-**	**518,430**	**(518,430)**
Sales Tax Expense for Security Patrol and Security Monitoring Services	**-**	**33,000**	**33,000**	**-**
City-wide Teamster Adj	**-**	**-**	**18,280**	**(18,280)**
True Up 2026 Beginning Balance	**637,763**	**-**	**-**	**637,763**
Flood Mitigation Recovery - EM2502	**-**	**672,225**	**672,225**	**-**
Revised 2026 Budget - Fund 505	**655,428**	**5,965,213**	**6,516,882**	**103,759**

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	Beg. Fund Balance	Revenues	Expenditures	Ending Fund Balance
Innovation & Technology Fund (#518)				
2026 Adopted Budget	**2,731,569**	**9,455,300**	**9,246,580**	**2,940,289**
Previous Budget Amendments	(66,354)	37,308	37,308	(66,354)
2026 Amended Budget	**2,665,215**	**9,492,608**	**9,283,888**	**2,873,935**
BA#4 (Ordinance #7017, Proposed):	**304,825**	**2,033,623**	**1,662,653**	**675,795**
Website Document Accessibility Compliance (DocAccess)	**-**	**15,100**	**15,100**	**-**
F518 IT Cost Recovery	**-**	**370,970**	**-**	**370,970**
MS2410 2025 CF	**-**	**1,539,840**	**1,539,840**	**-**
True Up 2026 Beginning Balance	**304,825**	**-**	**-**	**304,825**
Flood Mitigation Recovery - EM2502	**-**	**13,557**	**13,557**	**-**
Translation Services (ARPA)	**-**	**23,500**	**23,500**	**-**
Flock Safety Camera Additions	**-**	**70,656**	**70,656**	**-**
Revised 2026 Budget - Fund 518	**2,970,040**	**11,526,231**	**10,946,541**	**3,549,730**
Equipment Rental Fund (#550)				
2026 Adopted Budget	**6,854,096**	**7,794,805**	**5,834,743**	**8,814,158**
Previous Budget Amendments	4,952	-	-	4,952
2026 Amended Budget	**6,859,048**	**7,794,805**	**5,834,743**	**8,819,110**
BA#4 (Ordinance #7017, Proposed):	**2,362,607**	**545,826**	**556,065**	**2,352,368**
City-wide Teamster Adj	**-**	**-**	**29,239**	**(29,239)**
CEM Interfund Allocation Carry Forward	**-**	**19,000**	**-**	**19,000**
True Up 2026 Beginning Balance	**2,362,607**	**-**	**-**	**2,362,607**
Flood Mitigation Recovery - EM2502	**-**	**516,751**	**516,751**	**-**
Purchase of Housing Repair Trailer	**-**	**10,075**	**10,075**	**-**
Revised 2026 Budget - Fund 550	**9,221,655**	**8,340,631**	**6,390,808**	**11,171,478**

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	Beg. Fund Balance	Revenues	Expenditures	Ending Fund Balance
Fire Pension Fund (#611)				
2026 Adopted Budget	**1,797,248**	**176,500**	**207,840**	**1,765,908**
Previous Budget Amendments	(32,483)	-	-	(32,483)
2026 Amended Budget	**1,764,765**	**176,500**	**207,840**	**1,733,425**
BA#4 (Ordinance #7017, Proposed):	**106,050**	**-**	**-**	**106,050**
True Up 2026 Beginning Balance	**106,050**	**-**	**-**	**106,050**
Revised 2026 Budget - Fund 611	**1,870,815**	**176,500**	**207,840**	**1,839,475**
Cemetery Endowment Fund (#701)				
2026 Adopted Budget	**2,632,809**	**90,000**	**-**	**2,722,809**
Previous Budget Amendments	(2,240)	-	-	(2,240)
2026 Amended Budget	**2,630,569**	**90,000**	**-**	**2,720,569**
BA#4 (Ordinance #7017, Proposed):	**101,473**	**-**	**-**	**101,473**
True Up 2026 Beginning Balance	**101,473**	**-**	**-**	**101,473**
Revised 2026 Budget - Fund 701	**2,732,042**	**90,000**	**-**	**2,822,042**
Grand Total - All Funds				
2026 Adopted Budget	**141,526,173**	**280,938,953**	**289,766,103**	**132,699,023**
Previous Budget Amendments	28,029,227	3,522,561	3,070,723	28,481,065
2026 Amended Budget	**169,555,400**	**284,461,514**	**292,836,826**	**161,180,088**
Total BA#4 (Ordinance #7017, Proposed):	**108,293,673**	**12,776,150**	**20,688,089**	**100,381,734**
Revised 2026 Budget	**277,849,073**	**297,237,664**	**313,524,915**	**261,561,822**
		575,086,737		**575,086,737**

Schedule B
2026 Ending Fund Balance/Working Capital
by Fund

Fund	2026 Amended Beginning Balance	2026 Amended Ending Balance	BA#4 (ORD #7017) Revenues	BA#4 (ORD #7017) Expenditures	BA Net Change Fund Balance	Revised Ending Balance
General Fund (#001)	33,044,662	26,739,217	22,482,396	6,234,952	16,247,444	42,986,661
General Transportation Fund (#102)	4,736,166	6,176,839	14,251,400	4,087,000	10,164,400	16,341,239
Hotel/Motel Tax Fund (#104)	321,681	323,081	64,262	18,000	46,262	369,343
Arterial Street Preservation Fund (#105)	4,000,579	3,982,579	2,864,097	-	2,864,097	6,846,676
Drug Forfeiture Fund (#117)	648,149	503,363	175,437	-	175,437	678,800
Recreation Trails Fund (#120)	61,223	68,723	2,406	-	2,406	71,129
Cumulative Reserve Fund (#122)	40,292,492	39,546,892	4,297,190	3,506,145	791,045	40,337,937
Mitigation Fees Fund (#124)	4,262,088	2,704,615	9,332,104	-	9,332,104	12,036,719
2020 LTGO A&B Refunding Bonds Fund (#232)	476,100	476,200	22,305	-	22,305	498,505
SCORE Debt Service Fund (#238)	-	-	-	-	-	-
LID Guarantee Fund (#249)	-	-	-	-	-	-
Golf/Cemetery 2016 Refunding Fund (#276)	-	-	-	-	-	-
Parks Construction Fund (#321)	466,475	492,775	2,235,210	-	2,235,210	2,727,985
Capital Improvements Fund (#328)	7,287,116	7,307,616	(1,536,977)	617,342	(2,154,319)	5,153,297
Local Revitalization Fund (#330)	47,337	48,337	305,788	-	305,788	354,125
Real Estate Excise Tax Fund (#331)	10,265,962	10,536,262	6,800,581	-	6,800,581	17,336,843
Water Fund (#430)	8,115,392	6,741,446	15,239,780	820,455	14,419,325	21,160,771
Sewer Fund (#431)	18,184,287	17,242,159	17,135,848	329,555	16,806,293	34,048,452
Storm Drainage Fund (#432)	9,279,829	8,004,755	15,851,248	166,785	15,684,463	23,689,218
Sewer Metro Sub Fund (#433)	4,918,211	4,961,211	621,214	-	621,214	5,582,425
Solid Waste Fund (#434)	1,932,491	2,758,961	887,860	65,707	822,153	3,581,114
Airport Fund (#435)	1,338,364	877,039	2,537,594	1,219,245	1,318,349	2,195,388
Cemetery Fund (#436)	1,024,921	621,260	598,173	39,682	558,491	1,179,751
Insurance Fund (#501)	1,150,034	987,534	87,382	-	87,382	1,074,916
Workers' Comp Fund (#503)	3,764,579	3,929,479	(105,435)	-	(105,435)	3,824,044
Facilities Fund (#505)	17,665	2,706	1,465,556	1,364,503	101,053	103,759
Innovation & Technology Fund (#518)	2,665,215	2,873,935	2,338,448	1,662,653	675,795	3,549,730
Equipment Rental Fund (#550)	6,859,048	8,819,110	2,908,433	556,065	2,352,368	11,171,478
Fire Pension Fund (#611)	1,764,765	1,733,425	106,050	-	106,050	1,839,475
Cemetery Endowment Fund (#701)	2,630,569	2,720,569	101,473	-	101,473	2,822,042

CITY OF AUBURN WASHINGTON

AGENDA BILL APPROVAL FORM

Agenda Subject:
Update for the Purchase of Soos Creek Botanical Gardens (Whalen/Krueger) (30 Minutes)
Resolution No. 5897, Resolution No. 5900, and Resolution No. 5901

Meeting Date:
April 13, 2026

Department:
Legal

Attachments:
Presentation, Resolution No. 5897, Resolution No. 5900, Exhibit A to Resolution No. 5900, Resolution No. 5901, Exhibit A to Resolution No. 5901

Budget Impact:

Administrative Recommendation:
For discussion only.

Background for Motion:

Background Summary:
Update on the purchase of the Soos Creek Botanical Gardens with a grant from King County Conservation Futures Tax Levy Grant. And to review Resolutions associated with the purchase:
- Resolution 5897: Amendment to Interlocal Agreement with King County for CFT Grant
- Resolution 5900: Purchase and Sale Agreement
- Resolution 5901: Operating Agreement

Councilmember: Hanan Amer

Staff: Jason Whalen, Julie Krueger

SOOS CREEK BOTANICAL GARDENS

KING COUNTY CONSERVATION FUTURES

RESOLUTION NO. 5897, 5900, 5901 CFT GRANT ACCEPTANCE, PURCHASE AND SALE AGREEMENT, AND OPERATING AGREEMENT

PRESENTED BY:
THANIEL GOUK, PARKS PLANNING & DEVELOPMENT MANAGER
JOSH ARNDT, REAL ESTATE MANAGER

AUBURN VALUES

SERVICE

ENVIRONMENT

ECONOMY

CHARACTER

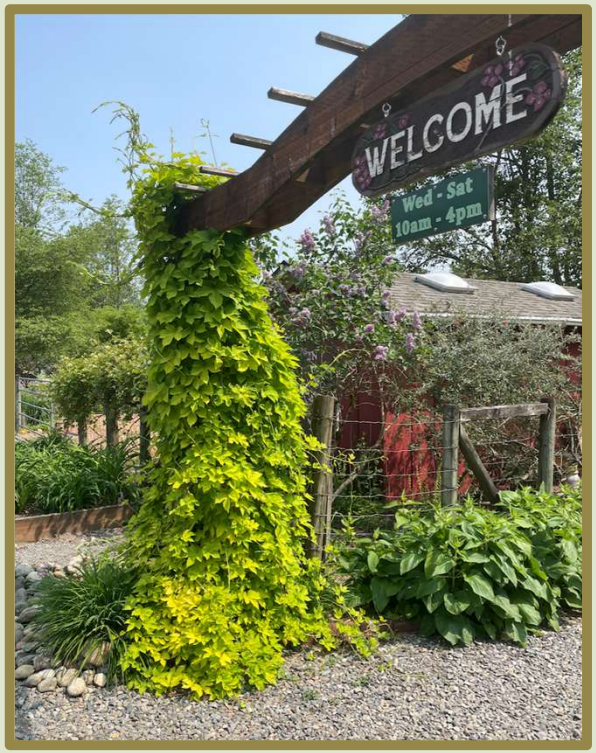
SUSTAINABILITY

WELLNESS

CELEBRATION

SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE

- **Background**
  - King County Conservation Futures Tax Levy Grant (common acronym “CFT”)
  - Goal – to preserve and create open and green spaces within King County
- **Timeline**
  - **Fall 2023-2024** – Discussions with Soos Creek Botanical about potential purchase of the Gardens by the City with CFT Grant
  - **Spring 2025** – City applies for CFT Grant for $2.1M (estimated assessed value as request amount)
  - **May 2025** – Presentation to CFT Committee
  - **Winter 2025** – King County Council approves CFT Grant



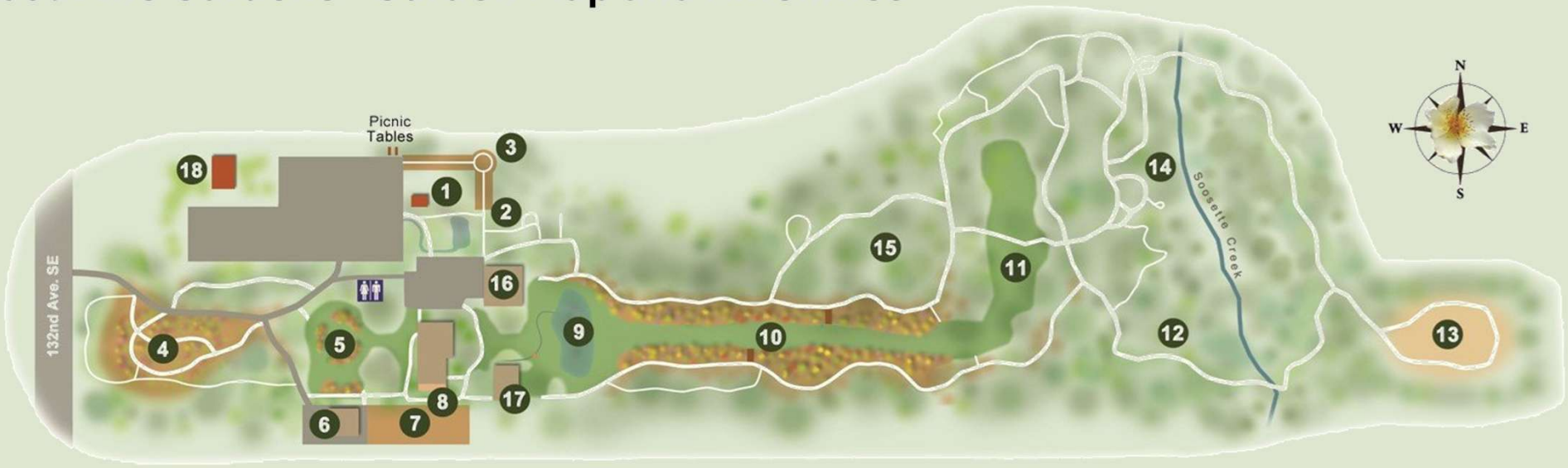
SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE

About the Gardens

- **Management:** Operated by Soos Creek Botanical Garden Foundation
- **Scenic Retreat:** 23-acre garden offering tranquility and education.
- **Unique Plant Life:** Rare perennials and native Pacific Northwest landscapes.
- **Immersive Trails:** Paths through meadows, woodlands, and a year-round creek.
- **Wildlife Habitat:** Pond garden supporting local ecosystems.
- **Community Garden:** Sustainable food education; donations to Auburn Food Bank.
- **Events & Lectures:** Tours, gardening talks, and cultural performances.
- **Heritage Center:** Displays local history through photos, maps, and artifacts.

SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE

About the Gardens - Garden Map and Amenities



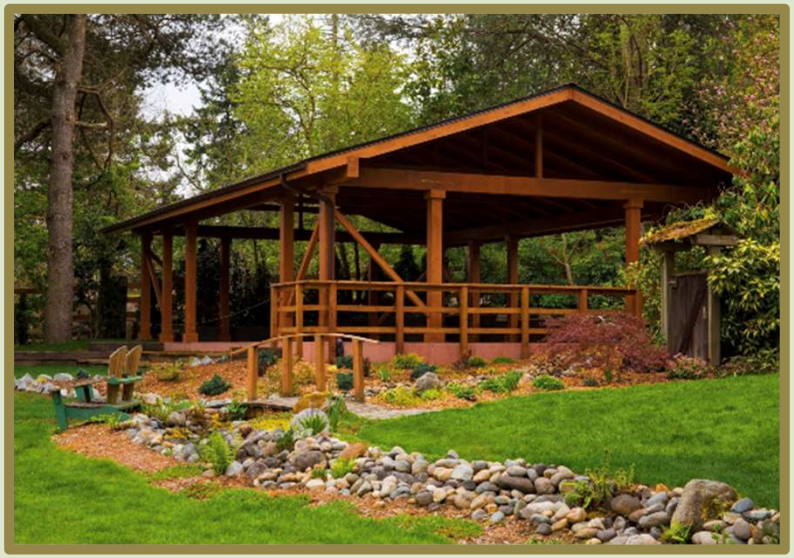
1. Plant Sale Area	2. Rain Garden & Alder Grove	3. Rosarian Walk	4. Heritage Flower Garden	5. Elizabeth Fenzl Garden Room	6. Hoop House and Nursery Area
7. Soos Creek Demonstration Garden	8. Louie / Christensen Aviary	9. Schaefer Pond Garden	10. Carlmas Long Borders	11. Ole and Sarah Skagen Cedar Grove	12. Ravine Garden
13. Wildflower Prairie Meadow	14. Oie Native Woodland	15. Leonard and Olive Skagen Woods	16. Soos Creek Heritage Center	17. The Pavilion by the Pond	18. The Red Barn

SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE

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

SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE

SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE



SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE

SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE

Public Benefits

- Access to Diverse & Underserved Audiences
  - Free & Reduced Cost Admissions
  - Free Curriculum for Public Schools
  - Increased Outreach
  - Broadening Programming
- Garden Amenities and Features
- Education Programs
- Preservation of Traditional & Historical Cultures and Crafts
- Cultural Content Production
- Career Building Opportunities
- Partnerships & Resource Sharing

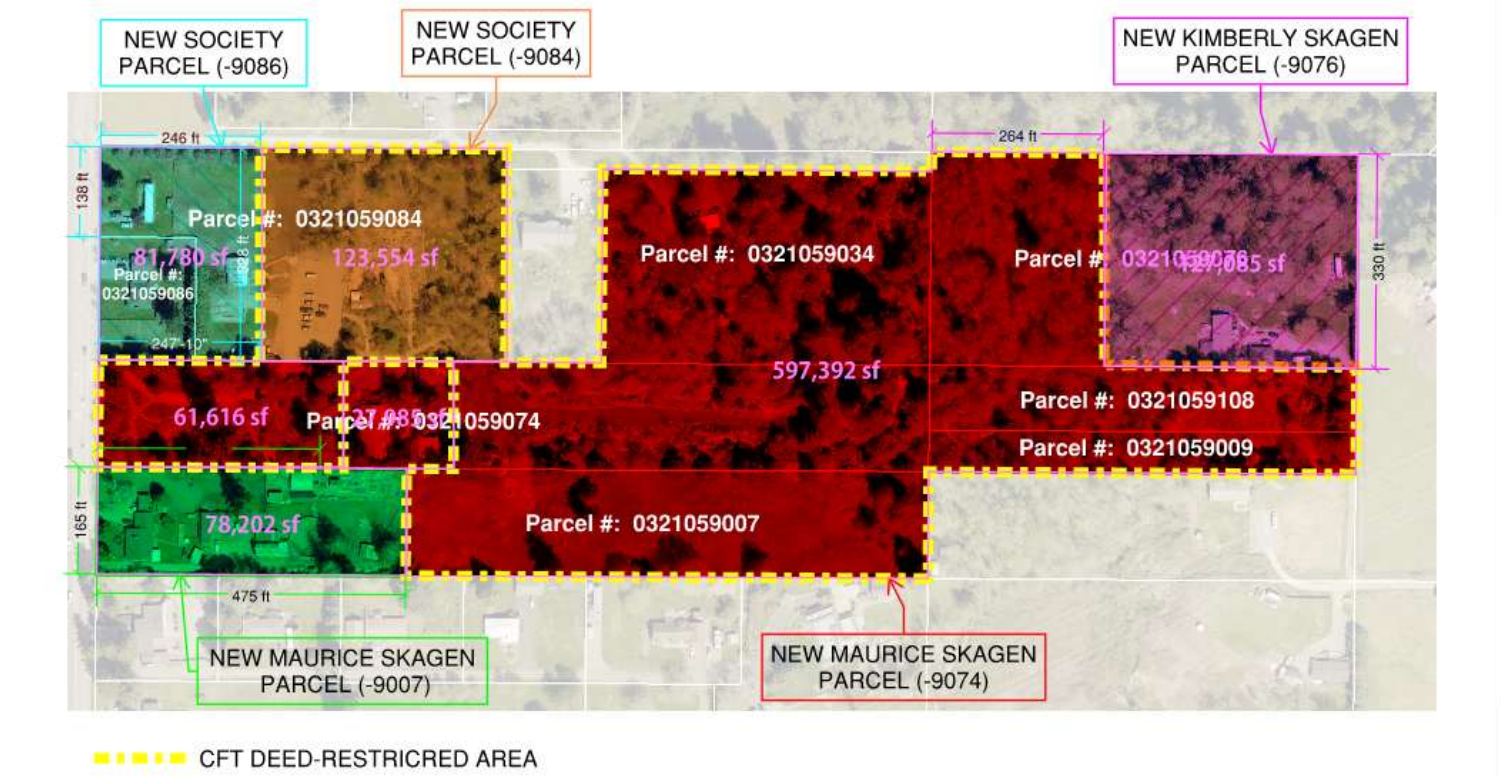
Students Releasing Frye into the Stream

Community Gardens

SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE

Original CFT Application Map

- Yellow dashed line shows deed-restricted area per CFT rules
- Red area is Skagen-owned
- Orange Area shows Foundation-owned



SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE

Revised CFT Map

SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE

Revised CFT Map

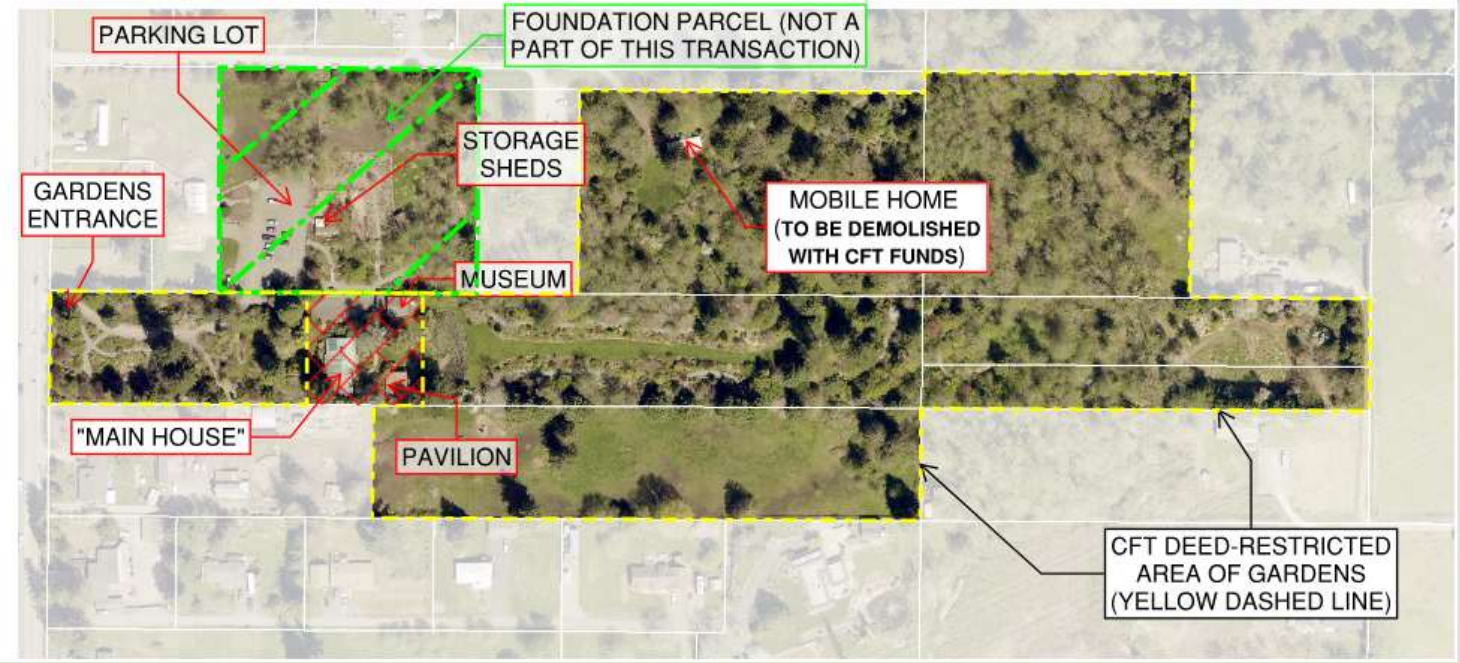
- Yellow dashed line shows revised CFT boundary
  - Changes due to appraised value of property vs. CFT request value
- Green dashed line shows area removed and will be a future application request for CFT funds
- Red hatched area shows the area not included in the CFT Boundary (but part of purchase)
- This area contains the main home and museum (note: this is no change from the original application

SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE

What would the ownership of the properties look like?

Notes:

- The “Main House” would be leased back to Maurice Skagen as his residence.
- The “Mobile Home” would be demolished with additional CFT funds expected early 2026 (request already submitted for CFT funds)



SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE

Documents for Review

- **Resolution No. 5897**
  - ILA Amendment
- **Resolution No. 5900**
  - Purchase and Sale of Morris “Maurice” Skagen Property
  - Incudes Maurice Skagen Lease
- **Resolution No. 5901**
  - Operating Agreement with The Soos Creek Botanical Garden Foundation
  - Incudes Easement for Ingress, Egress, Parking & Operations Easement encumbering Foundation Parcel

SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE

Resolution No. 5897 – Interlocal Agreement with King County to Accept CFT Funds

- Original ILA signed in 2022 (Mill Creek Assemblage)
  - Amendments to this ILA are required each time new grants are approved
    - ILA Amendments 1 through 3 – Downtown Auburn Open Space Acquisition and Demolition (site for the new downtown park)
  - **This new ILA Amendment** is required to receive this grant (attached to Resolution) and authorize a future budget amendment.
    - Includes $1.83M in cash for the property purchase plus the additional funds for closing costs, title reports, appraisals, etc. ($2.1M)

SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE

Resolution No. 5900 – Purchase and Sale Agreement for the Gardens

- Authorizes the Mayor to execute the purchase of the Gardens from Maurice Skagen
- Purchase price for the Gardens is $2.63M (total)
  - $1.83M cash
  - $800,000 equity from Maurice Skagen
    - CFT will not fund the main house and museum
- In exchange for the $800,000 equity conveyance, City & Skagen will enter into a no-rent lease for the main house for up to the rest of his life (condition of sale).
- Sale of the property does not include personal property or museum artifacts – Foundation will own
- Boundary line adjustment

SOOS CREEK BOTANICAL GARDENS – CFT PURCHASE

Resolution No. 5901 – Operating Agreement with the Soos Creek Botanical Garden Foundation

- Authorizes the Mayor to execute the Operating Agreement with the Soos Creek Botanical Garden Foundation
  - Establishes that the City will not pay the Foundation any monetary compensation for the Foundation's performance of the Operating Agreement, nor will the Foundation pay the City for its use of the garden or its facilities.
  - Outlines the duties and responsibilities of the Foundation
    - Keep the City apprised hours of operation, Foundation/Garden events, etc.
    - Perform all maintenance to the garden, facilities, & equipment at Foundation's expense
    - Periodic meetings with and reporting to the City
  - Reserves the rights for the City to request use of the Garden and its facilities
  - Easement for Ingress, Egress, Parking & Operations encumbering the Foundation parcel

QUESTIONS?

RESOLUTION NO. 5897

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN UPDATED INTERLOCAL AGREEMENT BETWEEN THE CITY OF AUBURN AND KING COUNTY FOR THE PURPOSE OF ACCEPTING FUNDS IN THE AMOUNT OF $2,121,000 TO PURCHASE THE SOOS CREEK BOTANICAL GARDEN PROPERTY

WHEREAS, on January 17, 2022, the City Council approved Resolution 5614, which authorized the Mayor to sign an updated agreement with King County to receive funds from the Conservation Futures Tax (CFT) Levy; and

WHEREAS, on June 6, 2022, the City Council approved Resolution 5668, to correct Resolution 5614, and authorizing the Mayor to sign the correct agreement with King County; the corrected agreement included both grant agreements (CFT and WRIA), where the original resolution incorrectly two identical versions (two WRIA contracts); and

WHEREAS, the owner of the Soos Creek Botanical Gardens reached out to City Staff in the Fall of 2023 with the idea of selling and/or gifting the Soos Creek Botanical Gardens to the City, for the benefit of the public, with the City applying for a CFT grant to fund the purchase of the Gardens, in part. In the Spring of 2025, the City applied for a CFT grant in the amount of $2,121,000 to purchase the Gardens; and

WHEREAS, the CFT grant application was determined to meet the match requirements and thus no City funds are being used to acquire the Gardens. To complete the purchase, the owner will gift to the City the fair market value of the Gardens over and above the CFT grant amount; and

WHEREAS, in December of 2025 the King County Council passed Ordinance No. 20023, awarding the CFT grant funds to the City to purchase the Gardens; and

WHEREAS, the City has worked with the Gardens owner and the Soos Creek Botanical Garden Foundation to create an Operations and Maintenance Agreement for the ongoing operations of the Gardens to be owned by the City, which is included in Resolution No. 5901; and

WHEREAS, to receive the CFT grant funds for the acquisition of the Gardens, a budget amendment will be required by the City Council to appropriate the associated revenues and expenditures within the City's adopted budget. This will be accomplished through adoption in the City's next budget amendment process.

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

Section 1. The Mayor is authorized to execute an Updated Interlocal Agreement between the City and King County, which agreement will be in substantial conformity with the agreement attached hereto as Exhibit A.

Section 2. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this Resolution.

Section 3. The City Clerk is authorized to make necessary corrections to this Resolution including, but not limited to, the correction of scrivener's/clerical errors, references, Resolution numbering, section/subsection numbers, and any references thereto.

Section 4. This Resolution will take effect and be in full force on passage and signatures.

Dated and Signed: _____

CITY OF AUBURN

_____
NANCY BACKUS, MAYOR

ATTEST:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Jason Whalen, City Attorney

EXHIBIT A

AMENDMENT TO THE CONSERVATION FUTURES
INTERLOCAL COOPERATION AGREEMENT
BETWEEN KING COUNTY AND THE CITY OF AUBURN
FOR OPEN SPACE ACQUISITION PROJECTS

The King County Council, through Ordinance 9128, has established a Conservation Futures Levy Fund and appropriated proceeds to King County and certain cities. This amendment is entered into to provide for the allocation of additional proceeds made available for open space acquisition.

THIS AMENDMENT is entered into between the CITY OF AUBURN and KING COUNTY, and amends and attaches to and is part thereof of the existing Interlocal Cooperation Agreement entered into between the parties on the 22nd day of August, 2022, as previously amended.

The parties agree to the following amendment:

The Interlocal Cooperation Agreement is hereby amended by adding Exhibit 1, attached hereto.

In all other respects, the terms, conditions, duties and obligations of both parties shall remain the same as agreed to in the Interlocal Cooperation Agreement as previously amended.

Once fully executed, this Amendment shall be incorporated into the existing Interlocal Cooperation Agreement as if fully set forth, and shall become Amendment 4.

IN WITNESS WHEREOF, authorized representatives of the parties hereto have signed their names in the spaces set forth below:

KING COUNTY	CITY OF AUBURN
_____	_____
Girmay Zahilay King County Executive	Nancy Backus Mayor
Date: _____	Date: _____
Approved as to form:	Approved as to form:
_____	_____
Leesa Manion King County Prosecuting Attorney	[NAME] City Attorney

EXHIBIT 1

2026 CONSERVATION FUTURES LEVY PROCEEDS
CITY OF AUBURN ALLOCATION

Jurisdiction	Project Name	Allocation
Auburn	Soos Creek Botanical Garden Preservation	$2,121,000
	TOTAL	$2,121,000

Project Description:

Project #1150331: Auburn – Soos Creek Botanical Garden Preservation (match waiver)

The City of Auburn seeks to purchase approximately 18 acres of the Soos Creek Botanical Garden, located in the Lea Hill portion of the city. The purchase of this property would provide protection for a fish-bearing stream, Soosette Creek, and the opportunity to redress historic disparities in access to open space. Preservation of the garden would keep this land protected in perpetuity as a community asset and as a botanical garden of regional significance in south King County. This project was determined to merit a match waiver. Project funding was authorized in King County Ordinance 20023.

Is this a Bond-financed Project? No

RESOLUTION NO. 5900

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY, A PURCHASE AND SALE AGREEMENT WITH MAURICE SKAGEN FOR REAL PROPERTY COMMONLY KNOWN AS THE SOOS CREEK BOTANICAL GARDEN AND HERITAGE CENTER

WHEREAS, for many years, the real property known as the Soos Creek Botanical Garden and Heritage Center has served the Auburn community as a local attraction, an educational resource, and a site of historic significance and conservation; and

WHEREAS, the owner of the property has expressed a desire to sell the property to the City in order to preserve its educational, historic, and conservation values; and

WHEREAS, acceptance of King County Conservation Futures Tax Levy grant funding, as authorized under Resolution No. 5897, will fully fund the acquisition of the property, and no City general funds or other budgeted City resources will be adversely impacted by the purchase; and

WHEREAS, the City intends to enter into an agreement with a third party at no cost to the City for the continued management, operation, and maintenance of the gardens, plant collections, buildings, and grounds to ensure the ongoing stewardship and public benefit of the property,

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

Section 1. The Mayor is authorized to, (i) execute the purchase and sale agreement attached as Exhibit A (the “Agreement”) for the property legally described in Exhibit B, and any future amendments to the Agreement as appropriate, so long as those

amendments do not increase the purchase price of the Property; and (ii) execute all necessary documents to complete the closing of the purchase transaction to acquire the Property consistent with the terms and conditions of the Agreement.

Section 2. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this Resolution.

Section 3. The City Clerk is authorized to make necessary corrections to this Resolution including, but not limited to, the correction of scrivener's/clerical errors, references, Resolution numbering, section/subsection numbers, and any references thereto.

Section 4. This Resolution will take effect and be in full force on passage and signatures.

Dated and Signed: _____

CITY OF AUBURN

_____
NANCY BACKUS, MAYOR

ATTEST:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Jason Whalen, City Attorney

BARGAIN PURCHASE AND SALE AGREEMENT

This BARGAIN PURCHASE AND SALE AGREEMENT (this "Agreement") is entered into as of the _____ day of _____, 2026 ("Effective Date"), by and between the **City of Auburn**, a Washington municipal corporation ("City" or "Buyer"), and **Morris W. Skagen**, an unmarried individual ("Seller"). Seller and Buyer are collectively referred to as the "Parties." Morris W. Skagen goes by "Maurice Skagen" for most purposes, and may also be referred to as "Maurice" in this Agreement and in related documents.

RECITALS

A. Seller owns certain real property consisting of approximately 20.73 acres (the "Skagen Parcels") comprising a large portion of what is being generally referred to as the Soos Creek Botanical Garden ("Garden"). The remainder of the Garden is owned by The Soos Creek Botanical Garden Foundation, a Washington nonprofit corporation ("Foundation"), which is pursuing the sale of its portion of the Garden (the "Foundation Parcel") to the City via a separate agreement.

B. Seller wishes to preserve and protect the conservation qualities and the benefits the Garden brings to Auburn and surrounding communities.

C. The City also wishes to preserve and protect these qualities and benefits the Garden brings to Auburn and surrounding communities.

D. To enable the transaction detailed in this Agreement, the Parties mutually desire to complete a boundary line adjustment (as detailed below in Section 4) of Seller's portion of the Garden which will result in a single tax parcel owned by Seller, which will constitute approximately 15.93 acres and is the property Seller wishes to sell and Buyer wishes to buy under the terms and conditions contained within this Agreement (the Subject Property - as defined in **Section 2** below).

E. Due to Buyer's funding constraints, Seller desires to voluntarily donate to Buyer the value of an approximately 28,000 square-foot portion of the Subject Property that includes Seller's main house and the adjacent museum/office building (the "Donated Portion") and is generally depicted in **Exhibit B**.

F. This Agreement shall be approved through the ratification of a Resolution 5900 by the Auburn City Council.

AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which the Parties mutually acknowledge, Buyer and Seller agree as follows:

DRAFT

1. Certain Defined Terms. For purposes of this Agreement, the following capitalized terms in this Agreement will have the following definitions:

1.1 "Closing" or "Close of Escrow" means the recordation of the Deed in the Official Records and Seller's receipt of the Purchase Price.

1.2 "Closing Date" means that date which shall be no later than thirty (30) days following the recording of the Boundary Line Adjustment described in Section 4.

1.3 "Deposit" means an amount of Ten Thousand Dollars ($10,000), plus any other amounts designated as a Deposit in this Agreement.

1.4 "Due Diligence" means Buyer's investigation and review of the Subject Property within Buyer's discretion, as limited and further provided herein.

1.5 "Diligence and Review Period" means the period during which Buyer completes its Due Diligence on the Subject Property, which period shall last until the date of King County's recording of the BLA detailed in Section 4.

1.6 "Escrow" means the escrow opened with Escrow Agent for the consummation of the transaction described in this Agreement.

1.7 "Escrow Agent" or "Title Company" means Stewart Title Guaranty Company – Commercial Services, located at: 1420 5th Avenue. Suite 440, Seattle, WA 98101. 206.770.8849

1.8 "Official Records" means the official real property records of King County, Washington.

1.9 "Permitted Exceptions" has the meaning as set forth in Section 6.1 below.

1.10 "Purchase Price" has the meaning as set forth in Section 3.

1.11 "Title Policy" means the then-current Buyer-purchased standard coverage ALTA owner's policy of title insurance issued by the Title Company to Buyer with coverage in the amount of the Purchase Price, showing title to the Subject Property vested in Buyer subject only to the Permitted Exceptions.

2. Purchase and Sale. Buyer agrees to purchase, and Seller agrees to sell, all of Seller's right, title, and interest in the real property legally described in **Exhibit A** and generally depicted in **Exhibit B** (the "Subject Property"), on the terms and conditions set forth in this Agreement. The exact boundaries of the Subject Property to be conveyed at Closing under this Agreement shall be determined through the completion of the Boundary Line Adjustment described in **Section 4**. The Parties acknowledge and agree that Exhibit A will be amended before Closing to reflect the final legal description of the Subject

Property after the Boundary Line Adjustment has been completed; however, the resulting property is anticipated to be substantially similar to the "New Maurice Skagen Parcel (-9074)" referenced in **Exhibit B**. The Parties understand and agree that no equipment or other personal property is included in the sale under this Agreement, as Seller intends for the Foundation to own and be responsible for such items in furtherance of the public benefit provided by the Garden. Any personal property Seller desires to transfer to Buyer within Seller's discretion shall be the subject of a separate agreement between Seller and Buyer.

3. Purchase Price; Cash Payment. The Purchase Price is **Two Million Six Hundred Thirty Thousand and 00/100 Dollars ($2,630,000.00)**. Of the Purchase Price, **$1,830,000** will be payable at Closing, and the remaining **$800,000** is being donated by Seller to Buyer in the form of an equity gift. Buyer will pay the Purchase Price at Closing by wire transfer of collected federal funds. Seller understands and acknowledges that the amount paid by Buyer at Closing does not include the value of the donated portion, and Seller confirms that it is voluntarily donating this portion to Buyer as part of the Subject Property. The Deposit will be applied to the non-gifted portion of the Purchase Price due at Closing.

3.1 Earnest Money Deposit. On execution of this Agreement, Buyer will deposit with Escrow Agent **Ten Thousand and 00/100 Dollars ($10,000.00)** in cash (the "Deposit"), which the Escrow Agent will hold as an earnest money deposit for this transaction. The Deposit will be held in Escrow and applied or disposed of by the Escrow Agent based on the terms of this Agreement. The Deposit will not be refunded and will become property of Seller upon waiver of Buyer's Diligence & Review Period.

4. Boundary Line Adjustment. Buyer, at its sole cost and expense, shall pursue and complete a boundary line adjustment ("BLA") that, upon completion, will create a parcel consisting of approximately 15.93 acres that is substantially similar to the area depicted in red and labeled "New Maurice Skagen Parcel (-9074)" on the Boundary Line Adjustment Depiction attached as **Exhibit B**. Seller shall cooperate and participate in the BLA process by timely executing all required documents and authorizations. Buyer shall be solely responsible for obtaining all necessary permits, paying all associated costs, and completing all required work and documentation, including the recording of the finalized BLA. The BLA shall not be recorded until the Parties and Escrow Agent have confirmed everything is ready for Closing under Sections 8 and 9 and Buyer and Seller have notified Escrow Agent in writing that they desire to proceed with Closing.

5. Records. Within fourteen (14) days of the Effective Date, Seller shall provide Buyer or make available for Buyer's review all materials that exist and that are in Seller's actual possession or reasonable control including but not limited to (collectively and individually defined as "Records"):

(a) All surveys, plats, plans, or as-builts relating to the Subject Property; (if any)

(b) All warranties and guarantees affecting any portion of the Subject Property; (if any);

(c) Notice of any existing litigation affecting or relating to the Subject Property and any copies of any pleadings concerning any litigation;

(d) Any documentation of known environmental hazards affecting or potentially affecting the Subject Property;

(e) Copies of all Permits held by Seller, or any agent of the Seller, in connection with its ownership and operations of the Subject Property;

(f) Copies of all final, written environmental assessment reports concerning the Subject Property performed by or for the Seller in connection with its ownership of the Subject Property which Seller, or any agent of the Seller, may possess;

(g) Copies of all vendor and supplier service contracts in connection with the Subject Property, including but not limited to any agreements with the Foundation ("Operational Contracts");

(h) Copies of all existing tenant leases or licenses, affecting the Subject Property, records showing the amount of any deposits being held by the Seller and payment history of the tenant(s) covering the last 12 months; and

(i) Copies of any utility or access agreements, and/or covenants, affecting the Subject Property.

If, based upon Buyer's review of any such Records described in this Section 5, Buyer determines in its sole discretion that it intends not to acquire the Subject Property, then Buyer shall promptly notify Seller of such determination in writing no later than forty-five (45) days following the Effective Date or before recording of the BLA, whichever is earlier. In the event that Buyer fails to deliver such notice to Seller on or before the forty-fifth (45th) day, Buyer will be deemed to be satisfied and to have waived its right to terminate this Agreement pursuant to this subsection. If Buyer advises Seller in writing on or before the forty-fifth (45th) day, then this Agreement shall automatically terminate, and the Parties' rights and obligations under this Agreement shall be of no further force or effect and the Deposit will be returned to Buyer.

6. **Title Policy**. Promptly after mutual execution of this Agreement, Escrow Agent will obtain and deliver to Buyer, Seller, and the Parties' respective counsel, a standard coverage preliminary title insurance commitment covering the Subject Property from the Title Company (the "Commitment"), together with copies of all title exceptions. Approval by Buyer of the exceptions to title set forth in the Commitment (other than as hereinafter set forth) will be a condition precedent to Buyer's obligation to purchase the Subject Property. Unless Buyer gives written notice that it disapproves the exceptions to title shown on the Commitment (other than the exceptions to title approved by Buyer and described in Section 6.1 below), stating the exceptions so disapproved, within fourteen (14) calendar days after the date of delivery of the Commitment to Buyer, Buyer will be deemed to have approved such exceptions. If Buyer disapproves any title exceptions, Seller will have a ten

(10) calendar day period after its receipt of Buyer's written notice of disapproval of the same within which to provide written notice to Buyer as to which of such disapproved title exceptions Seller will remove (or cause to be removed) from title; provided, however, that Seller will not be required to actually remove such exception(s) until Closing. If, for any reason, Seller's notice given pursuant to the immediately preceding sentence does not covenant to remove all of Buyer's disapproved title exceptions at or prior to Closing, Buyer has the right to terminate this Agreement by written notice to Seller and Escrow Agent given within ten (10) calendar days after the earlier of the expiration of such ten (10) calendar day period or the date Seller informs Buyer that it does not intend to remove the disapproved items (the "Termination Notice"). Buyer's failure to deliver the Termination Notice within such ten (10) day period will be deemed Buyer's approval of any such previously disapproved title exception. If Buyer delivers the Termination Notice within such ten (10) day period, the obligation of Seller to sell, and Buyer to buy, the Subject Property will terminate and Escrow Agent shall promptly return Buyer's Deposit.

6.1 Permitted Exceptions. In addition to such other exceptions to title as may be approved by Buyer pursuant to the provisions of Section 6 above, Buyer shall accept title to the Subject Property subject to the following (collectively, the "Permitted Exceptions"): (i) the printed exceptions which appear in the then current ALTA form standard coverage owner's policy of title insurance issued by Title Company in the State of Washington; (ii) all non-delinquent property taxes and assessments, (iii) the rights of the tenants under the leases (excluding therefrom any rights or option to purchase all of any part of the Property), and (iv) all matters created by or on behalf of Buyer, including without limitation the BLA completed under Section 4 herein.

7. Buyer's Right of Entry. Buyer, and its agents and consultants, at Buyer's sole expense and risk, may enter the Subject Property during the term of this Agreement for the purpose of Buyer's Diligence & Review of the Subject Property. Buyer warrants that it will (a) exercise care at all times on or about the Subject Property, (b) take necessary precautions for the prevention of injury to persons or damage to property on or about the Subject Property and (c) comply with any advance notice requirements in any leases by tenants of the Subject Property. Any physical alteration of the Subject Property in connection with Buyer's Due Diligence shall be restored by Buyer so that the Subject Property and improvements are in substantially the same condition they were in prior to inspection, at Buyer's sole expense. Buyer indemnifies and holds harmless Seller against any loss, damage, or claim including attorneys' and experts' fees, and court costs, resulting from Buyer's presence on Subject Property, inspections and tests in connection with Buyer's Due Diligence. This indemnity shall survive the Closing or any termination of this Agreement. Buyer is not Seller's agent in connection with such activities and has no authority to allow any liens to encumber the Subject Property. Buyer shall keep the Subject Property free from all mechanics', materialmen and other liens, and all claims, arising from any work or labor done, services performed, or materials and supplies furnished in with Buyer's actions in the exercise of its right of entry on the Subject Property and Buyer will

maintain all insurance as required by Seller with respect to activities on the Subject Property. All of Buyer's representatives who visit the Subject Property must have required insurance coverage and provide 48 hours of notice as required under this Agreement.

Buyer shall not perform any invasive testing beyond a Phase I Assessment and a Regulated Building Materials (or similar) Survey or contact the tenants or property management personnel without obtaining Seller's prior written consent, which may not be unreasonably withheld.

8. Conditions to Closing. In addition to any other conditions contained in this Agreement, the following are conditions precedent or concurrent to Closing which must be satisfied in order for Closing to occur:

8.1 Operating Agreement with the Soos Creek Botanical Garden Foundation. The Parties acknowledge and agree that as a condition of Closing, Buyer must concurrently successfully execute an Operating or Services Agreement (hereinafter "Operating Agreement") with the Foundation, hereby a third-party to this Agreement, for the ongoing operations and maintenance of the Garden. The Operating Agreement between the Foundation and the City shall be in substantial conformity to that attached as **Exhibit C** to this Agreement. The Parties agree to delay the Closing of this Agreement as necessary for the City to complete the execution of the Operating Agreement with the Foundation.

8.2 Maurice Skagen Leaseback. The Parties acknowledge and agree that as a condition of Closing, Seller requires that it concurrently enter into a lease with Buyer for Seller's continued occupancy of Seller's main residence and adjacent premises (the "Lease"), with such Lease commencing immediately after Closing. The Lease shall be in substantial conformity to that attached as **Exhibit D** to this Agreement.

9. Closing.

9.1 Time for Closing. This purchase and sale will be closed in the office of Escrow Agent no later than the Closing Date. Buyer and Seller will place in Escrow with Escrow Agent all instruments, documents, and funds in U.S. Dollars necessary to complete the purchase and sale under this Agreement. Funds held in Escrow pursuant to Escrow instructions will be deemed, for purposes of this definition, as available for disbursement to Seller. Neither party needs to be physically present at the Closing.

9.2 Closing Costs.

9.2.1 Seller's Costs. Associated with the sale and conveyance of the Subject Property, Seller will pay: (a) Seller's own legal fees and fees of its own consultants, including but not limited to real estate broker commissions owed in connection with this Agreement, if any; and (b) Seller's share of prorations not otherwise described in Sections

9.2.1 – 9.2.5, including but not limited to utilities, assumed service, management and/or maintenance contracts, etc.

9.2.2 Buyer's Costs. Associated with the sale and conveyance of the Subject Property, Buyer will pay; (a) the full Escrow fees and cost, (b) the full costs and fees for the title insurance policy issued to Buyer, together with applicable taxes, cost of all endorsements, and/or extended coverage Buyer may require or request, (c) the recording fees for the Deed, (d) any and all excise taxes resulting from the sale, unless otherwise exempt under the provisions of WAC 458-61A-206, (e) sales tax due on any personal property conveyed to Buyer, if any, (f) Buyer's legal, consultant fees and all costs related to its Due Diligence, and (g) Buyer's share of prorations not otherwise described in Sections 9.2.1 – 9.2.5.

9.2.3 Other Costs. All other costs and expenses will be charged according to local industry customs.

9.2.4 Real Property Taxation. Seller will be responsible for the prorated real property taxes due and owing prior to the Closing Date.

9.2.5 Pro-Ration of Rents. Rents, if any, shall be prorated as of the Closing Date. Any refundable deposits and/or prepaid rents shall be transferred to Buyer at Closing.

9.3 Closing Documents.

9.3.1 Seller's Documents. At Closing, Seller will deliver to Escrow Agent the following instruments and documents:

a. An executed and acknowledged Bargain and Sale Deed ("Deed") subject to all Permitted Exceptions.
b. The executed real estate excise tax affidavit to accompany the Deed; and
c. An executed nonforeign person affidavit in the form required under Section 1445 of the Internal Revenue Code.
d. A certified Rent Roll and Operational Accounting Documents related to any leases provided for in Section 5(h), dated as of the Closing Date.
e. A bill of sale for any personal property conveyed to Buyer, if any.
f. An executed copy of the Lease in substantial conformity to that attached as **Exhibit D.**

9.3.2 Buyer's Documents. At or before Closing, Buyer shall deliver to Escrow Agent the following funds, instruments and documents:

a. The balance of the Purchase Price in accordance with Section 3;

b. An executed real estate excise tax affidavit; and
c. An executed copy of the Lease in substantial conformity to that attached as **Exhibit D.**

10. Possession. Buyer will be entitled to possession of the Subject Property, subject to the Lease and all tenancies disclosed to Buyer as provided in Section 5 and other Permitted Exceptions to title, upon Closing.

11. Representations and Warranties.

11.1 Seller's Representations and Warranties. In addition to any other representations or warranties to City elsewhere in this Agreement, Seller represents and warrants to Buyer that, to the best of Seller's knowledge:

11.1.1 Authority. Seller has full power and authority to execute this Agreement and perform Seller's obligations and all necessary action to authorize this transaction has been taken, except as specifically provided herein.

11.1.2 Hazardous Substances. Seller has not received notification of any kind from any governmental agency suggesting that the Subject Property is or may be targeted for a Hazardous Substances cleanup; to Seller's Knowledge the Subject Property has not been used (a) for the storage, disposal or discharge of oil, solvents, fuel, chemicals or any type of toxic, dangerous, hazardous or biological waste or substance (collectively, "Hazardous Substances"), or (b) as a landfill or waste disposal site; to Seller's Knowledge the Subject Property has not been contaminated with any Hazardous Substances; and (c) to Seller's Knowledge, there are no underground storage tanks on the Subject Property. Buyer agrees to waive Seller's Disclosure Statement under RCW 64.06.010 with the exception of item 6 "Environmental" under RCW 64.06.013 which Seller shall deliver to Buyer within five (5) business days following execution of this Agreement. A Seller completed copy of the Environmental Section of Seller's Disclosure Statement is attached as **Exhibit E** for reference.

Notwithstanding the foregoing, based on the age of the improvements located on the Subject Property, Buyer should presume the presence of asbestos and lead-based paint.

As used in this Agreement, the phrase "to Seller's Knowledge" or words of similar import shall mean the actual present knowledge of Maurice Skagen, about the matters so stated, without investigation of any kind or nature and expressly excludes imputed knowledge.

If after the opening of Escrow either party comes to have actual knowledge of a fact or circumstance which would render a representation or warranty by Seller herein inaccurate in any material respect, that party shall promptly advise the other party thereof in writing. Buyer shall have, as its sole and exclusive remedy, the option, exercisable by the later of (a) the end of Diligence & Review Period or (b) five (5) business days after such notice is given,

to either (i) terminate this Agreement and receive a return of the Deposit or (ii) to waive such inaccuracy in writing, in which latter event it shall be deemed to have waived all claims and causes of action against Seller related thereto.

EXCEPT AS MODIFIED PURSUANT TO THE PRECEDING PARAGRAPH, SELLER'S REPRESENTATIONS AND WARRANTIES SET FORTH HEREIN WILL EXPRESSLY SURVIVE THE CLOSING OR TERMINATION OF THIS AGREEMENT, WILL NOT BE MERGED INTO THE CLOSING DOCUMENTS, AND WILL BE DEEMED INCORPORATED INTO THE DEED. TO MAKE ANY CLAIM BASED ON SELLER'S BREACH OF ANY OF THESE WARRANTIES OR REPRESENTATIONS, BUYER SHALL GIVE NOTICE OF SUCH BREACH TO SELLER WITHIN ONE YEAR AFTER THE DATE OF RECORDING OF THE DEED. SELLER SHALL ACCEPT AND PERFORM AS REQUESTED BY BUYER IN SAID NOTICE OR REJECT THE CLAIM IN WRITING WITHIN THIRTY (30) DAYS AFTER RECEIPT OF THE NOTICE FROM BUYER. IF SELLER REJECTS SUCH CLAIM, BUYER SHALL BRING AN ACTION AGAINST SELLER FOR SUCH BREACH WITHIN FORTY-FIVE (45) DAYS AFTER BUYER RECEIVES SELLER'S WRITTEN REJECTION. IF BUYER DOES NOT GIVE WRITTEN NOTICE OF SUCH A CLAIM WITHIN SAID ONE-YEAR PERIOD OR BRING AN ACTION WITHIN SAID 45-DAY PERIOD, THEN BUYER'S RIGHT TO MAKE CLAIM BASED ON BREACH OF SELLER'S REPRESENTATIONS AND WARRANTIES WILL BE TERMINATED.

_____ _____

Buyer's Initials Seller's Initials

11.1.3 Buyer's Representations and Warranties. In addition to any other representations and warranties of Buyer elsewhere in this Agreement, Buyer represents and warrants to Seller now, and as of the Closing Date, that (i) Buyer has full power to execute, deliver and carry out the terms and provisions of this Agreement, and has taken all necessary action to authorize the execution, delivery and performance of this Agreement; and (ii) the individual executing this Agreement on behalf of Buyer has the authority to bind Buyer to the terms and conditions of this Agreement.

11.1.4 "As Is" condition of Subject Property. OTHER THAN THE MATTERS REPRESENTED IN SECTION 11 HEREOF OR THE DOCUMENTS MADE AVAILABLE BY SELLER PURSUANT TO SECTION 5, BUYER HAS NOT RELIED UPON AND WILL NOT RELY UPON, EITHER DIRECTLY OR INDIRECTLY, ANY REPRESENTATION OR WARRANTY OF SELLER OR ANY OF SELLER'S AGENTS OR REPRESENTATIVES. SELLER SPECIFICALLY DISCLAIMS ANY REPRESENTATION, WARRANTY OR ASSURANCE WHATSOEVER TO BUYER AND NO WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EITHER EXPRESS OR IMPLIED, MAY BE RELIED UPON BY BUYER WITH RESPECT TO THE STATUS OF TITLE TO OR THE MAINTENANCE, REPAIR, CONDITION, DESIGN OR MARKETABILITY OF ANY PORTION OF THE

PROPERTY, INCLUDING BUT NOT LIMITED TO (a) ANY IMPLIED OR EXPRESS WARRANTY OF MERCHANTABILITY, (b) ANY IMPLIED OR EXPRESS WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, (c) ANY IMPLIED OR EXPRESS WARRANTY OF CONFORMITY TO MODELS OR SAMPLES OF MATERIALS, (d) THE FINANCIAL CONDITION OR PROSPECTS OF THE PROPERTY AND (e) THE COMPLIANCE OR LACK THEREOF OF THE REAL PROPERTY OR THE IMPROVEMENTS WITH GOVERNMENTAL REGULATIONS, IT BEING THE EXPRESS INTENTION OF SELLER AND BUYER THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT OR THE DOCUMENTS MADE AVAILABLE BY SELLER PURSUANT TO SECTION 5, THE PROPERTY WILL BE CONVEYED AND TRANSFERRED TO BUYER IN ITS PRESENT CONDITION AND STATE OF REPAIR, "AS IS" AND "WHERE IS", WITH ALL FAULTS. BUYER REPRESENTS THAT IT IS A KNOWLEDGEABLE, EXPERIENCED AND SOPHISTICATED BUYER OF REAL ESTATE, AND THAT IT IS RELYING SOLELY ON ITS OWN EXPERTISE AND THAT OF BUYER'S CONSULTANTS IN PURCHASING THE PROPERTY. DURING THE INSPECTION PERIOD, BUYER WILL CONDUCT SUCH INDEPENDENT INSPECTIONS OF THE PROPERTY AND RELATED MATTERS AS BUYER DEEMS NECESSARY, INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AND WILL RELY UPON SAME AND NOT UPON ANY STATEMENTS OF SELLER (EXCLUDING THE MATTERS REPRESENTED BY SELLER IN SECTION 11 HEREOF OR THE DOCUMENTS MADE AVAILABLE BY SELLER PURSUANT TO SECTION 5) OR OF ANY OFFICER, DIRECTOR, EMPLOYEE, AGENT OR ATTORNEY OF SELLER. BUYER ACKNOWLEDGES THAT ALL INFORMATION OBTAINED OR THAT WILL BE OBTAINED BY BUYER WAS OR WILL BE OBTAINED FROM A VARIETY OF SOURCES AND SELLER WILL NOT BE DEEMED TO HAVE REPRESENTED OR WARRANTED THE COMPLETENESS, TRUTH OR ACCURACY OF ANY OF THE DOCUMENTS OR OTHER SUCH INFORMATION HERETOFORE OR HEREAFTER FURNISHED TO BUYER THAT WAS CREATED, PREPARED, COMPILED, OR AUTHORED BY ANY PERSON OR ENTITY OTHER THAN SELLER OR ANY OF ITS AGENTS OR AFFILIATES. EXCEPT AS MAY BE EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT OR THE DOCUMENTS MADE AVAILABLE BY SELLER PURSUANT TO SECTION 5, UPON CLOSING, BUYER WILL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING, BUT NOT LIMITED TO, ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY BUYER'S INSPECTIONS AND SELLER WILL SELL AND CONVEY TO BUYER, AND BUYER WILL ACCEPT THE PROPERTY, "AS IS, WHERE IS," WITH ALL FAULTS. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT SELLER IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY ORAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON, UNLESS THE SAME ARE SPECIFICALLY SET FORTH OR REFERRED TO HEREIN. BUYER, WITH

BUYER'S COUNSEL, HAS FULLY REVIEWED THE DISCLAIMERS AND WAIVERS SET FORTH IN THIS AGREEMENT, AND UNDERSTANDS THE SIGNIFICANCE AND EFFECT THEREOF. BUYER ACKNOWLEDGES AND AGREES THAT THE DISCLAIMERS AND OTHER AGREEMENTS SET FORTH HEREIN ARE AN INTEGRAL PART OF THIS AGREEMENT. THE TERMS AND CONDITIONS OF THIS SECTION 11.1.4 WILL EXPRESSLY SURVIVE THE CLOSING OR TERMINATION OF THIS AGREEMENT, WILL NOT BE MERGED INTO THE CLOSING DOCUMENTS AND WILL BE DEEMED INCORPORATED INTO THE DEED.

12. Maintenance of Subject Property; Risk of Loss, Condemnation.

12.1 Maintenance of Subject Property. From the Effective Date of this Agreement until the Closing Date (or any earlier termination of this Agreement), Seller agrees to maintain the Subject Property in substantially the same condition existing as of the Effective Date, ordinary wear and tear accepted.

12.2 Risk of Loss; Condemnation. Risk of loss of or damage to the improvements on the Subject Property will be borne by Seller (except for losses or damage caused by Buyer) at all times until the Closing Date and no event of casualty or damage shall affect the Parties' obligations under the Agreement or the Purchase Price. However, in the case of casualty occurring after the Effective Date, Buyer will have the right to receive any insurance proceeds due Seller in connection with any casualty or damage and Seller covenants to maintain commercially reasonable casualty insurance in place with respect to the Subject Property at all times prior to Closing. Seller or Buyer shall promptly notify Buyer or Seller of any condemnation or eminent domain proceeding which affects or may affect the Subject Property. In the event of any condemnation or eminent domain proceeding by any entity other than City, or a deed in lieu of or under threat thereof, which affects a material portion of the Subject Property, Buyer may elect either to terminate this Agreement, or to purchase the Subject Property in the condition existing on the Closing Date without adjustment of the Purchase Price.

13. Default.

13.1 Time of Essence. Time is of the essence for this Agreement.

13.2 Seller's Election of Remedies. Should Buyer default under this Agreement, Seller may, at its sole and exclusive remedy, terminate this Agreement and keep that portion of the Deposit that does not exceed five percent (5%) of the Purchase Price as liquidated damages as the sole and exclusive remedy. Buyer and Seller agree that retention of the Deposit by Seller as outlined above, represents a reasonable estimation of damages in the event of Buyer's default, as actual damages would be difficult to ascertain, and further that this provision does not constitute a penalty. In this respect, Buyer and Seller acknowledge

that these damages have been specifically negotiated between Buyer and Seller and are, inter alia, to compensate Seller for delaying the eventual sale of the Subject Property and to compensate Seller or its costs and expenses associated with this Agreement.

13.3 Buyer's Remedies for Seller's Default. If Seller fails to complete the sale of the Subject Property in accordance with this Agreement, Buyer's remedy will be to terminate this Agreement or to seek specific performance.

14. Notices. All notices, demands and other communications required or permitted to be given shall be in writing and shall be sent by personal delivery (including by means of professional messenger or courier service) or registered or certified mail, postage-prepaid, return-receipt requested, or by electronic mail (email) at the addresses provided. Notice shall be deemed to have been given if personally delivered or sent by electronic mail (email), upon receipt, if sent by mail, two (2) days after duly placed in the U.S. Mail to all of the addresses designated for such party.

The Parties' respective addresses for notices are as follows:

TO THE BUYER		TO SELLER
City of Auburn – Real Estate Division		Maurice Skagen
Attn: Josh Arndt		29308 132nd Ave SE
25 West Main		Auburn, WA 98092
Auburn, WA 98001		253.631.3292
253.288.4325		mauriceskagen@comcast.net
Jarndt@auburnwa.gov		
With copies to:		With copies to:
City of Auburn – Legal Department		Draper Law PLLC
Attn: Jason Whalen		Adam Draper
25 West Main St		6833 32nd Ave. NE
Auburn, WA 98001		Seattle, WA 98115
253.804.5026		206.348.8240
JWhalen@auburnwa.gov		adam@draperlawpllc.com

Notice of change of address shall be given by written notice in the manner detailed in this Section.

15. General.

15.1 Entire Agreement. This is the entire Agreement (including the attached Exhibits) of Buyer and Seller with respect to the matters covered hereby and supersedes all prior agreements between them, written or oral. This Agreement may only be modified or amended in writing, signed by Buyer and Seller. Any waivers must be in writing. No

waiver of any right or remedy in the event of default will constitute a waiver of such right or remedy in the event of any subsequent default. Venue for disputes under this Agreement is the Superior Court of King County, Washington.

15.2 Choice of Law. This Agreement will be governed by the laws of the State of Washington.

15.3 No Third-Party Beneficiaries/Severability. This Agreement is for the benefit only of the Parties and shall inure to the benefit of and bind the heirs, personal representatives, successors and permitted assigns of the Parties. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

15.4 Survival of Rights, Duties, and Obligations. The Parties' rights, duties, covenants, and obligations shall survive Closing and the expiration or earlier termination of this Agreement.

15.5 Indemnification. Until Buyer's acquisition of the Subject Property at Closing, Seller shall indemnify, defend, and hold Buyer harmless from and against any and all claims and agency orders or requirements relating to or arising out of, directly or indirectly, the Subject Property, except to the extent caused by the negligence or willful misconduct of Buyer.

15.6 Signing Authority. Each of the Parties represents and warrants that the individual signing this Agreement on its behalf is duly authorized to enter into this Agreement and to execute and legally bind such Party to it. The City of Auburn's signing authority is subject to Section 15.12.

15.7 Attorneys' Fees. In the event suit or action is instituted to interpret or enforce the terms of this Agreement, the prevailing party is entitled to recover from the other party such sum as the Court may adjudge reasonable as attorneys' fees, including fees incurred at trial, on any appeal and in any petition for review.

15.8 Exclusivity. During the term of this Agreement, Seller will not market nor list the Subject Property for sale, nor accept any offers from third parties with respect to the sale of the Subject Property.

15.9 Information Transfer. In the event this Agreement is terminated, Buyer agrees to deliver to Seller within ten (10) days of Seller's written request copies of all materials received from Seller and any non-privileged plans, studies, reports, inspections, appraisals, surveys, drawings, permits, applications or other development work product

relating to the Property in Buyer's possession or control as of the date this Agreement is terminated.

15.10 Reservation of Police Power. Notwithstanding anything to the contrary set forth in this Agreement, Buyer understands and acknowledges that City's authority to exercise its police (regulatory) powers in accordance with applicable law shall not be deemed limited by the provisions of this Agreement.

15.11 Counterparts. This Agreement and any amendments that may come to exist, may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each Party, or that the signature of all persons required to bind any Party, appear on each counterpart. All counterparts collectively constitute a single instrument.

15.12 Approval by Auburn City Council. The Parties acknowledge and agree that this Agreement is subject to and contingent upon the approval and ratification of the Auburn City Council, by resolution.

15.13 No Broker. No broker, finder, agent or similar intermediary has acted for or on behalf of the Buyer. Any broker, finder, agent or similar intermediary acting for or on behalf of the Seller, if any, shall be paid from Seller's proceeds in accordance with Section 9.2.1 above.

15.14 Assignment. Buyer's rights and obligations under this Agreement are not assignable without the prior written consent of Seller, which shall not be withheld unreasonably; provided, however, Buyer may assign this Agreement without the consent of Seller, but with notice to Seller, to any entity under common control and ownership of Buyer, provided no such assignment shall relieve Buyer of its obligations hereunder. The party identified as the initial Buyer shall remain responsible for those obligations of Buyer stated in this Agreement notwithstanding any assignment.

15.15 Exhibits. The following exhibits are attached and incorporated into this Agreement by reference.

Exhibit A – Legal Description of the Subject Property
Exhibit B – Boundary Line Adjustment Depiction
Exhibit C – Operating Agreement with the The Soos Creek Botanical Garden Foundation
Exhibit D – Maurice Skagen Lease
Exhibit E – Seller Disclosure – Environmental

SIGNATURES ON THE FOLLOWING PAGE

SIGNATURE PAGE

BUYER	SELLER
CITY OF AUBURN	
_____	_____
Nancy Backus, Mayor Date:	Morris W. Skagen Date:
Approved as to Form:	
_____	_____
Jason Whalen, Auburn City Attorney	

DRAFT

EXHIBIT A
Legal Description of the Subject Property
Parcel # 032105-9074 Post BLA

THAT PORTION OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER TOGETHER WITH THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 21 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS;

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 3, AS MONUMENTED BY CITY OF AUBURN MONUMENT 1419, AN ENCASED BRASS PLUG IN CONCRETE NEAR THE CENTER OF 132ND AVE SE;

THENCE ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION, NORTH 01° 29' 47" EAST, 988.05 FEET;

THENCE DEPARTING SAID WEST LINE, SOUTH 88° 43' 54" EAST, 30.00 FEET TO THE EAST RIGHT OF WAY MARGIN OF 132ND AVE SE, ALSO BEING THE SOUTHWEST CORNER OF LOT A, KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L96L0155 RECORDED UNDER RECORDING NO. 9612301254 AND AS CORRECTED PER BOUNDARY LINE ADJUSTMENT NO. L96L0155, RECORDED UNDER RECORDING NO. 20020211002613 AND **THE POINT OF BEGINIING**;

THENCE CONTINUING ALONG THE SOUTH LINE OF SAID KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L96L0155, SOUTH 88° 43' 54" EAST, 779.34 FEET TO THE SOUTHWEST CORNER OF LOT 2, KING COUNTY SHORT PLAT NO. 477101, RECORDED UNDER RECORDING NO. 7711221019;

THENCE ALONG THE WEST LINE OF SAID LOT 2 OF SAID SHORT PLAT, NORTH 01° 29' 47" EAST, 299.45 FEET TO THE NORTH LINE OF SAID LOT 2;

THENCE ALONG SAID NORTH LINE SOUTH 88° 44' 20" EAST, 509.29 FEET TO THE SOUTHEAST CORNER OF TRACT "X" OF SAID SHORT PLAT;

THENCE ALONG THE EAST LINE OF SAID TRACT "X" NORTH 01° 28' 40" EAST, 30.00 FEET TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 3;

THENCE ALONG THE NORTH LINE OF SAID SUBDIVISION SOUTH 88° 44' 20" EAST, 262.85 FEET;

THENCE DEPARTING SAID NORTH LINE SOUTH 01° 28' 40" WEST, 329.55 FEET TO THE SOUTH LINE OF THE NORTH HALF OF SAID SUBDIVISION;

THENCE ALONG SAID SOUTH LINE SOUTH 88° 43' 54" EAST, 369.50 FEET TO THE SOUTHEAST CORNER OF SAID NORTH HALF;

THENCE ALONG THE EAST LINE OF THE SOUTH HALF OF SAID SUBUDIVISION SOUTH 01° 28' 07" WEST, 164.80 FEET;

THENCE NORTH 88° 43' 30" WEST, 659.37 FEET TO THE EAST LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 3;

THENCE ALONG SAID EAST LINE SOUTH 01° 28' 40" WEST, 164.79 FEET TO THE SOUTHEAST CORNER OF SAID NORTH HALF;

THENCE ALONG THE SOUTH LINE OF SAID NORTH HALF NORTH 88° 43' 27" WEST, 812.79 FEET;

THENCE DEPARTING SAID SOUTH LINE NORTH 01° 29' 51" EAST, 165.00 FEET;

THENCE NORTH 88° 43' 27" WEST, 476.00 FEET TO SAID EAST RIGHT OF WAY MARGIN;

THENCE ALONG SAID EAST MARGIN NORTH 01° 29' 47" EAST, 164.35 FEET TO **THE POINT OF BEGINNING.**

CONTAINING 693,798 SQUARE FEET (15.93 ACRES), MORE OR LESS.

TOGETHER WITH AN UNDIVIDED INTEREST IN TRACT "X" AS DELINEATED ON SAID KING COUNTY SHORT PLAT NO. 477101;

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND UTILITIES OVER THE NORTH 30 FEET OF THE WEST HALF OF THE NORTH HALF OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 21 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON;

EXCEPT THE WEST 30 FEET THEREOF LYING WITHIN 132ND AVENUE SOUTHEAST.

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND UTILITIES OVER, ACROSS AND UNDER THE EAST 30 FEET, AND THE SOUTH 30 FEET OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, THE WEST 15 FEET OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION.

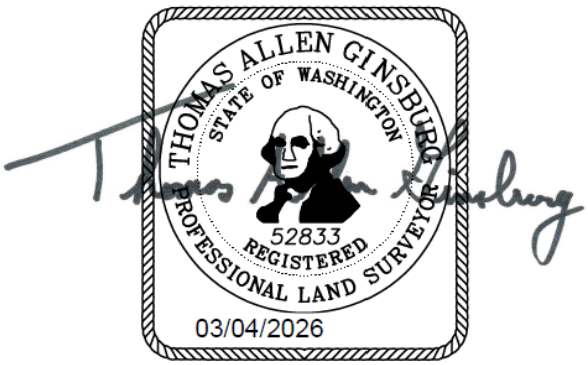


EXHIBIT B
Boundary Line Adjustment Depiction

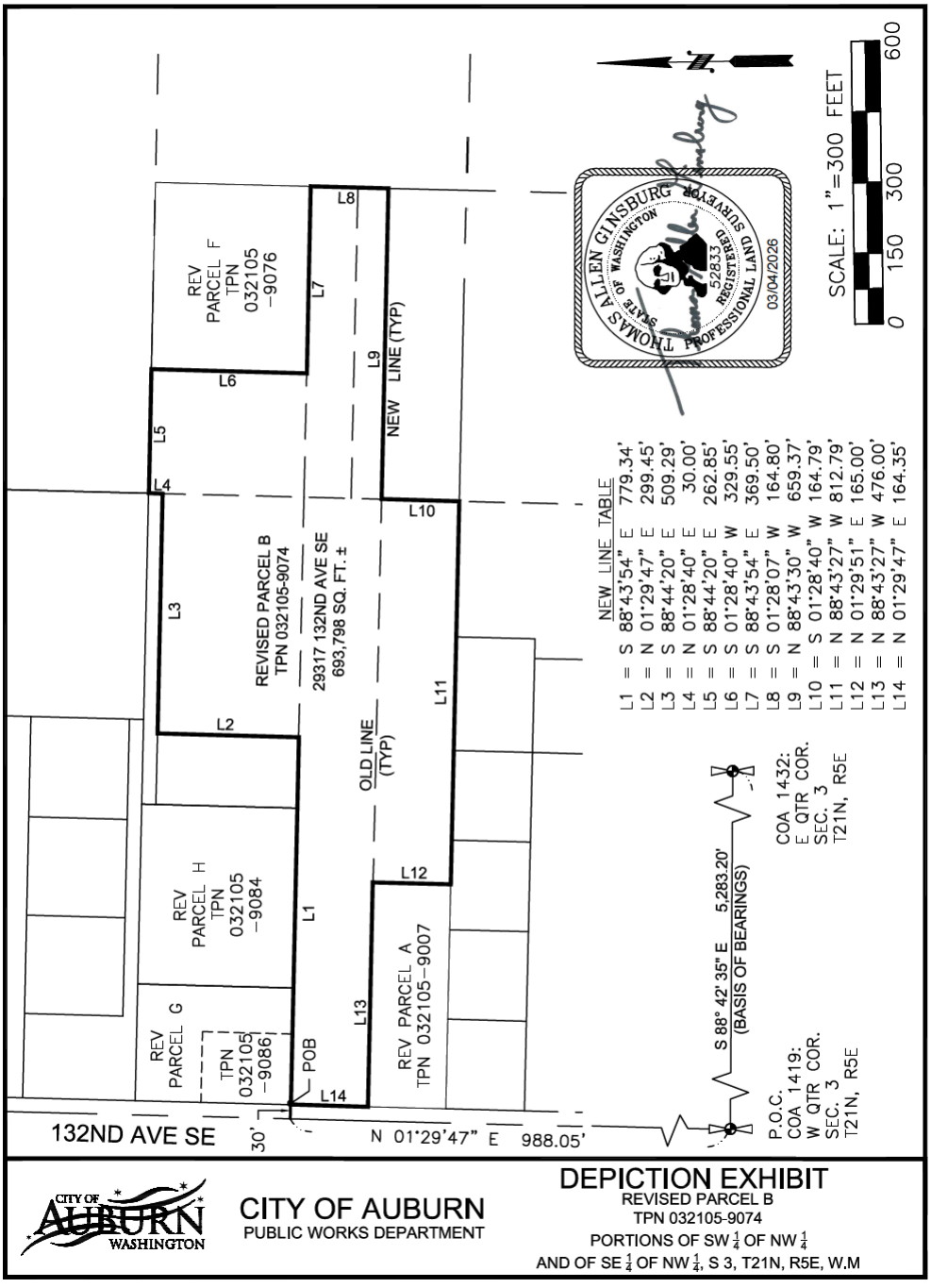


EXHIBIT C
Operating Agreement with the The Soos Creek Botanical Garden Foundation

(See Resolution 5901)

DRAFT

EXHIBIT D
Morris Skagen Lease

I. Recitals

1. Maurice W. Skagen is the former owner of approximately 15.93 acres of real property located in the City of Auburn in King County, Washington (the "Property"), the majority of which Property operates as a public botanical garden (the Botanical Garden").

2. In 2026, Mr. Skagen sold the Property to the City of Auburn, including the Botanical Garden (the "Sale").

3. Included in the Sale were Mr. Skagen's primary residential dwelling, having an address of 29308 132nd Ave SE, Auburn, 98092 (the "House"), and an adjacent building that houses a historical museum that is part of the Botanical Garden (together, the "Skagen Buildings").

4. As part of the negotiated terms of the Sale, Mr. Skagen agreed to contribute the value of the Skagen Buildings to the City as an in-kind donation, and the City agreed to lease the House rent-free to Mr. Skagen after the Sale. A City-commissioned appraisal determined a fair market allocation of value for the Skagen Buildings in the amount of Eight Hundred Thousand Dollars ($800,000), and the parties agreed that the City would grant Mr. Skagen a rent-free lease of the House for a term terminating upon his death or upon his voluntary vacation of the House.

II. Agreement

THIS LEASE AGREEMENT ("Lease") is made and entered into this ___ day of _____, 2026, by and between the City of Auburn ("City") and Morris W. Skagen ("Tenant").

FOR AND IN CONSIDERATION of the covenants and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. PREMISES. The City leases to Tenant according to the terms and conditions set forth herein the House having the address 29308 132nd Ave SE, Auburn, WA, King County and in a non-exclusive capacity, the adjacent parking areas (collectively the "Premises").

2. TERM. This Lease shall commence immediately upon the close of Sale and shall terminate upon the earlier of the following: (1) Tenant voluntarily vacates the Premises within Tenant's sole and absolute discretion; or (2) Tenant's death. If Tenant wishes to voluntarily terminate this Lease, Tenant shall provide City with written notice ("Termination Notice") no less than ninety (90) days prior to the intended termination date, which shall be stated in the

Termination Notice. However, where a health issue or other exigent circumstance necessitates Tenant's voluntary termination of this Lease, Tenant shall provide as much notice to City as reasonably possible under the circumstances. In the event of a Tenant default, the City may terminate this Lease for cause by providing Tenant with written notice and allowing the notice period required under applicable law, including but not limited to RCW 59.18, and local code.

If this Lease is terminated due to Tenant's death, City shall permit the personal representative of Tenant's estate, or any person lawfully authorized to act on behalf of the estate, reasonable access to the Premises to remove Tenant's personal property in accordance with Tenant's wishes. The estate shall have up to ninety (90) days from the date of death to remove all personal property from the Premises and vacate, provided, however, that personal property designated by Tenant within Tenant's sole and absolute discretion shall stay on the Premises as part of the [insert purpose of certain items remaining as a benefit to the house/city – e.g. paintings, furniture, etc.]. During this period, the estate shall be responsible for maintaining the Premises in good condition and for payment of all utilities.

Except for personal property designated by Tenant to remain in the Premises after the end of the Lease, any personal property remaining after the removal period may be disposed of by City in accordance with applicable law. City shall be entitled to recover from Tenant's estate any costs and fees associated with the removal and disposal of Tenant's personal property, any unpaid utility charges, and any cleaning reasonably necessary to return the Premises to acceptable condition, plus an additional ten (10%) percent of such documented costs and fees for administrative and management fees.

3. **CONSIDERATION.** As partial consideration for the Tenant's conveyance of the Property to City and particularly Tenant's in-kind donation of the equity value of the Skagen Buildings to City in connection with the Sale, the parties acknowledge and agree that no rent or other monetary consideration shall be due from Tenant for the use and occupancy of the Premises during the Term of this Lease. The equity value donated by Tenant as part of the Sale constitutes substantially more than full and sufficient consideration for this Lease, and City waives any right to require rental payments, other than applicable leasehold excise tax from Tenant unless otherwise expressly set forth herein.

4. **USE OF PREMISES**. Except as otherwise provided in this Section 4, this Lease is restricted solely for the use and occupancy of the Tenant.

4.1. CAREGIVER. Tenant shall be entitled to have an in-home Caregiver reside within the Premises. The Caregiver shall be subject to the conditions and obligations of this Lease, but shall not benefit or be awarded tenancy to the Premises in their own right. For the purposes of this Lease the term "Caregiver" shall mean: an individual who resides in the Premises solely for the purpose of providing bona fide caregiving, assistance, or support services to Tenant. The Caregiver is not a tenant, not an occupant, not a co-tenant, and not a party to this Lease, and has no right of possession or occupancy independent of Tenant. The Caregiver's right to be present in the Premises is within Tenant's sole and

absolute discretion and is strictly incidental to and contingent upon; i) the continued residency of Tenant, and ii) the active provision of Caregiver services to Tenant.

4.2. LIVE-IN GUEST. In addition to the Caretaker, [INSERT WOMANS NAME] is also allowed to reside in the Premises as a guest of Tenant. [INSERT WOMANS NAME] is not a tenant, not an occupant, not a co-tenant, and not a party to this Lease, and has no right of possession or occupancy independent of Tenant.

5. CONDITION OF PREMISES. The Tenant stipulates, represents and warrants that Tenant occupied the Premises as their personal residence prior to the Sale and as such Tenant is fully aware of and accepts the condition of the Premises in its "as is" condition as of the Commencement of this Lease. Upon commencement of this Lease the parties shall complete a checklist describing the condition of the Premises which shall be in substantial conformity to the checklist attached as **Exhibit A**.

Tenant further warrants that during the Term of this Lease it will not cause or allow anything that will degrade the condition of the Premises. Normal wear and tear and acts of god notwithstanding.

6. ASSIGNMENT AND SUB-LETTING. The Tenant is not permitted to assign or sublet this Lease under any circumstances.

7. ALTERATIONS AND IMPROVEMENTS. The Tenant shall make no alterations or improvements on the Premises without the prior written consent of the City, which the City may withhold or condition in its sole and absolute discretion. City hereby gives its written consent for Tenant to make alterations or improvements that are reasonably necessary for Tenant's health and/or mobility purposes on the Premises, provided Tenant gives at least fifteen (15) days' written notice to City in advance of such alterations or improvements.

8. LIABILITY AND INDEMNIFICATION. The Tenant shall indemnify, defend, and hold harmless the City, its employees, officials and agents against any and all claims, demands and lawsuits, and shall pay all costs and attorney's fees incurred in the defense thereof, for any injury to persons or property damage, including claims from Tenant's caretakers, guests, and invitees allegedly resulting from any act, incident, or accident arising from or relating to the Tenant's use of the Premises except such loss or damage, or cost incurred in defense, which arises out of the sole negligence of the City. The Tenant's obligation to indemnify the City shall not be relieved by its obligation to provide insurance coverage set forth below.

Tenant agrees to waive immunity under the industrial insurance provisions of Title 51 RCW, but only to the extent necessary to indemnify City, and Tenant agrees that this waiver has been mutually negotiated by the parties.

Except in the event of negligence or willful misconduct of City, City shall not be liable for injury or damage which may be sustained by the person, goods, wares, merchandise or property of

Tenant, its employees, invitees or customers, or any other person in or about the Premises. In no event shall City be liable for consequential damages.

9. INSURANCE. Tenant agrees to at all times during the term of the Lease, at its own expense, maintain and keep in effect the following insurance policies at the stated limits.

- A renters insurance policy (HO-4 or equivalent) providing not less than One Million and 00/100 Dollars ($1,000,000) in personal liability coverage per occurrence. Tenant's policy shall cover losses or damages to the Premises caused by Tenant, Tenant's guests, or Tenant's pets, including but not limited to fire, smoke, water discharge, and other negligent acts. Tenant is responsible for insuring Tenant's personal property, and City shall have no liability for loss or damage to Tenant's belongings. Tenant shall provide proof of insurance upon commencement of the Lease and upon each policy renewal. City shall be listed as an "interested party" for notice of cancellation or non-renewal. Failure to maintain required insurance is a material breach of this Lease.
- General liability coverage providing not less than One Million and 00/100 Dollars ($1,000,000) in liability protection per occurrence for bodily injury and property damage arising out of Tenant's use or occupancy of the Premises. This coverage may be satisfied through the renters insurance policy stated above or through an equivalent stand-alone liability policy.
- Pet Liability Insurance. If Tenant is permitted to keep any pet or animal in the Premises, Tenant shall maintain pet liability insurance coverage, either as part of Tenant's renters insurance policy or through a separate rider or policy in an amount not less than Two Hundred Fifty Thousand and 00/100 Dollars ($250,000) for bodily injury or property damage caused by the pet. Tenant remains fully responsible for all damage or injury caused by Tenant's pet, regardless of insurance coverage.

Insurance coverages shall not be suspended, voided, cancelled, or reduced in limits without until after forty-five (45) days prior notice is provided to the City. The failure to maintain the insurance coverages at the amounts listed above shall be a breach of this Lease and may result in default and eviction by the City.

10. HAZARDOUS MATERIALS. The Tenant shall not keep on the Premises any item of a dangerous, flammable or explosive character that might unreasonably increase the danger of fire or explosion on the Premises or that might be considered hazardous or extra hazardous by any responsible insurance company.

11. UTILITIES. Tenant shall be responsible for arranging for and timely paying for all utility services required on the Premises, which shall be in the Tenant's name; provided, water service (if not served by a well) for the Premises shall be in the name of the City. Water bills shall be mailed to the Tenant, and failure of the Tenant to pay

any water bill shall be a breach of this Lease. The Tenant has signed the Tenant Release Form, attached hereto as **Exhibit B** and incorporated by reference, authorizing the water bills to be mailed to the Tenant.

12. REPAIR AND MAINTAINANCE OF PREMISES.

City Responsibilities. City shall maintain the Premises and all building systems in a safe and habitable condition and in compliance with all applicable laws. Except as otherwise provided in this Lease, City shall be responsible for the repair and maintenance of the following which the parties acknowledge may be done through a third-party agreement:

- Structural components of the Premises, including the roof, exterior walls, foundation, and building envelope.
- Major building systems, including plumbing, electrical, heating, water heater, and ventilation systems.
- Appliances – stove/range, dishwasher (if any), refrigerator. Excludes washer and dryer.
- Smoke detectors, carbon monoxide detectors, locks, exterior doors, windows, and any safety related components required by law.

Tenant Responsibilities. Tenant shall maintain the Premises in a clean, sanitary, and safe condition and shall promptly notify City in writing of any condition requiring repair. Tenant shall be responsible for the following:

- Routine cleaning and housekeeping, including proper disposal of garbage.
- Minor maintenance such as replacing light bulbs, smoke detector/carbon monoxide detector batteries, and furnace filters. Tenant shall be required to replace furnace filters on a not less than quarterly basis.
- Keeping drains, toilets, and plumbing fixtures free of improper materials and obstructions.
- Damage caused by Tenant, Tenant's guests, or pets.
- Costs to repair or replace any appliance or fixture damaged through misuse or negligence.

Tenant shall provide City, or City's agents, with reasonable access to the Premises for inspection, maintenance, and repairs in accordance with applicable notice requirements.

13. SERVICE OF NOTICES. All notices required by this agreement and applicable state or local law to be served by the Tenant upon the City shall be mailed or emailed to the following address:

CITY	TENANT

Real Estate Division Attn: Josh Arndt 25 W Main Auburn, WA 98001 (253) 288-4325 jarndt@auburnwa.gov With Copies to City Attorney's Office 25 W Main Auburn, WA 98001 jwhalen@auburnwa.gov	Morris W. Skagen 29308 132nd Ave SE Auburn, WA 98092 (253) 247-5052 mauriceskagen@comcast.net With Copies to Matt Jennings [ADDRESS LINE 1] [ADDRESS LINE 2] [EMAIL]

All notices required by this agreement and applicable state or local law to be served by the City upon the Tenant shall be mailed or emailed to the email or address listed above, and personally delivered and left at the Premises with a person of suitable age. If no one of suitable age is home, a copy of the notice shall be posted in a conspicuous place on the Premises. All notices required by this agreement to be delivered by Tenant to the City shall be mailed or emailed to the email or address listed above.

14. **VACATING THE PREMISES.** Upon termination of this agreement, the Tenant and its caregivers, guests, or other invitees shall vacate the Premises, return all keys to the City, remove all personal property belonging to the Tenant (except for such items as Tenant chooses within his discretion to leave in the Premises) and leave the Premises in the same condition as the Tenant found them except for normal wear and tear. Such actions shall be in accordance with the timelines in Section 2 above.

15. **ENTRY BY CITY.** Except in the case of an emergency, the City shall only enter the Premises after giving the Tenant at least four (4) calendar days advance notice. The City shall only enter at reasonable times, for the purpose of inspecting the Premises, making repairs or improvements, supplying necessary or agreed services or showing the Premises to workers or contractors.

16. **COMPLIANCE WITH APPLICABLE LAWS & REGULATIONS**. The Tenant shall not knowingly commit or willfully permit to be committed on the Premises any act or thing contrary to the laws, rules or regulations of any federal, state or local governmental authority. The Tenant specifically agrees to comply and pay all costs associated with achieving such compliance in the event Tenant is responsible for such contrary act or thing.

17. **DAMAGE, DESTRUCTION & CASUALTY**. Tenant shall promptly notify City of any damage to the Premises resulting from fire or any other casualty. If the Premises shall be damaged by fire or other casualty, City may at its sole discretion, elect to promptly and diligently, subject to reasonable delays for insurance adjustment or other matters beyond City's

control, restore the structural components of the Premises. Such restoration shall be subject to modifications required by zoning and building codes and other Laws. Upon the occurrence of any damage to the Premises, Tenant shall assign to City all insurance proceeds payable to Tenant under Tenant's insurance pertaining to all tenant improvements and fixtures in the Premises (but not Tenant's personal property), and City shall repair any damage to the tenant improvements installed in the Premises and shall return such tenant improvements to their original condition or better. Alternatively, if a casualty renders the Premises uninhabitable as reasonably determined by the City, City may elect, according to the Residential City Tenant Act, not to rebuild and/or restore the Premises and instead terminate this Lease by providing Tenant 120 days' notice in writing of such termination. In the event City elects not to rebuild or restore the Premises, Tenant has the right to all insurance proceeds payable to Tenant under Tenant's insurance and Tenant may within his discretion choose to rebuild and/or restore the Premises using insurance proceeds and any other funds at Tenant's disposal, subject to City's prior written approval. The City shall not be liable for any interruption of Tenant's business due to any casualty.

18. **QUIET ENJOYMENT**. The Tenant, upon Tenant's performance of all the Tenant's agreements contained herein and the Tenant's observance of all rules and regulations, shall and may peacefully and quietly have, hold and enjoy said Premises for the term hereof.

19. **RIGHTS AND REMEDIES**. The rights and remedies under this Lease are cumulative, and either party's using any one right or remedy will not preclude or waive that party's right to use any other. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

20. **NO LIEN**. Tenant shall discharge any mechanic's lien filed against the Premises within thirty (30) days after the receipt of notice thereof, and shall promptly inform City of any such notice. If the lien is not discharged within this period, City shall have the right, but not the obligation, to discharge the lien by payment, bonding or otherwise, and the costs and expenses to City of doing so shall be paid to the City by Tenant on demand as additional rent.

21. **GOVERNING LAW**. This Lease shall be governed, construed and interpreted by, through and under the Laws of the State of Washington, in particular, the Residential Landlord Tenant Act, RCW Chapter 59.18, and all applicable local code.

22. **SEVERABILITY**. If any provision of this Lease or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Lease nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

23. **BINDING EFFECT**. The covenants, obligations and conditions herein contained shall be binding on and inure to the benefit of the heirs, legal representatives, and assigns of the parties hereto.

24. DESCRIPTIVE HEADINGS. The descriptive headings used herein are for convenience of reference only and they are not intended to have any effect whatsoever in determining the rights or obligations of the City or Tenant.

25. CONSTRUCTION. The pronouns used herein shall include, where appropriate, either gender or both, singular and plural.

26. NON-WAIVER. No indulgence, waiver, election or non-election by City under this Lease shall affect Tenant's duties and liabilities hereunder.

27. MODIFICATION. The parties hereby agree that this document contains the entire agreement between the parties and this Lease shall not be modified, changed, altered or amended in any way except through a written amendment signed by all of the parties hereto.

[SIGNATURES ON THE FOLLOWNG PAGE]

DRAFT

CITY OF AUBURN

_____
Nancy Backus, Mayor
Date: _____

Approved as to Form:

_____
City Attorney

TENANT

_____
_____
Date: _____

DRAFT

State of Washington)
)ss.
County of King)

I certify that I know or have satisfactory evidence that Nancy Backus is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Mayor for the City of Auburn to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Subscribed and Sworn before me this _____ day of _____, 2026.

_____
_____, Notary Public
In and for the State of Washington
Residing at _____, Washington
Commission Expires: _____

State of Washington)
)ss.
County of _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it to be the free and voluntary act of such person for the uses and purposes mentioned in this instrument.

Subscribed and Sworn before me this _____ day of _____, 2026.

_____
_____, Notary Public
In and for the State of Washington
Residing at _____, Washington
Commission Expires: _____

DRAFT

EXHIBIT A (to Lease)

DESCRIPTION OF UNIT

Address: _____
Tenant: _____

Room	Walls	Floor/ Carpets	Windows	Blinds/ Curtains	Doors	Closets	Cabinets/ Counters	Fixtures	Heaters	Appliances	Other
1.											
2.											
3.											
4.											
5.											
6.											
7.											

1 = New
2 = Good
3 = Fair
4 = Poor

Signed:

_____
City(s) Date:

_____
Tenant(s) Date:

EXHIBIT B (to Lease)

TENANT UTILITY RELEASE FORM

DRAFT

EXHIBIT E
Seller Disclosure – Environmental

ENVIRONMENTAL DISCLOSURE		Yes	No	Don't Know	N/A
A	Have there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?				
B	Does any part of the property contain fill dirt, waste, or other fill materials?				
C	Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?				
D	Are there any shorelines, wetlands, floodplains, or critical areas on the property?				
E	Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?				
F	Has the property been used for commercial or industrial purposes?				
G	Is there any soil or groundwater contamination?				
H	Are there transmission poles or other electrical utility equipment installed, maintained, or buried on the property that do not provide utility service to the structures on the property?				
I	Has the property been used as a legal or illegal dumping site?				
J	Has the property been used as an illegal drug manufacturing site?				
K	Are there any radio towers in the area that cause interference with cellular telephone reception?				

If you answered yes to any of the following, please give further details here.

DRAFT

RESOLUTION NO. 5901

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY, AN OPERATING AGREEMENT FOR SERVICES WITH THE SOOS CREEK BOTANICAL GARDEN FOUNDATION FOR THE CONTINUED OPERATIONS, IMPROVEMENT AND MAINTENANCE OF THE SOOS CREEK BOTANICAL GARDEN AND HERITAGE CENTER

WHEREAS, The Soos Creek Botanical Garden Foundation (the "Foundation"), a Washington nonprofit corporation, originally formed under a different non-profit entity name has improved, maintained, and operated the Soos Creek Botanical Garden & Heritage Center (the "Garden") for the benefit of the public since 2009; and

WHEREAS, it was a required condition in the purchase and sale contract between the City and Mr. Skagen that the Foundation and the City of Auburn (the "City") enter into an Operating Agreement with the Foundation for the continued operations, improvement, and maintenance of the Garden; and

WHEREAS, the Foundation has agreed to perform and will perform the duties and services provided for in the Operating Agreement at no cost to the City,

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

Section 1. The Mayor is authorized to execute the Operating Agreement attached as Exhibit A (the "Agreement"), and any future amendments to the Agreement as appropriate subject to Auburn City Code 3.10.020.

Section 2. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this Resolution.

Section 3. The City Clerk is authorized to make necessary corrections to this Resolution including, but not limited to, the correction of scrivener's/clerical errors, references, Resolution numbering, section/subsection numbers, and any references thereto.

Section 4. This Resolution will take effect and be in full force on passage and signatures.

Dated and Signed: _____

CITY OF AUBURN

_____
NANCY BACKUS, MAYOR

ATTEST:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Jason Whalen, City Attorney

CITY OF AUBURN

OPERATING AGREEMENT FOR SERVICES
SOOS CREEK BOTANICAL GARDEN FOUNDATION

THIS OPERATING AGREEMENT FOR SERVICES ("Agreement") is made and entered into on this _____ of _____, 2026, by and between the **CITY OF AUBURN ("City")**, a municipal corporation of the State of Washington, and **THE SOOS CREEK BOTANICAL GARDEN FOUNDATION**, a Washington nonprofit corporation (UBI Number 602 961 230) **("Foundation")**, whose mailing address is 29308 132nd Ave SE, Auburn, WA 98092. Individually, the City and the Foundation are referred to herein as a "Party," and collectively, as the "Parties."

RECITALS:

1. By Bargain and Sale Deed dated _____, and recorded under King County Recording No. _____, the City is the owner of that certain real property commonly known as Soos Creek Botanical Garden & Heritage Center, located at 29308 132nd Ave SE, Auburn, King County, Washington 98092, legally described as set forth on **Exhibit A,** and as depicted on **Exhibit B** (the "Property"). The Property consists of approximately 15.93 acres of land and contains a main house and attached aviary, an open pavilion for events, and an additional structure, the Heritage Center, and all its historical items and personal property contents, which is devoted to the history of the early settlers of the area called the Soos Creek Plateau.

2. The Property was acquired by the City with King County Conservation Futures Tax Levy ("CFT") Funds, in part, and as a result of the charitable gift and benevolence of Morris (or Maurice) W. Skagen, whose Norwegian immigrant ancestors purchased the acreage on which the Property is located, in part, between 1891 and 1905, in the early years following Auburn's incorporation. The City acquired the majority (15.93 acres) of the Property from Mr. Skagen, and the remainder (approximately 25.84 acres) will be acquired from the Foundation when CFT funds become available (the "Foundation Property"). Because of the utilization of CFT funds to acquire the Property, a relevant portion of the Property is subject to and restricted by a deed restriction covenant, effectively maintaining the Property as open space for the benefit of the public, consistent with the charitable intent of Maurice Skagen.

3. The Soos Creek Botanical Garden Foundation (Foundation) is a Washington nonprofit corporation, registered as a 501(c)(3) entity with EIN 27-1104322. The Foundation was initially formed in 2009 as The James Daly and Morris Skagen Garden Foundation,[1] for the purpose of "the preservation and enhancement of exceptional gardens for the benefit of the public," among other related purposes. Since that time, and prior to the City's acquisition of the Property, the Foundation, along with Mr. Daly and Mr. Skagen, has

[1] On June 17, 2010, the Articles of Incorporation were amended to change the name of the nonprofit entity to The Soos Creek Botanical Garden Foundation.

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improved, maintained, and operated the Property (in addition to other adjacent property parcels, not acquired by the City) for the benefit of the public as the Soos Creek Botanical Garden & Heritage Center (hereinafter, the "Garden"). Per the Garden's website, the Garden "provides a diversity of gardens based upon international, regional, and historical gardens, while providing education and conversation of horticulture, the environment, and history". *See* www.sooscreekbotanicalgarden.org.

4. It was a required condition in each of the purchase and sale contracts between the City and Foundation and the City and Mr. Skagen that the Parties would enter into this Agreement in order to establish the Foundation's continuing operation and maintenance of the Garden after the City's acquisition. Neither the City, the Foundation nor Mr. Skagen would have agreed to the City's acquisition of the Property unless the Foundation continues to operate and maintain the Garden as long as it is adequately able to do so.

5. The City and the Foundation mutually desire for the Foundation to continue to maintain and operate the Property as the Soos Creek Botanical Garden & Heritage Center as the Foundation has done since its founding in 2009, order to preserve its natural and historical significance and to ensure the Property remains an asset in perpetuity for the benefit of the public, including the residents of the City of Auburn as well as those local and regional patrons of Soos Creek Botanical Garden & Heritage Center.

6. Until such time when the City acquires the Foundation Property, the City will require the Foundation to execute an easement for ingress, egress, parking and operations substantially in the form attached as **Exhibit D**.

AGREEMENT:

In consideration of the recitals set forth above, and the conditions and the mutual promises and covenants contained in this Agreement, the Parties agree as follows:

1. Foundation's Duties and Responsibilities

   The Foundation agrees to continue to operate, maintain, and improve the Property as part of the Garden in order to maintain and enhance a regionally significant botanical garden and collection of native species, as well as non-native species compatible with the region, while providing education and conservation of horticulture, the environment, and history consistent with those duties and responsibilities as outlined on **Exhibit C (the "Services")**.

2. Additional Services

   The Parties may, within their respective discretion, agree to amend this Agreement if additional property is acquired or if additional services are required beyond those specified in **Exhibit C.** An amendment must be written and agreed to by the Parties before Foundation performs any additional services, and it must specify the nature, scope, and payment terms, if any, for the additional services. If the period for completing additional services makes the advance signing of an amendment impractical, the Parties agree to perform only the additional services approved in writing by their authorized representative pending the signing of an Amendment as set forth in this Section.

3. Foundation's Representations, Qualifications, and Financial Strength

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Foundation represents and warrants that it has all the required licenses, certifications, qualifications, and operational finances necessary to perform the services in this Agreement and agrees to maintain its 501(c)(3) status during the entire term of this Agreement. Foundation represents that its signatory to this Agreement has the requisite legal authority to bind Foundation to the terms and conditions of this Agreement.

4. No Rent or Compensation to be Paid

a. **No Rent or Compensation to be Paid to either Party.** The City obtained CFT funds to acquire the Property, in part, with the balance of the purchase price gifted to the City by Maurice Skagen. In consideration of the fact the Foundation is a 501(c)(3) charitable organization whose purpose and mission is to provide public benefit via its work at the Garden, including particularly to the residents of the City of Auburn, the City and Foundation agree that no rent will be payable by the Foundation to the City for its use of the Garden, nor shall the City pay the Foundation any monetary compensation for the Foundation's performance of this Agreement, including the performance of those Services set forth on **Exhibit C,** absent mutual agreement and contingent upon available funding. The Parties agree to work cooperatively in the Foundation's attempts to acquire available grant funding that would enhance the operation and offerings of the Garden to the public, including without limitation via applications to various potentially applicable Washington State and King County grant programs.

b. **Prevailing Wage.** The Foundation will pay its non-volunteer personnel, if any, the applicable prevailing wage for all laborers and staff in the performance of the Services. The minimum prevailing wage rate paid for each year shall be the rate in effect on January 1 of each year. The Foundation shall file annually its Intent to Pay Prevailing Wages form and an Affidavit of Wages Paid form with the Department of Labor & Industries.

c. **Leasehold Excise Tax.** If Washington State requires the City to collect a Leasehold Excise Tax (LET) because the Foundation is deemed to have a leasehold interest in all or any portion of the Property or Garden, owed by the City, then the Foundation will be responsible for the LET, at 12.84% of the value then determined for the leasehold interest.

5. Time for Performance, Term, and Termination of Agreement

a. **Term.** The term of this Agreement commences upon the Closing of the transaction whereby the City acquires the Property (the "Effective Date"). Once commenced, the Foundation shall perform all Services set forth in **Exhibit C**, for an initial term of ten (10) years ("Initial Term"). This Agreement shall be automatically extended in five (5) year increments ("Extension Terms") unless terminated earlier as provided herein. Any Extension Term shall be effectuated by a written notice, addendum, or amendment to this Agreement, which amendment shall include such modified or additional terms and conditions as the Parties may agree upon within their respective discretion.

b. **Termination.** In recognition of the Parties' mutual intent that the Foundation continue operating and maintaining the Property as the Garden for as long as it is reasonably able to

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do so, as reflected in the above Recitals, the Parties agree that this Agreement may only be terminated for cause or necessity.

Termination for Cause. Either party may terminate this Agreement for cause with written notice to the other Party. A termination is "for cause" if a party substantially fails to perform in accordance with the terms of this Agreement through no fault of the other Party, if said Party fails to correct or perform within thirty (30) days of receipt of written notice (or such other period of notice as may be specified in this Agreement), or within such longer time as the Parties agree upon in the event correction is not reasonably possible within 30 days. The notice will specify the termination reason(s) and the termination effective date, and the correction action(s) necessary to prevent termination. If the City terminates this Agreement for cause, all City payments otherwise due to Foundation, if any, will be suspended and the City will have no further obligations to Foundation.

Termination for Necessity. Either Party may terminate this Agreement out of necessity upon at least ninety (90) days advance written notice to the other Party. A termination is out of "necessity" if a party can no longer reasonably perform in accordance with the terms of this Agreement through no fault of the other Party, and such failure is due to financial hardship, severe casualty loss to the Property preventing the ongoing operation of the Property as the Garden for public benefit, or a similar type(s) of problem that the terminating party has been unable to resolve despite good faith efforts including engaging in discussions with the non-terminating party. The notice shall specify the termination reason(s) and the termination effective date. If the termination is by the City, the City will compensate Foundation for those compensable services performed, if any, up to the Termination Date, if eligible for compensation. The compensation will fully satisfy the City's obligations under this Agreement and will discharge the City from any further obligations and liabilities to the Foundation (including any Foundation claims of anticipated profits or other consequential damages resulting from the termination).

c. **Surrender of Possession upon Termination.** Upon receipt of any termination notice, the Foundation will, no later than the termination effective date, deliver possession of all structures on the Property in which the Foundation has possession, discontinue all services, and deliver to the City all vendor information and contracts, keys for all gates and buildings/structures, reports, summaries, and such other documents, information and materials the Foundation has accumulated, prepared, or obtained in performing this Agreement (whether fully or partially completed). The Parties agree that as long as Mr. Skagen is leasing the primary residence on the Property (which lease is under a separate agreement between the City and Mr. Skagen), the Foundation will not be deemed to have possession of such residence for purposes of this Agreement, unless the Foundation has leased or subleased a portion of the primary residence for Foundation purposes.

d. The rights and remedies in this Section do not exclude any other legal or equitable rights or remedies available to the City.

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6. Ownership and Use of Documents

The City will own all documents related to the maintenance and operations of the Property including, reports, memoranda, diagrams, sketches, plans, surveys, working drawings and any other materials that the Foundation creates or prepares in performing this Agreement (the "Work Products"), provided, however, City understands and agrees that the City does not own Foundation donor information and the Foundation cannot disclose donor information. The City may use these Work Products for any lawful purpose. Foundation acknowledges that this Agreement and the Work Products are public records subject to RCW 42.56 unless exempt from public records disclosure requirements. The Foundation agrees to fully assist the City in identifying, locating, and copying any records Foundation possesses that the City determines in its sole discretion are responsive to a Public Records request.

7. Records Inspection and Audit

All City payments to the Foundation, if any, are subject to adjustment for any amounts found upon audit or otherwise to have been improperly invoiced. The City may inspect and audit any Foundation records and books of account pertaining to any work performed under this Agreement for up to 3 years after the City's final payment to Foundation. If any litigation, claim, dispute, or audit is initiated before this 3-year period expires, Foundation shall retain all records and books of account for any work performed under this Agreement until final resolution of any such litigation, claim, dispute, or audit.

8. Continuation of Performance

If any dispute or conflict arises between the Parties while this Agreement is in effect, the Foundation agrees to cooperate and continue in good faith toward successful completion of its responsibilities under this Agreement notwithstanding such dispute or conflict.

9. Independent Contractor

The Foundation will perform the Services as an independent contractor and will not be deemed by virtue of this Agreement or the performance of it to be in a partnership, joint venture, employment, or other relationship with the City. Nothing in this Agreement creates any contract relationship between the City and the Foundation's volunteers, employees, agents, or subcontractors. The City shall not be responsible for withholding or otherwise deducting federal income tax or Social Security or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to Foundation or any employee of Foundation.

10. Administration of Agreement

This Agreement will be administered by _____, on behalf of the Foundation, and by the City of Auburn Mayor (or designee) on behalf of the City.

11. Notices

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Notices or communications permitted or required under this Agreement will be written and delivered to the following addresses:

Notice to the City:	**Notice to Foundation:**
Director of Parks & Recreation City of Auburn 25 West Main St Auburn WA 98001-4998 Phone: (253) 931-3043 Email: parks@auburnwa.gov	

Either party may change its above address by giving written notice to the other party. Notices to non-parties will be delivered as designated by a party to this Agreement.

12. Insurance

The Foundation will, at its sole expense, procure and maintain for the duration of this Agreement and for thirty (30) days thereafter insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of this Agreement by the Foundation, its agents, representatives, or employees. Foundation's maintenance of insurance as required by the Agreement will not be construed to limit the liability of the Foundation to the coverage provided by such insurance or otherwise limit the City's recourse to any remedy available at law or in equity.

The Foundation will obtain insurance of the types described below:

a. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage will be at least as broad as Insurance Services Office (ISO) form CA 00 01 (Foundation may use a substitute form providing equivalent liability coverage).

b. Commercial General Liability insurance will be at least as broad as ISO occurrence form CG 00 01 and will cover liability arising from premises, operations, stop-gap independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The City will be named as an additional insured under the Foundation's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO Additional Insured endorsement CG 20 26.

c. Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

d. Professional Liability Insurance, if needed.

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For Automobile Liability and Commercial General Liability insurance, the policies are to contain or be endorsed to contain that Foundation's insurance coverage will be primary insurance with respect to the City. Any insurance, self-insurance, or self-insurance pool coverage maintained by the City will be excess of the Foundation's insurance and will not contribute to it.

Insurance is to be placed with an authorized insurer in Washington State. The insurer must have a current A.M. Best rating of not less than A:VII.

The Foundation will furnish the City with original certificates of insurance and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of this Agreement before commencement of the work.

The City reserves the right to require that complete, certified copies of all required insurance policies and/or evidence of all subcontractors' coverage be submitted to the City at any time. The City may withhold payment, if any is due, if the Foundation does not fully comply with this request.

If the Foundation maintains higher insurance limits than the minimums shown below, the City will be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Foundation, irrespective of whether such limits maintained by the Foundation are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Foundation.

The Foundation will provide the City with written notice of any policy cancellation within two business days of their receipt of such notice. Failure by the Foundation to maintain the insurance as required will constitute a material breach of this agreement, upon which the City may, after giving five (5) business days' notice to the Foundation to correct the breach, immediately terminate the agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the City's sole discretion, offset against funds due the Foundation from the City, if any.

13. Insurance Minimums

The Foundation shall provide:

- Automobile Liability: $1,000,000 per accident for bodily injury and property damage.
- Commercial General Liability (CGL): Coverage shall be no less than $2,000,000 each occurrence with $2,000,000 aggregate, and $2,000,000 products completed operations aggregate limit.
- Builders Risk. May be required up to the amount of the completed value of a new building or major construction project.

If the Foundation leases or subleases any portion of the Property for residential purposes (e.g. a caretaker) then, $2,000,000 per claim and $2,000,000 policy aggregate limit Tenant Discrimination. Required for professional service agreements with housing/shelter vendors/operators.

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14. Indemnification/Hold Harmless

Except for injuries and damages caused by the sole negligence of the City, the Foundation will defend, indemnify and hold the City and its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits of every kind, including attorney fees and litigation expenses, arising out of or resulting from the acts, errors, or omissions of the Foundation, its employees, agents, representatives, or subcontractors, including employees, agents, or representatives of its subcontractors, made in the performance of the Services required by this Agreement, or arising out of worker's compensation, unemployment compensation, or unemployment disability compensation claims.

However, should a court of competent jurisdiction determine that this Agreement 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 Foundation and the City, its officers, officials, employees, and volunteers, the Foundation's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Foundation's negligence.

It is further specifically and expressly understood that this indemnification constitutes the Foundation'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 will survive the expiration or termination of this Agreement.

15. No Acts in Contravention of Foundation Nonprofit Status.

Regardless of any provisions herein, the City understands and agrees that nothing in this Agreement (including Exhibit C) requires the Foundation to provide private inurement or impermissible private benefit, or otherwise take any action that violates or jeopardizes in any way the Foundation's 501(c)(3) charitable status or its status as a Washington nonprofit corporation governed by Chapter 24.03A RCW.

16. Assignment

Neither party to this Agreement may partially or wholly assign any right or obligation in it without the other Party's prior written consent. No assignment or transfer of any interest under this Agreement will release the assignor from any liability or obligation under this Agreement or cause any such liability or obligation to be reduced to a secondary liability or obligation.

16. Nondiscrimination

The Foundation may not engage in any unfair practice identified in RCW 49.60.180 and/or 42 U.S.C. §2000e-2 in the performance of any services or activities under this Agreement (either directly or through contractual, hiring, or other arrangements).

17. Amendment, Modification and Waiver

No amendment, modification, or waiver of any condition, provision, or term of this Agreement will be valid or effective unless written and signed by the Party to be bound (or the Party's authorized

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representative), specifying the nature and extent of such amendment, modification or waiver. Any waiver, approval or acceptance, or payment by any Party will not affect or impair that Party's rights arising from any default by the other Party.

18. Parties in Interest

This Agreement will bind (and its benefits and obligations will inure to) the Parties and their respective successors and assigns. This section will not permit any transfer or assignment otherwise prohibited by this Agreement. This Agreement is for the exclusive benefit of the Parties, and it does not create a contractual relationship with or exist for the benefit of any third party (including contractors, sub-contractors and sureties).

19. Force Majeure

Delays in performing this Agreement will be excused to the extent caused by acts outside a Party's control, such as fires, cyber/ransomware attacks, earthquakes, floods, explosions, actions of the elements, riots, mob violence, strikes, pandemics, labor strikes or lockouts, and state or federal government emergency orders.

20. Applicable Law/Venue/Dispute Resolution

This Agreement and the rights of the Parties under it will be governed by the laws, regulations, and ordinances of the City, King County, and the State of Washington. Venue for actions involving this Agreement will be in King County Superior Court. An applicable statute of limitation will commence no later than the Foundation's substantial completion of the Services in this Agreement. Prior to commencing any legal action involving this Agreement, the Parties agree to engage in informal or formal mediation with a mediator mutually agreed to by the Parties, with the cost of the mediation shared equally.

21. Captions, Headings and Titles

All captions, headings or titles in the paragraphs or sections of this Agreement are inserted for convenience of reference only and will not act to limit the scope of their paragraph or section. Where appropriate, the singular will include the plural (and vice versa), and masculine, feminine and neuter expressions will be interchangeable. This Agreement has been drafted by mutual agreement of the Parties, and it will be interpreted and/or constructed without regard to its drafter.

22. Severable Provisions

Each provision of this Agreement is intended to be severable. The illegality or invalidity of any provision in this Agreement will not affect the validity of the Agreement's remaining provisions.

23. Entire Agreement

This Agreement (together with any subsequent amendments or addendums) contains the entire understanding of the Parties regarding its subject matter, and it supersedes all prior oral or written

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representations, agreements and understandings between the parties. No other oral or written understandings regarding this Agreement shall bind any Party.

24. Non-Availability of Funds

Every City obligation under this Agreement is contingent on the availability of appropriated or allocated City funds, to the extent City funds are required - if at all - for the City to perform a given obligation. If funds required for the City's performance are not allocated and available, the City may terminate this Agreement for necessity at the end of the available funding period, subject the required Section 5 notice period. The City will not be liable if it exercises this provision and will not be obligated or liable for any future payments or damages as a result of termination under this Section.

25. Counterparts

This Agreement may be executed in multiple counterparts, with each counterpart being one and the same Agreement, and the Agreement will become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below, with the term of the Agreement beginning on the Effective Date set forth above.

CITY OF AUBURN, a Washington municipal corporation

_____
Nancy Backus, Mayor

Date: _____

THE SOOS CREEK BOTANICAL GARDEN FOUNDATION, a Washington nonprofit corporation

_____
Signature

Name:

Title:

Date: _____

Approved as to form:

_____
Jason M. Whalen, Auburn City Attorney

EXHIBIT A
Legal Description of Property

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THAT PORTION OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER TOGETHER WITH THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 21 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS;

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 3, AS MONUMENTED BY CITY OF AUBURN MONUMENT 1419, AN ENCASED BRASS PLUG IN CONCRETE NEAR THE CENTER OF 132ND AVE SE;

THENCE ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION, NORTH 01° 29' 47" EAST, 988.05 FEET;

THENCE DEPARTING SAID WEST LINE, SOUTH 88° 43' 54" EAST, 30.00 FEET TO THE EAST RIGHT OF WAY MARGIN OF 132ND AVE SE, ALSO BEING THE SOUTHWEST CORNER OF LOT A, KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L96L0155 RECORDED UNDER RECORDING NO. 9612301254 AND AS CORRECTED PER BOUNDARY LINE ADJUSTMENT NO. L96L0155, RECORDED UNDER RECORDING NO. 20020211002613 AND **THE POINT OF BEGINIING**;

THENCE CONTINUING ALONG THE SOUTH LINE OF SAID KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L96L0155, SOUTH 88° 43' 54" EAST, 779.34 FEET TO THE SOUTHWEST CORNER OF LOT 2, KING COUNTY SHORT PLAT NO. 477101, RECORDED UNDER RECORDING NO. 7711221019;

THENCE ALONG THE WEST LINE OF SAID LOT 2 OF SAID SHORT PLAT, NORTH 01° 29' 47" EAST, 299.45 FEET TO THE NORTH LINE OF SAID LOT 2;

THENCE ALONG SAID NORTH LINE SOUTH 88° 44' 20" EAST, 509.29 FEET TO THE SOUTHEAST CORNER OF TRACT "X" OF SAID SHORT PLAT;

THENCE ALONG THE EAST LINE OF SAID TRACT "X" NORTH 01° 28' 40" EAST, 30.00 FEET TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 3;

THENCE ALONG THE NORTH LINE OF SAID SUBDIVISION SOUTH 88° 44' 20" EAST, 262.85 FEET;

THENCE DEPARTING SAID NORTH LINE SOUTH 01° 28' 40" WEST, 329.55 FEET TO THE SOUTH LINE OF THE NORTH HALF OF SAID SUBDIVISION;

THENCE ALONG SAID SOUTH LINE SOUTH 88° 43' 54" EAST, 369.50 FEET TO THE SOUTHEAST CORNER OF SAID NORTH HALF;

THENCE ALONG THE EAST LINE OF THE SOUTH HALF OF SAID SUBUDIVISION SOUTH 01° 28’ 07” WEST, 164.80 FEET;

THENCE NORTH 88° 43’ 30” WEST, 659.37 FEET TO THE EAST LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 3;

THENCE ALONG SAID EAST LINE SOUTH 01° 28’ 40” WEST, 164.79 FEET TO THE SOUTHEAST CORNER OF SAID NORTH HALF;

THENCE ALONG THE SOUTH LINE OF SAID NORTH HALF NORTH 88° 43’ 27” WEST, 812.79 FEET;

THENCE DEPARTING SAID SOUTH LINE NORTH 01° 29’ 51” EAST, 165.00 FEET;

THENCE NORTH 88° 43’ 27” WEST, 476.00 FEET TO SAID EAST RIGHT OF WAY MARGIN;

THENCE ALONG SAID EAST MARGIN NORTH 01° 29’ 47” EAST, 164.35 FEET TO **THE POINT OF BEGINNING.**

CONTAINING 693,798 SQUARE FEET (15.93 ACRES), MORE OR LESS.

TOGETHER WITH AN UNDIVIDED INTEREST IN TRACT “X” AS DELINEATED ON SAID KING COUNTY SHORT PLAT NO. 477101;

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND UTILITIES OVER THE NORTH 30 FEET OF THE WEST HALF OF THE NORTH HALF OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 21 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON;

EXCEPT THE WEST 30 FEET THEREOF LYING WITHIN 132ND AVENUE SOUTHEAST.

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND UTILITIES OVER, ACROSS AND UNDER THE EAST 30 FEET, AND THE SOUTH 30 FEET OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, THE WEST 15 FEET OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION.

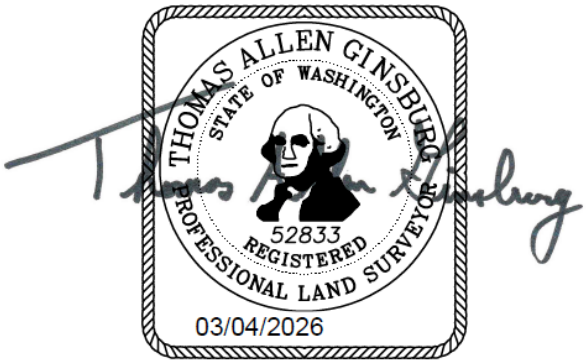

Exhibit B
Depiction of Property

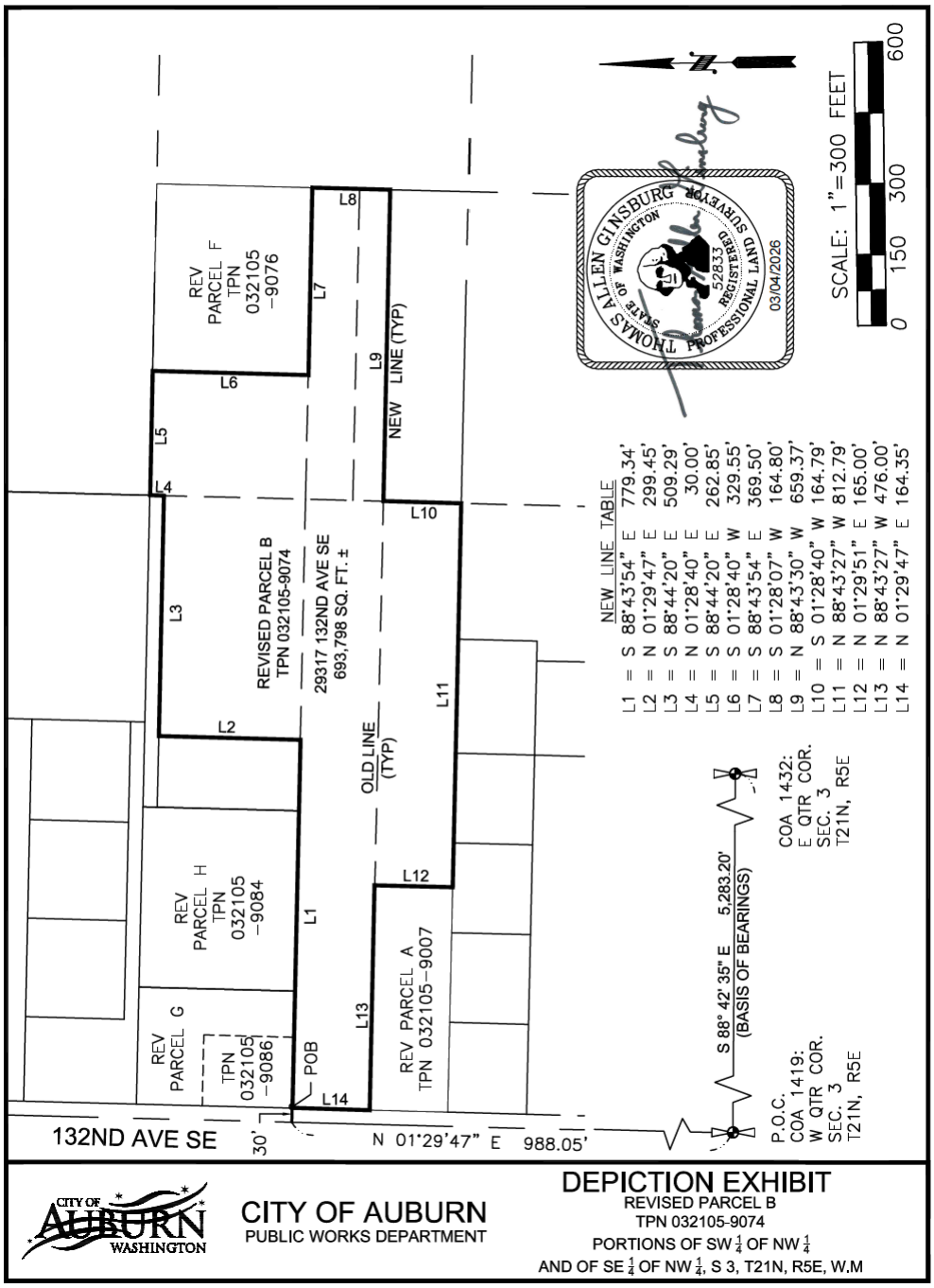

Exhibit C
The Services

Foundation Maintenance Responsibilities. The Foundation shall maintain all of the following at its sole cost and expense:

Garden: The Foundation shall operate, maintain, and improve the Garden, including its plant collections, as it currently exists on and within the Property. The Foundation may modify existing garden areas or establish new areas within the Property, provided such work remains consistent with the mission and purpose of a public botanical garden.

Irrigation: If irrigation systems are to be installed in the future, the Foundation shall be responsible for their installation, operation, maintenance, repair, and replacement as necessary.

Equipment: The Foundation shall be responsible for and perform all maintenance and repair of onsite equipment owned by the Foundation or the City, if any, that is used by the Foundation for Garden Maintenance. If equipment needs replacement, the Foundation shall replace said equipment in a timely manner, to not disrupt Garden operations.

Buildings: The Foundation shall be responsible for all maintenance of all buildings on the Garden and within the Property, provided, however, that the Foundation shall be responsible for the "Main House" or a portion thereof only if and when the primary purpose of the Main House or a portion thereof (e.g. a Garden caretaker apartment) is to support the Garden operations. Thus, as of the Effective Date of the Services Agreement, the Foundation shall be responsible for the "Soos Creek Heritage Center", the "Pavilion by the Pond", the aviary (attached to the Main House), and all Garden-related outbuildings, including but not limited to the "Hoop Nursery", greenhouses, sheds, and other structures, whether currently located on the Garden or installed in the future for Garden-related purposes. Maintenance shall include, but not be limited to, normal and routine maintenance (e.g. painting, minor repairs, replacing light bulbs, pest control, etc.), as well as Capital Improvements (e.g. roof replacement, siding repairs, system replacements, etc.). In the event significant Capital Improvements or other significant alterations or improvements desired by the Foundation – with "significant" defined as improvements or alterations exceeding ten thousand dollars ($10,000) in total cost – the Foundation shall obtain the City's written consent prior to engaging in such work, such consent shall not be unreasonably withheld. The Foundation may, but is not required to, consult with the City for minor repairs, replacements, or routine maintenance. The Foundation shall be responsible for the investigation and acquisition of any permits needed, with City as owner cooperating as needed for such permits.

All Other Site Appurtenances: The Foundation shall be responsible for all maintenance, repair, and replacement of all site appurtenances, including but not limited to, the entrance gate, parking areas, water/sewage/electrical systems, kiosks, memorials, benches, and fencing. City and Foundation mutually understand and agree that existing and future memorials placed on the

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Property by the Foundation are intended to be permanent, e.g. the granite memorial bench near the vegetable garden, and shall be replaced if damaged.

Vehicle and Pedestrian Areas: The Foundation shall be responsible for maintaining the grounds of the Garden in a safe and well-maintained condition, including, without limitation, parking areas, roads, driveways, walkways, pathways, patios, and other vehicle and pedestrian areas located within the Property.

Soosette Creek: The Foundation shall conduct its activities within the Property in a manner that complies with all applicable State and City regulations governing Soosette Creek and its associated critical areas and buffers. Nothing in this Agreement shall prohibit the Foundation from coordinating educational or habitat-related activities associated with the creek (e.g. children releasing salmon frye) and in coordination with applicable organizations (e.g. Muckleshoot Indian Tribe, State of Washington, etc.).

Foundation Operational Responsibilities.

Hours of the Garden and Soos Creek Heritage Center: The City and Foundation acknowledge that the Garden is an asset meant to be enjoyed by and open to the public. The Foundation shall consult with the City but ultimately shall have the final authority to determine the days, times, or seasons when the Garden is open to the public or for private events. The Foundation shall keep the City apprised of such open hours, special events, etc. so that the City may assist in public outreach.

Educational Uses and Fundraising: The Foundation, at its sole discretion, may continue to offer the Garden and its amenities for educational purposes, including but not limited to, public education (e.g. schools), private education (e.g. garden workshops), and for fundraising events, compliant with its tax-exempt status.

City Rights and Responsibilities.

City use of the Property and Buildings: The City may request use of portions of the Property or Garden facilities for City-related events or gatherings. Any such use shall be coordinated with the Foundation and shall be subject to availability and the Foundation's scheduling of Garden operations, programs, and private rentals. The Foundation may, at its discretion, permit such use and may charge the City the same or a discounted rate consistent with the Foundation's facility rental policies. Nothing in this Agreement obligates the Foundation to provide facilities for City use without charge.

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Use of any facilities subject to a residential occupancy, including without limitation Maurice Skagen's lease of the main house on his former property, shall only occur if such use is permitted under the terms of that occupancy. City events approved under this section shall be scheduled in coordination with the Foundation, and the City shall be responsible for reasonable cleanup and restoration of the facilities following such use.

Public Outreach: The City may include Foundation and Garden events and other information in City-sponsored public outreach (e.g. e-blasts, social media posts, etc.), though it is not required to do so. The Foundation should keep in contact with City Staff to assist in said efforts for public outreach. If the Foundation provides its own public outreach, the Foundation shall not indicate that the City is a sponsor of said events or information provided.

Periodic Meetings & Reports: The Foundation and City shall coordinate quarterly meetings, at a time and location as is convenient for each party. Reports, as may be listed in the Foundation Services Agreement, shall be provided in a timely manner to the City.

Financial Responsibilities of Foundation. The City and Foundation acknowledge that the purpose of the City's acquisition of the Property and Garden was to ensure in perpetuity the opportunity to continue the historic use of the Property as public gardens, open space and cultural/historic education for the benefit of the Auburn community. The Foundation shall be financially responsible for its Maintenance Responsibilities and Operational Responsibilities, as outlined above. The Foundation intends to rely in part for its financial stability on a donor-advised endowment intended to be created by the investment and benevolence of Garden and Foundation co-founder Maurice Skagen. The City will be listed as contingent beneficiary of any such endowment created, provided that all income and principal of the endowment is used soley to maintain the Property and Garden as contemplated herein. The Foundation and City acknowledge that in the event the Foundation becomes insolvent or is otherwise unable to maintain the Garden, Property, and other associated buildings, as described in this Agreement, the City shall receive the full financial benefit, as designated beneficiary of any endowment established for the ongoing maintenance and operation of the Property and Garden, subject to any dissolution/wind-down requirements the Foundation must meet in accordance with its 501(c)(3) status and as a Washington nonprofit corporation governed by Chapter 24.03A RCW. Notwithstanding the City's receipt of available income from the endowment, if financial resources are insufficient to maintain the Garden, then, in the City's sole determination, the Garden and Property may revert to natural open space, for the benefit of the public. If the Foundation is unable to maintain the buildings and other built structures on the Property, the City retains the rights to use the endowment funds, to maintain any such buildings or structures, in such conditions as determined by the City, in the

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City's sole discretion but subject to the requirement that any donated funds must be used for the charitable purpose(s) for which they were donated.

The City understands and agrees that nothing in the Services Agreement or this Exhibit C shall require the Foundation to provide private inurement or impermissible private benefit, or otherwise take any action that violates or jeopardizes in any way its 501(c)(3) charitable status or its status as a Washington nonprofit corporation governed by Chapter 24.03A RCW.

Subject to the terms and conditions of the Agreement, the Foundation may enter into an agreement with another nonprofit organization to take over the Foundation responsibilities as described herein, subject to the City's written approval and consent, which shall not be unreasonably withheld.

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Exhibit D
Easement for Ingress, Egress, Parking & Operations

RECORDING REQUESTED BY AND WHEN
RECORDED MAIL TO:

City of Auburn
25 W Main
Auburn, WA 98001
ATTN: Josh Arndt

The information contained in this boxed section is for recording purposes only pursuant to RCW 36.18 and RCW 65.04, and is not to be relied upon for any other purpose, and shall not affect the intent of or any warranty contained in the document itself.

Reference # (if applicable):
Grantor: **The Soos Creek Botanical Garden Foundation, a Washington nonprofit corporation**
Grantee: **City of Auburn, a Washington municipal corporation**
Tax Parcel ID Numbers:
Q-S-T-R of burdened property:
Full Legal Descriptions Located: **Exhibits A & B**

EASEMENT FOR INGRESS, EGRESS, PARKING & OPERATIONS

THIS EASEMENT FOR INGRESS, EGRESS, PARKING & OPERATIONS ("Easement") by and between The Soos Creek Botanical Garden Foundation, a Washington nonprofit corporation ("Grantor"), and City of Auburn, a Washington municipal corporation ("Grantee") is effective as of _____ (the "Effective Date").

I. RECITALS

A. Grantor is the owner of real property described and depicted in **Exhibit A**, attached hereto and incorporated herein by reference ("Grantor Property").

B. Grantee is the owner of real property described and depicted in **Exhibit B**, attached hereto and incorporated herein by reference ("Grantee Property").

C. The Grantor and Grantee intend for the Grantor to purchase Grantee's Property upon availability of King County Conservation Futures Tax Levy grant funding becomes available.

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D. Until such time, Grantee requests that Grantor enter into this Easement Agreement for the Grantor to operate the Botanical Garden (defined below) located on Grantee's Property.

E. Grantor's Property provides supportive services such as storage and parking for the Botanical Garden, therefore the parties wish to memorialize the synergies of the two properties until such time as the funds are available for Grantee to purchase Grantor's Property.

II. EASEMENT

1. Grant of Easement. Grantor hereby grants and conveys to Grantee a perpetual non-exclusive blanket easement upon, over, across, and through Grantor's Property (the "Easement Area") for the purposes of ingress, egress, parking, and general use of Grantee's Property in the operations of Soos Creek Botanical Garden (the "Botanical Garden").

1.1 Grantor reserves the right to control, amend, alter, direct, or redirect the flow and direction of traffic on Grantor's Property.

1.2 Grantor is responsible (at its sole cost and discretion) to maintain, repair, replace, and/or reconfigure (together "Work") the surface and subsurface of the Easement Area so long as the Work does not impede or diminish the supportive and operational services Grantor's Property provides to the Botanical Garden.

2. Conditions of Easement. The Easement is granted subject to and conditioned upon the following terms, conditions, and covenants which the parties, their agents, tenants, successors and assigns, agree to fully observe and perform:

2.1 Rights of Easement. Grantee's right to use the Easement area shall extend equally to Grantee's employees, agents, guests, licensees, lessees and officials. For the purposes of this Easement, all shall be collectively considered the "Grantee."

3. General Provisions. The following general provisions shall also apply to this Easement:

3.1 Running Covenants. The terms, conditions, rights and obligations contained in this Easement shall be covenants running with the land and shall inure to and bind the successors, assigns, heirs, and personal representatives of the parties.

3.2 Applicable Law. This Easement shall be governed by and construed in accordance with the laws of the State of Washington.

3.3 Recording. Grantee shall record this Easement with the King County Recorder at its expense. Grantee shall provide Grantor with a copy of the recorded Easement.

3.4 Attorneys' Fees. If either party brings suit to enforce or interpret this Easement, a court judgment to the substantially prevailing party shall include that party's attorneys' fees and legal costs and expenses of the suit. Awarded attorneys' fees and expenses shall include those incurred before, during and after trial, including those related to any appeal.

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3.5 Authority. Each of the individuals whose signature appears below represents and warrants that he or she has full authority to execute this Easement on behalf of the party on whose behalf he or she has affixed his or her signature to this Easement.

GRANTOR:

Soos Creek Botanical Garden Foundation, a Washington nonprofit corporation

Signature: _____

Date: _____

Name(printed): _____

Title:

GRANTEE:

CITY OF AUBURN, a Washington municipal corporation

Signature:_____

Date: _____

Name (printed): Nancy Backus

Title: Mayor

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STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of _____, 2026 I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that (s)he signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the (Title)_____ of Soos Creek Botanical Garden Foundation, a Washington nonprofit corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
Printed Name: _____
Notary Public in and for the State of Washington
residing at _____
My commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of _____, 2026 I certify that I know or have satisfactory evidence that Nancy Backus is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Mayor of the City of Auburn, a Washington municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
Printed Name: _____
Notary Public in and for the State of Washington
residing at _____
My commission expires: _____

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EXHIBIT A
GRANTOR PROPERTY

LOT B, KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L96L0155 RECORDED UNDER RECORDING NO. 9612301254 AND AS CORRECTED PER BOUNDARY LINE ADJUSTMENT NO. L96L0155, RECORDED UNDER RECORDING NO. 20020211002613 BEING A PORTION OF THE WEST HALF OF THE NORTH QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 21 NORTH, RANGE 5 EAST, W.M.;

EXCEPT THAT PORTION OF SAID LOT B LYING WEST OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE MOST NORTHERLY NORTHWEST CORNER OF SAID LOT B, ALSO BEING A POINT ON THE EAST RIGHT OF WAY MARGIN OF 132ND AVE SE, THENCE ALONG THE NORTH LINE OF SAID LOT B, SOUTH 88° 44' 20" EAST, 247.50 FEET TO THE POINT OF BEGINNING;

THENCE DEPARTING SAID NORTH LINE SOUTH 01° 29' 47" WEST, 329.39 FEET TO THE SOUTH LINE OF SAID LOT B AND THE TERMINUS OF SAID DESCRIBED LINE;

CONTAINING 125,771 SQUARE FEET (2.89 ACRES), MORE OR LESS.

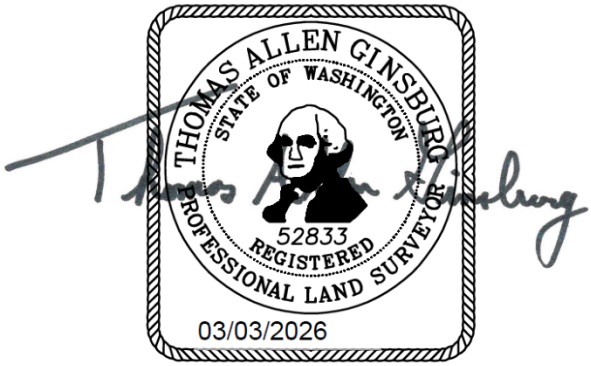

EXHIBIT B
GRANTEE PROPERTY

THAT PORTION OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER TOGETHER WITH THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 21 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS;

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 3, AS MONUMENTED BY CITY OF AUBURN MONUMENT 1419, AN ENCASED BRASS PLUG IN CONCRETE NEAR THE CENTER OF 132ND AVE SE;

THENCE ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION, NORTH 01° 29' 47" EAST, 988.05 FEET;

THENCE DEPARTING SAID WEST LINE, SOUTH 88° 43' 54" EAST, 30.00 FEET TO THE EAST RIGHT OF WAY MARGIN OF 132ND AVE SE, ALSO BEING THE SOUTHWEST CORNER OF LOT A, KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L96L0155 RECORDED UNDER RECORDING NO. 9612301254 AND AS CORRECTED PER BOUNDARY LINE ADJUSTMENT NO. L96L0155, RECORDED UNDER RECORDING NO. 20020211002613 AND **THE POINT OF BEGINIING**;

THENCE CONTINUING ALONG THE SOUTH LINE OF SAID KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L96L0155, SOUTH 88° 43' 54" EAST, 779.34 FEET TO THE SOUTHWEST CORNER OF LOT 2, KING COUNTY SHORT PLAT NO. 477101, RECORDED UNDER RECORDING NO. 7711221019;

THENCE ALONG THE WEST LINE OF SAID LOT 2 OF SAID SHORT PLAT, NORTH 01° 29' 47" EAST, 299.45 FEET TO THE NORTH LINE OF SAID LOT 2;

THENCE ALONG SAID NORTH LINE SOUTH 88° 44' 20" EAST, 509.29 FEET TO THE SOUTHEAST CORNER OF TRACT "X" OF SAID SHORT PLAT;

THENCE ALONG THE EAST LINE OF SAID TRACT "X" NORTH 01° 28' 40" EAST, 30.00 FEET TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 3;

THENCE ALONG THE NORTH LINE OF SAID SUBDIVISION SOUTH 88° 44' 20" EAST, 262.85 FEET;

THENCE DEPARTING SAID NORTH LINE SOUTH 01° 28' 40" WEST, 329.55 FEET TO THE SOUTH LINE OF THE NORTH HALF OF SAID SUBDIVISION;

THENCE ALONG SAID SOUTH LINE SOUTH 88° 43' 54" EAST, 369.50 FEET TO THE SOUTHEAST CORNER OF SAID NORTH HALF;

THENCE ALONG THE EAST LINE OF THE SOUTH HALF OF SAID SUBUDIVISION SOUTH 01° 28' 07" WEST, 164.80 FEET;

THENCE NORTH 88° 43' 30" WEST, 659.37 FEET TO THE EAST LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 3;

THENCE ALONG SAID EAST LINE SOUTH 01° 28' 40" WEST, 164.79 FEET TO THE SOUTHEAST CORNER OF SAID NORTH HALF;

THENCE ALONG THE SOUTH LINE OF SAID NORTH HALF NORTH 88° 43' 27" WEST, 812.79 FEET;

THENCE DEPARTING SAID SOUTH LINE NORTH 01° 29' 51" EAST, 165.00 FEET;

THENCE NORTH 88° 43' 27" WEST, 476.00 FEET TO SAID EAST RIGHT OF WAY MARGIN;

THENCE ALONG SAID EAST MARGIN NORTH 01° 29' 47" EAST, 164.35 FEET TO **THE POINT OF BEGINNING.**

CONTAINING 693,798 SQUARE FEET (15.93 ACRES), MORE OR LESS.

TOGETHER WITH AN UNDIVIDED INTEREST IN TRACT "X" AS DELINEATED ON SAID KING COUNTY SHORT PLAT NO. 477101;

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND UTILITIES OVER THE NORTH 30 FEET OF THE WEST HALF OF THE NORTH HALF OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 21 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON;

EXCEPT THE WEST 30 FEET THEREOF LYING WITHIN 132ND AVENUE SOUTHEAST.

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND UTILITIES OVER, ACROSS AND UNDER THE EAST 30 FEET, AND THE SOUTH 30 FEET OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, THE WEST 15 FEET OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION.