

City Council
Regular Meeting
April 20, 2026 - 7:00 PM
City Hall Council Chambers

AGENDA

CALL TO ORDER

LAND ACKNOWLEDGEMENT

We would like to acknowledge the Federally Recognized Muckleshoot Indian Tribe, the ancestral keepers of the land we are gathered on today. We thank them for their immense contributions to our state and local history, culture, economy, and identity as Washingtonians.

PUBLIC PARTICIPATION

- A. The Auburn City Council Meeting scheduled for Monday, April 20, 2026, at 7:00 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 number below or click the link:

Telephone: 253 205 0468

Toll Free: 888 475 4499

Zoom: <https://us06web.zoom.us/j/87132023580>

PLEDGE OF ALLEGIANCE

ROLL CALL

ANNOUNCEMENTS, MAYOR'S PROCLAMATIONS, AND PRESENTATIONS

APPOINTMENTS

- A. Municipal Court Judge
City Council to confirm the appointment of Matthew Leyba to Auburn Municipal Court Judge Position No. 1, for a three-year appointed term from January 1, 2027, to December 31, 2029

(RECOMMENDED ACTION: Move to confirm the appointment of Matthew Leyba to Auburn Municipal Court Judge Position No. 1, for a three-year appointed term from January 1, 2027, to December 31, 2029.)

- B. Transportation Advisory Board
City Council to confirm the reappointments of Tyson Hiffman and Derek Ronnfeldt to the Transportation Advisory Board for a three-year term expiring December 31, 2028

(RECOMMENDED ACTION: Move to approve the reappointments of Tyson Hiffman and Derek Ronnfeldt to the Transportation Advisory Board for a three-year term expiring December 31, 2028.)

- C. Auburn Junior City Council
City Council to confirm the appointment of Benjamin Rolls to the Auburn Junior City Council for a two-year term expiring August 31, 2027

(RECOMMENDED ACTION: Move to approve the appointment of Benjamin Rolls to the Auburn Junior City Council, for a two-year term to expire on August 31, 2027.)

AGENDA MODIFICATIONS

PUBLIC COMMENT

This is the place on the agenda where the public is invited to speak to the City Council on any issue.

- A. The public can participate in-person or submit written comments in advance.

Participants can submit written comments via mail, fax, or email. All written comments must be received prior to 5:00 p.m. on the day of the scheduled meeting and must be 350 words or less.

Please mail written comments to:
City of Auburn
Attn: Shawn Campbell, City Clerk
25 W Main St
Auburn, WA 98001

Please fax written comments to:
Attn: Shawn Campbell, City Clerk
Fax number: 253-804-3116

Email written comments to: publiccomment@auburnwa.gov

If an individual requires accommodation to allow for remote oral comment because of a difficulty attending a meeting of the governing body, the City requests notice of the need for accommodation by 5:00 p.m. on the day of the scheduled meeting. Participants can request accommodation to be able to provide a remote oral comment by contacting the City Clerk's Office in person, by phone (253) 931-3039, or by email (publiccomment@auburnwa.gov).

CORRESPONDENCE

CONSENT AGENDA

All matters listed on the Consent Agenda are considered by the City Council to be routine and will be enacted by one motion in the form listed.

- A. Minutes from the April 6, 2026, City Council Meeting

- B. Claims Vouchers (Thomas)
Claims voucher list dated April 1, 2026, which includes voucher number 483265, in the amount of \$16,068.50
- C. Claims Vouchers (Thomas)
Claims voucher list dated April 2, 2026, which includes voucher number 483266, in the amount of \$9,429.12
- D. Claims Vouchers (Thomas)
Claims voucher list dated April 8, 2026, which includes voucher numbers 483267 through voucher 483382, in the amount of \$3,327,261.92, nineteen electronic fund transfers in the amount of \$8,888.86, and three wire transfers in the amount of \$281,751.37
- E. Payroll Vouchers (Thomas)
Payroll check numbers 539807 through 539814 in the amount of \$88,417.22, electronic deposit transmissions in the amount of \$3,069,980.78, for a grand total of \$3,158,398.00 for the period covering March 26, 2026, to April 8, 2026

(RECOMMENDED ACTION: Move to approve the Consent Agenda.)

UNFINISHED BUSINESS

NEW BUSINESS

ORDINANCES

- A. Ordinance No. 6999 (Krum)
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

(RECOMMENDED ACTION: Move to approve Ordinance No. 6999.)

- B. Ordinance No. 7014 (Krum)
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

(RECOMMENDED ACTION: Move to approve Ordinance No. 7014.)

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

(RECOMMENDED ACTION: Move to approve Ordinance No. 7017.)

- D. Ordinance No. 7019 (Martinson)
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

(RECOMMENDED ACTION: Move to approve Ordinance No. 7019.)

RESOLUTIONS

- A. Resolution No. 5895 (Krum)
A Resolution authorizing the Mayor to execute an agreement between the City of Auburn and the Port of Seattle to accept and expend Grant Funds for Economic Development

(RECOMMENDED ACTION: Move to adopt Resolution No. 5895.)

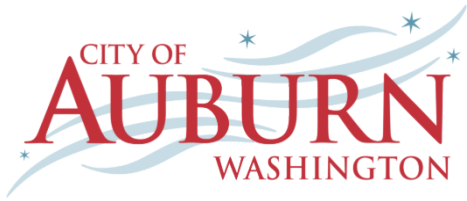
MAYOR AND COUNCILMEMBER REPORTS

At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.

- A. From the Council
- B. From the Mayor

ADJOURNMENT

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



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes from the April 6, 2026, City Council Meeting

Meeting Date:

April 20, 2026

Department:

City Council

Attachments:

04-06-2026 Minutes

Budget Impact:

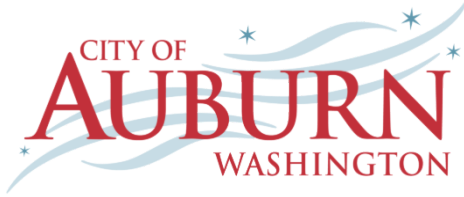
Administrative Recommendation:

Background for Motion:

Background Summary:

Councilmember:

Staff:



**City Council
Regular Meeting
April 6, 2026 - 7:00 PM
City Hall Council Chambers**

MINUTES

CALL TO ORDER

Mayor Backus called the meeting to order at 7:00 p.m. in the Council Chambers of Auburn City Hall, 25 West Main Street.

LAND ACKNOWLEDGEMENT

Mayor Backus acknowledged the Federally Recognized Muckleshoot Indian Tribe as the ancestral keepers of the land we are gathered on today.

PUBLIC PARTICIPATION

The City Council Meeting was held in person and virtually.

PLEDGE OF ALLEGIANCE

Members from Girl Scout Troop No. 46808 and 46057 led those in attendance in the Pledge of Allegiance.

ROLL CALL

Councilmembers present: Deputy Mayor Tracy Taylor, Hanan Amer, Kate Baldwin, Brian Lott, Cheryl Rakes, Lisa Stirgus, and Clinton Taylor.

Mayor Nancy Backus and the following staff members present included: City Attorney Jason Whalen, Chief of Police Mark Caillier, Director of Public Works Ingrid Gaub, Director of Parks, Arts, and Recreation Julie Krueger, and City Clerk Shawn Campbell.

ANNOUNCEMENTS, MAYOR'S PROCLAMATIONS, AND PRESENTATIONS

A. Arab American Heritage Month

Mayor Backus proclaimed April 2026 as "Arab American Heritage Month" in the City of Auburn.

Councilmember Amer accepted the proclamation.

B. Sexual Assault Awareness Month

Mayor Backus proclaimed April 2026 as "Sexual Assault Awareness Month" in the City of Auburn.

King County Sexual Assault Board Member Hira Singh Bhullar thanked the Mayor and Council for acknowledging Sexual Assault Awareness Month.

C. Sikh Heritage Month

Mayor Backus proclaimed April 2026 as "Sikh Heritage Month" in the City of Auburn.

Members of the Gurudwara Sacha Marag and Degh Tegh Community Kitchen thanked the Mayor and Council for acknowledging Sikh Heritage Month and gave a brief history of the Sikh culture.

D. National Public Safety Telecommunicators Week

Mayor Backus proclaimed April 12–18, 2026, as "National Public Safety Telecommunications Week" in the City of Auburn.

Valley Communications Executive Director Vonnie Mayer accepted the proclamation and thanked the Mayor and Council for acknowledging National Public Safety Telecommunications Week.

E. Earth Day

Mayor Backus proclaimed April 22, 2026, as "Earth Day" in the City of Auburn.

Special Events Coordinator Amanda Valdez accepted the proclamation and thanked the Mayor and Council for acknowledging Earth Day.

F. Arbor Day

Mayor Backus proclaimed April 21, 2026, as "Arbor Day" in the City of Auburn.

Auburn Tree Board Vice Chair Linda Bielejec accepted the proclamation and thanked the Mayor and Council for acknowledging Arbor Day.

G. National Therapy Animal Day

Mayor Backus proclaimed April 30, 2026, as "National Therapy Animal Day" in the City of Auburn.

APPOINTMENTS

A. Parks & Recreation Board

City Council to approve the appointments of Adib Altallal and Kelly Murray to the Parks & Recreation Board for a three-year term expiring December 31, 2028

Deputy Mayor Taylor moved and Councilmember Baldwin seconded to approve the appointments of Adib Altallal and Kelly Murray to the Parks & Recreation Board for a three-year term expiring December 31, 2028.

MOTION CARRIED UNANIMOUSLY. 7-0

AGENDA MODIFICATIONS

There were no modifications to the agenda.

PUBLIC COMMENT

Written Comments:

The City Clerk's Office received written comments from Tina Simmons, Linda Redmond, and Kynslie which were forwarded to the Mayor and Council prior to the meeting.

In-Person Comments:

Bob Barigan, Rocky Salvador, and Virginia Haugen provided comments.

CORRESPONDENCE

There was no correspondence for Council to review.

CONSENT AGENDA

- A. Minutes from the February 19, 20, and 25, 2026, Special City Council Meetings
- B. Minutes from the March 2, 2026, Regular City Council Meeting
- C. Minutes from the March 9 and 23, 2026, Study Session Meetings
- D. Claims Vouchers (Thomas)
Claims voucher list dated March 11, 2026, which includes voucher numbers 483011 through voucher 483141, in the amount of \$7,506,208.74, fourteen electronic fund transfers in the amount of \$8,440.53, and two wire transfers in the amount of \$1,151,127.25
- E. Claims Vouchers (Thomas)
Claims voucher list dated March 25, 2026, which includes voucher numbers 483142 through voucher 483170 and voucher numbers 483172 through voucher 483264, in the amount of \$6,576,765.09, nine electronic fund transfers in the amount of \$11,956.75, and two wire transfers in the amount of \$835,325.81

- F. Claims Vouchers (Thomas)
Claims voucher number 483171 dated March 25, 2026, in the amount of \$9,429.12

- G. Payroll Vouchers (Thomas)
Payroll check numbers 539795 through 539801 in the amount of \$87,648.84 electronic deposit transmissions in the amount of \$3,055,652.86, also a special payroll for our Teamster Contract, electronic deposit transmission in the amount of \$64,462.63, for a grand total of \$3,207,764.33 for the period covering February 26, 2026, to March 11, 2026

- H. Payroll Vouchers (Thomas)
Payroll check numbers 539802 through 539806 in the amount of \$827,088.40, electronic deposit transmissions in the amount of \$3,127,891.15, for a grand total of \$3,954,979.55 for the period covering March 12, 2026, to March 25, 2026

Deputy Mayor T. Taylor moved and Councilmember Amer seconded to approve the consent agenda.

MOTION CARRIED UNANIMOUSLY. 7-0

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

There was no new business.

RESOLUTIONS

- A. Resolution No. 5898 (Gaub)
A Resolution authorizing the Mayor to execute and administer agreements with the Washington State Department of Transportation accepting grant funds from the Federal Highway Administration for two projects: 1) A Street SE Preservation (17th Street SE to 37th Street SE), and 2) 15th St NW Bridge Decks Preservation

Councilmember C. Taylor moved and Deputy Mayor T. Taylor seconded to approve Resolution No. 5898.

MOTION CARRIED UNANIMOUSLY. 7-0

B. Resolution No. 5902 (Whalen)

A Resolution authorizing the payment of Mayor Nancy Backus' necessary expenses of defense against recall charges

Councilmember Amer moved and Councilmember Stirgus seconded to approve Resolution No. 5902.

Council discussed fairness, the personal capacity of an elected official, the language of the statute, accountability of an elected official, the chilling effect of recalls, the judges' ruling, elected officials' protection, and equity for elected officials.

Councilmember Baldwin requested information on if this Resolution sets policy for the future. City Attorney Whalen explained it does not set a precedent for the future.

City Attorney Whalen explained the filing was made against the Mayor in her capacity as an elected official, an elected official's 1st Amendment's Rights,

Councilmember Baldwin moved to amend the Resolution to, not to exceed \$15,000. For the lack of a second, the motion failed.

Councilmember Amer Called for the Question and Councilmember Stirgus seconded.

MOTION FAILED. 4-3 Councilmembers Lott, Baldwin, and Rakes voted against.

Council discussed the letter Mayor Backus wrote in support of Josh Headly.

MOTION CARRIED. 4-3 Councilmembers Lott, Baldwin, and Rakes voted against.

MAYOR AND COUNCILMEMBER REPORTS

A. From the Council

Councilmembers provided reports on the events that they attended.

B. From the Mayor

Mayor Backus provided a report on the events she attended.

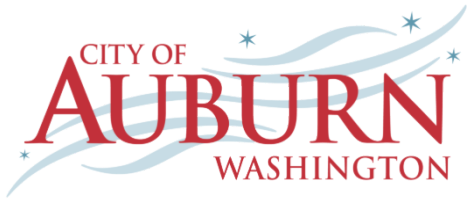
ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 8:33 p.m.

APPROVED this 20th day of April 2026.

NANCY BACKUS, MAYOR

Shawn Campbell, City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claims Vouchers (Thomas)
Claims voucher list dated April 1, 2026, which includes voucher number 483265, in the amount of \$16,068.50

Meeting Date:

April 20, 2026

Department:

Finance

Attachments:

None

Budget Impact:**Administrative Recommendation:**

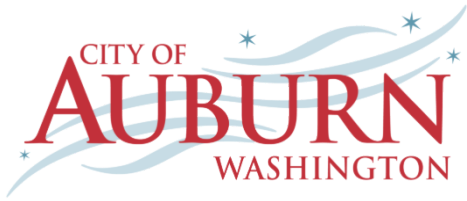
City Council to approve Claim Vouchers.

Background for Motion:**Background Summary:**

Claims voucher list dated April 1, 2026, which includes voucher number 483265, in the amount of \$16,068.50.

Councilmember: Hanan Amer

Staff: Jamie Thomas



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claims Vouchers (Thomas)
Claims voucher list dated April 2, 2026, which includes voucher number 483266, in the amount of \$9,429.12

Meeting Date:

April 20, 2026

Department:

Finance

Attachments:

None

Budget Impact:**Administrative Recommendation:**

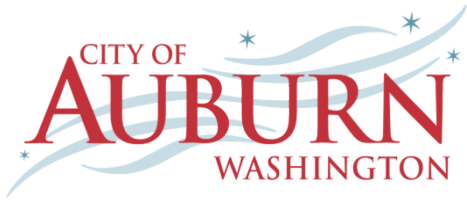
City Council to approve Claim Vouchers.

Background for Motion:**Background Summary:**

Claims voucher list dated April 2, 2026, which includes voucher number 483266, in the amount of \$9,429.12.

Councilmember: Hanan Amer

Staff: Jamie Thomas



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claims Vouchers (Thomas)

Claims voucher list dated April 8, 2026, which includes voucher numbers 483267 through voucher 483382, in the amount of \$3,327,261.92, nineteen electronic fund transfers in the amount of \$8,888.86, and three wire transfers in the amount of \$281,751.37

Meeting Date:

April 20, 2026

Department:

Finance

Attachments:

None

Budget Impact:**Administrative Recommendation:**

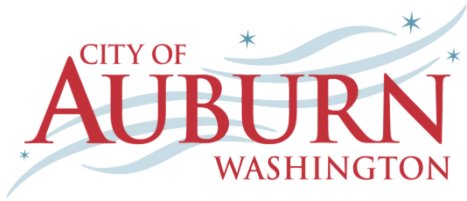
City Council to approve Claim Vouchers.

Background for Motion:**Background Summary:**

Claims voucher list dated April 9, 2026, which includes voucher numbers 483267 through voucher 483382, in the amount of \$3,327,261.92, nineteen electronic fund transfers in the amount of \$8,888.86, and three wire transfers in the amount of \$281,751.37.

Councilmember: Hanan Amer

Staff: Jamie Thomas



AGENDA BILL APPROVAL FORM

Agenda Subject:

Payroll Vouchers (Thomas)
Payroll check numbers 539807 through 539814 in the amount of \$88,417.22, electronic deposit transmissions in the amount of \$3,069,980.78, for a grand total of \$3,158,398.00 for the period covering March 26, 2026, to April 8, 2026

Meeting Date:

April 20, 2026

(RECOMMENDED ACTION: Move to approve the Consent Agenda.)

Department:

Finance

Attachments:

None

Budget Impact:**Administrative Recommendation:**

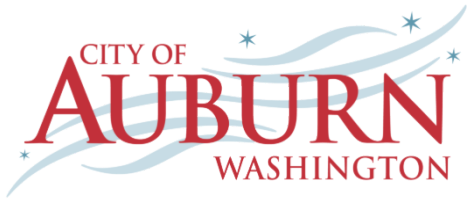
City Council to approve Payroll Vouchers.

Background for Motion:**Background Summary:**

Payroll check numbers 539807 through 539814 in the amount of \$84,417.22, electronic deposit transmissions in the amount of \$3,069,980.78, for a grand total of \$3,158,398.00 for the period covering March 26, 2026, to April 8, 2026.

Councilmember: Hanan Amer

Staff: Jamie Thomas



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6999 (Krum)
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 20, 2026

(RECOMMENDED ACTION: Move to approve Ordinance No. 6999.)

Department:

Community Development

Attachments:

Ord. No. 6999, 9 Ord. No. 6999 -
Exhibit A

Budget Impact:**Administrative Recommendation:**

City Council to approve Ordinance No. 6999.

Background for Motion:

This Ordinance will update Auburn's Critical Areas regulations, thus ensuring consistency with State law and Best Available Science, while improving clarity, predictability, and the long-term protection of critical areas.

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 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.

Staff presented the proposed changes to City Council at Study Session on April 13, 2026.

Councilmember: Tracy Taylor

Staff: Jason Krum

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:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

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 hazard s.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 minimize* or *avoiding* adverse effects to groundwater through the application of performance standards; *and* *to comply* 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. *Geologically Hazardous Areas*. *Geologically hazardous* 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, geologically hazardous 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.~~ “Filling” 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.

“Geologically hazardous 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, storm~~water~~ 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 ~~P~~rotection ~~A~~area” 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 ~~professional~~consultant 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 ~~professional~~consultant 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~~

~~89.~~ 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 Aa additions 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;

~~d.~~ 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

~~e.~~ 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 pipelines, 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. 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.

ED. *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 supports~~ 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 Areas~~ Hazardous 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 geologically hazardous 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\(ED\)](#). 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

<u>Examples of disturbances</u>	<u>Activities and uses that cause disturbances</u>	<u>Examples of measures to minimize impacts</u>
<u>Lights</u>	<ul style="list-style-type: none"> • <u>Parking lots</u> • <u>Commercial/Industrial</u> • <u>Residential</u> • <u>Recreation (e.g., athletic fields)</u> • <u>Agricultural buildings</u> 	<ul style="list-style-type: none"> • <u>Direct lights away from wetland/stream</u> • <u>Only use lighting where necessary for public safety and keep lights off when not needed</u> • <u>Use motion-activated lights</u> • <u>Use full cut-off filters to cover light bulbs and direct light only where needed</u> • <u>Limit use of blue-white colored lights in favor of red-amber hues</u> • <u>Use lower-intensity LED lighting</u> • <u>Dim light to the lowest acceptable intensity</u>
<u>Noise</u>	<ul style="list-style-type: none"> • <u>Commercial</u> • <u>Industrial</u> • <u>Recreation (e.g., athletic fields, bleachers, etc.)</u> • <u>Residential</u> • <u>Agriculture</u> 	<ul style="list-style-type: none"> • <u>Locate activity that generates noise away from wetland/stream</u> • <u>Construct a fence to reduce noise impacts on adjacent wetland/stream and buffer</u> • <u>Plant a strip of dense shrub vegetation adjacent to wetland/stream buffer</u>
<u>Toxic runoff</u>	<ul style="list-style-type: none"> • <u>Parking lots</u> • <u>Roads</u> • <u>Commercial/Industrial</u> • <u>Residential areas</u> • <u>Application of pesticides</u> • <u>Landscaping</u> • <u>Agriculture</u> 	<ul style="list-style-type: none"> • <u>Route all new, untreated runoff away from wetland and/or stream and buffer while ensuring wetland and/or stream is not dewatered</u> • <u>Establish covenants limiting use of pesticides within 150 ft. of wetland and/or stream and buffer</u> • <u>Apply integrated pest management</u> <p><u>(Note: These examples are not necessarily adequate for minimizing</u></p>

		<u>toxic runoff if threatened or endangered species are present at the site.)</u>
<u>Stormwater runoff</u>	<ul style="list-style-type: none"> • <u>Parking lots</u> • <u>Roads</u> • <u>Residential areas</u> • <u>Commercial/industrial</u> • <u>Recreation</u> • <u>Landscaping/lawns</u> • <u>Other impermeable surfaces, compacted soil, etc.</u> 	<u>Retrofit stormwater detention and treatment for roads and existing adjacent development</u> <ul style="list-style-type: none"> • <u>Prevent channelized or sheet flow from lawns that directly enter the buffer</u> • <u>Infiltrate or treat, detain, and disperse new runoff from impervious surfaces and lawns</u>
<u>Pets and human disturbances</u>	<ul style="list-style-type: none"> • <u>Residential areas</u> • <u>Recreation</u> 	<ul style="list-style-type: none"> • <u>Use privacy fencing</u> • <u>Plant dense native vegetation to delineate buffer edge and to discourage disturbance</u> • <u>Place wetland/stream and its buffer in a separate tract</u> • <u>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</u> • <u>When platting new subdivisions, locate greenbelts, stormwater facilities, or other lower-intensity land uses adjacent to wetland/stream and buffers</u>
<u>Dust</u>	<ul style="list-style-type: none"> • <u>Tilled fields</u> • <u>Roads</u> 	<ul style="list-style-type: none"> • <u>Use best management practices to control dust</u>

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)	<u>Increased Buffer Width (in feet) ¹</u> <u>(Applicable when the buffer does not meet vegetation standards of ACC 16.10.090(E)(2)(a))</u>
Type S	Per SMP	<u>Per SMP</u>
Type F	<u>15000</u>	<u>200</u>
Type Np	<u>10050</u>	<u>133</u>
Type Ns	<u>10050</u>	<u>133</u>

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.

cb. The minimum buffer widths required in this section may be increased by the director up to a maximum of 3350 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;

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- (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.~~

~~bc.~~ 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 Hazardous Areas.~~

a. Required buffer widths for ~~critical landslidegeologically~~ hazardous areas shall reflect the sensitivity of the ~~critical landslidegeologically~~ hazardous 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 landslidegeologic 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.*

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- 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 in equal or better habitat and water quality, and will not diminish the flow capacity of the stream.~~The result shall be in~~
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. *Geologically Hazardous 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.

ED. 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, firmly 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;~~

bc. Wherever possible, consolidate critical habitats into larger, unfragmented, contiguous blocks;

cd. Use native plant species for landscaping of disturbed or undeveloped areas and in any habitat enhancement or restoration activities;

de. 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;

ef. 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

fg. 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. *Geologically Hazardous 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.)

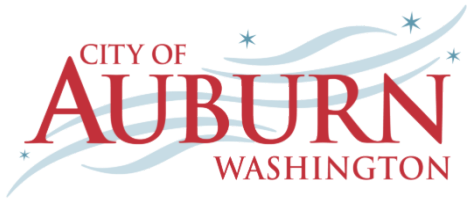
The Auburn City Code is current through Ordinance 6992, and legislation passed August 18, 2025.

The Auburn City Code is current through Ordinance 6992, and legislation passed August 18, 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](http://www.auburnwa.gov)

[Hosted by General Code.](#)



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 7014 (Krum)
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 20, 2026

(RECOMMENDED ACTION: Move to approve Ordinance No. 7014.)

Department:

Community Development

Attachments:

Ordinance No. 7014, Exhibit A,
Exhibit B, Exhibit C, Exhibit D,
Exhibit E, Exhibit F

Budget Impact:**Administrative Recommendation:**

City Council to approve Ordinance No. 7014.

Background for Motion:

This Ordinance will create new development regulations for Battery Energy Storage Systems (BESS). The proposed regulations have been developed closely with the community and industry experts with the intent of providing opportunities for infrastructure that will improve the overall reliability of the electrical grid while addressing considerations for safe siting, construction, and operation of BESS within the City of Auburn.

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 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 was 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 International Fire Code (IFC) and was brought forward early in Washington State to assist in regulating this industry. The 2021 IFC 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 Auburn City Code (ACC) 18.68.025(A)(1)(b) “change in text in response to 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.

Staff presented the proposed text amendments to City Council at Study Session on April 13, 2026.

Councilmember: Tracy Taylor

Staff: Jason Krum

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 13, 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:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Jason Whalen, City Attorney

Published: _____

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.

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[City Website: www.auburnwa.gov](http://www.auburnwa.gov)

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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

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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

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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	P¹³	P¹³	P¹³	P¹³	P¹³	P¹³	P¹³
Battery Energy Storage Systems, Tier II	X	X	X	C¹³	C¹³	C¹³	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

The Auburn City Code is current through Ordinance 7002, passed October 6, 2025.

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	
<u>Battery Energy Storage Systems, Tier I</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>ACC 18.31.240</u>
<u>Battery Energy Storage Systems, Tier II</u>	<u>X</u>	<u>C</u>	<u>X</u>	<u>A</u>	<u>C</u>	<u>ACC 18.31.240</u>
<u>Battery Energy Storage Systems, Tier III</u>	<u>X</u>	<u>C</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>ACC 18.31.240</u>
Towing storage yard	X	X	X	A	P	ACC <u>18.57.045(A)</u>
Utility transmission or distribution line or substation	A	A	A	A	A	
Wireless communications facility (WCF) (See ACC <u>18.04.912(W)</u>)	*	*	*	*	*	*See ACC <u>18.31.100</u> for use regulations and zoning development standards.
Eligible facilities request (EFR) (wireless communications facility) (See ACC <u>18.04.912(H)</u>)	P	P	P	P	P	
Small wireless facilities (ACC <u>18.04.912(Q)</u>)	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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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.

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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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
LAND USE				A - Administrative
				X - Prohibited
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	<u>P</u>	<u>P</u>	<u>P</u>	See ACC 18.31.240
Battery Energy Storage Systems, Tier II	<u>A</u>	<u>A</u>	<u>X</u>	See ACC 18.31.240
Battery Energy Storage Systems, Tier III	<u>X</u>	<u>X</u>	<u>X</u>	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.)

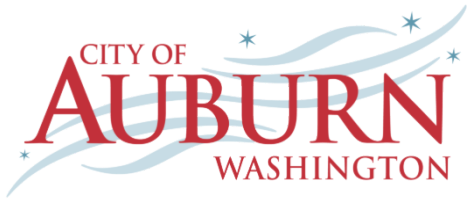
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AGENDA BILL APPROVAL FORM

Agenda Subject:

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

Meeting Date:

April 20, 2026

(RECOMMENDED ACTION: Move to approve Ordinance No. 7017.)

Department:

Finance

Attachments:

ORD 7017, 2026 BA4 Ord No
7017 Schedule A, 2026 BA4 Ord
No 7017 Schedule B, 2 - Ord
7017 BA#4 Transmittal memo

Budget Impact:**Administrative Recommendation:**

City Council to approve Ordinance No. 7017.

Background for Motion:

Ordinance No. 7017 represents the fourth budget amendment for the 2025-2026 Biennium. This amendment consists of adjustments to true up beginning fund balance; carry forward unspent 2025 budget authority; adjust capital project budgets; recognize new programs with new revenue sources; adjust existing programs; and make adjustments related to the December 2025 flood impacts.

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

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:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Jason Whalen, City Attorney

Published: _____

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	<u>Beg. Fund Balance</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Ending Fund Balance</u>
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)

	<u>Beg. Fund Balance</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Ending Fund Balance</u>
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)

	<u>Beg. Fund Balance</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Ending Fund Balance</u>
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	<u>15,292,566</u>	<u>14,297,973</u>	<u>13,249,300</u>	<u>16,341,239</u>
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	<u>385,943</u>	<u>178,500</u>	<u>195,100</u>	<u>369,343</u>
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	<u>6,864,676</u>	<u>2,168,000</u>	<u>2,186,000</u>	<u>6,846,676</u>

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	<u>Beg. Fund Balance</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Ending Fund Balance</u>
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	<u>823,586</u>	<u>263,700</u>	<u>408,486</u>	<u>678,800</u>
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	<u>63,629</u>	<u>7,500</u>	<u>-</u>	<u>71,129</u>
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	<u>44,589,682</u>	<u>80,000</u>	<u>4,331,745</u>	<u>40,337,937</u>

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	<u>Beg. Fund Balance</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Ending Fund Balance</u>
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	<u>13,594,192</u>	<u>1,236,900</u>	<u>2,794,373</u>	<u>12,036,719</u>
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	<u>498,405</u>	<u>1,501,400</u>	<u>1,501,300</u>	<u>498,505</u>
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	<u>1,926,685</u>	<u>1,592,300</u>	<u>791,000</u>	<u>2,727,985</u>

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	<u>Beg. Fund Balance</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Ending Fund Balance</u>
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	<u>5,082,797</u>	<u>13,937,842</u>	<u>13,867,342</u>	<u>5,153,297</u>
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	<u>353,125</u>	<u>1,000</u>	<u>-</u>	<u>354,125</u>
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	<u>17,066,543</u>	<u>1,840,000</u>	<u>1,569,700</u>	<u>17,336,843</u>

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	<u>Beg. Fund Balance</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Ending Fund Balance</u>
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	<u>23,355,172</u>	<u>22,200,250</u>	<u>24,394,651</u>	<u>21,160,771</u>
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	<u>35,036,092</u>	<u>11,789,043</u>	<u>12,776,683</u>	<u>34,048,452</u>

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	<u>Beg. Fund Balance</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Ending Fund Balance</u>
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	<u>25,011,077</u>	<u>14,300,200</u>	<u>15,622,059</u>	<u>23,689,218</u>
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	<u>5,539,425</u>	<u>24,515,000</u>	<u>24,472,000</u>	<u>5,582,425</u>
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	<u>2,754,644</u>	<u>34,932,307</u>	<u>34,105,837</u>	<u>3,581,114</u>

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	<u>Beg. Fund Balance</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Ending Fund Balance</u>
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	<u>2,656,713</u>	<u>3,731,645</u>	<u>4,192,970</u>	<u>2,195,388</u>
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	<u>1,623,094</u>	<u>1,696,800</u>	<u>2,140,143</u>	<u>1,179,751</u>
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	<u>1,237,416</u>	<u>5,609,318</u>	<u>5,771,818</u>	<u>1,074,916</u>

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	<u>Beg. Fund Balance</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Ending Fund Balance</u>
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	<u>3,659,144</u>	<u>1,225,300</u>	<u>1,060,400</u>	<u>3,824,044</u>
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
Facilities - 2025 Utilities Over Budget Reimbursement	-	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	<u>655,428</u>	<u>5,965,213</u>	<u>6,516,882</u>	<u>103,759</u>

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	<u>Beg. Fund Balance</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Ending Fund Balance</u>
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	<u>2,970,040</u>	<u>11,526,231</u>	<u>10,946,541</u>	<u>3,549,730</u>
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	<u>9,221,655</u>	<u>8,340,631</u>	<u>6,390,808</u>	<u>11,171,478</u>

Schedule A
Summary of 2026 Budget Adjustments by Fund
Budget Amendment #4 (Ordinance #7017)

	<u>Beg. Fund Balance</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Ending Fund Balance</u>
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	<u>1,870,815</u>	<u>176,500</u>	<u>207,840</u>	<u>1,839,475</u>
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	<u>2,732,042</u>	<u>90,000</u>	<u>-</u>	<u>2,822,042</u>
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	<u>277,849,073</u>	<u>297,237,664</u>	<u>313,524,915</u>	<u>261,561,822</u>
		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



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	<u>101,473</u>
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*)	<u>-499,430</u>
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	<u>0</u>
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: 15 th 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
	\$ 4,496,233
NEW EXPENDITURE AUTHORITY	
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
	\$ 882,221
NEW EXPENDITURE AUTHORITY	
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	<u>\$ 8,990</u>
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	<u>\$ 1,966,305</u>
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	<u>\$ 4,880,786</u>
NEW EXPENDITURE AUTHORITY	\$ 4,880,786
NET EFFECT ON FUND BALANCE	\$ 0

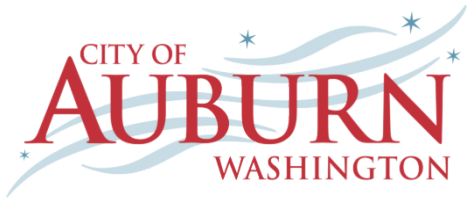
The following tables summarize the current and revised budget as a result of this amendment.

Table 1: 2026 Budget as Amended

2026 Amended Budget	\$ 454,016,914
Budget Amendment #4 (Ord #7017)	<u>121,069,823</u>
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)



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 7019 (Martinson)

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 20, 2026

(RECOMMENDED ACTION: Move to approve Ordinance No. 7019.)

Department:

Human Resources and Risk
Management

Attachments:

Ordinance No. 7019, Exhibit A

Budget Impact:**Administrative Recommendation:**

City Council to approve Ordinance No. 7019.

Background for Motion:

On October 6, 2025, Council approved Ordinance No. 7002 establishing the Auburn Municipal Court, with an effective date of January 1, 2027. The proposed amendments authorize a second municipal court judge for the Court, establish the salary of the municipal and pro tem judges, and address additional housekeeping matters. Passing this Ordinance will allow the Mayor to appoint a second judicial officer, who will also be subject to Council confirmation.

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:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

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 Municipal 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 Court 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 thean 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 Court 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 Court 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 Court 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.

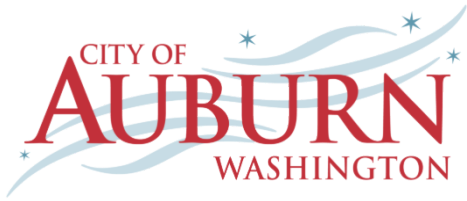
Pursuant to RCW 3.50.440, every person convicted by the Municipal Court of a violation of the criminal provisions of an ordinance for which no punishment is specifically prescribed in the ordinance is guilty of a gross misdemeanor and shall be punished by a fine of not more than five thousand dollars 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:

Resolution No. 5895 (Krum)

A Resolution authorizing the Mayor to execute an agreement between the City of Auburn and the Port of Seattle to accept and expend Grant Funds for Economic Development

Meeting Date:

April 20, 2026

(RECOMMENDED ACTION: Move to adopt Resolution No. 5895.)

Department:

Community Development

Attachments:

Resolution No. 5895 ,
Partnership Agreement

Budget Impact:

\$60,000

Administrative Recommendation:

City Council to adopt Resolution No. 5895.

Background for Motion:

This Resolution would allow the City to accept grant funds to extend assistance to small businesses through resources such as Green River Small Business Development Center, enhance the Economic Development website and social media presence to attract new businesses, and collaborate with Kent Valley Economic Development group on Air and Space workforce development.

Background Summary:

The Port of Seattle Economic Development Partnership Program is an annual, cooperative, economic development program to help fund local economic development initiatives across King County. Based on a per capita calculation, King County cities (except Seattle) may receive between \$20,000 and \$120,000 based on the city's population. The maximum grant allocation for each city is \$120,000, which requires a 50 percent match of dollars. The City of Auburn has been awarded the full \$120,000 in grant funding requests, which requires a match of \$60,000 which Economic Development has anticipated and will be utilizing previously approved budget allocated for business retention and recruitment.

Councilmember: Tracy Taylor

Staff: Jason Krum

RESOLUTION NO. 5895

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF AUBURN AND THE PORT OF SEATTLE TO ACCEPT AND EXPEND GRANT FUNDS FOR ECONOMIC DEVELOPMENT

WHEREAS, the Port of Seattle has made grant funds available to local jurisdictions to advance regional economic vitality through focused partnerships with King County cities; and

WHEREAS, the Program will make grants to cities that pursue programs and projects that stimulate business development, job creation and community revitalization, such as small business development, industry retention and expansion, and other economic development projects that support new investment and job creation;

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

Section 1. The Mayor is authorized to execute an agreement between the City of Auburn and Port of Seattle in substantial conformity with the agreement attached as hereto.

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:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Jason Whalen, City Attorney



ECONOMIC DEVELOPMENT PARTNERSHIP AGREEMENT

BETWEEN

THE PORT OF SEATTLE AND CITY OF AUBURN

P-00322359

This Economic Development Partnership Agreement (the "Agreement") is made by and between the Port of Seattle (the "Port") and the City of Auburn ("Agency"), both municipal corporations of the State of Washington (each, a "Party" or, collectively, the "Parties").

RECITALS

WHEREAS, engaging in the promotion of economic development is a recognized Port purpose authorized under RCW 53.08.245; and

WHEREAS, RCW 35.21.703 similarly authorizes cities to engage in economic development programs; and

WHEREAS, RCW 53.08.240(2) permits the Port to contract with another municipality to perform such undertakings each is authorized to perform; and

WHEREAS, the Port Commission of the Port of Seattle established the Economic Development Partnership Program (the "Program"), to advance the Port's Century Agenda, promote a dramatic growth agenda, support the creation of middle class jobs and help address the lack of economic development funding for local projects; and

WHEREAS, grant funding across the region is very limited for cities that want to pursue economic development projects or initiatives, and Washington State has not had an economic development grant program for over 20 years; and

WHEREAS, the Program will provide 38 King County cities per capita funding to advance local economic development throughout the region, and requires a 50% local match by the cities that receive the grants; and

WHEREAS, the Program will help the Port advance regional economic vitality through focused partnerships with King County cities; and

WHEREAS, the Program will make grants to cities that pursue programs and projects that stimulate business development, job creation and community revitalization, such as small business development, industry retention and expansion, and other economic development projects that support new investment and job creation;

NOW, THEREFORE the parties agree as follows:

1. **Purpose.** The purpose of this Agreement is to establish a contractual arrangement under which the Port will pay the Agency Program funds in the amount set forth on Section 2 solely for the purpose of carrying out the local initiative described in Exhibit A, attached, and incorporated hereto by this reference (the "Project"). This Agreement shall be interpreted in furtherance of this purpose.

2. Responsibilities of the Port. The Port shall contribute One Hundred Twenty Thousand and 00/100 Dollars (\$120,000.00) (the "Grant Funds") to assist the Agency in funding the Project. The Port shall disburse the Grant Funds to the Agency no later than thirty (30) days after receipt of a complete and correct invoice(s) detailing those Project deliverables completed in accordance with Exhibit A.
3. Responsibilities of the Agency.
 - 3.1 The Agency shall contribute local funds equivalent to at least fifty percent (50%) of the Grant Funds towards the Project.
 - 3.2 The Agency may contract with local non-profits to complete the Project or elements of the Project; provided, that the Port shall not, under any circumstance, disburse the Grant Funds to any of the Agency's contractors or subcontractors.
 - 3.3 The Agency shall complete the Project no later than December 31, 2026.
 - 3.4 The Agency shall provide a complete and correct invoice(s) detailing those Project deliverables completed in accordance with Exhibit A no later than December 31, 2026.
4. Term. This Agreement shall become effective as of the date the Port executes this Agreement and shall terminate on December 31, 2026, unless earlier terminated under another provision of this Agreement.
5. Termination for Convenience. The Port may terminate this Agreement at any time for any reason, by giving the Agency thirty (30) days' written notice. In the event the Agency has completed any portion of the Project by the time it receives the Port's notice of termination, the Port shall pay the Agency the percentage of the Grant Funds attributable to the Agency's completed portion of the Project.
6. Termination for Default. Except in the case of delay or failure resulting from circumstances beyond the control and without the fault or negligence of the Agency, the Port shall be entitled, by written or oral notice to the Agency, to terminate Agreement for breach of any of the terms and to have all other rights against the Agency by reason of the Agency's breach as provided by law.
7. Waiver. Failure at any time of the Port to enforce any provision of this Agreement shall not constitute a waiver of such provision or prejudice the right of the Port to enforce such provision at any subsequent time. No term or condition of this Agreement shall be held to be waived, modified or deleted except by a written amendment signed by the Parties
8. Partial Invalidity. If any provision of this Agreement is or becomes void or unenforceable by force or operation of law, all other provisions hereof shall remain valid and enforceable.
9. Indemnification and Hold Harmless Agreement. The Agency shall defend, indemnify, and hold harmless the Port, its Commissioners, officers, employees, and agents (hereafter, collectively, the "Port") from all liability, claims, damages, losses, and expenses (including, but not limited to attorneys' and consultants' fees and other expenses of litigation or arbitration) arising out of or related to the fulfillment of this Agreement; *provided*, however, if and to the extent that this Agreement is construed to be relative to the construction, alternation, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including moving or demolition in connection therewith, and therefore subject to Section 4.24.115 of the Revised Code of Washington, it is agreed that where such liability, claim, damage, loss or expense arises from the concurrent negligence of (i) the Port, and (ii) the Agency, its agents, or its employees, it is expressly agreed that the Agency's obligations of indemnity under

this paragraph shall be effective only to the extent of the Agency's negligence. Such obligations shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any person or entity described in this paragraph. This paragraph shall not be construed so as to require the Agency to defend, indemnify, or hold harmless the Port from such claims, damages, losses or expenses caused by or resulting from the sole negligence of the Port.

In any and all claims against the Port, by any employee of the Agency, its agent, anyone directly or indirectly employed by either of them, or anyone for whose acts any of them may be liable, the indemnification obligation of this paragraph shall not be limited in any way by any limitation on the amount or type of damages compensation benefits payable by or for the Agency, or other person under applicable industrial insurance laws (including, but not limited to Title 51 of the Revised Code of Washington), it being clearly agreed and understood by the Parties hereto that the Agency expressly waives any immunity the Agency might have had under such laws. By executing this Agreement, the Agency acknowledges that the foregoing waiver has been mutually negotiated by the parties.

The Agency shall pay all attorneys' fees and expenses incurred by the Port in establishing and enforcing the Port's right under this paragraph, whether or not suit was instituted.

10. Comply with All Laws. The Agency shall at all times comply with all federal, state and local laws, ordinances and regulations, including but not limited to all environmental laws, which in any manner apply to the performance of this Agreement.

11. Integration. This Agreement, together with the attached Exhibit A, constitutes the entire agreement between the Parties and unless modified in writing by an amendment executed by the Parties, shall be implemented only as described herein.

12. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington. Any action arising out of this Agreement shall be brought in King County.

13. No Employment Relationship Created. The Parties agree that nothing in this Agreement shall be construed to create an employment relationship between the Agency and the Port.

14. No Entity Created. The Parties agree that nothing in this Agreement shall be construed to create a joint entity between the Agency and the Port.

15. Notices.

Notices to the Port shall be sent to:

Port of Seattle
Economic Development Division
P. O. Box 1209
Seattle, WA 98111

Notices to the Agency shall be sent to:

City of Auburn
25 W. Main Street
Auburn, WA 98001

16. Audits and Retention of Records. The Agency shall retain and make all books, records and documents (the "Records") relating to the performance of this Agreement open to inspection or audit by representatives of the Port or Washington State during the term of this Agreement and for a period of not less than six (6) years after termination of the Agreement; *provided*, that if any litigation, claim or audit arising out of, in connection with or related to this Agreement is initiated, the Agency shall retain such Records until the later of

(a) resolution or completion of litigation claim or audit; or (b) six (6) years after the termination of this Agreement.

17. Amendment. This Agreement may only be amended by written agreement of the Parties.

18. Dispute Resolution. The Parties shall use their best, good faith efforts to cooperatively resolve disputes that arise in connection with this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this agreement as of the date first set forth above.

PORT OF SEATTLE

CITY OF AUBURN

By:

By:

Signature

Signature

Dated

Dated

EXHIBIT A

Background:

The Port of Seattle Economic Development Partnership Program is an annual, cooperative economic development program to help fund local economic development initiatives across King County. Based on a per capita calculation, King County cities (except Seattle) may each receive between \$10,000 and \$60,000 based on the city's population. The maximum grant allocation for each city, with populations between 10,000 and 60,000 people, is based on one dollar per resident. Population estimates are determined by the Washington State Office of Financial Management. The Port uses the most recent population estimates at the start of the grant cycle. Cities with populations numbering less than 10,000 people are eligible to receive grant funds up to \$10,000 and cities with populations numbering more than 60,000 people are eligible to receive grant funding up to \$60,000. Grant funds require a 50 percent match of dollars or in-kind resources. In-kind resources can only be used for up to 25 percent of the grant award amount. Cities receiving \$10,000 in Port funds may have their 50 percent match come from in-kind resources.

Project Description:

Project One:

Project Category: Small Business Technical Assistance

Project Overview/Description: Green River College Small Business Development Center (SBDC) Support

SMART Goal (Specific, Measurable, Achievable, Relevant, Time-bound): Green River College will provide assistance to businesses in the Auburn area and provide reports on a quarterly basis that include the project metrics listed below.

Timelines: December 2025 – December 31, 2026

Project Metrics:

- Number of businesses assisted;
- Number of Women & Minority Business Enterprise (WMBE) businesses served;
- How many dollars of funding secured for businesses;
- Number of jobs created/retained;
- Number of jobs created/retained for WMBE;
- Number of attendees at events and/or classes;
- Number of training/classes offered;

Project Two:

Project Category: Business Attraction

Project Overview/Description: The project with Golden Shovel Agency will provide the City of Auburn's Economic Development Department with a comprehensive suite of marketing and communications services designed to elevate the City's profile, attract target industries, and generate new business opportunities. By implementing strategic recommendations, managing content and digital assets, executing lead generation initiatives, and ensuring consistent reporting, Golden Shovel will position Auburn as a competitive and compelling destination for investment and economic growth. All services will be delivered in close collaboration with the City of Auburn to ensure alignment with local priorities and to maximize the impact of economic development efforts.

SMART Goal (Specific, Measurable, Achievable, Relevant, Time-bound): This project will increase the visibility of the City of Auburn as a place to open your new business and receive support throughout the process from our Economic Development Team.

Timelines: December 2025 – December 2026

Project Metrics:

- New businesses locating in Auburn

- Leads generated by business owners finding us through LinkedIn, Facebook, Instagram and our website. We will also track the number of Impressions, website visits, etc. for business recruitment marketing campaigns

Project Three:

Project Category: Workforce Development

Project Overview/Description: Kent Valley Air & Space Roundtable Support

SMART Goal (Specific, Measurable, Achievable, Relevant, Time-bound): The project will connect future workforce with potential employers. The upcoming Aerospace & Advance Manufacturing Expo will provide an opportunity between high school and business to explore Career and Technical Education (CTE), Science, Technology, Engineering, Mathematics (STEM), robotics, trades, automotive, welding, engineering and other career-focused programs. Educators, career counselors and program coordinators from across South King County will be participating.

Timelines: December 2025 – December 31, 2026.

Project Metrics: Number of employers, students, and school districts participating

Budget

Project Name:	Project Category (Please select one of the categories provided)	Port of Seattle Funds Awarded:	City Monetary Matching Funds:	City In-kind Matching Funds:	Total Funds (Including In-Kind):
Project 1	Small Business Technical Assistance	\$45,000	\$15,000		\$60,000
Project 2	Business Attraction	\$65,000	\$35,000		\$100,000
Project 3	Workforce Development	\$10,000	\$10,000		\$20,000
<u>Total Funds:</u>		\$120,000	\$60,000		180,000
<u>Percentage contribution to Port Funds*:</u>			50%		

Collaboration with partners

The City will be working with Green River College Small Business Development Center on the small business assistance project.

The City will be working with Golden Shovel (contractor) on its business attraction campaign, as well as the Auburn Area Chamber of Commerce, Downtown Auburn Cooperative and hopefully Greater Seattle Partners.

For the Air and Space Roundtable, the City will be working with the City of Kent, City of Tukwila, and the City of Renton.

Use of consultants or contractors:

The only consultant the City will be utilizing is Golden Shovel Agency.

Equity: Provide an overview of how intended projects support economically, socially disadvantaged communities, or WMBE businesses within your city or region.

The partnership with Green River SBDC will provide outreach to many socially disadvantaged communities by providing guidance on business startup, classes on how to obtain government contracts, and guiding them to work with the City's Economic Development Team where there are many tools to assist with language barriers, disability assistance and a heart to help all entrepreneurs be successful.