ORDINANCE NO. 6 6 5 9

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING SECTION 1.24.010 OF THE AUBURN CITY CODE AND CREATING A NEW CHAPTER 9.24 OF THE AUBURN CITY CODE RELATING TO NEW GROSS MISDEMEANOR VIOLATIONS CONCERNING DRUG-RELATED ACTIVITIES

WHEREAS, the current provisions of the Auburn City Code include prohibitions on certain drug-related activities but do not, at this point, identify target areas for enforcement - identifying those areas where drug-related activities are most problematic; and

WHEREAS, in connection with a more effective enforcement of illegal drug related activities and an intent to target those areas most adversely affected by such activities, it is appropriate for the City to establish areas where illegal drug enforcement should be emphasized and procedures for such enforcement; and

WHEREAS, under a Stay Out of Designated Area (SODA) ordinance, citizens convicted of drug- related crimes may be prevented from entering a specific area of the city known for drug problems, and judges would be able to issue these SODA orders which would be effective for designated periods of time, during which time, the person could be arrested if the order is violated.

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

SECTION 1. AMENDMENT TO CITY CODE. Section 1.24.010 of the Auburn city code be, and the same hereby is, amended to read as follows:

1.24.010 Criminal penalties generally.

A. Unless a specific penalty is expressly provided, for all violations of ordinances of the city which are identified as misdemeanors, upon conviction, such violations are punishable by imprisonment in the appropriate city or county jail for a period of up to ninety (90) days and a fine of up to \$1,000.00, or by both such fine and imprisonment.

B. Unless a specific penalty is expressly provided, for all violations of ordinances of the city which are identified as gross misdemeanors, upon

conviction, such violations are punishable by imprisonment in the appropriate city or county jail for a period of up to three hundred sixty-four (364) days and a fine of up to \$5,000.00, or by both such fine and imprisonment.

- C. Any violations of ordinances of the city that are identified as criminal violations, including being punishable by criminal penalties, but not identified as to whether they are misdemeanors or gross misdemeanors, shall be deemed misdemeanors or gross misdemeanors, as follows:
- 1. Criminal violations that are punishable by up to and including imprisonment in the appropriate city or county jail for a period of up to three hundred sixty-four (364) days and a fine of up to \$5,000.00, or by both such fine and imprisonment, shall be deemed gross misdemeanors; provided, that criminal violations that are punishable by not more than imprisonment in the appropriate city or county jail for a period of up to ninety (90) days and a fine of up to \$1,000.00, or by both such fine and imprisonment, shall be deemed misdemeanors;
- 2. Criminal violations that are adopted by reference from state statutes, or extrapolated with the same or substantially the same language from state statutes, shall be classified as misdemeanors or gross misdemeanors consistent with their classification by state statutes, and shall be punishable accordingly;
- 3. Criminal violations that are not identifiable as either misdemeanors or gross misdemeanors shall be deemed misdemeanors and shall be punishable accordingly.
- D. In addition, a defendant may be assessed court costs, jury fees and such other fees or costs as may be authorized in statute or court rules. In any court proceeding to enforce this section, the city shall have the burden of proving by evidence beyond a reasonable doubt that a violation occurred. In a proceeding under this section a defendant shall be accorded each and every right protected under the Constitutions of the United States of America and the state of Washington, all applicable federal, state and local laws, and applicable court rules promulgated by the Washington Supreme Court and the inferior courts under the authority of the Washington Supreme Court. (Ord. 5677 § 1, 2002; Ord. 4285 § 2, 1988; Ord. 3618 § 1, 1981; Ord. 2754 § 1, 1973.)

SECTION 2. NEW CHAPTER TO CITY CODE. A new Chapter 9.24 is hereby created and added to the Auburn City Code, to read as follows:

Chapter 9.24 DRUG RELATED ACTIVITIES

Sections:	
9.24.010	Loitering with the intent of engaging in drug-related activity.
9.24.020	Designation of anti-drug emphasis areas.
9.24.030	Violation of conditions of release, suspension or deferral as separate crime.
9.24.040	Places of illegal drug activity declared public nuisances.
9.24.050	Evidence of use for illegal drug purposes.

9.24.060 Conviction as prima facie evidence.

9.24.070 Penalties for maintenance of public nuisance.

9.24.080 Violation - Penalty.

9.24.010 Loitering with the Intent of engaging in drug-related activity.

- A. It is unlawful for any person to loiter in or near any public rights-of-way, or any public or private property in a manner and under circumstances manifesting the intent to engage in illegal drug-related activity contrary to RCW chapters 69.41, 69.50, 69.53 or 69.53, or to chapter 9.22 of the city code.
- B. Among the circumstances which may be considered in determining whether such intent is manifested are the following:
- 1. Such person is a known unlawful drug user, possessor, or seller. For purposes of this chapter, a "known unlawful drug user, possessor, or seller" is a person who has been convicted in any court within this state of any violation involving the use, possession, or sale of any of the substances referred to in chapters 69.41, 69.50, 69.52 and 69.53 RCW, or substantially similar laws of any political subdivision of this state or of any other state; or who is known to have been arrested for a drug related violation not resulting in a conviction because the person participated in a diversionary program, deferral program, drug court or a similar program; or a person who displays physical characteristics of drug intoxication or usage, such as "needle tracks"; or who possesses marijuana in a manner not authorized by RCW 69.50.4013 (1), RCW 69.50.4013 (2) and or in amounts that exceed those set forth in RCW 69.50.360(3);
- 2. Such person is currently subject to an order from any court prohibiting his/her presence in a high drug activity geographic area;
- 3. Such person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is then engaged in an unlawful drug-related activity, including by way of example only, such person acting as a "lookout":
- 4. Such person is physically identified by a police officer, based on articulable factors, as a member of a "gang," or an association which engages in illegal drug activity. Factors that support an officer physically identifying a person as a member of such a gang or association include, but are not limited to clothing, tattoos, known association and/or affiliation with such gang or association, specific and observed acts or circumstances consistent with drug related activity, and gestures, signs, greetings and movements that are consistent with gang related activity, provided that clothing alone shall not be sufficient, without more, to support an officer physically identifying a person as a member of such a gang or association:
- 5. Such person transfers small objects or packages for currency in a furtive fashion;
 - 6. Such person takes flight upon the appearance of a police officer;
- 7. Such person manifestly endeavors to conceal himself or herself or any object which reasonably could be involved in an unlawful drug-related activity;

- 8. The area involved is by public repute known to be an area of unlawful drug use and trafficking;
- 9. The premises involved are known to have been reported to law enforcement as a place suspected of drug activity pursuant to chapter 69.53 RCW.
- 10. Any vehicle involved is registered to a known unlawful drug user, possessor, or seller, or a person for whom there is an outstanding warrant for a crime involving drug-related activity.

9.24.020 Designation of anti-drug emphasis areas.

- Certain areas of the city shall be designated as and identified to be anti-drug emphasis areas based on the repeat incidents of illegal drug activities occurring therein, and enhanced penalties shall be applied in event of conviction of unlawful drug related acts or loitering for drug purposes, within the said areas. The areas to be so designated shall be identified by the city council in an ordinance or resolution passed after consultation with the mayor, city attorney and the chief law enforcement officer of the city, and the list identifying such areas shall be kept on file in the office of the city clerk. Additional areas may also be identified by the judge of the municipal or district court hearing drug related cases arising from within the city. If a defendant is convicted of a drug related case occurring from within an area designated as an anti-drug emphasis area, a condition or term of sentence, deferral, or suspension, shall be that such defendant shall stay out of all areas of the city designated as an anti-drug emphasis areas, unless there are significant and substantial extenuating circumstances in the defendant's particular case justifying avoidance of the requirement for such condition or term of sentence, deferral, or suspension. In such case, the significant and substantial extenuating circumstances shall be identified and recited in the record of the case.
- B. The following areas, generally depicted (for illustrative purposes only) on the maps appended hereto as Exhibits "A" and "B," are hereby designated as and identified to be anti-drug emphasis areas:

AREA I. DOWNTOWN AREA:

BEGINNING AT THE INTERSECTION OF E STREET NE AND 23RD STREET NE; THENCE EASTERLY TO THE INTERSECTION OF N STREET NE AND 24TH STREET NE; THENCE CONTINUING ALONG SAID TANGENT EAST TO THE GREEN RIVER; THENCE EASTERLY, SOUTHERLY AND WESTERLY ALONG THE GREEN RIVER TO A POINT THAT IS EAST OF 14TH STREET NE; THENCE WEST ALONG 14TH STREET NE, AS EXTENDED, TO AUBURN WAY NORTH, THENCE SOUTHERLY ALONG AUBURN WAY NORTH TO 4TH STREET NE; THENCE EASTERLY ALONG 4th STREET NE TO J STREET NE; THENCE SOUTHERLY ALONG J STREET NE AND SE AS EXTENDED TO STATE HIGHWAY 18; THENCE EASTERLY ALONG STATE HIGHWAY 18 TO M STREET SE; THENCE SOUTH ALONG M STREET SE TO 8TH STREET SE; THENCE WESTERLY ALONG 8TH STREET SE TO A POINT THAT IS SOUTH OF J STREET SE, AS EXTENDED; THENCE SOUTHERLY ALONG SAID J STREET SE EXTENSION TO 9TH STREET SE; THENCE WESTERLY ALONG 9TH STREET SE TO H STREET SE; THENCE SOUTH ALONG H STREET SE TO THE ALLEY SOUTH OF AND RUNNING GENERALLY PARALLEL TO 9TH STREET SE; THENCE WESTERLY ALONG SAID ALLEY TO ITS INTERSECTION WITH AUBURN WAY, SOUTH; THENCE NORTHWESTERLY ALONG AUBURN WAY SOUTH TO ITS INTERSECTION WITH F STREET SE; THENCE NORTHEASTERLY ALONG F STREET SE TO ITS INTERSECTION WITH 9TH STREET SE; THENCE WESTERLY ALONG 9TH STREET SE, AS EXTENDED, TO THE INTERURBAN TRAIL; THENCE NORTHERLY ALONG THE INTERURBAN TRAIL TO 2ND STREET NW; THENCE EASTERLY ALONG 2ND STREET NW TO C STREET NW; THENCE NORTHERLY TO A POINT THAT IS WEST OF 18TH STREET NE, AS EXTENDED, THENCE EAST TO E STREET NE; THENCE NORTHERLY ALONG E STREET NE TO THE POINT OF BEGINNING.

AREA II. THE OUTLET COLLECTION:

BEGINNING AT THE INTERSECTION OF 15TH STREET SW AND STATE HIGHWAY 167; THENCE NORTHERLY ALONG STATE HIGHWAY 167 TO STATE HIGHWAY 18; THENCE EASTERLY ALONG STATE HIGHWAY 18 TO THE INTERURBAN TRAIL; THENCE SOUTHERLY ALONG THE INTERURBAN TRAIL TO 15TH STREET SW; THENCE WESTERLY ALONG 15TH STREET SW TO THE POINT OF BEGINNING.

AREA III. MUCKLESHOOT CASINO:

BEGINNING AT THE INTERSECTION OF AUBURN WAY SOUTH (STATE HIGHWAY 164) AND 17TH STREET SE; THENCE EASTERLY ALONG 17TH STREET SE TO R STREET SE: THENCE NORTHERLY ALONG R STREET SE. AS EXTENDED, A DISTANCE OF 1170 FEET; THENCE EAST TO THE INTERSECTION OF ELM STREET SE AND SCENIC DRIVE SE: THENCE NORTHERLY ALONG THE MOST NORTHERLY WEST LINE OF THE PLAT OF SHERMAN ACRES, VOLUME 71, PAGE 94, RECORDS OF KING COUNTY, TO THE MOST NORTHWEST CORNER OF SAID SHERMAN ACRES: THENCE EASTERLY ALONG THE NORTH LINE OF SAID SHERMAN ACRES TO THE NORTHWEST CORNER OF THE PLAT OF FOREST VILLA NO. 3, VOLUME 68, PAGE 49. RECORDS OF KING COUNTY; THENCE SOUTHEASTERLY ALONG THE PLAT BOUNDARY OF SAID FOREST VILLA NO. 3 TO THE MOST NORTHERLY CORNER OF LOT 5 OF SAID FOREST VILLA NO. 3; THENCE SOUTHERLY ALONG THE EAST LINE OF SAID FOREST VILLA NO.3, AS EXTENDED, TO AUBURN WAY SOUTH (STATE HIGHWAY 164); THENCE WESTERLY ALONG AUBURN WAY SOUTH (STATE HIGHWAY 164) TO HEMLOCK STREET SE THENCE SOUTHERLY ALONG THE CENTERLINE OF HEMLOCK STREET SE AND ITS SOUTHERLY EXTENSION A DISTANCE OF 1000 FEET; THENCE WEST TO THE INTERSECTION OF DOGWOOD STREET SE AND FOREST RIDGE DRIVE SE; THENCE NORTHERLY ALONG DOGWOOD STREET SE TO AUBURN WAY S. (STATE HIGHWAY 164); THENCE WESTERLY ALONG AUBURN WAY SOUTH (STATE HIGHWAY 164) TO RIVERWALK DRIVE SE; THENCE SOUTHERLY AND SOUTHWESTERLY ALONG RIVERWALK DRIVE SE TO HOWARD ROAD; THÊNCE NORTHWESTERLY ALONG HOWARD ROAD ITS INTERSECTION WITH R STREET SE; THENCE NORTHWESTERLY TO THE POINT OF BEGINNING.

AREA IV. SOUTH END:

BEGINNING AT THE INTERSECTION OF THE WHITE RIVER AND A STREET SE; THENCE NORTHERLY ALONG A STREET SE TO 21ST STREET SE; THENCE EASTERLY ALONG 21ST STREET SE TO R STREET SE; THENCE SOUTHERLY ALONG R STREET SE TO 29TH STREET SE; THENCE WESTERLY ALONG 29TH STREET SE TO M STREET SE.; THENCE SOUTHERLY ALONG M STREET SE, AS EXTENDED, TO THE WHITE RIVER; THENCE SOUTHWESTERLY ALONG THE WHITE RIVER TO THE POINT OF BEGINNING.

AREA V. CITY PARK PROPERTY:

ALL CITY PARK PROPERTY THROUGHOUT THE CITY IS DESIGNATED AS AN ANTI-DRUG EMPHASIS AREA. FOR THE PURPOSES HEREOF, CITY PARK PROPERTY INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING PARK PROPERTIES AND ALL FACILITIES, AMENITIES AND COMPONENTS THEREIN:

Park	Address	Proximate Acres
21st Street Playground	405 21st St. SE	0.17
104th Ave SE (Green River Park)	31495 104 th Ave. SE	14.73
Auburndale	31802 108 th Ave. SE	9.64
Auburndale II	29725 118 th Ave. SE	9.34
Auburn Environmental Park	413 Western Ave. NW	120
Auburn Golf Course	29630 Green River RD SE	180
Ballard	1612 37 th Way SE	0.66
Bicentennial Park	502 Auburn Way S.	1.07
B Street Plaza	148 E. Main Street	0.10
Brannan	1019 28 th St. NE	26.63
Cameron	3727 Lemon Tree Lane	3.83
Cedar Lanes	1002 25 th St. SE	8.27
Centennial Viewpoint	402 Mountain View Dr.	0.7
City Hall Plaza	25 West Main Street	1.10
Clark Plaza	1420 Auburn Way N.	0.25
Park	Address	Proximate Acres

Park	Address	Proximate Acres
Mill Pond	4582 Mill Pond Dr. SE	4
Mary Olson Farm	28728 Green River RD SE	67
Les Gove	910 9 th St. SE	20.86
Lea Hill Tennis Courts	32121 105 th Pl. SE	1.18
Lea Hill	31693 124 th Ave. SE	9.0
Lakeland Hills	1401 Evergreen Way SE	5.05
Kersey Way B	5530 Udall Ave. SE	0.79
Kersey Way A	5480 Charlotte Ave. SE	2.73
Jornada Park	1433 U Ct. NW	1.89
Jacobsen Tree Farm	29387 132 nd Ave. SE	29.3
Isaac Evans	29827 Green River RD SE	19.87
Indian Tom Park	1316 6 th St. NE	0.43
GSA Park	413 15 th St. SW	6.13
Game Farm Wilderness	2401 Stuck River Dr. SE	72.0
Game Farm	3030 R St. SE	53,0
Gaines Park	1008 Pike St. NW	1.34
Fulmer Park	1101 5 th St. NE	5.13
Forest Villa	1647 Fir St. SE	0.23
Fenster Nature Park	2033 4 th St. SE	12.58
Dykstra	1487 22 nd St. NE	1.78
Dorothy Bothell Park	1087 Evergreen Way SE	4
Community Garden	1030 8 th Street NE	1.04
	SE ¼ OF SE ¼ Lying South of Stuck River, less Roads, Sec. 30, Twp. 21 N., Rge. 5 E. WM	
Clark Property	1300 block, Oravetz Road - Parcel No. 302105-9025	26.68

Mountain View Cemetery	2020 Mountain View Dr.	60
Pioneer Cemetery	8 th St. NE & Auburn Way North	0.76
Plaza Park	2 West Main Street	0.19
Riverpoint Park	1450 32 nd St. NE	3.8
Riversands Park	5014 Pike St. NE	1.76
Roegner Park	601 Oravetz Road SE	21.25
Rotary Park	2635 Alpine St. SE	4.14
Scootie Brown Park	1403 Henry Rd. NE	1.34
Shaughnessy Park	3302 21st St. SE	3.46
Slaughter Memorial	2988 Auburn Way N.	0.02
Sunset park	1420 69 th St. SE	15
Terminal Park	1292 C St. SE	1.2
Veterans Memorial	405 E St.NE	7.65
Village Square Park	12111 SE 310 th St.	1.10
West Hill Lake Property	32054 58 th Ave. S	9.25

In addition to the above described park properties, the city park property anti-drug emphasis area includes any and all properties, whether owned by the city or not on which any part thereof is used for trail and/or recreational purposes and which is maintained, in whole or in part, by the city of Auburn, including but not limited to the following:

- (a) Interurban Trail: This trail parallels the Union Pacific Railroad for much of its length. The Interurban Trail currently runs north to south through Tukwila, Kent, Auburn, Algona and Pacific, and is approximately 17 miles long, with 4.5 miles in Auburn.
- (b) White River Trail: The White River Trail, within Roegner Park, extends along the White River to the Game Farm Wilderness Park for 2.25 miles.
- (c) Lakeland Linear Trail: Lakeland Linear Trail meanders from Evergreen Way along Lakeland Hills Way connecting to Sunset Park.
- (d) Reddington Levee Trail: This trail goes from Brannan Park/Brannan St., North to I St. along the Green River, for 1.7 miles.

- (e) C Street Trail: The C Street Trail extends from Ellingson Road SW, along C Street SW, to 15th Street SW.
- C. Each of the above described/designated anti-drug emphasis areas includes all rights-of-way located within the described areas and also includes any and all rights-of-way adjacent to the outer perimeter thereof.
- D. Each of the above described/designated anti-drug emphasis areas includes the total real estate parcel area of all parcel where any part of which is located within any of the above described designated anti-drug emphasis areas.

9.24.030 Violation of conditions of release, suspension or deferral as separate crime.

The presence of any person within an anti-drug emphasis area in violation of court-imposed conditions of release or conditions of suspension or deferral of any sentence shall constitute a separate crime hereby designated a gross misdemeanor and any such person may be apprehended and arrested without the necessity for any warrant or additional court order. Upon conviction, any person so violating the conditions of release or conditions of suspension or deferral shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than five thousand dollars (\$5,000.00), or by both such imprisonment and fine.

9.24.040 Places of illegal drug activity declared public nuisances.

Any building, structure or place within the city used for drug related activity or for loitering with the intent of engaging in drug-related activity as defined in this chapter is hereby declared to be a public nuisance.

9.24.050 Evidence of use for illegal drug purposes.

A. Two or more criminal convictions of persons for drug related offenses in a building, structure or place, within the one-year period preceding the commencement of an action under this chapter shall give rise to a rebuttable presumption that the building, structure or place has been used for illegal drug purposes and is a public nuisance. In any action under this chapter, evidence of the common fame and general reputation of the building or place, of the inmates or occupants thereof, or of those resorting thereto, shall be admissible as evidence to prove the existence of the public nuisance but must be supported by additional evidence. Evidence of the general reputation of the building or place, or of the inmates or occupants thereof that is sufficient to establish the existence of the public nuisance, shall be prima facie evidence of knowledge thereof and acquiescence and participation therein and responsibility for the nuisance by persons or legal entities having an interest in the property. Responsibility for the nuisance shall extend to the owners, lessors, lessees and all those in interest in any form in the property, real or personal, used in conducting or maintaining the public nuisance.

- B. Evidence of cooperation by owners, agents or managers of a building or place with police investigations or operations to control drug related activity may be used to rebut the presumptions created in this chapter.
- 9.24.060 Conviction as prima facie evidence.

Any conviction of any owner, manager, operator, agent or employee for any illegal drug activity, or for loitering with the intent of engaging in drug-related activity, when such offense was related to any business or commercial enterprise, shall be prima facie evidence that the building, structure or place upon or in which business or commercial enterprise is or was conducted, was used for illegal drug activities.

9.24.070 Penalties for maintenance of public nuisance.

Maintenance of a public nuisance as declared herein, in addition to any other civil or criminal penalties, shall result in a civil penalty not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for a first conviction of maintaining a public nuisance and by abatement by closure of such business or commercial enterprise for the period of thirty (30) days for each subsequent conviction of maintaining a public nuisance, the enforcement of which shall be in accordance with the procedures identified in chapter 1.25 of the city code.

9.24.080 Violation - Penalty.

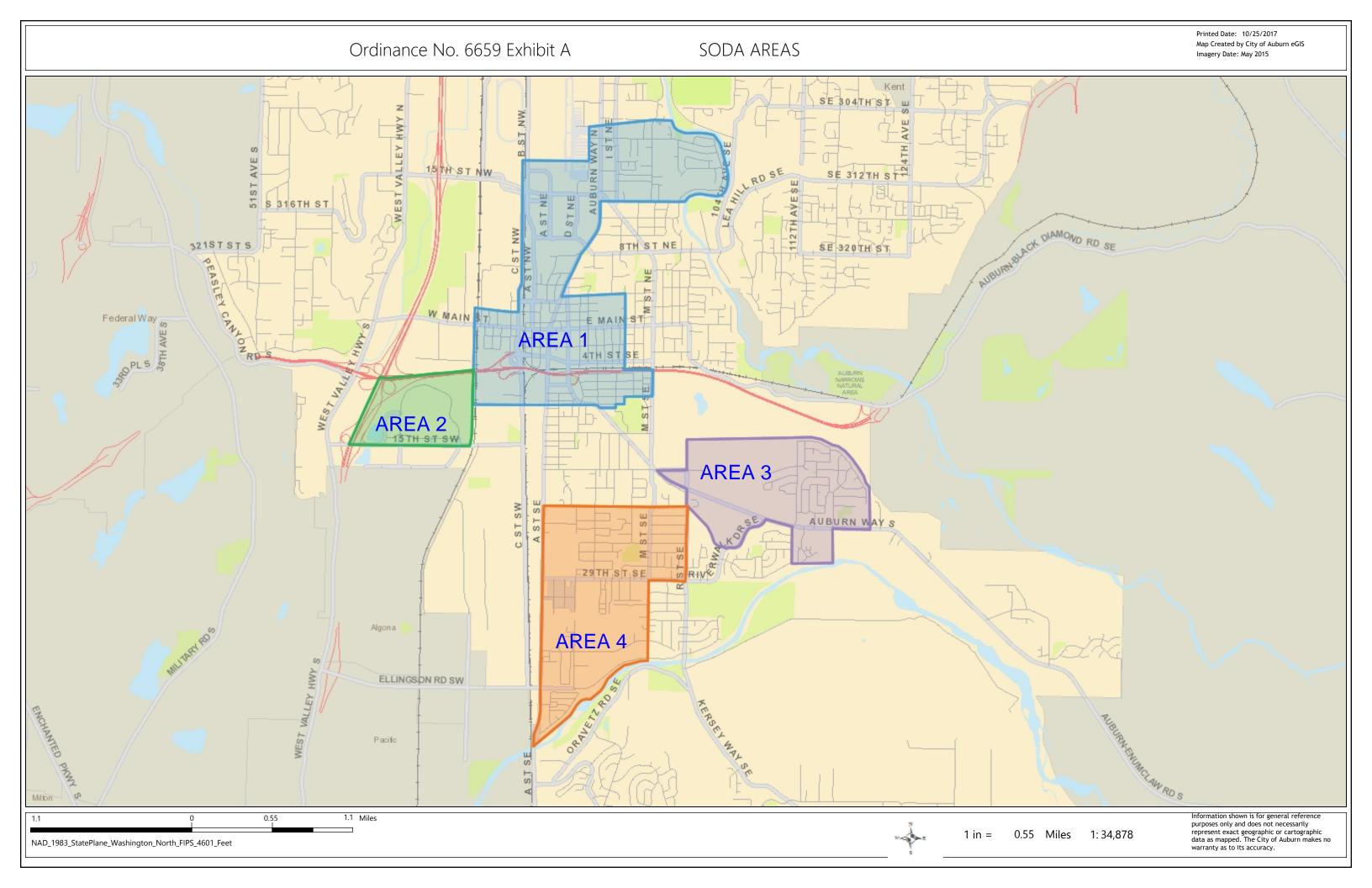
Unless otherwise specifically provided otherwise, any person who violates the provisions of this chapter is guilty of a gross misdemeanor and, upon conviction, shall be imprisoned in jail for a period of up three hundred sixty-four days or fined an amount of not more than \$5,000.00 or both such jail time and fine.

SECTION 3. IMPLEMENTATION. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

SECTION 4. SEVERABILITY. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

	Introduced:
	Passed:
	Approved:
	CITY OF AUBURN
	NANCY BACKUS, MAYOR
ATTEST:	
Danielle E. Daskam, City Clerk	
APPROVED AS TO FORM:	
Cel Sil	
Daniel B. Heid, City Attorney	
PUBLISHED:	



Ordinance No. 6659 Exhibit "B" City of Auburn Parks Inventory Map



