	<p>City Council Meeting June 1, 2020 - 7:00 PM Virtual and City Hall Council Chambers AGENDA Watch the meeting LIVE!</p> <p>Watch the meeting video Meeting videos are not available until 72 hours after the meeting has concluded.</p>
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I. CALL TO ORDER

II. Virtual Participation Link

1. Virtual Participation Link

The City Council Meeting will be held virtually and in person in the Council Chambers. The public is highly encouraged to attend the meeting by clicking on the link or calling into the meeting at the phone number listed below.

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://zoom.us/j/91985073364>

Or join by phone:

253 215 8782

888 475 4499 (Toll Free)

Webinar ID: 919 8507 3364

A. Pledge of Allegiance

B. Roll Call

III. AGENDA MODIFICATIONS

IV. NEW BUSINESS

V. CITIZEN INPUT, PUBLIC HEARINGS AND CORRESPONDENCE

A. Public Hearings - (No public hearing is scheduled for this evening.)

B. Audience Participation

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

1. Virtual Participation

The public is highly encouraged to attend the meeting virtually. If you are attending in person the City requests that you wear a mask and practice social distancing.

Participants can submit written comments via mail, fax or email. All written

comments must be received prior to 7:00 p.m. on the day of the scheduled meeting and must be 350 words or less.

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

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

Please email comments to:
scampbell@auburnwa.gov

C. Correspondence - (There is no correspondence for Council review.)

VI. COUNCIL AD HOC COMMITTEE REPORTS

Council Ad Hoc Committee Chairs may report on the status of their ad hoc Council Committees' progress on assigned tasks and may give their recommendation to the City Council, if any.

1. Finance Ad Hoc Committee (Chair Baggett)

VII. 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 of the May 11, 2020 Study Session
- B. Minutes of the May 18, 2020 City Council Meeting
- C. Claim Vouchers (Thomas)
Claim voucher list dated June 1, 2020 which includes voucher numbers 458739 through 458916 in the amount of \$758,755.42 and four wire transfers in the amount of \$726,850.15
- D. Payroll Vouchers (Thomas)
Payroll check numbers 538921 through 538927 in the amount of \$557,917.22 and electronic deposit transmissions in the amount of \$1,991,750.03 for a grand total of \$2,549,667.25 for the period covering May 13, 2020 to May 26, 2020
- E. Council Rules of Procedure
City Council to suspend Council Rules of Procedure 3.1(H), 4.1, 10.1, 11.2(B) and 16.1 that were amended on May 11, 2020 during the City Council Study Session through July 31, 2020 and allow the virtual and telephonic participation in Council meetings

- F. Setting the date for Public Hearing for the TIP (Gaub)
City Council to set the date of the Public Hearing for the 2021-2026 Transportation Improvement Program

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

VIII. UNFINISHED BUSINESS

IX. ORDINANCES

- A. Ordinance No. 6761 (Tate)
An Ordinance relating to Flood Hazard Areas and amending Chapter 15.68 of the Auburn City Code

(RECOMMENDED ACTION: Move to adopt Ordinance No. 6761.)

X. RESOLUTIONS

- A. Resolution No. 5516 (Gaub)
A Resolution authorizing the Mayor to accept federal grants to be administered through the Washington State Department of Transportation (WSDOT)

(RECOMMENDED ACTION: Move to adopt Resolution No. 5516.)

- B. Resolution No. 5518 (Gaub)
A Resolution authorizing an interlocal agreement with King County Metro and Pierce Transit for Transit Route 497

(RECOMMENDED ACTION: Move to adopt Resolution No. 5518.)

- C. Resolution No. 5520 (Gaub)
A Resolution authorizing the Mayor to execute an Interlocal Agreement between the City of Auburn and the Auburn School District relating to Project CP1902 – Pedestrian Safety Sidewalk and ADA Improvements

(RECOMMENDED ACTION: Move to adopt Resolution No. 5520.)

- D. Resolution No. 5523 (Tate)
A Resolution adopting the substantial amendment to the 2019 Community Development Block Grant Annual Action Plan to incorporate CDBG-CV funds

(RECOMMENDED ACTION: Move to adopt Resolution No. 5523.)

XI. 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**

XII. ADJOURNMENT

Agendas and minutes are available to the public at the City Clerk's Office, on the City website (<http://www.auburnwa.gov>), and via e-mail. Complete agenda packets are available for review at the City Clerk's Office.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the May 11, 2020 Study Session

Department:

City Council

Attachments:

[05-11-2020 Minutes](#)

Date:

May 27, 2020

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

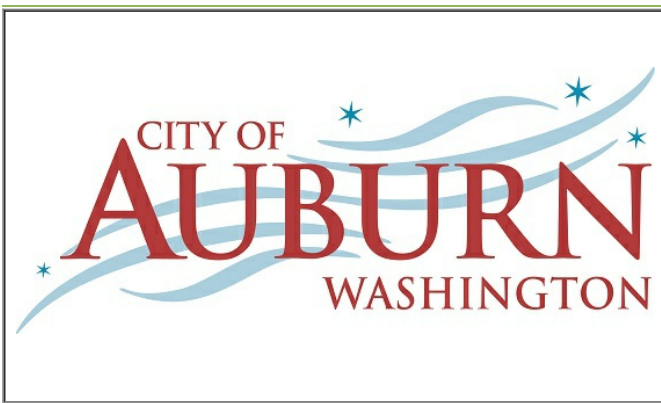
Revised Budget: \$0

Administrative Recommendation:**Background Summary:****Reviewed by Council Committees:****Councilmember:**

Meeting Date: June 1, 2020

Staff:

Item Number: CA.A

	<p>City Council Study Session Community Wellness Special Focus Area May 11, 2020 - 5:30 PM Virtual MINUTES Watch the meeting LIVE!</p> <p>Watch the meeting video Meeting videos are not available until 72 hours after the meeting has concluded.</p>
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I. CALL TO ORDER

Deputy Mayor DaCorsi called the meeting to order at 5:30 p.m. in the Council Chambers of Auburn City Hall, 25 West Main Street in Auburn.

II. Virtual Participation Link

A. Virtual Participation Link

The City Council Meeting was held virtually in the Council Chambers.

B. Roll Call

Councilmembers virtually present: Deputy Mayor Claude DaCorsi, Bob Baggett, Larry Brown, James Jeyaraj and Chris Stearns. Councilmember Robyn Mulenga and Councilmember Yolanda Trout-Manuel arrived at 5:31 p.m.

Mayor Nancy Backus and the following department directors and staff members were present: Outreach Program Administrator Kent Hay, Director of Information and Technology David Travis, Innovation and Technical Support Specialist Danika Olson, Chief of Police Dan O'Neil and City Clerk Shawn Campbell.

The following department directors and staff members attended the meeting virtually: Senior City Staff Attorney Harry Boesche, Assistant Information and Technology Director Ashley Riggs, Director of Finance Jamie Thomas, Assistant Finance Director Kevin Fuhrer, Director of Parks, Arts, and Recreation Daryl Faber, Director of Community Development Jeff Tate, Director of Human Resources and Risk Management Candis Martinson, Human Services Manager Joy Scott and Director of Public Works Ingrid Gaub.

III. NEW BUSINESS

A. Council Rules of Procedure

(RECOMMENDED ACTION: Move to extend the suspension of Council Rules of Procedure 3.1(H), 4.1, 10.1, 11.2(B) and 16.1 that were amended on April 6, 2020 during the City Council Meeting through June 2, 2020 and allow the virtual and telephonic participation in Council meetings.)

Mayor Backus explained the motion to extend the suspension of Council Rules of Procedure 3.1(H), 4.1, 10.1, 11.2(B) and 16.1 that were amended on April 6, 2020 during the City Council Meeting through June 2, 2020 and allow the virtual and telephonic participation in Council meetings.

Deputy Mayor DaCorsi moved and Councilmember Trout-Manuel seconded to extend the suspension of Council Rules of Procedure 3.1(H), 4.1, 10.1, 11.2(B) and 16.1.

MOTION CARRIED UNANIMOUSLY. 7-0

IV. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

A. National Police Week & Peace Officers Memorial Day Proclamation

Mayor Backus to proclaim May 10-16, 2020 as National Police Week and observe May 13, 2020 as National Peace Officers Memorial Day in the City of Auburn

Mayor Backus read and proclaimed May 10-16, 2020 as National Police Week and May 13, 2020 as National Peace Officers Memorial Day in the City of Auburn.

V. AGENDA ITEMS FOR COUNCIL DISCUSSION

A. Ordinance No. 6774 (Thomas)(20 Minutes)

An Ordinance providing for the issuance of one or more series of Utility System Revenue and Refunding Bonds

Assistant Director Fuhrer explained that the City works with Pacifica Law Group for Bond Issues and introduced Partner Deanna Gregory.

Ms. Gregory provided Council with an overview of municipal debt financing and the debt issuance process. She also reviewed the type of municipal financing, types of debt, legal requirements and key transaction milestones.

Assistant Director Fuhrer shared the types of projects that would be funded with the bond revenue. He explained the current variability in the market and the potential cost savings. He thanked the Bond Counsel, Finance team and the Public Works team for their work on the rating document.

Council discussed the impact the pandemic has had on the market, the amount of bonding revenue and requested a copy of Assistant Director Fuhrer's presentation.

B. Interlocal Agreements for Homelessness Assistance (Backus)(15 Minutes)

Mayor Backus introduced Outreach Program Administrator Kent Hay, who is working on the homelessness issues in the City.

Administrator Hay provided Council with his background and experience. He explained his philosophy on his job and how he plans to help with homelessness in Auburn. He explained the purpose of the two interlocal agreements and the ways this will help him serve the homeless population in Auburn.

Council discussed how Administrator Hay is being received in the community and the type of demographic information being collected.

C. Parks, Arts and Recreation Covid Update (Faber)(20 Minutes)

Presentation of past actions and recovery planning as it relates to Parks, Arts and Recreation and Covid-19 restrictions

Director Faber provided Council with an update to the Parks Arts and Recreation Department during the COVID-19 Pandemic. He provided Council with a timeline for the COVID-19 closures, the various programs available to vulnerable seniors, outreach to participants, event cancellations and the timeline and approach for reopening parks and recreational facilities.

Council discussed how social distancing will work at the Auburn Avenue Theater and confirmed with Director Faber that there will not be an opening ceremony for the Farmer's Market due to social distancing guidelines.

VI. COMMUNITY WELLNESS DISCUSSION ITEMS

A. Overview of the 2021/2022 Human Services Grant Funding Application and Review Process (Tate)(10 Minutes)

Councilmember Trout-Manuel presided over this section of the meeting.

Manager Scott provided Council with an overview of the 2021-2022 Human Services Grant Funding. She discussed the difference between the Human Service general funds and the Community Development Block Grant (CDBG) funds, the application process for Human Services funding, the outreach prior to the application cycle, the technical assistance and support provided, number of applications received and the application review timeline.

Council requested a list of agencies that are currently being funded.

- B. Status of Human Service Agencies Amidst COVID Pandemic (Tate)(10 Minutes)
Staff to provide a status report of how Human Service agencies are performing and coping during the COVID-19 pandemic

Manager Scott reviewed the Human Services Program, the impacts of COVID-19 on local agencies and City staff and regional efforts to assist providers during COVID-19.

Council discussed the requirements needed for funding, the cost of increasing capacity and the ability of agencies to become more virtual.

- C. Overview of CDBG CV Federal Funds (Tate)(30 Minutes)
Staff to provide an overview of the process and restrictions related to allocating CDBG CV funds

Manager Scott provided Council with the background of the Coronavirus Aid, Relief and Economic Security Act (CARES Act) Grant funding. She shared the comparison between regular Community Development Block Grant (CDBG) funds and the CARES Act CDBG funds, she provided a timeline for the CDBG-CV funding deployment, the staff implementation considerations, the opportunities for distribution of funding and the timeline for the CDBG-CV funding Action Plan amendment.

Council discussed using funds to assist residents that are already homeless to help protect them from contacting the coronavirus and mobile testing locations.

VII. OTHER DISCUSSION ITEMS

There were no other discussion items.

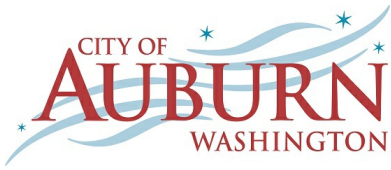
VIII. ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 8:00 p.m.

APPROVED this 1st day of June, 2020.

CLAUDE DACORSI, DEPUTY MAYOR Shawn Campbell, City Clerk

Agendas and minutes are available to the public at the City Clerk's Office, on the City website (<http://www.auburnwa.gov>), and via e-mail. Complete agenda packets are available for review at the City Clerk's Office.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the May 18, 2020 City Council Meeting

Department:

City Council

Attachments:

[05-18-2020 Minutes](#)

Date:

May 27, 2020

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:**Background Summary:****Reviewed by Council Committees:****Councilmember:**

Meeting Date: June 1, 2020

Staff:

Item Number: CA.B

	<p>City Council Meeting May 18, 2020 - 7:00 PM Virtual MINUTES Watch the meeting LIVE!</p> <p>Watch the meeting video Meeting videos are not available until 72 hours after the meeting has concluded.</p>
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I. **CALL TO ORDER**

II. **Virtual Participation Link**

1. Virtual Participation Link

The City Council Meeting was held virtually in the Council Chambers.

A. **Pledge of Allegiance**

Mayor Nancy Backus called the meeting to order at 7:00 p.m. in the Council Chambers of Auburn City Hall, 25 West Main Street in Auburn and led those in attendance in the Pledge of Allegiance.

B. **Roll Call**

Councilmembers virtually present: Deputy Mayor Claude DaCorsi, Bob Baggett, Larry Brown, James Jeyaraj, Chris Stearns and Yolanda Trout-Manuel. Councilmember Robyn Mulenga was excused. Councilmember Trout-Manuel left the meeting at 7:15 p.m.

Mayor Nancy Backus and the following department directors and staff members were present: Innovation and Technical Support Specialist Danika Olson, Chief of Police Dan O'Neil, Director of Technology David Travis and City Clerk Shawn Campbell.

The following department directors and staff members attended the meeting virtually: Attorney Daniel Heid, Director of Community Development Jeff Tate, Director of Parks, Arts, and Recreation Daryl Faber, Director of Public Works Ingrid Gaub, Assistant IT Director Ashley Riggs, Director of Human Resources and Risk Management Candis Martinson and Human Services Manager Joy Scott.

III. **APPOINTMENTS**

A. **Salary Commission Appointment**

City Council to appoint Judith Anderson to the Salary Commission for a four year term to expire on December 31, 2023

Deputy Mayor DaCorsi moved and Councilmember Trout-Manuel seconded to appoint Judith Anderson to the Salary Commission for a four-year term to expire December 31, 2023.

MOTION CARRIED UNANIMOUSLY. 6-0

IV. AGENDA MODIFICATIONS

Mayor Backus read and proclaimed "Our commitment to an inclusive community that rejects stigma and bias related to COVID-19" in the city of Auburn, and urge residents to treat each other with respect and work together to overcome all expressions of hate and bigotry.

V. NEW BUSINESS

There was no new business.

VI. CITIZEN INPUT, PUBLIC HEARINGS AND CORRESPONDENCE

A. Public Hearings - (No public hearing is scheduled for this evening.)

B. Audience Participation

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

1. Virtual Participation

Bob Zimmerman, 33029 46th Place South, Auburn

Mr. Zimmerman shared concerns about perceived safety violations and the ensuing of criminal investigations.

C. Correspondence

There was no correspondence for Council to review.

VII. COUNCIL AD HOC COMMITTEE REPORTS

Council Ad Hoc Committee Chairs may report on the status of their ad hoc Council Committees' progress on assigned tasks and may give their recommendation to the City Council, if any.

1. Finance Ad Hoc Committee (Chair Baggett)

Councilmember Baggett, Chair of the Finance ad hoc committee, reported he and Councilmember Stearns have reviewed the claims and payroll vouchers described on the Consent Agenda this evening and recommended their approval.

VIII. **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 of the April 20, 2020 Regular Council Meeting

B. Minutes of the April 27, 2020 Study Session

C. Claim Vouchers (Thomas)

Claim vouchers list dated May 4, 2020 which includes voucher numbers 458259 through 458468 in the amount of \$734,184.72 and two wire transfers in the amount of \$175,541.70

Claim vouchers list dated May 18, 2020 which includes voucher numbers 458469 through 458738 in the amount of \$2,757,239.90 and six wire transfers in the amount of \$1,021,951.38

D. Payroll Vouchers (Thomas)

Payroll check numbers 538907 through 538920 in the amount of \$771,126.66 and electronic deposit transmissions in the amount of \$4,113,540.64 for a grand total of \$4,884,667.30 for the period covering April 14, 2020 to May 12, 2020

Deputy Mayor DaCorsi moved and Councilmember Brown seconded to approve the consent agenda.

MOTION CARRIED UNANIMOUSLY. 6-0

IX. **UNFINISHED BUSINESS**

There was no unfinished business.

X. **ORDINANCES**

A. Ordinance No. 6774 (Thomas)

An Ordinance providing for the issuance of one or more series of Utility System Revenue and Refunding Bonds

Deputy Mayor DaCorsi moved and Councilmember Jeyaraj seconded to adopt Ordinance No. 6774.

MOTION CARRIED UNANIMOUSLY. 6-0

XI. RESOLUTIONS

A. Resolution No. 5515 (Backus)

A Resolution authorizing the Mayor to execute an Interlocal Datashare Agreement with the Department of Social and Health Services

Councilmember Trout-Manuel moved and Councilmember Baggett seconded to adopt Resolution No. 5515.

MOTION CARRIED UNANIMOUSLY. 5-0

B. Resolution No. 5517 (Backus)

A Resolution authorizing the Mayor to execute an Interlocal Datashare Agreement with King County

Deputy Mayor DaCorsi moved and Councilmember Jeyaraj seconded to adopt Resolution No. 5517.

MOTION CARRIED UNANIMOUSLY. 5-0

C. Resolution No. 5519 (Tate)

A Resolution authorizing the Mayor to make administrative changes to the City of Auburn's Community Development Block Grant Citizen Participation Plan

Councilmember Brown moved and Councilmember Stearns seconded to adopt Resolution No. 5519.

MOTION CARRIED UNANIMOUSLY. 5-0

D. Resolution No. 5521 (Faber)

A Resolution authorizing application submission for grant funding assistance for the White River Trail Pedestrian Bridge Trail Connection Project

Councilmember Stearns moved and Councilmember Jeyaraj seconded to adopt Resolution No. 5521.

MOTION CARRIED UNANIMOUSLY. 5-0

E. Resolution No. 5522 (Faber)

A Resolution authorizing application submission for grant funding assistance for the Jacobsen Tree Farm Park Development Project

Councilmember Stearns moved and Councilmember Jeyaraj seconded to adopt Resolution No. 5522.

Deputy Mayor DaCorsi stated the matching funds will come from Park Impact Fees.

MOTION CARRIED UNANIMOUSLY. 5-0

XII. 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

Deputy Mayor DaCorsi reported he attended a virtual King County Affordable Housing Committee meeting.

Councilmember Jeyaraj shared about the food delivery program to the seniors in the area.

Councilmember Brown expressed his appreciation of the Mayor and staff for their hard work.

Councilmember Stearns reported he attended the Watershed Resource Inventory Area 9 (WRIA9) meeting and the "Forward Together Virtual Conference for Local Government".

Councilmember Baggett reported he attended two Tacoma-Pierce County Board of Health meetings, Regional Transportation Committee meeting and the Emergency Management Advisory Coalition (EMAC) meeting.

B. From the Mayor

Mayor Backus reported she is meeting with Department Directors daily to work on the City's COVID-19 response. She noted the City is putting together a business roundtable to help the various business sectors for the restarting of business.

XIII. ADJOURNMENT

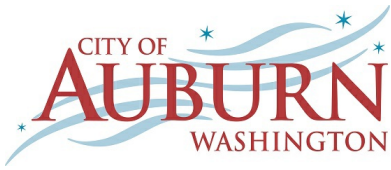
There being no further business to come before the Council, the meeting was adjourned at 7:44 p.m.

APPROVED this 1st day of June, 2020.

NANCY BACKUS, MAYOR

Shawn Campbell, City Clerk

Agendas and minutes are available to the public at the City Clerk's Office, on the City website (<http://www.auburnwa.gov>), and via e-mail. Complete agenda packets are available for review at the City Clerk's Office.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claim Vouchers (Thomas)

Date:

May 26, 2020

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

Approve Claim Vouchers.

Background Summary:

Claim voucher list dated June 1, 2020 which includes voucher numbers 458739 through 458916 in the amount of \$758,755.42 and four wire transfers in the amount of \$726,850.15.

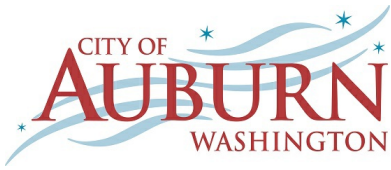
Reviewed by Council Committees:**Councilmember:****Staff:**

Thomas

Meeting Date: June 1, 2020

Item Number:

CA.C



AGENDA BILL APPROVAL FORM

Agenda Subject:

Payroll Vouchers (Thomas)

Date:

May 26, 2020

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

Approve Payroll Vouchers.

Background Summary:

Payroll check numbers 538921 through 538927 in the amount of \$557,917.22 and electronic deposit transmissions in the amount of \$1,991,750.03 for a grand total of \$2,549,667.25 for the period covering May 13, 2020 to May 26, 2020.

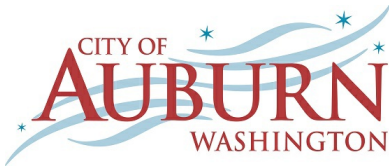
Reviewed by Council Committees:**Councilmember:****Staff:**

Thomas

Meeting Date: June 1, 2020

Item Number:

CA.D



AGENDA BILL APPROVAL FORM

Agenda Subject:

Council Rules of Procedure

Date:

May 27, 2020

Department:

Administration

Attachments:

No Attachments Available

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council to suspend Council Rules of Procedure 3.1(H), 4.1, 10.1, 11.2(B) and 16.1.

Background Summary:

During the March 12, 2020 Special City Council Meeting, the April 6, 2020 City Council meeting and the May 11, 2020 Council Study Session the Council voted to approve the below motions through June 2, 2020. To continue with all virtual and telephonic meeting participation, Council will need to extend the following motions:

To suspend Council Rule 3.1(H), Regular Council Meetings Audience Participation, to allow audience participation and telephonic public comments through June 2, 2020. Council will also encourage audience participation through submitting written statements to: scampbell@auburnwa.gov. All written statements must be submitted by 7PM on the day of the regular set City Council Meeting and will be limited to 350 words.

To suspend Rule 4.1, Councilmember attendance at meetings, to allow Councilmembers to attend all public meetings virtually or telephonically through July 31, 2020.

To suspend Rule 10.1, Comments, Concerns, and Testimony to Council, to allow persons addressing the Council to do so telephonically through July 31, 2020.

To suspend Rule 11.2(B), Public Hearings, to allow virtual or telephonic audience attendance and to allow virtual or telephonic comments for a public hearing through July 31, 2020. Council will also encourage audience participation through submitting written statements to: scampbell@auburnwa.gov. All written statements must be submitted by 7PM on the day of the regular set City Council Meeting and will be limited to 350 words.

To suspend Council Rule 16.1, Council Study Sessions, Committees, and Citizen Advisory Boards, to allow Councilmembers to attend study sessions virtually or telephonically through July 31, 2020.

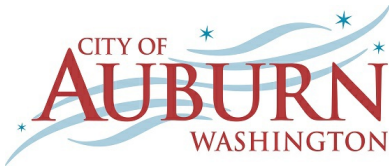
Reviewed by Council Committees:

Councilmember:

Staff:

Meeting Date: June 1, 2020

Item Number: CA.E



AGENDA BILL APPROVAL FORM

Agenda Subject:

Setting the date for Public Hearing for the TIP (Gaub)

Date:

May 26, 2020

Department:

Public Works

Attachments:

No Attachments Available

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council set the date of the Public Hearing for the 2021-2026 Transportation Improvement Program as June 15, 2020, at 7:00 pm.

Background Summary:

The City Council is asked to set a time and date for a public hearing to adopt the Six Year Transportation Improvement Program (TIP). The public hearing is proposed to be held on June 15th, 2020 during the City Council Meeting.

The TIP is required to be amended prior to July 1st each year as required by RCW 35.77.010. The primary importance of the TIP is that, in most instances, projects must be included on the TIP to be eligible for state and federal grant programs. The TIP identifies secured or reasonably expected revenues and expenditures for each of the projects included in the TIP.

The TIP is a multiyear planning tool and document for the development of transportation facilities within the City and does not represent a financial commitment by the City. Once the TIP is approved, projects are budgeted and funded through the City's biennial budget. The TIP sets priorities for the allocation secured and unsecured funding and is a prerequisite of most grant programs. Staff also uses the TIP to coordinate future transportation projects with needed utility improvements. The projects and programs identified in the TIP that increase the capacity of the transportation system to address growth and development provide the basis for the City's transportation impact fee program.

A summary of the proposed TIP changes was presented at City Council study session on May 26th.

NEXT STEPS:

The public hearing and adoption via resolution are scheduled for the June 15th City Council meeting.

Reviewed by Council Committees:

Councilmember:

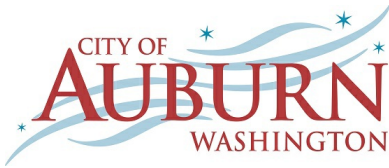
Meeting Date: June 1, 2020

Staff:

Item Number:

Gaub

CA.F



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6761 (Tate)

Date:

May 27, 2020

Department:

Community Development

Attachments:

[Ordinance No. 6761](#)
[Ord 6761 Exhibit A - ACC Chapter 15.68 - Strikethrough Underline Version](#)
[Ord 6761 Exhibit B - ACC Chapter 15.68 - Clean Version](#)

Budget Impact:

Current Budget: \$0
Proposed Revision: \$0
Revised Budget: \$0

Administrative Recommendation:

City Council to adopt Ordinance No. 6761.

Background Summary:

The reason that the Planning Commission's recommendation to adopt Ordinance 6761 is being brought forward to the City Council while under Governor Inslee's various orders related to the COVID 19 outbreak is because City action is required by August 19, 2020 under federal rule.

Staff presented the Planning Commission recommendation to adopt Ordinance 6761 to the City Council during the May 26, 2020 Council Study Session. City Council expressed support to move the recommendation forward for Council action at their June 1, 2020 meeting.

Reviewed by Council Committees:

Councilmember: Brown

Staff: Tate

Meeting Date: June 1, 2020

Item Number: ORD.A

ORDINANCE NO. 6761

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, RELATING TO FLOOD HAZARD
AREAS AND AMENDING CHAPTER 15.68 OF THE
AUBURN CITY CODE**

WHEREAS, the City is required as a condition of continued eligibility in the National Flood Insurance Program to adopt floodplain management regulations that meet the requirements of the federal floodplain management criteria for flood-prone areas; and

WHEREAS, state law requires cities to periodically review and update their Critical Areas ordinances, one element of which is floodplain management regulations; and

WHEREAS, federal and state criteria for floodplain management have changed since the City last revised its floodplain management regulations, in 2010; and

WHEREAS, to assist local governments update their codes, FEMA (Federal Emergency Management Agency) provides cities with a floodplain management model ordinance; and

WHEREAS, the City must revise its regulations to reference the latest Flood Insurance Study, accompanying Flood Insurance Rate Maps (FIRMs), and supporting information being adopted by FEMA and

WHEREAS, updating the floodplain management regulations enhances flood safety and reduces flooding risks through preemptive planning and by improving local standards to reflect current science.

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

Section 1. Amendment to City Code. Chapter 15.68 of the Auburn City Code is repealed and reenacted 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. Effective date. This Ordinance shall be effective and in force five days from and after the passage, approval, and publication of this Ordinance as provided by law but shall be implemented beginning on August 18, 2020.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Kendra Comeau, City Attorney

Published: _____

Ord. 6761 Exhibit A

ACC Chapter 15.68

Strikethrough Underline

Chapter 15.68

~~FLOOD HAZARD AREAS~~ FLOODPLAIN DEVELOPMENT MANAGEMENT

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Section 1. General

15.68.010 ~~Reserved~~ **Statutory Authorization.**

A. The Legislature of the State of Washington has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

Therefore, the City does ordain as follows:

B. Findings of Fact:

Areas of Auburn are subject to periodic inundation and channel migration which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for protection and relief from flooding and channel migration, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

When floodplains and watersheds are developed without taking appropriate care and precautions, flood heights, frequencies, and velocities increase, which may cause a greater threat to humans, damage to property, destruction of natural floodplain functions, and adverse impacts to water quality and habitat.

Rivers, streams, lakes, estuarine and marine areas and their floodplains are major elements of healthy aquatic and riparian areas and conveyance of flood waters. If watersheds, rivers, streams, lakes, estuaries, floodplains and other systems are not viewed holistically as biological and geomorphologic units, it may lead to serious degradation of habitat and increased flood hazards to people and human development.

Over the years, natural processes have evolved that manage flood waters and channel flows in the most effective and efficient manner. Disruption of these processes through alterations to land cover, stream channels, wetlands and other water bodies which may lead to increased flood hazards, loss of life and property, threats to public health, and loss of habitat.

15.68.020 — ~~Reserved~~ Purpose.

15.68.030 — ~~Statement of purpose.~~

It is the purpose of this ~~chapter~~ ordinance to promote the public health, safety, and general welfare; and to minimize public and private losses due to flood conditions in specific areas by provisions designed to manage development in order to:

- A. ~~— To protect.~~ Protect human life, health; and ~~to protect~~ property from the dangers of flooding;
- B. ~~— To minimize~~ Minimize the need for publicly funded and hazardous rescue efforts to save those who are isolated by floodwaters;
- ~~B-C.~~ Minimize expenditure of public money ~~and for~~ costly flood damage repair and flood control projects;
- ~~C.~~ To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- ~~D.~~ To minimize prolonged business interruptions;
- ~~D.~~ E. ~~To minimize~~ Minimize disruption of commerce, governmental services, and government infrastructure;
- ~~G-E.~~ Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in ~~areas of special flood hazard;~~ the floodplain.;
- ~~F.~~ Minimize cost impacts to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in the special flood hazard area.;
- ~~D-G.~~ F. ~~To help maintain~~ Maintain a stable tax base by providing for the sound use ~~and development of~~ and development of flood hazard ~~areas of special flood hazard~~ so as to minimize ~~future flood b~~ light areas caused by flooding;
- ~~G.~~ To ensure that potential buyers are notified that property is in an area of special flood hazard;
- ~~H.~~ To ensure that Encourage those who occupy flood hazard ~~the areas of special flood hazard~~ assume responsibility for their actions;
- ~~H.~~ I. ~~To qualify~~ be educated about the ~~city~~ risks and challenges associated with these areas.;
- ~~E-I.~~ Qualify the City of Auburn for participation in the National Flood Insurance Program, thereby giving citizens and businesses the opportunity to purchase flood insurance;

~~F.J. J. To maintain~~Maintain the quality of water in rivers, streams, and lakes, and their floodplains so as to protect public water supplies, areas of the ~~public trust~~Public Trust, and wildlife habitat protected by the Endangered Species Act;

~~G.K. K. To retain~~Retain the natural channel, shoreline, and floodplain creation processes and other natural floodplain functions that protect, create, and maintain habitat for threatened and endangered species; and

~~H.L. L. To prevent~~Prevent or minimize loss of hydraulic, geomorphic, and ecological functions of floodplains and stream channels.

15.68.030 Lands to which this Ordinance Applies.

This ordinance shall apply to the Special Flood Hazard Area (SFHA) and associated protected areas within the jurisdiction of the City of Auburn as defined in Section 3 of this Ordinance.

15.68.040 ~~Methods of reducing flood losses~~ Approach.

In order to ~~accomplish its~~achieve the listed purposes, this ~~chapter includes methods and provisions for~~ordinance:

~~A. A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;~~

~~A. Defines and clarifies the terms and phrases used in this ordinance in Section 2.~~

~~B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;~~

~~C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers which help accommodate or channel floodwaters;~~

~~D. Controlling filling, grading, dredging, and other development which may increase flood damage;~~

~~E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards~~identifies in other areas;

~~B. F. Identifying the regulatory floodplain, the special flood hazard area, and~~Section 3 the protected areaSpecial Flood Hazard Area, the Protected Area and the supporting technical data needed to delineate those areas;

~~C. G. Establishing~~Establishes a permit requirement in Section 4 so that all ~~human~~proposed development that may affect flood hazards, water quality, and habitat is reviewed ~~before it is constructed;~~prior to construction.

~~D. H. Setting~~Sets minimum protection standards in Section 5 for all development to ensure that the development will not increase the potential for flood damage or adversely affect natural floodplain functions;

~~E. I. Setting~~Sets minimum protection standards to protect new and substantially improved structures from flood damage;and in Section 6.

~~F. J. Specifying~~Specifies additional habitat protection criteriain Section 7. Some small projects do not need a floodplain development permit (see ACC 15.68.130(B) and (C)); ~~whereas other projects require a floodplain permit, but do not require the habitat impact assessment required in this chapter (see ACC 15.68.130(D));~~ 15.68.380). For all other development projects, the applicant must assess their impact on those

factors that contribute to increased flood hazard and degradation of habitat. If the assessment concludes that ~~there~~the project will ~~because~~ an adverse effect outside the Protected Area, the permit will be denied, unless the project ~~is redesigned to mitigate the adverse effects~~impacts are mitigated (avoided, minimized, restored or compensated for).

Article II. Definitions

15.68.050 Penalties for Noncompliance.

No development shall be undertaken or placed in the areas regulated by this ordinance without full compliance with the terms of this ordinance and other applicable regulations of the City. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be enforced pursuant to the provisions of Chapter 1.25 ACC.

15.68.060 Interpretation of language.

In the interpretation and application of this ordinance, all provisions shall be:

A. Considered as minimum requirements;

B. _____ Liberally construed in favor of the City; and.

~~B.C. _____~~ Deemed neither to limit nor repeal any other powers granted under state statutes;

15.68.070 Abrogation and greater restrictions Regulation Conflicts

~~This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction~~
Where this ordinance and another code, or ordinance, conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

15.68.080 Warning and Disclaimer of Liability.

The degree of property and habitat protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods and movement of channels outside of mapped channel migration areas may occur on rare occasions. Flood heights may be increased by ~~manmade~~unnatural or natural causes. This ordinance does not imply that land outside the regulated areas or development permitted within such areas will be free from flood or erosion damage. This ordinance shall not create liability on the part of the City, any officer or employee thereof, for any damage to property or habitat that results from reliance on this ordinance or any administrative decision lawfully made ~~thereunder.~~

15.68.090 Severability

The provisions and sections of this ordinance shall be deemed separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

Section 2. Definitions

15.68.100 Definitions.

Unless specifically defined ~~in this article, words below, terms~~ or phrases used in this ~~chapter ordinance~~ shall be interpreted so as to give them the meaning they have in common usage and to give this ~~chapter ordinance~~ its most reasonable application.

A. ~~15.68.060~~ Definitions.

B. ~~As used in this chapter:~~

C. ~~1.~~ “Adversely affect/adverse effect” means effects that are a direct or indirect result of the proposed action or its interrelated or interdependent actions and the effect is not discountable, insignificant, or beneficial, ~~where:~~

D. ~~1. a.~~ Discountable effects are extremely unlikely to occur; ~~and~~

E. ~~b.~~ Insignificant effects relate to the size of the impact and should never reach the scale where a take occurs. Based on best judgment, a person would not: 1) be able to meaningfully measure, detect, or evaluate insignificant effects, or 2) expect discountable effects to occur.

F.A. ~~2.~~ Beneficial effects are contemporaneous positive effects without any adverse effects. In the event that the overall effect of the proposed action is beneficial, but is also likely to cause some adverse effects, then the proposed action is considered to result in an adverse effect.

B. ~~1.~~ “Alteration of watercourse” means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

C. ~~2.~~ “Appurtenant Structure” means a structure which is on the same parcel as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

D. ~~3.~~ “Area of shallow flooding” means a designated zone AO, AH, AR/AO or AR/AH (or VO) on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. Also referred to as the sheet flow area.

E. ~~4.~~ “Area of special flood hazard” means the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as zone A, AO, AH, A1-30, AE, A99, AR (V, VO, V1-30, VE). “Special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

F. ~~5.~~ “ASCE 24” means the most recently published version of ASCE 24, Flood Resistant Design and Construction, published by the American Society of Civil Engineers.

G. ~~6.~~ “Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. Also (also referred to as the “100-year flood”). The area subject to the base flood is the special flood hazard area (SFHA), designated on flood insurance rate maps as Zone A, including AE, AO, AH, and A1—99.

H. ~~7.~~ “Base flood elevation” means the elevation of the base flood above the datum of the effective FIRM.

~~I.H. 1. The base flood elevation for the SFHAs of the city shall be as delineated on the 100-year flood profiles in the flood insurance study to which floodwater is anticipated to rise during the base flood for the city.~~

~~J. 2. The base flood elevation for each SFHA delineated as a Zone AH or Zone AO shall be that elevation (or depth) delineated on the flood insurance rate map. Where base flood depths are not available in Zone AO, the base flood elevation shall be considered to be two feet above the highest grade adjacent to the structure.~~

~~K. 3. Where base flood elevation data are not provided on the flood insurance study for the city, base flood elevation data available from a federal, state, or other authoritative source shall be used, if available. Where base flood elevation data are not available from other authoritative sources, applicants for approval of new subdivisions and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall include such data with their permit applications. This data must be approved by the floodplain administrator.~~

~~L.I. D.~~ “Basement” means any area of the structure having its floor subgrade (below ground level) on all sides.

~~J. E.~~ “Building Code” means the currently effective versions of the International Building Code and the International Residential Code adopted by the Washington State Legislature and any further amendments adopted by the City of Auburn.

~~M.K.~~ “Channel ~~migration area~~” “Migration Zone” (CMZ) means the area within the lateral extent of likely stream channel movement due to stream bank destabilization and erosion, rapid stream incision, aggradation, avulsions, and shifts in location of stream channels ~~plus 50 feet.~~

1. ~~4.~~ The channel migration area shall be the total area occupied by the river channel, the severe channel migration hazard area, and the moderate channel migration hazard area as delineated in the Green River Channel Migration Study published by King County dated December 1993 plus 50 feet.

~~2. Where more than one channel migration zone has been delineated, the floodplain administrator shall use the delineation that has been adopted for other local regulatory purposes.~~

~~2. F.~~ The channel migration area shall be the total area occupied by the river channel, the severe channel migration hazard area, and the moderate channel migration hazard area as delineated in the Channel Migration Zone Delineation for the Middle Green River, RM 31.10 to 33.25 dated December 28, 2018 plus 50-feet which supersedes the study referenced above.

3. A site specific channel migration delineation may also be performed per the Washington State Department of Ecology’s current requirements with recommended setbacks (A Framework for Delineating Channel Migration Zones) prepared by a qualified engineer. The delineation shall be prepared by a qualified consultant as that term is defined in these regulations. The city may retain a qualified consultant paid for by the applicant to review and confirm the applicant’s reports, studies and plans if the following circumstances exist:

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

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

~~N.L.~~ N.L. “Critical facility” means a facility necessary to protect the public health, safety and welfare during a flood. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency operations installations, water and wastewater treatment plants, electric power stations, and installations which produce, use, or store hazardous materials or hazardous waste (other than consumer products containing hazardous substances or hazardous waste intended for household use).

~~O.M.~~ G. “Development” means any ~~manmade~~human-made change to improved or unimproved real estate ~~in the regulatory floodplain~~, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard, ~~subdivision of land, removal of more than five percent of the native vegetation on the property, or alteration of natural site characteristics.~~

~~P.N.~~ H. “Dry floodproofing” means any combination of structural and nonstructural measures that prevent flood waters from entering a structure.

~~Q.O.~~ I. “Elevation ~~certificate~~Certificate” means an administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F). ~~the official form (FEMA Form 81-31) used to provide elevation information necessary to ensure compliance with provisions of this chapter and determine the proper flood insurance premium rate.~~

~~R.~~ J. “Equivalent elevation” means ~~having similar relationship to ordinary high water and to the best available 10-year, 50-year and 100-year water surface profiles.~~

~~P.~~ K. “Essential Facility” has the same meaning as “Essential Facility” defined in ASCE 24. Table 1-1 in ASCE 24-14 further identifies building occupancies that are essential facilities.

~~S.Q.~~ F. “FEMA” means the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

~~T.~~ L. “Fish and wildlife habitat conservation area” means ~~lands needed to maintain species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. These areas are designated by the city pursuant to the Washington State Growth Management Act (WAC 365-190-080).~~

~~U.R.~~ M. “Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. ~~—~~ — The overflow of inland or tidal waters; and/or
2. ~~—~~ — The unusual and rapid accumulation of runoff of surface waters from any source.
3. ~~N. 3.~~ N. 3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph ~~(a)~~ (2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
4. — The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or

by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)(i) of this definition.

S. "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of ~~mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a Flood Insurance Study (FIS).~~

~~V.T.~~ "Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administration ~~has delineated both the areas of special flood hazard~~ Special Flood Hazard Areas ~~and the risk premium zones applicable to the community.~~

~~W.U.~~ O. "Flood insurance study (FIS)" See "Flood Elevation Study" ~~means the official report(s) provided by the Federal Insurance Administration that includes flood profiles, the flood insurance rate map, and the water surface elevation of the base flood.~~

V. ~~P.~~ "Floodplain or flood prone area" means any land area susceptible to being inundated by water from any source. See "Flood or flooding."

W. "Floodplain administrator" means the community official designated by title to administer and enforce the floodplain management regulations.

X. "Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

~~X.Y.~~ "Flood protection elevation (FPE)" means the elevation above the datum of the effective FIRM to which new and substantially improved structures must be protected from flood damage.

~~Y.Z.~~ Q. "Floodway" means the channel of a riverstream or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to the "Regulatory Floodway one foot. The floodway shall be as delineated on the flood insurance rate map. Where floodway data are not provided on the flood insurance study for the city, floodway data available from a federal, state, or other authoritative source shall be used, if available. Where floodway data is not available from another authoritative source, applicants for approval of new subdivisions and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall include such data with their permit applications. This data must be approved by the floodplain administrator. This provision does not apply to applications for permits for small projects on large lots, such as constructing a single family home.

AA. R. "Functionally Dependent Use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

BB. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

~~Z.~~ CC. "Historic structure" means any structure that is:

1. ~~—Is listed on~~ Listed individually in the National Register of Historic Places, ~~the Washington Heritage Register, or the Washington Heritage Barn Register, or has been designated a landmark or been issued (a certificate of appropriateness under the city's historic preservation ordinance listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;~~
2. ~~—Has been certified to contribute~~ Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district, or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. ~~S.~~ —Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior in states without approved programs.

~~AA-DD.~~ “Hyporheic zone” means a saturated layer of rock or sediment beneath and/or adjacent to a stream channel that contains some proportion of channel water or that has been altered by channel water infiltration.

~~BB-EE. T.~~ “Impervious surface” means a ~~hard~~ non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

~~CC-FF. U.~~ “Lowest floor” means the lowest floor of the lowest enclosed area (including basement) ~~measured at the walking surface of the floor.~~ An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area is not considered a building's lowest floor as long as provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found in ACC 15.68.170(A)(7): (i.e. provided there are adequate flood ventilation openings).

~~DD-GG. V.~~ “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when ~~connected~~ attached to the required utilities. ~~For floodplain management purposes, the term “manufactured home” also includes park trailers, travel trailers, and other similar recreational vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the~~ The term “manufactured home” does not include ~~park trailers, travel trailers, and other similar a~~ “recreational vehicles. vehicle.”

~~EE-HH. W.~~ “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

~~II.~~ ~~X.~~ “Market value” shall mean the current assessed value as established by the most recent tax roll of the county assessor in which the property is located. An applicant may, at applicant’s expense, provide an appraisal to determine market value.

~~FF-JJ.~~ “Mean Sea Level” means for purposes of the National Flood Insurance Program, the vertical datum to which Base Flood Elevations shown on a community’s Flood Insurance Rate Map are referenced.

~~GG-KK.~~ ~~Y.~~ “Native vegetation” means plant species that are indigenous to the community’s area and that reasonably could be expected to naturally occur on the site.

~~HH-LL.~~ ~~Z.~~ “Natural floodplain functions” means the contribution that a floodplain makes to support habitat, including, but not limited to, providing flood storage and conveyance, reducing flood velocities, reducing sedimentation, filtering nutrients and impurities from runoff, processing organic wastes, moderating temperature fluctuations, and providing breeding and feeding grounds, shelter, and refugia, for aquatic or riparian species.

~~II-MM.~~ ~~AA.~~ “New construction” means for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of the ordinance adopted by a community and includes any subsequent improvements to such structures codified in this chapter.

~~NN.~~ ~~BB.~~ “Principal Structure” means a structure in which the principal use of the lot on which it is located is conducted.

~~JJ-OO.~~ “Protected area” means the lands that lie within the boundaries of the floodway, the riparian habitat ~~buffer~~ zone, and the channel migration area. ~~In riverine areas, where a floodway has not been designated in accordance with this chapter, the protected area is comprised of those lands that lie within the boundaries~~ Because of the riparian habitat zone, the channel migration area, and the SFHA impact that development can have on flood heights and velocities and habitat, special rules apply in the Protected Area.

~~PP.~~ ~~CC.~~ “Reasonably Safe from Flooding” means development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks and other reliable data known to the community. In unnumbered A zones where flood elevation information is not available and cannot be obtained by practicable means, reasonably safe from flooding means that the lowest floor is at least two feet above the Highest Adjacent Grade.

~~KK-QQ.~~ “Recreational vehicle” means a vehicle:

1. ~~—~~ Built on a single chassis; and,
2. ~~—~~ Four hundred square feet or less when measured at the largest horizontal projection; and,
3. ~~—~~ Designed to be self-propelled or permanently towable by ~~a~~ an automobile or light-duty truck; and,
4. ~~—~~ Designed primarily not for use as a permanent dwelling but as temporary living quarters for ~~recreation~~ recreational, camping, travel, or seasonal use.

~~LL. DD. “Regulatory floodplain” means the area of the special flood hazard area and all protected areas within the city of Auburn. It also includes newly designated special flood hazard areas and protected areas that are delineated pursuant to city law.~~

~~MM.RR.EE.~~ “Riparian” means of, adjacent to, or living on, the bank of a stream, lake, pond, sound, or other water body.

~~SS. FF.~~ “~~Riparian habitat zone~~“Riparian buffer zone” means the land located adjacent to streams, and other bodies of water, where the natural soil, hydrology, and native flora and fauna perform important ecological functions such as protecting the water body by filtering out pollutants, preventing erosion and sedimentation, stabilizing stream banks, and providing natural shade. They are often thin lines-of-green containing native grasses, flowers, shrubs and trees that line the banks of streams and other bodies of water. The riparian buffer zone for the Puget Sound Biological Opinion applies only to areas mapped within the Special Flood Hazard Area, unless the area is undeveloped with predominately native vegetation that have benefits to endangered species, in which case the regulations for riparian habitat zones shall apply.

~~NN.TT.~~ “Riparian Habitat Zone” means the water body and adjacent land areas that are likely to support aquatic and riparian habitat ~~as detailed in this chapter. The size and location of the riparian habitat zone is dependent on the type of water body. The riparian habitat zone includes the water body and adjacent lands, measured perpendicularly from ordinary high water on both sides of the water body:.~~

~~OO.~~ 1. Marine and lake shorelines and Type S streams that are designated “shorelines of the state”: 250 feet.

~~PP.~~ 2. Type F (fish bearing) streams greater than five feet wide and marine shorelines: 200 feet.

~~QQ.~~ 3. Type F streams less than five feet wide and lakes: 150 feet.

~~RR.~~ 4. Type N (nonsalmonid bearing) perennial and seasonal streams with unstable slopes: 225 feet.

~~SS.~~ 5. All other Type N (nonsalmonid bearing) perennial and seasonal streams: 150 feet.

~~TT.~~ In addition, the riparian habitat zone may include additional land areas that the floodplain administrator determines are likely to support aquatic and riparian habitat.

UU. ~~GG.~~ “Special flood hazard area (SFHA)” means the land subject to inundation by the base flood. Special flood hazard areas are ~~identified by the Federal Emergency Management Agency in the scientific and engineering reports entitled “Flood Insurance Study for King County, Washington and Incorporated Areas,” dated April 19, 2005, and any revisions thereto, and “Flood Insurance Study for Pierce County, Washington and Unincorporated Areas,” dated August 19, 1987, and any revisions thereto, and designated on associated flood insurance rate maps with the letter A, including AE, AO, AH, A1—99, designated on Flood Insurance Rate Maps with the letters “A” or “V” include AE (floodway), AO, AH, A1-99 and VE. The Special Flood Hazard Area is also referred to as the area of special flood hazard or SFHA.~~

VV. ~~HH.~~ “Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before was within 180 days of the permit’s expiration date of the permit. The “actual start” means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.—Permanent construction does

not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the “actual start of construction” means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

WW. ~~II.~~ “Structure” means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

XX. ~~JJ.~~ “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

YY. ~~KK.~~ “Substantial improvement” ~~or “substantially improved”~~ means any ~~repair,~~ reconstruction, rehabilitation, addition, replacement or improvement of a structure, the cost of which equals or exceeds 50 percent of the ~~market value of such structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage, regardless of the actual repair work done~~ market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed.

The term does not, however, include either:

- ~~1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or~~
- ~~2. Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” listed on the National Register of Historic Places or a State Inventory of Historic Places.~~

ZZ. ~~LL.~~ “Variance” means a grant of relief from the requirements of this ~~chapter ordinance~~ chapter ordinance which permits construction in a manner that would otherwise be prohibited by this ~~chapter ordinance~~.

~~AAA. MM.~~ “Violation” means the failure of a structure or other development to be constructed or implemented in conformance with the community’s applicable floodplain development regulations.

~~AAA.BBB.~~ “Water typing” means a system for classifying water bodies according to their size and fish habitat characteristics. The Washington Department of Natural Resources Forest Practices Water Typing Classification System is hereby adopted by reference. The system defines four water types:

- ~~1. Type “S” – Shoreline: Streams that are designated “shorelines of the state,” including marine shorelines.~~
- ~~2. Type “F” – Fish: Streams that are known to be used by fish or meet the physical criteria to be potentially used by fish.~~
- ~~3. Type “NP” – Non-fish perennial streams.~~
- ~~4. Type “NS” – Non-fish seasonal streams.~~

~~BBB.CCC. NN.~~ “Zone” means one or more areas delineated on the FIRM. The following zones may be used on the adopted FIRM. The special flood hazard area is comprised of the A ~~Zone and V Zones.~~

1. ~~2.~~ A: SFHA where no base flood elevation is provided.
2. ~~3.~~ A#: Numbered A zones (e.g., A7 or A14), SFHA with a base flood elevation.
3. ~~4.~~ AE: SFHA with a base flood elevation.
4. ~~5.~~ AO: SFHA subject to inundation by shallow flooding usually resulting from sheet flow on sloping terrain, with average depths between one and three feet. Average flood depths are shown.
5. ~~6.~~ AH: SFHA subject to inundation by shallow flooding (usually areas of ponding) with average depths between one and three feet. Base flood elevations are shown.
6. ~~7.~~ B: The area between the SFHA and the 500-year flood of the primary source of flooding. It may also be an area with a local, shallow flooding problem or an area protected by a levee.
7. ~~8.~~ C: An area of minimal flood hazard, as above the 500-year flood level of the primary source of flooding. B and C zones may have flooding that does not meet the criteria to be mapped as a special flood hazard area, especially ponding and local drainage problems.
8. ~~9.~~ D: Area of undetermined but possible flood hazard.
9. ~~10.~~ X: The area outside the mapped SFHA with a low risk of flooding.
10. ~~11.~~ Shaded X: An area of moderate risk of flooding from the base flood, and defined as:
 - a. areas of shallow (i.e., less than 1 foot) flooding;
 - b. 0.2% chance (or 500-year) flooding;
 - c. has a drainage area less than 1 sq. mile; or
 - d. areas protected by a levee. The same as a Zone B, in subsection (NN)(6) of this section.

Article III. General Provisions

Section 3. Regulatory Data

15.68.070 Land 110 Area to which this chapter applies be Regulated.

This chapter shall apply to the regulatory floodplain. The area to be regulated is comprised of the Special Flood Hazard Area and all Protected Areas within the Special Flood Hazard Area within the jurisdiction of the city. (See the city City of Auburn regulatory floodplain map on file in the office of the city clerk.) The term also includes areas delineated pursuant to the provisions of Chapter 1.25 ACG. Section 15.68.150.

15.68.120 Special Flood Hazard Area.

Basis for Establishing the Areas of Special Flood Hazard

A. The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for King County Washington and Incorporated Areas" dated August 19, 2020, and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRMs) dated August 19, 2020, and any revisions thereto, as well as the special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Pierce County Washington and Incorporated Areas" dated March 7, 2017, and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRMs) dated March 7, 2017, and any revisions

thereto, are hereby adopted by reference and declared to be a part of this ordinance. The FIS and the FIRM are on file at 1 East Main St, Auburn, WA 98001.

A.B. The best available information for flood hazard area identification as outlined in Section 15.68.130(D) shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under Section 15.68.130(D).

B. ~~15.68.110 Interpretation.~~

C. ~~In~~ Upon receipt of a floodplain development permit application, the floodplain administrator or designee shall compare the elevation of the site to the base flood elevation.

C.D. The floodplain administrator or designee shall inform the applicant that the project may still be subject to the flood insurance purchase requirements unless the owner receives a Letter of Map Amendment (LOMA) from FEMA.

E. The floodplain administrator or designee shall make interpretations where needed, as to the exact locations of the boundaries of the SFHA and the Protected Area (e.g. where there appears to be a conflict between the mapped SFHA boundary and actual field conditions as determined by the base flood elevation and ground elevations) as it applies to proposed development. The applicant may appeal the floodplain administrator's or designee's interpretation and application of this chapter, of the location of the boundary to the Hearing Examiner for the City of Auburn.

15.68.130 Flood Hazard Data.

A. The base flood elevation for the SFHAs incorporated in 15.68.120(A) shall be utilized.

B. The Flood Protection Elevation (FPE) shall be the base flood elevation plus one (1) foot.

C. The floodway shall be as delineated on the Flood Insurance Rate Map.

D. Where base flood elevation and floodway data have not been provided in Special Flood Hazard Areas, the floodplain administrator or designee shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source.

15.68.140 Protected Area.

A. The Protected Area is comprised of those lands that lie within the boundaries of the floodway, the riparian ~~habitat~~ buffer zone, and the channel migration area.

B. In riverine areas, where a floodway has been designated in accordance with Sections 15.68.130-(C), 15.68.130-(D) or 15.68.150-(E), the Protected Area is comprised of those lands that lie within the boundaries of the riparian ~~habitat~~ buffer zone, the channel migration area, and the SFHA.

C. Riparian Buffer Zone: The riparian buffer zone includes those watercourses within the SFHA and adjacent land areas that are likely to support aquatic and riparian habitat.

1. The size and location of the riparian buffer zone is dependent on the type of water body. The riparian buffer zone includes the water body and adjacent lands, measured perpendicularly from ordinary high water mark on both sides of the water body:

a. Type S streams that are designated "shorelines of the State;"— 250 feet

- b. Type F streams (fish bearing) streams greater than 5 feet wide and marine shorelines:— 200 feet
- c. Type F streams less than 5 feet wide and lakes:— 150 feet
- d. Type N (nonsalmonid-bearing) perennial and seasonal streams with unstable slopes: 225 feet
- e. All other Type N (nonsalmonid-bearing) perennial and seasonal streams: -150 feet.

2. The riparian buffer zone shall be delineated on the site plan by the applicant at the time of application for subdivision approval or floodplain development permit for all development proposals within 300 feet of any stream or shoreline.

D. Channel Migration Area:

- a. The channel migration area shall be the channel migration zone as defined in Section 15.68.100(K).
- b. Where more than one channel migration zone has been delineated, the floodplain administrator or designee shall use the delineation that has been adopted for other local regulatory purposes.
- a-c. Where a channel migration zone has not yet been mapped, the provisions shall be of Section 15.68.150-(D) shall apply at the time of permit application.

15.68.150 New Regulatory Data.

A. All requests to revise or change the flood hazard data, including requests for a Letter of Map Revision and a Conditional Letter of Map Revision shall be reviewed by the floodplain administrator or designee.

- 1. The floodplain administrator or designee shall not sign the Community Acknowledgment Form for any requests based on filling or other development, unless the applicant for the letter documents that such filling or development is in compliance with this ordinance.
- 2. The floodplain administrator or designee shall not approve a request to revise or change a floodway delineation until FEMA has issued a Conditional Letter of Map Revision that approves the change.

B. If an applicant disagrees with the regulatory data prescribed by this ordinance, he/she may submit a detailed technical study needed to replace existing data with better data in accordance with FEMA mapping guidelines or *Regional Guidance for Hydrologic and Hydraulic Studies in Support of the Model Ordinance for Floodplain Management under the National Flood Insurance Program and Endangered Species Act* FEMA Region X, 2010. If the data in question are shown on the published FIRM, the submittal must also include a request to FEMA for a Conditional Letter of Map Revision.

C. Where base flood elevation data are not available in accordance with Section 15.68.130, applicants for approval of new subdivisions and other proposed developments (including proposals for manufactured home parks) greater than 50 lots or 5 acres, whichever is the lesser, shall include such data with their permit applications.

D. Where channel migration zone data are not available in accordance with 15.68.140(D), the permit applicant shall either:

- 1. Designate the entire SFHA as the channel migration zone or

2. Identify the channel migration area in accordance with *Regional Guidance for Hydrologic and Hydraulic Studies in Support of the Model Ordinance for Floodplain Management under the National Flood Insurance Program and Endangered Species Act* FEMA Region X, 2012.

E. All new hydrologic and hydraulic flood studies conducted pursuant to Section 15.68.150 shall be in accordance with *Regional Guidance for Hydrologic and Hydraulic Studies in Support of the Model Ordinance for Floodplain Management under the National Flood Insurance Program and the Endangered Species Act*, FEMA, Region X, 2010.

F. The floodplain administrator shall use the most restrictive data available prepared specifically for the project site for the channel migration zone, floodways, future conditions, and riparian buffer zone.

Section 4. Administration

15.68.160 Establishment of Floodplain Development Permit

A floodplain development permit shall be obtained before construction or development begins within the Special Flood Hazard Area (SFHA) or Protected Area. The permit shall be for all development as set forth in

15.68.170 Floodplain Development Permit Application.

Applications for a floodplain development permit shall be made using the criteria outlined in the Floodplain Development Application Packet available for download at www.auburnwa.gov/forms. At a minimum, the following information is required.

A. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the Floodplain Administrator.

B. Proposed elevation in relation to mean sea level to which any structure will be flood proofed;

C. Where a structure is to be flood proofed, certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet flood proofing criteria in Section 5;

D. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;

E. Where development is proposed in a floodway, an engineering analysis indicating no rise of the Base Flood Elevation; and

F. Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.

15.68.180 Floodplain Development Permit Expiration.

If there has been no start of construction, a floodplain development permit shall expire 180 days after the date of issuance. Where the applicant documents a need for an extension beyond this period due to conditions beyond the applicant's control, the floodplain administrator ~~A.~~ or designee may authorize one or more extensions.

15.68.190 Designation of the Floodplain Administrator.

The Director of Community Development is hereby appointed to administer, interpret, implement, and enforce this ordinance by granting or denying floodplain development permit applications in accordance with its provision. The Director of Community Development may designate administration of portions or all of this ordinance to a qualified person.

15.68.200 Duties of the Floodplain Administrator.

Duties of the floodplain administrator or designee shall include, but are not limited to:

- A. Review all floodplain development permits to determine that the permit requirements of this ordinance have been satisfied.
- B. Review all floodplain development permits to determine that all necessary permits have been obtained from those Federal, State or local government agencies from which prior approval is required, including those local, State or Federal permits that may be required to assure compliance with the Endangered Species Act and/or other appropriate State or Federal laws.
- C. Review all floodplain development permits to determine if the proposed development is located in the Protected Area. If located in the Protected Area, ensure that the provisions of Section 7 are met.
- D. Ensure that all development activities within the Special Flood Hazard Area of the jurisdiction of the City meet the requirements of the ordinance.
- E. Inspect all development projects before, during and after construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.
- F. Maintain for public inspection all records pertaining to the provisions of this ordinance.
- G. Submit reports to include the projects for which they issue floodplain development permits, including effects to flood storage, fish habitat, and all indirect effects of development and mitigation provided to FEMA as required by the National Flood Insurance Program.
- H. Notify FEMA of any proposed amendments to this ordinance and when annexations occur in the Special Flood Hazard Area.
- I. Ensure the proposed development is not located in the floodway. If located in the floodway, assure the encroachment provisions of Section 15.68.410 are met
- J. Cooperate with State and Federal agencies to improve flood and other technical data and notify FEMA of any new data that would revise the FIRM.
- K. Review all floodplain development permits to verify that proposed development will be reasonably safe from flooding.

15.68.210 Notification to Other Entities

Whenever a watercourse is to be altered or relocated:

- A. Notify adjacent communities and the Department of Ecology prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means, and
- B. Assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.

15.68.220 Records.

- A. Where base flood elevation data have been obtained pursuant to Section 15.68.130 and 15.68.150, the floodplain administrator or designee shall obtain, record, and maintain the actual "finished construction" elevations provided by the applicant for the locations listed in Section 15.68.170. This information shall be recorded on a current FEMA Elevation Certificate signed and sealed by a professional land surveyor, currently licensed in the State of Washington.
- B. For all new or substantially improved dry floodproofed nonresidential structures, where base flood elevation data has been obtained pursuant to Section 15.68.130 and 15.68.150, the floodplain administrator or designee shall obtain, record and maintain the elevation (in relation to the datum of the effective FIRM) to which the structure was floodproofed. This information shall be recorded on a current FEMA Floodproofing Certificate by a professional engineer currently licensed in the State of Washington.
- C. Certification required by Section 15.68.410 (floodway encroachments).
- D. Records of all variance actions, including justification for their issuance.
- E. Improvement and damage calculations.
- F. Maintain for public inspection all records pertaining to the provisions of this ordinance.

15.68.230 Certificate of Occupancy.

- A. A final grading and/or storm permit for the property, physical completion for City of Auburn Capital Improvement projects without a building, a certificate of occupancy (commercial building) or final building inspection (residential structure) for a new or substantially improved structure or an addition shall not be issued until:
1. The permit applicant provides a properly completed, signed and sealed Elevation or Floodproofing Certificate showing finished construction data as required by Section 15.68.220;
 2. If a mitigation plan is required by Sections 15.68.440 and 15.68.450, all work identified in the plan has been completed according to the plan's schedule;
 3. The applicant provides copies of all required Federal, State, and local permits noted in the permit application per Section 15.68.170;
 4. All other provisions of this ordinance and conditions placed on the floodplain development permit approval letter have been met.

15.68.240 ~~B. — Liberally construed in favor of the governing body;~~

~~C. — D. — Maps referred to in this chapter are for reference only, unless specified. If the map does not specifically indicate that it is the primary source of regulation, the text of the applicable code section shall control over any contrary information provided on a map. (Ord. 6295 § 2, 2010; Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2 (3.5), 1989.)~~

~~15.68.120 ——— Warning and disclaimer of liability.~~

~~The degree of property and habitat protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods and movement of channels outside of mapped channel migration areas can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter does not imply that land outside the regulated areas or development permitted within such areas will be free from flood or erosion damage. This chapter shall not create liability on the part of the city, any officer or employee thereof, for any damage to property or habitat that results from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 6295 § 2, 2010; Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(3.6), 1989.)~~

~~15.68.125 ——— Appeals.~~

- A. ~~The Hearing Examiner, as established by Chapter 2.46 of the Auburn City Code,~~ shall hear and decide appeals and requests for variances from the requirements of this ~~chapter ordinance.~~
- B. The Hearing Examiner shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator or designee in the enforcement or administration of this ~~chapter ordinance.~~
- C. Those aggrieved by the decision of the Hearing Examiner may appeal ~~such the~~ decision to the superior court: of the county in which the project is located pursuant to Section 2.46.160 of the Auburn City Code.
- D. Upon consideration of the factors of ~~this chapter~~Section 15.68.250 and the purposes of this ~~chapter ordinance~~, the ~~hearing examiner~~Hearing Examiner may attach such conditions to the granting of the variances ~~as~~ if the/she deems necessary to further the purposes of this ~~chapter ordinance.~~

~~Article IV. Administration~~

- E. The floodplain administrator or designee shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

~~15.68.130 ——— Establishment of and requirement to obtain floodplain~~**250 Variance Criteria.**

- A. In addition to the Criteria outlined in ACC 18.70.025, in reviewing applications for a variance, the Hearing Examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance; and:

- 1. The relationship of the proposed use to the comprehensive plan, growth management regulations, critical area regulations, the shoreline management program and floodplain management program for the area;
- 4.2. The potential of the proposed development permit project to destroy or adversely affect a fish and wildlife habitat conservation area or create an adverse effect to federal, state or locally protected species or habitat;

-
3. A. A floodplain development permit is the minimum necessary to grant relief; and,
- B. In addition to the Criteria outlined in ACC 18.70.025, no variance shall be obtained before granted to the requirements of this ordinance unless the applicant demonstrates that:
1. The project will not adversely affect features or quality of habitat supporting local, state or federally protected fish or wildlife;
- C. Variances may be requested for new construction or development begins, substantial improvements, and other development upon showing of good and sufficient cause and is minimum necessary, considering flood hazard, to afford relief provided:
- D. Variances shall only be issued:
1. Upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 2. For the repair, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;
 3. Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant;
 4. Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in Section 2 of this ordinance in the definition of "Functionally Dependent Use."
- E. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
- F. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the BFE, provided the procedures of Sections 4 and 5 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- G. In considering variance applications, the City of Auburn shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
1. The danger that materials may be swept onto other lands to the injury of others;
 2. The danger to life and property due to flooding or erosion damage;
 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 4. The importance of the services provided by the proposed facility to the community;
 5. The necessity to the facility of a waterfront location, where applicable;
 6. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
 7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 9. The safety of access to the property in time of flood for ordinary and emergency vehicles;
 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site;
 11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical, water system, and streets and bridges;
- H. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
1. The issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
 2. Such construction below the base flood elevation increases risks to life and property.
- I. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

Section 5. General Development Standards

The provisions of Section 5 shall apply in the Special Flood Hazard Area:

15.68.260 Development and Subdivision Proposals.

This section applies to all development proposals including commercial development, subdivisions, short subdivisions, preliminary subdivisions, binding site plans, and expansions to manufactured home parks as defined in Chapter 17.04 ACC.

- A. All development proposals shall be consistent with the need to minimize flood damage.
- B. All development proposals shall have utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to prevent flood damage.
- C. All development proposals shall have adequate drainage provided to avoid exposure to water damage.
- D. The proposed subdivision must have one or more new lots in the Special Flood Hazard Area set aside for open space use through deed restriction, easement, subdivision covenant, or donation to a public agency.
 1. In the Special Flood Hazard Area outside the Protected Area, zoning must maintain a low density of floodplain development.
 2. In the Special Flood Hazard Area outside the protected area in which the current zoning is less than 5 acres must maintain current zoning.
 3. The density of development in the portion of the development outside the Special Flood Hazard Area may be increased to compensate for the amount of land in the Special Flood Hazard Area preserved as open space in accordance with Chapter 17.25 ACC.
- E. If a parcel has a buildable site outside the Special Flood Hazard Area, it shall not be subdivided to create a new lot that does not have a buildable site outside of the Special Flood Hazard Area. This provision does not apply to tracts that are to be preserved as open space.

F. All development proposals shall ensure that all subdivisions have at least one access road connected to land outside the Special Flood Hazard Area with the surface of the road at or above the FPE wherever possible. -Additional access roads may be required based on the number of proposed lots per the current City of Auburn Engineering Design Standards.

G. The final recorded plat shall include a notice that part of the property is in the SFHA, riparian buffer zone and/or channel migration area, as appropriate.

H. BFE generation for all development proposals greater than 50 lots or 5 acres, whichever is the lesser.

15.68.270 Site Design.

A. Structures and other development shall be located to avoid flood damage or that adequately mitigates any identified impacts.

1. If a lot has a buildable site out of the Special Flood Hazard Area, all new structures shall be located in that area, when possible.

2. If a lot does not have a buildable site out of the Special Flood Hazard Area, all new structures, pavement, and other development must be sited in the location that has the least impact on habitat by locating the development as far from the water body as possible or by placing the structure on the highest portion of the lot.

3. A minimum setback of 15 feet from the Protected Area shall be required for all structures.

4. If the proposed project does not meet the criteria of Section 15.68.270(-A) through (B), a habitat impact assessment shall be conducted pursuant to Section 15.68.440 and, if necessary, a habitat mitigation plan shall be prepared and implemented pursuant to Section 15.68.450.

B. All new development shall be designed and located to minimize the impact on flood flows, flood storage, water quality and habitat.

1. Stormwater and drainage features shall incorporate low impact development techniques, if technically feasible, that mimic pre-development hydrologic conditions, such as stormwater infiltration, rain gardens, grass swales, filter strips, disconnected hard surface areas, permeable pavement, vegetative roof systems, etc. per the City's current SWMM per Chapter 12.04 ACC.

2. If the proposed project will create new hard surfaces so that more than 10 percent of the portion of the lot in the Special Flood Hazard Area is covered by hard surface, the applicant shall demonstrate that there will be no net increase in the rate and volume of the stormwater surface runoff per the maximum extent feasible and as required per the City's current SWMM per ACC 13.48 that leaves the site or that the adverse impact is mitigated, as provided in Sections 15.68.440 and 15.68.450.

C. The site plan required in Section 15.68.170— shall account for surface drainage to ensure that:

1. Existing and new buildings on the site will be protected from stormwater runoff; and

2. The project will not divert or increase surface water runoff onto neighboring properties.

15.68.280 Hazardous Materials.

A. No new development shall create a threat to public health, public safety or water quality. Chemicals, explosives, gasoline, propane, buoyant materials, animal wastes, fertilizers, flammable liquids, pollutants, or other materials that are hazardous, toxic, or a threat to water quality are prohibited from the Special Flood Hazard Area. This prohibition does not apply to small quantities of these materials kept for normal household use. This prohibition does not apply to the continued operations of existing facilities and structure, reuse of existing facilities and structures, or functionally dependent facilities or structures.

B. If the proposed project cannot meet Section 15.68.280(A) of this ordinance, then a habitat impact assessment must be conducted in accordance with Sections 15.68.440 and 15.68.450.

15.68.290 Critical Facilities.

A. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area.

B. Construction of new critical facilities in the Special Flood Hazard Area shall be permissible if no feasible alternative site is available, provided;

1. Critical facilities shall have the lowest floor elevated three feet above the base flood elevation or to the height of the 500-year flood, whichever is higher. If there is no available data on the 500-year flood, the permit applicants shall develop the needed data in accordance with FEMA mapping guidelines.~~B. A development project is not subject~~

1. ~~Access to and from the requirements of this chapter if it is located on land that can critical facility shall be shown to be:~~

2. ~~1. Outside the protected area; and~~

3. ~~2. Higher than to the elevation of the 500-year floodplain.~~ 2. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Section 6. Standards for Protection of Structures

15.68.300 Applicability.

The protection requirements in this section apply to all new structures and substantial improvements, which include:

A. Construction or placement of a new structure.

B. Reconstruction, rehabilitation, or other improvement that will result in a substantially improved building.

C. Repairs to an existing building that has been substantially damaged regardless of the actual repair work that is done .

D. Placing a manufactured home on a site.

E. Placing an occupied recreational vehicle or travel trailer on a site for more than 180 days.

15.68.310 Flood Protection Standards.

A. All new structures and substantial improvements shall have the lowest floor, including basement, elevated to or above the FPE.

B. New construction and substantial improvement of any residential structure in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.

C. The structure shall be aligned parallel with the direction of flood flows where practicable.

D. The structure shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.

E. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

F. All materials below the FPE shall be resistant to flood damage and firmly anchored to prevent flotation. Materials harmful to aquatic wildlife, such as creosote, are prohibited below the FPE.

G. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage

H. Electrical, heating, ventilation, duct work, plumbing, and air-conditioning equipment and other service facilities shall be elevated to or above the FPE. Water, sewage, electrical, and other utility lines (excluding storm drainage facilities) below the FPE shall be constructed so as to minimize water from entering or accumulating within them during conditioning of flooding.

I. Fully enclosed areas below the lowest floor that are subject to flooding shall be used only for parking, limited storage, or building access and shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by a registered professional engineer or licensed architect in the State of Washington and/or meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area not less than one square inch for every square foot of enclosed area subject to the flood insurance purchaseflooding shall be provided.
2. The bottom of all openings shall be no higher than one foot above grade.
3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
4. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of flood waters.

15.68.320 Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall— meet the requirements of subsection A or B below:

A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

1. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and

utilities shall be waterproofed or elevated least one foot above the BFE, or as required by ASCE 24, whichever is greater.

2. If located in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.

3. If buildings are constructed or substantially improved with fully enclosed areas below the lowest floor, that are subject to flooding, the areas shall be used only for parking, limited storage, or building access, and shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

a. Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

4. Alternatively, a registered engineer or architect may design and certify engineered openings.

B. If the requirements of Section 15.68.320(A) are not met, then new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

1. Together with attendant utility and sanitary facilities, be dry floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry floodproofed to the elevation required by ASCE 24, whichever is greater;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 15.68.220(B);

15.68.330 Manufactured Homes.

All manufactured homes to be placed or substantially improved on sites shall be:

A. Elevated on a permanent foundation in accordance with Section 15.68.310(A) and

B. Securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to other applicable anchoring requirements for resisting wind forces.

C. If manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.

15.68.340 Recreational Vehicles.

Recreational vehicles placed on sites shall:

- A. Be on the site for fewer than 180 consecutive days, or
- B. Be fully licensed and ready for highway use, on their wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached addition; or
- C. Meet the requirements of Section 15.68.340 and the anchoring requirements for manufactured homes in Section 15.68.330.

15.68.350 Appurtenant Structures.

A structure which is on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure and is not used for human habitation may be exempt from the elevation requirements of Section 15.68.310-(A), provided:

- A. It is used only for parking or storage;
- B. It is constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters;
- C. It is anchored to prevent flotation which may result in damage to other structures;
- D. ~~C. Nondevelopment~~ All portions of the structure below the FPE must be constructed of flood-resistant materials;
- E. Service utilities such as electrical and heating equipment meet the standards of Section 15.68.310(F) and Section 15.68.360;
- F. It has openings to allow free flowage of water that meet the criteria in Section 15.68.310(I);
- G. The project meets all the other requirements of this ordinance, including Section 7 and 15.68.410.

15.68.360 Utilities.

- A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- B. New water wells shall be located outside the floodway and shall be protected to the FPE;
- C. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the floodwaters;
- D. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. A habitat impact assessment shall be conducted in accordance with Section 15.68.440 as a condition of approval of an onsite waste disposal system to be located in the Special Flood Hazard Area.

Section 7. Standards for Habitat Protection

The provisions of this Section shall apply in the Special Flood Hazard Area and channel migration zone.

15.68.370 Non-Development Activities.

Activities that do not meet the definition of “development” ~~in this chapter~~ are allowed in the ~~regulatory floodplain~~ Special Flood Hazard Area and Protected Area without the need for a floodplain development permit under this ~~chapter ordinance~~, provided all other ~~federal, state,~~ Federal, State and local requirements are met. The following are examples of activities not considered development or ~~manmade~~ “unnatural” changes to improved or unimproved real estate:”

- A. ~~4.~~ 1.—Routine maintenance of landscaping that does not involve grading, excavation, or filling;
- B. ~~2.~~ 2.—Removal of noxious weeds and hazard trees and replacement of ~~nonnative~~ non-native vegetation with native vegetation;
- C. ~~3.~~ 3.—Normal maintenance of structures, such as re-roofing and replacing siding, ~~as long as provided~~ such work does not qualify as a substantial improvement;
- D. ~~4.~~ 4.—Normal maintenance of above ground ~~public~~ utilities and facilities, such as replacing downed power lines ~~and utility poles~~;
- E. ~~5.~~ 5.—Underground and above ground utility work located in previously disturbed areas, with no significant vegetation impacts, and will have no appreciable change in grade;
- E.F. ~~Normal street and road maintenance and preservation of public streets and private streets or parking lots (with approval of Floodplain Administrator), including, but not limited to filling potholes, patching, crack seal, chip seal, repaving, and installing signs and traffic signals, signs, traffic control devices, striping/channelization, pavement markings, repair/replacement of sidewalk/curb and gutter, ADA improvements, non-motorized improvements, repair of guardrails, repair of retaining walls, management of hazardous trees, fencing repair, lighting repair, but not including expansion of paved areas;~~
- G. ~~6.~~ 6.—Public street improvements with no significant vegetation impacts, and no appreciable change in grade;
- F.H. ~~Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility are allowed in the Special Flood Hazard Area without the need for a floodplain development permit. Normal maintenance does not include repair from flood damage, expansion of the prism, expansion of the face or the toe or addition for protection on the face or toe with rock armor; and~~
- G.I. ~~7.~~ 7.—Plowing and other normal ~~farm~~ flood protection practices (other than structures or filling) on farms in the Special Flood Hazard Area and in existence as of the effective date of ~~the~~ this ordinance ~~codified in this chapter do not require a floodplain development permit. Clearing additional land for agriculture after the date of this ordinance will require a floodplain development permit and a Habitat Assessment.~~

~~D.~~ 15.68.380 Activities Allowed with a Floodplain Development Permit.

The following activities are allowed in the ~~regulatory floodplain~~ Special Flood Hazard Area without the analysis required in ~~ACC 15.68.160(C)~~ Section 15.68.410 or the habitat impact assessment required under ~~ACC 15.68.135(J), providing~~ Section 15.68.440, provided that all other requirements of this ~~chapter ordinance~~ are met, including obtaining a floodplain development permit:

- A. ~~1.~~ Repairs or remodeling of an existing structure; ~~provided,~~ that the repairs or remodeling are not a substantial improvement or a repair of substantial damage; ~~provided further, that no habitat impact assessment shall be required if the repair or remodel does not expand the existing building envelope.~~
- B. ~~2.~~ Expansion or reconstruction of an existing structure that is no greater than ~~40~~ten percent beyond its existing footprint; ~~provided,~~ that the repairs or remodeling are not a substantial improvement or ~~a~~ repair of substantial damage. ~~This measurement is counted cumulatively from the effective date of the ordinance codified in this chapter.~~ If the structure is in the floodway, there shall be no change in the structure's dimensions perpendicular to flow and a no rise analysis and certification must be provided, even if the change in dimensions is parallel to flow.
- C. ~~3.~~ Activities with the sole purpose of creating, restoring or enhancing natural functions associated with floodplains, streams, lakes, estuaries, marine areas, habitat, and riparian areas that meet ~~federal~~Federal and ~~state~~State standards, provided the activities do not include structures, grading, fill, or ~~impervious~~hard surfaces.
- D. ~~4.~~ Development of open space and recreational facilities, such as parks, trails, and hunting grounds, that do not include structures, ~~grading,~~ fill, ~~impervious~~hard surfaces or removal of more than five percent of the native vegetation on that portion of the property in the ~~regulatory floodplain~~Special Flood Hazard Area.
- E. ~~E.~~ Repairs to onsite Septic Systems provided the ground disturbance is the minimum necessary and best management practices (BMP's) to prevent stormwater runoff and soil erosion are used.

15.68.390 Other Activities.

All other activities ~~not~~ listed in ~~subsection C~~Sections 15.68.370 or D of this section are 15.68.380 that are allowed, ~~as long as by Title 18 (Zoning) of the Auburn City Code are allowed, provided~~ they meet all the other requirements of this ~~chapter ordinance~~, including the analysis required ~~in ACC 15.68.160 under Section~~ 15.68.420, 15.68.430, and the habitat impact assessment and any mitigation required under ACC 15.68.135(K) and (L) Section 15.68.440, and a floodplain development permit is issued.

15.68.400 Native Vegetation.

The site plan required in the Floodplain Development Application Packet- shall show existing native vegetation.

- A. Within the riparian buffer zone, native vegetation shall be left undisturbed, except as provided in Sections 15.68.370 and 15.68.380(C).
- B. Outside the riparian buffer zone, removal of native vegetation shall not exceed 35 percent of the surface area of the portion of the site in the Special Flood Hazard Area. Native vegetation in the riparian buffer zone portion of the property can be counted toward this requirement.
- C. If the proposed project does not meet the criteria of Sections 15.68.400(A) and (B), a habitat impact assessment shall be conducted pursuant to Section 15.68.440 and, if necessary, a habitat mitigation plan shall be prepared and implemented pursuant to Section 15.68.450.

15.68.410 Floodway Standards.

A. In addition to the other requirements of this ordinance, a project to develop in the floodway as delineated pursuant to Sections 15.68.130(C), 15.68.130(D) or 15.68.150(E) shall meet the following criteria:

1. The applicant shall provide a certification by a registered professional engineer licensed in the State of Washington demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed development would not result in any increase in flood levels during the occurrence of the base flood discharge.

2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for the following. The following exceptions must still meet all other requirements in the ordinance, including Section 15.68.410-(A)(-1).

a. Repairs, reconstruction, or improvements to a residential structure that do not increase the ground floor area, providing the cost of which does not exceed 50 percent of the market value of the structure either, (1) before the repair, or reconstruction is started, or (2) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications that have been identified by a local code enforcement official, and which are the minimum necessary to assure safe living conditions, or to an historic structure, may be excluded from the 50 percent calculation;

b. Repairs, reconstruction, replacement, or improvements to existing farmhouse structures located in designated floodways and that are located on lands designated as agricultural lands of long-term commercial significance under RCW 36.70A.170 may be permitted subject to the following:

i. The new farmhouse is a replacement for an existing farmhouse on the same farm site;

ii. There is no potential building site for a replacement farmhouse on the same farm outside the designated floodway;

iii. Repairs, reconstruction, or improvements to a farmhouse shall not increase the total square footage of encroachment of the existing farmhouse;

iv. A replacement farmhouse shall not exceed the total square footage of encroachment of the farmhouse it is replacing;

v. A farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within ninety days after occupancy of a new farmhouse;

vi. For substantial improvements and replacement farmhouses, the elevation of the lowest floor of the improvement and farmhouse respectively, including basement, is a minimum of one foot higher than the BFE;

vii. New and replacement water supply systems are designed to eliminate or minimize infiltration of floodwaters into the system;

viii. New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of floodwater into the system and discharge from the system into the floodwaters; and

ix. All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

c. For all substantially damaged residential structures, other than farmhouses, located in a designated floodway, the Floodplain Administrator may make a written request that the Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the local permitting authority repair, replacement, or relocation of a substantially damaged structure consistent with WAC 173-158-076. The property owner shall be responsible for submitting to the local government and the Department of Ecology any information necessary to complete the assessment. Without a favorable recommendation from the department for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed per WAC 173-158-070(1).

d. Before the repair, replacement, or reconstruction is started, all requirements of the NFIP, the state requirements adopted pursuant to 86.16 RCW, and all applicable local regulations must be satisfied. In addition, the following conditions must be met:

i. There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway.

ii. A replacement residential structure is a residential structure built as a substitute for a legally existing residential structure of equivalent use and size.

iii. Repairs, reconstruction, or replacement of a residential structure shall not increase the total square footage of floodway encroachment.

iv. The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the BFE.

v. New and replacement water supply systems are designed to eliminate or minimize infiltration of floodwater into the system.

vi. New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of floodwater into the system and discharge from the system into the floodwaters.

vii. All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

e. Repairs, reconstruction, or improvements to residential structures identified as historic structures that do not increase the building's dimensions.

B. In riverine Special Flood Hazard Areas where a floodway has not been delineated pursuant to Sections 15.68.130(C), 15.68.130(D) or 15.68.150(E), the applicant for a project to develop in the SFHA shall

provide a certification by a registered professional engineer in the State of Washington demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed development and all other past or future similar developments would not cumulatively result in an increase of flood levels during the occurrence of the base flood discharge by more than one-half foot.

15.68.420 Standards for Shallow Flooding Areas (AO Zones)

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In addition to other provisions in this code, the following additional provisions also apply in AO zones.

A. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement and mechanical equipment) elevated above the highest adjacent grade to the structure, one foot or more above the depth number specified in feet on the community's FIRM (at least two feet above the highest adjacent grade to the structure if no depth number is specified).

B. New construction and substantial improvements of nonresidential structures within AO zones shall either:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or

2. Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer, or architect as in Section 15.68.310(I).

C. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

D. Recreational vehicles placed on sites within AO zones on the community's FIRM either:

1. Be on the site for fewer than 180 consecutive days, or

2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

3. Meet the requirements of subsections (1) and (3) above and the anchoring requirements for manufactured homes (Section 15.68.330(B)).

15.68.430 Compensatory Storage.

New development shall not reduce the effective flood storage volume of the Special Flood Hazard Area. A development proposal shall provide compensatory storage if grading or other activity eliminates any effective flood storage volume. Compensatory storage shall:

~~15.68.135 — Floodplain development permit application.~~

~~Application for a floodplain development permit shall be made on forms furnished by the floodplain administrator and shall include, but not be limited to:~~

~~A. One or more site plans, drawn to scale, showing:~~

- ~~1. The nature, location, dimensions, and Provide equivalent volumes at equivalent elevations of the property in question;~~
- ~~2. Names and location of all lakes, to that being displaced. For this purpose, "equivalent elevation" means having similar relationship to ordinary high water bodies, waterways mark and drainage facilities within 300 feet of the site;~~
- ~~3. The elevations of the 10-, 50-, 100-, and 500-year floods, where the data are best available. Additionally, for property located within the SFHA, base flood elevations shall be included as required in ACC 15.68.060(C)(3);~~
- ~~4. The boundaries of the regulatory floodplain, SFHA, floodway, riparian habitat zone, and channel migration area, delineated in accordance with this chapter;~~
- ~~5. The proposed drainage system including, but not limited to, storm sewers, overland flow paths, detention facilities and roads;~~
- ~~6. Existing and proposed structures, fill, pavement and other impervious surfaces, and sites for storage of materials;~~
- ~~7. All wetlands;~~
- ~~8. Designated fish and wildlife habitat conservation areas; and~~
- ~~9. Existing native vegetation and proposed revegetation (see ACC 15.68.161(D)).~~
- ~~B. If the proposed project involves regrading, excavation, or filling, the site plan shall include proposed post-development terrain at one-foot contour intervals.~~
- ~~C. If the proposed project includes a new structure, substantial improvement, or repairs to a substantially damaged structure that will be elevated, the application shall include the FPE for the building site 10-year, 50-year and the proposed elevations of the following:~~
 - ~~1. The top of bottom floor (including basement, crawlspace, or enclosure floor);~~
 - ~~2. The top of the next higher floor;~~
 - ~~3. The top of the slab of an attached garage;~~
 - ~~4. The lowest elevation of machinery or equipment servicing the structure;~~
 - ~~5. The lowest adjacent (finished) grade next to structure;~~
 - ~~6. The highest adjacent (finished) grade next to structure;~~
 - ~~7. The lowest adjacent grade at the lowest elevation of a deck or stairs, including structural support.~~
- ~~D. If the proposed project includes a new structure, substantial improvement, or repairs to a substantially damaged nonresidential structure that will be dry floodproofed, the application shall include the FPE for the~~

~~building site and the elevation in relation to the datum of the effective FIRM to which the structure will be dry floodproofed and a certification by a registered professional engineer or licensed architect that the dry floodproofing methods meet the floodproofing criteria in this chapter.~~

~~A. E. The application shall include a description of the extent to which a stream, lake, or other 100-year water body, including its shoreline, will be altered or relocated as a result of the proposed developmentsurface profiles.~~

~~B. Be hydraulically connected to the source of flooding.~~

~~C. Provide compensatory storage in the same construction season as when the displacement of flood storage volume occurs and before the flood season begins.~~

~~D. The newly created storage area shall be graded and vegetated to allow fish access during flood events without creating fish stranding sites.~~

~~F. The application shall include documentation that the applicant will apply for all necessary permits required by federal, state, or local law. The application shall include acknowledgment that the applicant understands that the final certificate of occupancy will be issued only if the applicant provides copies of the required federal, state, and local permits or letters stating that a permit is not required.~~

~~G. The application shall include acknowledgment by the applicant that representatives of any federal, state or local unit of government with regulatory authority over the project are authorized to enter upon the property to inspect the development.~~

~~H. The riparian habitat zone shall be delineated on the site plan by the applicant at the time of application for subdivision approval or floodplain development permit for all development proposals within 300 feet of any stream or shoreline.~~

~~I. If the project is located in the regulatory floodplain and includes activities not listed in ACC 15.68.130(C) and (D), the application shall include a habitat impact assessment. If that assessment determines that impacts would result from the project, the application shall also include a habitat mitigation plan.~~

J. 15.68.440 Habitat Impact Assessment.

Unless allowed under ~~ACC 15.68.130(C) or (D)~~, Sections 15.68.370 and 15.68.380, a permit application to develop in the ~~regulatory floodplain~~Special Flood Hazard Area shall include an assessment of the impact of the project on federal, state or locally protected species and habitat, water quality and aquatic and riparian habitat.

The assessment shall be:

~~A. 1. A biological evaluation~~A Biological Evaluation ~~or biological assessment that has received concurrence from the U.S. Fish and Wildlife Service~~Biological Assessment developed per 50 C.F.R., Subsection 402.12 to initiate Federal Interagency consultation under Endangered Species Act Section 7.a.2;

~~or,~~

~~A.B. Documentation that the National Marine Fisheries Service, pursuant to~~activity fits within ~~Section 74.d~~ of the Endangered Species Act; ~~or,~~

~~B.C. 2. Documentation that the activity fits within a habitat conservation plan~~Habitat Conservation Plan approved pursuant to Section 10 of the Endangered Species Act, where any such assessment has been prepared or is otherwise made available; ~~or~~

~~3. Documentation that the activity fits within Section 4(d) of the Endangered Species Act; or~~
~~G.D. 4. An assessment prepared in accordance with *Regional Guidance for Floodplain Habitat Assessment and Mitigation*, FEMA Region X, ~~2010~~2013. The assessment shall determine if the project would adversely affect:~~

- ~~1. a. Species that are Federal, state or local listed as threatened or endangered.~~
- ~~4.2. The primary constituent elements identified for critical habitat when a species is listed as threatened or endangered; delineated, including but not limited to water quality, water quantity, flood volumes, flood velocities, spawning substrate, and/or floodplain refugia for listed salmonids.~~
- ~~2.3. b. Essential fish habitat Fish Habitat designated by the National Marine Fisheries Service;~~
- ~~3.4. c. Fish and wildlife habitat conservation areas;~~
- ~~d. Vegetation communities and habitat structures;~~
- ~~e. Water quality;~~
- ~~f. Water quantity, including flood and low flow depths, volumes and velocities;~~
- ~~g. The channel's natural planform pattern and migration processes;~~
- ~~h. Spawning substrate, if applicable; and/or~~
- ~~i. Floodplain refugia, if applicable.~~
- ~~5. K. Other protected areas and elements necessary for species conservation.~~

15.68.450 Habitat Mitigation Plan.

A. ~~1. A.~~ If the assessment conducted under ~~subsection J of this section~~Section 15.68.440- concludes the project is expected to have an adverse effect on water quality and/or aquatic or riparian habitat or habitat ~~functions~~function, the applicant shall provide a plan to mitigate those impacts, in accordance with *Regional Guidance for Floodplain Habitat Assessment and Mitigation*, FEMA Region X, ~~2010~~2013.

- ~~1. a. For projects or those portions of a project located within the regulatory floodplain but outside of the protected area~~~~1. If the USFWS or NMFS issues an Incidental Take Permit under Section 10 of the Endangered Species Act or a Biological Opinion under Section 7 of the Endangered Species Act; then it can be considered to qualify as a plan to mitigate those impacts.~~
- ~~2. 2. If the project is located in the Protected Area, the mitigation plan shall stipulate avoidance measures as are needed to ensure that there is no adverse effect during any phase of the project. No compensatory mitigation is allowed in the Protected Area.~~
- ~~4.3. 3. If the project is located outside the Protected Area, the mitigation plan shall include such avoidance, minimization, restoration, or compensation measures as are appropriate to mitigate the adverse effects of the project so that indirect adverse effects of development are mitigated such that equivalent or better habitat protection is provided for the following functions:~~
 - ~~b. For projects or those portions of a project located within the protected area, the project shall be revised to include such appropriate measures as are needed to ensure that there is no adverse effect due to the project. Minimization measures are not allowed in the protected area, unless they, in combination with other measures, result in no adverse effect.~~

~~a. 2. a.~~ Stormwater: Reduce flood volumes and stormwater runoff from new development by ensuring that increased volumes of stormwater reach the river at the same frequency, timing and duration as historical runoff. Low Impact Development (LID) is required to be incorporated as described in Section 15.68.270(-B).

~~b. b.~~ Riparian Vegetation: Maintain or replace riparian function by providing equivalent area, diversity, and function of riparian vegetation as currently exists on the site. Riparian retention requirements are outlined in ACC 15.68.400.

~~c. c.~~ Hyporheic Zones:— No activity is allowed that interferes with the natural exchange of flow between surface water, groundwater and hyporheic zone, however, natural hyporheic exchange may be enhanced or restored.

~~d. d.~~ Wetlands: Wetland function must be maintained or replaced by providing equivalent function.

~~e. e.~~ Large Woody Debris: Any large woody debris (LWD) removed from the floodplain must be replaced in kind, replicating or improving the quantity, size, and species of the existing LWD per Washington Department of Fish and Wildlife Aquatic Habitat Guidelines.

~~4. 4.~~ No new stream crossings are allowed outside the Protected Area unless approval has been obtained as stated in Section 15.68.460-(A).

B. ~~B.~~ The plan's habitat mitigation activities shall be incorporated into the proposed project. The floodplain development permit shall be based on the redesigned project and its mitigation components.

~~C. L. C.~~ As required in Section 15.68.230, the floodplain administrator or designee shall not issue a certificate of occupancy or final permits until all work identified in the Habitat Assessment and mitigation plan has been completed or the applicant has provided the necessary assurance that unfinished portions of the project will be completed, in accordance with Section 15.68.230(-A).

~~C-D. D.~~ Third—Party Review. For the habitat impact assessment required in ~~Subsection J15.68.440 of this section~~ or the habitat mitigation plan required in ~~subsection K of this section~~, the city may require third-party review when the professional opinions of the applicant's representative and the city's reviewers cannot be reconciled. Third-party review requires the applicant's habitat impact assessment, habitat mitigation plan, and/or additional technical studies to be reviewed by an independent third party, paid for by the applicant but hired by the city. Third-party review shall be conducted by a qualified consultant as defined in the Floodplain Habitat Assessment and Mitigation Regional Guidance, FEMA Region X, ~~2010-2013~~.

~~15.68.136~~ Floodplain **460 Alteration of Watercourses and SFHA Boundaries.**

A. ~~A.~~ In addition to the other requirements in ~~Section~~Chapter 15.68, if a project will alter or relocate boundaries of the SFHA, then the applicant shall also submit a request for a Conditional Letter of Map Revision (CLOMR), where required by FEMA with engineering documentation and analysis regarding the proposed change. The project will not be approved unless FEMA issues the CLOMR (which requires Endangered Species Act consultation) and the provisions of the letter are made part of the permit requirements. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project

~~proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit-expiration. The project shall be constructed in a manner consistent with the approved CLOMR.~~

~~B. — If there has been no start of construction, a floodplain development permit shall expire 180 days after the date of issuance. Where the applicant documents a need for an extension beyond this period due to conditions beyond the applicant's control, the floodplain administrator may authorize one or more extensions.~~

~~C. — 15.68.140 — Designation of the floodplain administrator.~~

~~D. — The director of the planning and development department, or the director's designee, is hereby appointed to administer and implement this chapter by granting or denying B. If a CLOMR application is made, then the project proponent shall also supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit-applications in accordance with its provisions.~~

~~E. — 15.68.141 — Duties of the floodplain administrator.~~

~~F. — Duties of the floodplain administrator shall include, but not be limited to:~~

~~G. — A. — Review all floodplain development permits to determine that the permit requirements of this chapter have been satisfied.~~

~~H.B. — B. — Review all floodplain development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required, including those local, state or federal permits that may be all required to assure compliance with the Endangered Species Act and/or other appropriate state or federal lawsproperty owner notifications.~~

~~I. — C. — Review all. — The floodplain development permits to determine if the proposed development is located in the protected area. If located in the protected area, ensure that the applicable provisions of this chapter are met.~~

~~J. — D. — Ensure that all development activities within the regulatory floodplain of the city meet the requirements of this chapter.~~

~~K. — E. — Inspect all development projects before, during and after construction to ensure compliance with all provisions of this chapter, including proper elevation of the structure.~~

~~L. — F. — Maintain for public inspection all records pertaining to the provisions of this chapter.~~

~~M. — G. — Submit reports as required for the National Flood Insurance Program.~~

~~N. — H. — Notify FEMA of any proposed amendments to this chapter.~~

~~O. — I. — Cooperate with state and federal agencies to improve flood and other technical data and administrator or designee shall notify FEMA of any new data that would revise the FIRM.~~

~~P.——J. Make interpretations, where needed, as to the exact location of the boundaries of the regulatory floodplain, the SFHA and the protected area (e.g., where there appears to be a conflict between the mapped SFHA boundary and actual field conditions as determined by the base flood elevation and ground elevations).~~

~~Q.——15.68.150——Duties and responsibilities of the public works department.~~

~~R.——Duties of the public works department regarding flood hazard areas shall include, but not be limited to:~~

~~S.——A. Permit Review.~~

~~T.——1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;~~

~~U.——2. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;~~

~~V.——3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of ACC 15.68.160(C) are met.~~

~~W.——B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with ACC 15.68.060(C), the city engineer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other sources in order to administer this chapter.~~

~~X.——C. Information to Be Obtained and Maintained.~~

~~Y.——1. Where base flood elevation data has not otherwise been provided in accordance with this chapter, obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement. This information shall be recorded on a current FEMA Elevation Certificate (FEMA Form 81-31), signed and sealed by a professional land surveyor, currently licensed in the state of Washington.~~

~~Z.——2. For all new or substantially improved floodproofed structures:~~

~~AA.——a. Verify and record the actual elevation (in relation to mean sea level); and~~

~~BB.——b. Maintain the floodproofing certifications required in this chapter.~~

~~CC.——3. Maintain for Public Inspection All Records Pertaining to the Provisions of This Chapter. This information shall be recorded on a current FEMA Floodproofing Certificate (FEMA Form 81-65), by a professional engineer, currently licensed in the state of Washington.~~

~~DD.——D. Alteration of Watercourses.~~

~~EE.C. 1. Notify adjacent communities and the Washington Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;~~

~~FF.D. 2. Require that maintenance is D. Assure that the flood-carrying capacity of the altered or relocated portion of the watercourse is maintained, provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.~~ If the maintenance program does not call for cutting of native vegetation, the system shall be oversized at the time of construction to compensate for said vegetation growth or any other natural factor that may need future maintenance.

~~E. *Interpretation of Firm Boundaries.* Make interpretations where needed as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation.~~

~~F. Appeals of determinations made pursuant to this chapter shall be filed with the city's public works director within 20 working days after the final city engineer decision is issued. The public works director shall have 15 working days to review the appeal, determine whether to uphold or modify the city engineer's decision, and notify the applicant of such determination. The decision of the public works director shall be final. The city engineer's and director's decision shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76). (Ord. 6295 § 2, 2010; Ord. 6182 § 4, 2008; Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(4.3), 1989.)~~

~~15.68.151 ——— Duties and responsibilities of the planning and development department.~~

~~Duties of the planning and development department shall include, but not be limited to:~~

~~A. *Permit Review.*~~

- ~~1. Review all building-related development permits to determine that the permit requirements of this chapter have been satisfied including building, addition and alteration permits;~~
- ~~2. Review all building-related development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required; and~~
- ~~3. Review all building-related projects to determine that the procedures for building projects within a special flood hazard area have been applied.~~

~~B. *Information to Be Obtained and Maintained.*~~

- ~~1. Where base flood elevation data is provided through the flood insurance study or required as in ACG 15.68.150(B), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;~~
- ~~2. For all new or substantially improved floodproofed structures:
 - ~~a. Verify and record the actual elevation (in relation to mean sea level); and~~
 - ~~b. Maintain the floodproofing certifications required in this chapter;~~~~
- ~~3. Maintain for public inspection all building-related records pertaining to the provisions of this chapter.~~

~~Article V. Provisions for Flood Hazard Protection~~

~~15.68.160 Standards of the public works department.~~

~~A. Utilities.~~

- ~~1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.~~
- ~~2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.~~
- ~~3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.~~
- ~~4. All new streets shall be designed to ensure the lowest finished surface elevation is a minimum of one foot higher than the adjacent 100-year flood elevation.~~
- ~~5. All new development shall be designed and located to minimize the impact on flood flows, flood storage, water quality, and habitat.~~
 - ~~a. Stormwater and drainage features shall incorporate low impact development techniques that mimic predevelopment hydrologic conditions, such as stormwater infiltration, rain gardens, grass swales, filter strips, disconnected impervious areas, permeable pavement, and vegetative roof systems.~~
 - ~~b. If the proposed project will create new impervious surfaces so that more than 10 percent of the portion of the lot in the regulatory floodplain is covered by impervious surface, the applicant shall demonstrate that there will be no net increase in the rate and volume of the stormwater surface runoff that leaves the site or that the adverse effect is mitigated as required in ACC 15.68.135(J) and (K).~~
- ~~6. The site plan required in this chapter shall account for surface drainage to ensure that:~~
 - ~~a. Existing and new buildings on the site will be protected from stormwater runoff; and~~
 - ~~b. The project will not divert or increase surface water runoff onto neighboring properties.~~
- ~~7. Utilities. Water wells shall be located outside the floodway and shall be protected to the FPE.~~

~~B. Subdivision Proposals.~~

- ~~1. All subdivision proposals shall be consistent with the need to minimize flood damage.~~
- ~~2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.~~
- ~~3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.~~

~~C. Floodway Standards.~~

- ~~1. In addition to the other requirements of this chapter, a project to develop in the floodway as delineated pursuant to this chapter shall meet the following criteria:~~
 - ~~a. The applicant shall provide a certification by a registered professional engineer demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering~~

~~practice that the proposed development would not result in any increase in flood levels during the occurrence of the base flood discharge.~~

~~b.—Construction or reconstruction of residential structures is prohibited within designated floodways, except for the following. The following exceptions must still meet all other requirements in this chapter:~~

~~i.—Repairs, reconstruction, or improvements to a residential structure which do not increase the ground floor area, providing the cost of which does not exceed 50 percent of the market value of the structure either (A) before the repair or reconstruction is started, or (B) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by a local code enforcement official and which are the minimum necessary to assure safe living conditions, or to an historic structure, may be excluded from the 50 percent calculations;~~

~~ii.—Repairs, replacement, reconstruction, or improvements to existing farmhouses located in designated floodways and located on designated agricultural lands that do not increase the building's total square footage of encroachment and are consistent with all requirements of WAC 173-158-075;~~

~~iii.—Repairs, replacement, reconstruction, or improvements to substantially damaged residential dwellings other than farmhouses that do not increase the building's total square footage of encroachment and are consistent with all requirements of WAC 173-158-076; or~~

~~iv.—Repairs, reconstruction, or improvements to residential structures identified as historic structures that do not increase the building's dimensions.~~

~~2.—In riverine special flood hazard areas where a floodway has not been delineated pursuant to this chapter, the applicant for a project to develop in the SFHA shall provide a certification by a registered professional engineer demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed development and all other past or future similar developments would not cumulatively result in an increase of flood levels during the occurrence of the base flood discharge by more than one foot.~~

~~15.68.161————Standards of the planning and development department.~~

~~In all areas of special flood hazard the following standards are required:~~

~~A.—Anchoring.~~

~~1.—All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.~~

~~2.—All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is in~~

addition to other anchoring requirements for resisting wind forces. (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques.)

~~B. Construction Materials and Methods.~~

- ~~1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.~~
- ~~2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.~~
- ~~3. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.~~

~~C. Review of Building Permits.~~ Where elevation data is not available either through the flood insurance study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

~~D. Native Vegetation.~~ The site plan required for development in the regulatory floodplain shall show existing native vegetation.

- ~~1. In the riparian habitat zone, native vegetation shall be left undisturbed, except if in connection with an activity allowed in the regulatory floodplain without a permit, and except for activities with the sole purpose of creating, restoring or enhancing natural functions associated with floodplains, streams, lakes, estuaries, marine areas, habitat, and riparian areas that meet federal and state standards, provided the activities do not include structures, grading, fill, or impervious surfaces.~~
- ~~2. Outside the riparian habitat zone, removal of native vegetation shall not exceed 35 percent of the surface area of the portion of the site in the regulatory floodplain. Native vegetation in the riparian habitat zone portion of the property can be counted toward this requirement.~~
- ~~3. If the proposed project does not meet the criteria of this chapter, a habitat impact assessment shall be conducted pursuant to ACC 15.68.135(J) and, if indicated by that assessment, a habitat mitigation plan shall be prepared and implemented pursuant to ACC 15.68.135(K).~~

~~15.68.170 ——— Additional standards of the planning and development department.~~

In all areas of special flood hazard where base flood elevation data is provided as set forth in this chapter, the following provisions are required:

~~A. Residential Construction.~~

- ~~1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above base flood elevation. Enclosed crawl space areas no taller than three feet, measured from the lowest ground within the crawl space to the bottom of the structural system directly supporting the floor slab or sheathing above, shall not be considered as a basement.~~

~~2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters.~~

~~Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:~~

- ~~a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;~~
- ~~b. The bottom of all openings shall be no higher than one foot above grade;~~
- ~~c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.~~

~~3. The structure shall be aligned parallel with the direction of flood flows.~~

~~4. The structure shall be anchored to prevent flotation, collapse, or lateral movement of the structure.~~

~~5. All materials below the FFE shall be resistant to flood damage and firmly anchored to prevent flotation.~~

~~Materials harmful to aquatic wildlife, such as creosote, are prohibited below the FFE.~~

~~6. Electrical, heating, ventilation, duct work, plumbing, and air conditioning equipment and other service facilities shall be elevated above the FFE. Water, sewage, electrical, and other utility lines below the FFE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding.~~

~~7. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited; provided, that those areas may be used only for parking, storage, or building access and only if they are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by a registered professional engineer or licensed architect or meet or exceed the following minimum criteria:~~

- ~~a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.~~
- ~~i. b. The bottom of all openings shall be no higher than one foot above grade.~~
- ~~c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.~~

~~B. Nonresidential Construction. New construction and substantial improvement to any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated one foot or more above the level of the base flood elevation. As an alternative to elevation, a new or substantial improvement to a nonresidential structure, and its attendant utility and sanitary facilities, may be dry floodproofed in A zones.~~

~~The project shall meet the following requirements:~~

~~1. Be floodproofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;~~

~~2.1.2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;~~

~~3. Be certified by a registered professional engineer or a registered professional architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions~~

of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in ACC 15.68.150(C)(2);

4. ~~Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (A)(2) of this section;~~

5. ~~Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to one foot above the base flood level will be rated as one foot below that level).~~

~~C. *Manufactured Homes.* All manufactured homes to be placed or substantially improved within Zones A1—30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system.~~

~~D. *Recreational Vehicles.* Recreational vehicles placed on sites are required to either:~~

~~1. Be on the site for fewer than 180 consecutive days; or~~

~~2. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or~~

~~3. Meet the requirements of subsection C of this section and the elevation and anchoring requirements for manufactured homes.~~

~~E. *Hazardous Materials.* No new development shall create a threat to public health, public safety, or water quality. Chemicals, explosives, gasoline, propane, buoyant materials, animal wastes, fertilizers, flammable liquids, pollutants, or other materials that are hazardous, toxic, or a threat to water quality are prohibited from the regulatory floodplain. This prohibition does not apply to small quantities of these materials kept for normal household use or to materials kept in approved containers above the FPE or in a dry floodproofed nonresidential building.~~

~~F. *Small Structures.* A low cost building such as a detached garage, boathouse, pole barn, or storage shed that is no larger than 500 square feet and is not used for human habitation may be exempt from the elevation requirement of this chapter, provided:~~

~~1. It is used only for parking or storage;~~

~~A. 2. It is constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters;~~

~~B. A. 3. It is anchored to prevent flotation which may result in damage to other structures;~~

~~4. All portions of the structure below the FPE must be constructed of flood resistant materials;~~

~~5. Service utilities such as electrical and heating equipment meet the standards of this chapter;~~

~~6. It has openings to allow free flowage of water that meet the criteria of this chapter;~~

~~7. The project meets all the other requirements of this chapter.~~

~~G. *Location of Structures.* Structures and other development shall be located to avoid flood damage.~~

~~1. If a lot has a buildable site out of the regulatory floodplain, all new structures shall be located in that area.~~

~~2.—If a lot does not have a buildable site out of the regulatory floodplain, all new structures, pavement, and other development must be sited in the location that has the least impact on habitat by locating the structures as far from the water body as possible or placing the structures on the highest land on the lot.~~

~~H.—Critical Facilities.~~

~~1.—Construction of new critical facilities shall be, to the extent possible, located outside the limits of the regulatory floodplain.~~

~~2.—Construction of new critical facilities shall be permissible if no feasible alternative site is available, provided:~~

~~a.—Critical facilities shall have the lowest floor elevated three feet above the base flood elevation or to the height of the 500-year flood, whichever is higher. If there is no available data on the 500-year flood, the permit applicants shall develop the needed data in accordance with FEMA mapping guidelines.~~

~~b.—Access to and from the critical facility shall be protected to the elevation of the 500-year flood.~~

~~15.68.180 — Floodways and community acknowledgement of FEMA map amendments.~~

~~A.—Notwithstanding any other provision of this chapter, the city may permit encroachments within the adopted regulatory floodway upon receipt of approval of the Federal Insurance Administrator and completion of the conditions of this section.~~

~~1.—Prior to a developer being authorized to encroach upon the adopted regulatory floodway to an extent which will cause base flood elevation increases in excess of those permitted in subsection A of this section, the developer shall provide, for city review and submission to the Federal Insurance Administrator, the following:~~

~~a.—A request for conditional approval of map change and the appropriate initial fee as specified by Section 72.3 of 44 CFR Chapter I Federal Emergency Management Agency or a request for exemption from fees as specified by Section 72.5 of 44 CFR Chapter I Federal Emergency Management Agency. Sections 72.3 and 72.5 of 44 CFR Chapter I Federal Emergency Management Agency are herein adopted by reference in their entirety including any future amendments thereto;~~

~~b.—An evaluation of alternatives which would not result in a base flood elevation increase above that permitted under subsection A of this section demonstrating why these alternatives are not feasible;~~

~~c.—Documentation of individual legal notice to all impacted property owners within and outside of the community, explaining the impact of the proposed action on their property;~~

~~d.—Written concurrence of the chief executive officer of any other communities impacted by the proposed actions;~~

~~e.—Written certification that no structures are located in areas which would be impacted by the increased base flood elevation;~~

~~f.—A request for revision of base flood elevation determination according to the provisions of Section 65.6 of 44 CFR Chapter I Federal Emergency Management Agency. Section 65.6 of 44 CFR Chapter I Federal Emergency Management Agency is herein adopted by reference in its entirety;~~

~~g. A request for floodway revision in accordance with the provisions of Section 65.7 of 44 CFR Chapter I Federal Emergency Management Agency. Section 65.7 of 44 CFR Chapter I Federal Emergency Management Agency is herein adopted by reference in its entirety.~~

~~B. City Review of Changes to Flood Hazard Data.~~

~~1. All requests to revise or change the flood hazard data, including requests for a letter of map revision and a conditional letter of map revision, shall be reviewed by the floodplain administrator.~~

~~a. The floodplain administrator shall not sign the community acknowledgement form for any requests based on filling or other development, unless the applicant for the letter documents that such filling or development is in compliance with this chapter.~~

~~b. The floodplain administrator shall not approve a request to revise or change a floodway delineation until FEMA has issued a conditional letter of map revision that approves the change.~~

~~c. Upon receipt of the Federal Insurance Administrator's conditional approval of map change and prior to the approval of the proposed encroachments, the developer shall compensate the city for all costs incurred by the city which are associated with:~~

~~i. The city's adoption of floodplain management ordinances incorporating the increased base flood elevations and/or revised floodway reflecting the post-project condition;~~

~~ii. The city's submittal of evidence to the Federal Insurance Administrator of the city's adoption of said revised floodplain management ordinances;~~

~~iii. Within three months of completion of the proposed encroachments, the developer shall be responsible for providing certified record drawings and/or technical or scientific data to the city for submittal to the Federal Insurance Administrator.~~

~~2. If an applicant disagrees with the regulatory data prescribed by this chapter, he/she may submit a detailed technical study needed to replace existing data with better data in accordance with FEMA mapping guidelines or Regional Guidance for Hydrologic and Hydraulic Studies FEMA Region X, 2010. If the data in question are shown on the published FIRM, the submittal must also include a request to FEMA for a conditional letter of map revision.~~

~~3. All new hydrologic and hydraulic flood studies conducted pursuant to this chapter shall consider future conditions and the cumulative effects from anticipated future land use changes in accordance with Regional Guidance for Hydrologic and Hydraulic Studies, FEMA Region X, 2010. If there is a study in existence on the date this provision becomes effective that meets the rest of this chapter's criteria, it may be used, even if it does not account for future conditions.~~

~~15.68.190 ——— Developments within areas of special flood hazard.~~

~~Notwithstanding any other provision of this chapter, the city may permit developments within special flood hazard areas. Prior to approval for a development which will increase the water surface elevation of the base flood by more than one foot, a developer must comply with the requirements set forth in ACC 15.68.180(A).~~

~~15.68.200 ——— Compensatory storage requirements.~~

~~A. Development proposals shall not reduce the effective flood storage volume at base flood elevation. Where fill, grading or other activities that may displace the effective base flood storage volume are proposed, compensatory storage shall be required. Compensatory storage shall:~~

- ~~1. Provide equivalent volume at equivalent elevations to that being displaced.~~
- ~~2. Hydraulically connect to the source of the flooding.~~
- ~~3. Provide compensatory storage in the same construction season as when the displacement of flood storage volume occurs. Allowances may be granted on a case-by-case basis to allow sequential construction if the timing of the work cannot meet wintertime/flood construction schedules.~~
- ~~4. Occur on site or, if approved by the city engineer, at a hydraulically connected off-site location.~~
- ~~5. Provide documentation of a restrictive easement acceptable to the engineering division to ensure continued existence of the compensatory flood storage.~~

~~B.A. 6. The newly created storage area shall be graded and vegetated to allow fish access during flood events without creating fish stranding sites.~~

~~B. Certification by a registered professional engineer may be required as documentation that the compensatory storage requirement shall be met by the development proposal.~~

Ord. 6761 Exhibit B

ACC Chapter 15.68

Chapter 15.68
FLOODPLAIN DEVELOPMENT MANAGEMENT

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Section 1. General

15.68.010 Statutory Authorization.

A. The Legislature of the State of Washington has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

Therefore, the City does ordain as follows:

B. Findings of Fact:

Areas of Auburn are subject to periodic inundation and channel migration which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for protection and relief from flooding and channel migration, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

When floodplains and watersheds are developed without taking appropriate care and precautions, flood heights, frequencies, and velocities increase, which may cause a greater threat to humans, damage to property, destruction of natural floodplain functions, and adverse impacts to water quality and habitat. Rivers, streams, lakes, estuarine and marine areas and their floodplains are major elements of healthy aquatic and riparian areas and conveyance of flood waters. If watersheds, rivers, streams, lakes, estuaries, floodplains and other systems are not viewed holistically as biological and geomorphologic units, it may lead to serious degradation of habitat and increased flood hazards to people and human development. Over the years, natural processes have evolved that manage flood waters and channel flows in the most effective and efficient manner. Disruption of these processes through alterations to land cover, stream channels, wetlands and other water bodies which may lead to increased flood hazards, loss of life and property, threats to public health, and loss of habitat.

15.68.020 Purpose.

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to manage development in order to:

- A. Protect human life, health and property from the dangers of flooding;
- B. Minimize the need for publicly funded and hazardous rescue efforts to save those who are isolated by floodwaters;
- C. Minimize expenditure of public money for costly flood damage repair and flood control projects;
- D. Minimize disruption of commerce, governmental services, and government infrastructure;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in the floodplain.;
- F. Minimize cost impacts to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in the special flood hazard area.;
- G. Maintain a stable tax base by providing for the sound use of and development of flood hazard areas so as to minimize blight areas caused by flooding;
- H. Encourage those who occupy flood hazard areas be educated about the risks and challenges associated with these areas.;
- I. Qualify the City of Auburn for participation in the National Flood Insurance Program, thereby giving citizens and businesses the opportunity to purchase flood insurance;
- J. Maintain the quality of water in rivers, streams, and lakes, and their floodplains so as to protect public water supplies, areas of the Public Trust, and wildlife habitat protected by the Endangered Species Act;
- K. Retain the natural channel, shoreline, and floodplain creation processes and other natural floodplain functions that protect, create, and maintain habitat for threatened and endangered species; and
- L. Prevent or minimize loss of hydraulic, geomorphic, and ecological functions of floodplains and stream channels.

15.68.030 Lands to which this Ordinance Applies.

This ordinance shall apply to the Special Flood Hazard Area (SFHA) and associated protected areas within the jurisdiction of the City of Auburn as defined in Section 3 of this Ordinance.

15.68.040 Approach.

In order to achieve the listed purposes, this ordinance:

- A. Defines and clarifies the terms and phrases used in this ordinance in Section 2.
- B. Identifies in Section 3 the Special Flood Hazard Area, the Protected Area and the supporting technical data needed to delineate those areas.
- C. Establishes a permit requirement in Section 4 so that all proposed development that may affect flood hazards, water quality and habitat is reviewed prior to construction.
- D. Sets minimum protection standards in Section 5 for all development to ensure that the development will not increase the potential for flood damage or adversely affect natural floodplain functions.
- E. Sets minimum protection standards to protect new and substantially improved structures from flood damage in Section 6.
- F. Specifies additional habitat protection criteria in Section 7. Some small projects do not need a floodplain development permit (see ACC 15.68.380). For all other development projects, the applicant must assess their impact on those factors that contribute to increased flood hazard and degradation of habitat. If the assessment concludes that the project will cause an adverse effect outside the Protected Area, the permit will be denied, unless the project impacts are mitigated (avoided, minimized, restored or compensated for).

15.68.050 Penalties for Noncompliance.

No development shall be undertaken or placed in the areas regulated by this ordinance without full compliance with the terms of this ordinance and other applicable regulations of the City. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be enforced pursuant to the provisions of Chapter 1.25 ACC.

15.68.060 Interpretation.

In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the City; and,
- C. Deemed neither to limit nor repeal any other powers granted under state statutes;

15.68.070 Abrogation and Regulation Conflicts

Where this ordinance and another code, or ordinance, conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

15.68.080 Warning and Disclaimer of Liability.

The degree of property and habitat protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods and movement of channels outside of mapped channel migration areas may occur on rare occasions. Flood heights may be increased by unnatural or natural causes. This ordinance does not imply that land outside the regulated areas

or development permitted within such areas will be free from flood or erosion damage. This ordinance shall not create liability on the part of the City, any officer or employee thereof, for any damage to property or habitat that results from reliance on this ordinance or any administrative decision lawfully made hereunder.

15.68.090 Severability

The provisions and sections of this ordinance shall be deemed separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

Section 2. Definitions

15.68.100 Definitions.

Unless specifically defined below, terms or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

- A. "Adversely affect/adverse effect" means effects that are a direct or indirect result of the proposed action or its interrelated or interdependent actions and the effect is not discountable, insignificant, or beneficial. Discountable effects are extremely unlikely to occur. Insignificant effects relate to the size of the impact and should never reach the scale where a take occurs. Based on best judgment, a person would not: 1) be able to meaningfully measure, detect, or evaluate insignificant effects, or 2) expect discountable effects to occur. Beneficial effects are contemporaneous positive effects without any adverse effects. In the event that the overall effect of the proposed action is beneficial, but is also likely to cause some adverse effects, then the proposed action is considered to result in an adverse effect.
- B. "Alteration of watercourse" means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.
- C. "Appurtenant Structure" means a structure which is on the same parcel as the principle structure to be insured and the use of which is incidental to the use of the principal structure.
- D. "Area of shallow flooding" means a designated zone AO, AH, AR/AO or AR/AH (or VO) on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. Also referred to as the sheet flow area.
- E. "Area of special flood hazard" means the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as zone A, AO, AH, A1-30, AE, A99, AR (V, VO, V1-30, VE). "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".
- F. "ASCE 24" means the most recently published version of ASCE 24, Flood Resistant Design and Construction, published by the American Society of Civil Engineers.
- G. "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the "100-year flood").
- H. "Base flood elevation" means the elevation to which floodwater is anticipated to rise during the base flood.

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- I. "Basement" means any area of the structure having its floor subgrade (below ground level) on all sides.
- J. "Building Code" means the currently effective versions of the International Building Code and the International Residential Code adopted by the Washington State Legislature and any further amendments adopted by the City of Auburn.
- K. "Channel Migration Zone" (CMZ) means the area within the lateral extent of likely stream channel movement due to stream bank destabilization and erosion, rapid stream incision, aggradation, avulsions, and shifts in location of stream channels.
1. The channel migration area shall be the total area occupied by the river channel, the severe channel migration hazard area, and the moderate channel migration hazard area as delineated in the Green River Channel Migration Study published by King County dated December 1993 plus 50 feet.
 2. The channel migration area shall be the total area occupied by the river channel, the severe channel migration hazard area, and the moderate channel migration hazard area as delineated in the Channel Migration Zone Delineation for the Middle Green River, RM 31.10 to 33.25 dated December 28, 2018 plus 50-feet which supersedes the study referenced above.
 3. A site specific channel migration delineation may also be performed per the Washington State Department of Ecology's current requirements with recommended setbacks (A Framework for Delineating Channel Migration Zones) prepared by a qualified engineer. The delineation shall be prepared by a qualified consultant as that term is defined in these regulations. The city may retain a qualified consultant paid for by the applicant to review and confirm the applicant's reports, studies and plans if the following circumstances exist:
 - a. The city has technical information that is unavailable to the applicant; or
 - b. The applicant has provided inaccurate or incomplete information on previous proposals or proposals currently under consideration.
- L. "Critical facility" means a facility necessary to protect the public health, safety and welfare during a flood. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency operations installations, water and wastewater treatment plants, electric power stations, and installations which produce, use, or store hazardous materials or hazardous waste (other than consumer products containing hazardous substances or hazardous waste intended for household use).
- M. "Development" means any human-made change to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.
- N. "Dry floodproofing" means any combination of structural and nonstructural measures that prevent flood waters from entering a structure.
- O. "Elevation Certificate" means an administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).
- P. "Essential Facility" has the same meaning as "Essential Facility" defined in ASCE 24. Table 1-1 in ASCE 24-14 further identifies building occupancies that are essential facilities.

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- Q. "FEMA" means the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.
- R. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
1. The overflow of inland or tidal waters; and/or
 2. The unusual and rapid accumulation of runoff of surface waters from any source.
 3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
 4. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1) of this definition.
- S. "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a Flood Insurance Study (FIS).
- T. "Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administrator has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.
- U. "Flood insurance study (FIS)" See "Flood Elevation Study"
- V. "Floodplain or flood prone area" means any land area susceptible to being inundated by water from any source. See "Flood or flooding."
- W. "Floodplain administrator" means the community official designated by title to administer and enforce the floodplain management regulations.
- X. "Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.
- Y. "Flood protection elevation (FPE)" means the elevation above the datum of the effective FIRM to which new and substantially improved structures must be protected from flood damage.
- Z. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to the "Regulatory Floodway.
- AA. "Functionally Dependent Use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

BB. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

CC. "Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior in states without approved programs.

DD. "Hyporheic zone" means a saturated layer of rock or sediment beneath and/or adjacent to a stream channel that contains some proportion of channel water or that has been altered by channel water infiltration.

EE. "Impervious surface" means a non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

FF. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found in ACC 15.68.170(A)(7) (i.e. provided there are adequate flood ventilation openings).

GG. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

HH. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

II. "Market value" shall mean the current assessed value as established by the most recent tax roll of the county assessor in which the property is located. An applicant may, at applicant's expense, provide an appraisal to determine market value.

JJ. "Mean Sea Level" means for purposes of the National Flood Insurance Program, the vertical datum to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

KK. "Native vegetation" means plant species that are indigenous to the community's area and that reasonably could be expected to naturally occur on the site.

LL. "Natural floodplain functions" means the contribution that a floodplain makes to support habitat, including, but not limited to, providing flood storage and conveyance, reducing flood velocities, reducing sedimentation, filtering nutrients and impurities from runoff, processing organic wastes, moderating temperature fluctuations, and providing breeding and feeding grounds, shelter, and refugia, for aquatic or riparian species.

MM. "New construction" means for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the ordinance adopted by a community and includes any subsequent improvements to such structures.

NN. "Principal Structure" means a structure in which the principal use of the lot on which it is located is conducted.

OO. "Protected area" means the lands that lie within the boundaries of the floodway, the riparian buffer zone, and the channel migration area. Because of the impact that development can have on flood heights and velocities and habitat, special rules apply in the Protected Area.

PP. "Reasonably Safe from Flooding" means development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks and other reliable data known to the community. In unnumbered A zones where flood elevation information is not available and cannot be obtained by practicable means, reasonably safe from flooding means that the lowest floor is at least two feet above the Highest Adjacent Grade.

QQ. "Recreational vehicle" means a vehicle:

1. Built on a single chassis; and,
2. Four hundred square feet or less when measured at the largest horizontal projection; and,
3. Designed to be self-propelled or permanently towable by an automobile or light-duty truck; and,
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

RR. "Riparian" means of, adjacent to, or living on, the bank of a stream, lake, pond, sound, or other water body.

SS. "Riparian buffer zone" means the land located adjacent to streams, and other bodies of water, where the natural soil, hydrology, and native flora and fauna perform important ecological functions such as protecting the water body by filtering out pollutants, preventing erosion and sedimentation, stabilizing stream banks, and providing natural shade. They are often thin lines-of-green containing native grasses, flowers, shrubs and trees that line the banks of streams and other bodies of water. The riparian buffer zone for the Puget Sound Biological Opinion applies only to areas mapped within the Special Flood Hazard Area, unless the area is

undeveloped with predominately native vegetation that have benefits to endangered species, in which case the regulations for riparian habitat zones shall apply.

TT. "Riparian Habitat Zone" means the water body and adjacent land areas that are likely to support aquatic and riparian habitat.

UU. "Special flood hazard area (SFHA)" means the land subject to inundation by the base flood. Special flood hazard areas are designated on Flood Insurance Rate Maps with the letters "A" or "V" include AE (floodway), AO, AH, A1-99 and VE. The Special Flood Hazard Area is also referred to as the area of special flood hazard or SFHA.

VV. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

WW. "Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

XX. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred

YY. "Substantial improvement" means any reconstruction, rehabilitation, addition, replacement or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

ZZ. "Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

AAA. "Violation" means the failure of a structure or other development to be constructed or implemented in conformance with the community's applicable floodplain development regulations.

BBB. "Water typing" means a system for classifying water bodies according to their size and fish habitat characteristics. The Washington Department of Natural Resources Forest Practices Water Typing Classification System is hereby adopted by reference. The system defines four water types:

1. Type "S" – Shoreline: Streams that are designated "shorelines of the state," including marine shorelines.
2. Type "F" – Fish: Streams that are known to be used by fish or meet the physical criteria to be potentially used by fish.
3. Type "Np" – Non-fish perennial streams.
4. Type "Ns" – Non-fish seasonal streams.

CCC. "Zone" means one or more areas delineated on the FIRM. The following zones may be used on the adopted FIRM. The special flood hazard area is comprised of the A and V Zones.

1. A: SFHA where no base flood elevation is provided.
2. AE: SFHA with a base flood elevation.
3. AO: SFHA subject to inundation by shallow flooding usually resulting from sheet flow on sloping terrain, with average depths between one and three feet. Average flood depths are shown.
4. AH: SFHA subject to inundation by shallow flooding (usually areas of ponding) with average depths between one and three feet. Base flood elevations are shown.
5. D: Area of undetermined but possible flood hazard.
6. X: The area outside the mapped SFHA with a low risk of flooding.
7. Shaded X: An area of moderate risk of flooding from the base flood, and defined as:
 - a. areas of shallow (i.e., less than 1 foot) flooding;
 - b. 0.2% chance (or 500-year) flooding;
 - c. has a drainage area less than 1 sq. mile; or
 - d. areas protected by a levee.

Section 3. Regulatory Data

15.68.110 Area to be Regulated.

The area to be regulated is comprised of the Special Flood Hazard Area and all Protected Areas within the Special Flood Hazard Area within the jurisdiction of the City of Auburn. The term also includes areas delineated pursuant to Section 15.68.150.

15.68.120 Special Flood Hazard Area.

Basis for Establishing the Areas of Special Flood Hazard

A. The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for King County Washington and Incorporated Areas" dated August 19, 2020, and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRMs) dated August 19, 2020, and any revisions thereto, as well as the special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Pierce County Washington and Incorporated Areas" dated March 7, 2017, and any revisions

thereto, with accompanying Flood Insurance Rate Maps (FIRMs) dated March 7, 2017, and any revisions thereto, are hereby adopted by reference and declared to be a part of this ordinance. The FIS and the FIRM are on file at 1 East Main St, Auburn, WA 98001.

B. The best available information for flood hazard area identification as outlined in Section 15.68.130(D) shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under Section 15.68.130(D).

C. Upon receipt of a floodplain development permit application, the floodplain administrator or designee shall compare the elevation of the site to the base flood elevation.

D. The floodplain administrator or designee shall inform the applicant that the project may still be subject to the flood insurance purchase requirements unless the owner receives a Letter of Map Amendment (LOMA) from FEMA.

E. The floodplain administrator or designee shall make interpretations where needed, as to the exact locations of the boundaries of the SFHA and the Protected Area (e.g. where there appears to be a conflict between the mapped SFHA boundary and actual field conditions as determined by the base flood elevation and ground elevations) as it applies to proposed development. The applicant may appeal the floodplain administrator's or designee's interpretation of the location of the boundary to the Hearing Examiner for the City of Auburn.

15.68.130 Flood Hazard Data.

A. The base flood elevation for the SFHAs incorporated in 15.68.120(A) shall be utilized.

B. The Flood Protection Elevation (FPE) shall be the base flood elevation plus one (1) foot.

C. The floodway shall be as delineated on the Flood Insurance Rate Map.

D. Where base flood elevation and floodway data have not been provided in Special Flood Hazard Areas, the floodplain administrator or designee shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source.

15.68.140 Protected Area.

A. The Protected Area is comprised of those lands that lie within the boundaries of the floodway, the riparian buffer zone, and the channel migration area.

B. In riverine areas, where a floodway has been designated in accordance with Sections 15.68.130(C), 15.68.130(D) or 15.68.150(E), the Protected Area is comprised of those lands that lie within the boundaries of the riparian buffer zone, the channel migration area, and the SFHA.

C. Riparian Buffer Zone: The riparian buffer zone includes those watercourses within the SFHA and adjacent land areas that are likely to support aquatic and riparian habitat.

1. The size and location of the riparian buffer zone is dependent on the type of water body. The riparian buffer zone includes the water body and adjacent lands, measured perpendicularly from ordinary high water mark on both sides of the water body:

a. Type S streams that are designated "shorelines of the State:" 250 feet

b. Type F streams (fish bearing) streams greater than 5 feet wide and marine shorelines: 200 feet

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- c. Type F streams less than 5 feet wide and lakes: 150 feet
 - d. Type N (nonsalmonid-bearing) perennial and seasonal streams with unstable slopes: 225 feet
 - e. All other Type N (nonsalmonid-bearing) perennial and seasonal streams: 150 feet.
 - 2. The riparian buffer zone shall be delineated on the site plan by the applicant at the time of application for subdivision approval or floodplain development permit for all development proposals within 300 feet of any stream or shoreline.
- D. Channel Migration Area:
- a. The channel migration area shall be the channel migration zone as defined in Section 15.68.100(K).
 - b. Where more than one channel migration zone has been delineated, the floodplain administrator or designee shall use the delineation that has been adopted for other local regulatory purposes.
 - c. Where a channel migration zone has not yet been mapped, the provisions of Section 15.68.150(D) shall apply at the time of permit application.

15.68.150 New Regulatory Data.

- A. All requests to revise or change the flood hazard data, including requests for a Letter of Map Revision and a Conditional Letter of Map Revision shall be reviewed by the floodplain administrator or designee.
- 1. The floodplain administrator or designee shall not sign the Community Acknowledgment Form for any requests based on filling or other development, unless the applicant for the letter documents that such filling or development is in compliance with this ordinance.
 - 2. The floodplain administrator or designee shall not approve a request to revise or change a floodway delineation until FEMA has issued a Conditional Letter of Map Revision that approves the change.
- B. If an applicant disagrees with the regulatory data prescribed by this ordinance, he/she may submit a detailed technical study needed to replace existing data with better data in accordance with FEMA mapping guidelines or *Regional Guidance for Hydrologic and Hydraulic Studies in Support of the Model Ordinance for Floodplain Management under the National Flood Insurance Program and Endangered Species Act* FEMA Region X, 2010. If the data in question are shown on the published FIRM, the submittal must also include a request to FEMA for a Conditional Letter of Map Revision.
- C. Where base flood elevation data are not available in accordance with Section 15.68.130, applicants for approval of new subdivisions and other proposed developments (including proposals for manufactured home parks) greater than 50 lots or 5 acres, whichever is the lesser, shall include such data with their permit applications.
- D. Where channel migration zone data are not available in accordance with 15.68.140(D), the permit applicant shall either:
- 1. Designate the entire SFHA as the channel migration zone or

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2. Identify the channel migration area in accordance with *Regional Guidance for Hydrologic and Hydraulic Studies in Support of the Model Ordinance for Floodplain Management under the National Flood Insurance Program and Endangered Species Act* FEMA Region X, 2012.
- E. All new hydrologic and hydraulic flood studies conducted pursuant to Section 15.68.150 shall be in accordance with *Regional Guidance for Hydrologic and Hydraulic Studies in Support of the Model Ordinance for Floodplain Management under the National Flood Insurance Program and the Endangered Species Act*, FEMA, Region X, 2010.
- F. The floodplain administrator shall use the most restrictive data available prepared specifically for the project site for the channel migration zone, floodways, future conditions, and riparian buffer zone.

Section 4. Administration

15.68.160 Establishment of Floodplain Development Permit

A floodplain development permit shall be obtained before construction or development begins within the Special Flood Hazard Area (SFHA) or Protected Area. The permit shall be for all development as set forth in

15.68.170 Floodplain Development Permit Application.

Applications for a floodplain development permit shall be made using the criteria outlined in the Floodplain Development Application Packet available for download at www.auburnwa.gov/forms. At a minimum, the following information is required.

- A. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the Floodplain Administrator.
- B. Proposed elevation in relation to mean sea level to which any structure will be flood proofed;
- C. Where a structure is to be flood proofed, certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet flood proofing criteria in Section 5;
- D. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;
- E. Where development is proposed in a floodway, an engineering analysis indicating no rise of the Base Flood Elevation; and
- F. Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.

15.68.180 Floodplain Development Permit Expiration.

If there has been no start of construction, a floodplain development permit shall expire 180 days after the date of issuance. Where the applicant documents a need for an extension beyond this period due to conditions beyond the applicant's control, the floodplain administrator or designee may authorize one or more extensions.

15.68.190 Designation of the Floodplain Administrator.

The Director of Community Development is hereby appointed to administer, interpret, implement, and enforce this ordinance by granting or denying floodplain development permit applications in accordance with its

provision. The Director of Community Development may designate administration of portions or all of this ordinance to a qualified person.

15.68.200 Duties of the Floodplain Administrator.

Duties of the floodplain administrator or designee shall include, but are not limited to:

- A. Review all floodplain development permits to determine that the permit requirements of this ordinance have been satisfied.
- B. Review all floodplain development permits to determine that all necessary permits have been obtained from those Federal, State or local government agencies from which prior approval is required, including those local, State or Federal permits that may be required to assure compliance with the Endangered Species Act and/or other appropriate State or Federal laws.
- C. Review all floodplain development permits to determine if the proposed development is located in the Protected Area. If located in the Protected Area, ensure that the provisions of Section 7 are met.
- D. Ensure that all development activities within the Special Flood Hazard Area of the jurisdiction of the City meet the requirements of the ordinance.
- E. Inspect all development projects before, during and after construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.
- F. Maintain for public inspection all records pertaining to the provisions of this ordinance.
- G. Submit reports to include the projects for which they issue floodplain development permits, including effects to flood storage, fish habitat, and all indirect effects of development and mitigation provided to FEMA as required by the National Flood Insurance Program.
- H. Notify FEMA of any proposed amendments to this ordinance and when annexations occur in the Special Flood Hazard Area.
- I. Ensure the proposed development is not located in the floodway. If located in the floodway, assure the encroachment provisions of Section 15.68.410 are met
- J. Cooperate with State and Federal agencies to improve flood and other technical data and notify FEMA of any new data that would revise the FIRM.
- K. Review all floodplain development permits to verify that proposed development will be reasonably safe from flooding.

15.68.210 Notification to Other Entities

Whenever a watercourse is to be altered or relocated:

- A. Notify adjacent communities and the Department of Ecology prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means, and
- B. Assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.

15.68.220 Records.

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- A. Where base flood elevation data have been obtained pursuant to Section 15.68.130 and 15.68.150, the floodplain administrator or designee shall obtain, record, and maintain the actual “finished construction” elevations provided by the applicant for the locations listed in Section 15.68.170. This information shall be recorded on a current FEMA Elevation Certificate signed and sealed by a professional land surveyor, currently licensed in the State of Washington.
 - B. For all new or substantially improved dry floodproofed nonresidential structures, where base flood elevation data has been obtained pursuant to Section 15.68.130 and 15.68.150, the floodplain administrator or designee shall obtain, record and maintain the elevation (in relation to the datum of the effective FIRM) to which the structure was floodproofed. This information shall be recorded on a current FEMA Floodproofing Certificate by a professional engineer currently licensed in the State of Washington.
 - C. Certification required by Section 15.68.410 (floodway encroachments).
 - D. Records of all variance actions, including justification for their issuance.
 - E. Improvement and damage calculations.
 - F. Maintain for public inspection all records pertaining to the provisions of this ordinance.

15.68.230 Certificate of Occupancy.

- A. A final grading and/or storm permit for the property, physical completion for City of Auburn Capital Improvement projects without a building, a certificate of occupancy (commercial building) or final building inspection (residential structure) for a new or substantially improved structure or an addition shall not be issued until:
 - 1. The permit applicant provides a properly completed, signed and sealed Elevation or Floodproofing Certificate showing finished construction data as required by Section 15.68.220;
 - 2. If a mitigation plan is required by Sections 15.68.440 and 15.68.450, all work identified in the plan has been completed according to the plan’s schedule;
 - 3. The applicant provides copies of all required Federal, State, and local permits noted in the permit application per Section 15.68.170;
 - 4. All other provisions of this ordinance and conditions placed on the floodplain development permit approval letter have been met.

15.68.240 Appeals.

- A. The Hearing Examiner, as established by Chapter 2.46 of the Auburn City Code, shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- B. The Hearing Examiner shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator or designee in the enforcement or administration of this ordinance.
- C. Those aggrieved by the decision of the Hearing Examiner may appeal the decision to the superior court of the county in which the project is located pursuant to Section 2.46.160 of the Auburn City Code.

D. Upon consideration of the factors of Section 15.68.250 and the purposes of this ordinance, the Hearing Examiner may attach such conditions to the granting of the variance as he/she deems necessary to further the purposes of this ordinance.

E. The floodplain administrator or designee shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

15.68.250 Variance Criteria.

A. In addition to the Criteria outlined in ACC 18.70.025, in reviewing applications for a variance, the Hearing Examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance; and:

1. The relationship of the proposed use to the comprehensive plan, growth management regulations, critical area regulations, the shoreline management program and floodplain management program for the area;
2. The potential of the proposed development project to destroy or adversely affect a fish and wildlife habitat conservation area or create an adverse effect to federal, state or locally protected species or habitat;
3. Is the minimum necessary to grant relief; and,

B. In addition to the Criteria outlined in ACC 18.70.025, no variance shall be granted to the requirements of this ordinance unless the applicant demonstrates that:

1. The project will not adversely affect features or quality of habitat supporting local, state or federally protected fish or wildlife;

C. Variances may be requested for new construction, substantial improvements, and other development upon showing of good and sufficient cause and is minimum necessary, considering flood hazard, to afford relief provided:

D. Variances shall only be issued:

1. Upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
2. For the repair, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;
3. Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant;
4. Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in Section 2 of this ordinance in the definition of "Functionally Dependent Use."

E. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.

F. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the BFE, provided the procedures of Sections 4 and 5 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

G. In considering variance applications, the City of Auburn shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in time of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site;
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical, water system, and streets and bridges;

H. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

1. The issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
2. Such construction below the base flood elevation increases risks to life and property.

I. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

Section 5. General Development Standards

The provisions of Section 5 shall apply in the Special Flood Hazard Area:

15.68.260 Development and Subdivision Proposals.

This section applies to all development proposals including commercial development, subdivisions, short subdivisions, preliminary subdivisions, binding site plans, and expansions to manufactured home parks as defined in Chapter 17.04 ACC.

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- A. All development proposals shall be consistent with the need to minimize flood damage.
 - B. All development proposals shall have utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to prevent flood damage.
 - C. All development proposals shall have adequate drainage provided to avoid exposure to water damage.
 - D. The proposed subdivision must have one or more new lots in the Special Flood Hazard Area set aside for open space use through deed restriction, easement, subdivision covenant, or donation to a public agency.
 - 1. In the Special Flood Hazard Area outside the Protected Area, zoning must maintain a low density of floodplain development.
 - 2. In the Special Flood Hazard Area outside the protected area in which the current zoning is less than 5 acres must maintain current zoning.
 - 3. The density of development in the portion of the development outside the Special Flood Hazard Area may be increased to compensate for the amount of land in the Special Flood Hazard Area preserved as open space in accordance with Chapter 17.25 ACC.
 - E. If a parcel has a buildable site outside the Special Flood Hazard Area, it shall not be subdivided to create a new lot that does not have a buildable site outside of the Special Flood Hazard Area. This provision does not apply to tracts that are to be preserved as open space.
 - F. All development proposals shall ensure that all subdivisions have at least one access road connected to land outside the Special Flood Hazard Area with the surface of the road at or above the FPE wherever possible. Additional access roads may be required based on the number of proposed lots per the current City of Auburn Engineering Design Standards.
 - G. The final recorded plat shall include a notice that part of the property is in the SFHA, riparian buffer zone and/or channel migration area, as appropriate.
 - H. BFE generation for all development proposals greater than 50 lots or 5 acres, whichever is the lesser.

15.68.270 Site Design.

- A. Structures and other development shall be located to avoid flood damage or that adequately mitigates any identified impacts.
 - 1. If a lot has a buildable site out of the Special Flood Hazard Area, all new structures shall be located in that area, when possible.
 - 2. If a lot does not have a buildable site out of the Special Flood Hazard Area, all new structures, pavement, and other development must be sited in the location that has the least impact on habitat by locating the development as far from the water body as possible or by placing the structure on the highest portion of the lot.
 - 3. A minimum setback of 15 feet from the Protected Area shall be required for all structures.
 - 4. If the proposed project does not meet the criteria of Section 15.68.270(A) through (B), a habitat impact assessment shall be conducted pursuant to Section 15.68.440 and, if necessary, a habitat mitigation plan shall be prepared and implemented pursuant to Section 15.68.450.
- B. All new development shall be designed and located to minimize the impact on flood flows, flood storage, water quality and habitat.

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1. Stormwater and drainage features shall incorporate low impact development techniques, if technically feasible, that mimic pre-development hydrologic conditions, such as stormwater infiltration, rain gardens, grass swales, filter strips, disconnected hard surface areas, permeable pavement, vegetative roof systems, etc. per the City's current SWMM per Chapter 12.04 ACC.
 2. If the proposed project will create new hard surfaces so that more than 10 percent of the portion of the lot in the Special Flood Hazard Area is covered by hard surface, the applicant shall demonstrate that there will be no net increase in the rate and volume of the stormwater surface runoff per the maximum extent feasible and as required per the City's current SWMM per ACC 13.48 that leaves the site or that the adverse impact is mitigated, as provided in Sections 15.68.440 and 15.68.450.
- C. The site plan required in Section 15.68.170 shall account for surface drainage to ensure that:
1. Existing and new buildings on the site will be protected from stormwater runoff; and
 2. The project will not divert or increase surface water runoff onto neighboring properties.

15.68.280 Hazardous Materials.

- A. No new development shall create a threat to public health, public safety or water quality. Chemicals, explosives, gasoline, propane, buoyant materials, animal wastes, fertilizers, flammable liquids, pollutants, or other materials that are hazardous, toxic, or a threat to water quality are prohibited from the Special Flood Hazard Area. This prohibition does not apply to small quantities of these materials kept for normal household use. This prohibition does not apply to the continued operations of existing facilities and structure, reuse of existing facilities and structures, or functionally dependent facilities or structures.
- B. If the proposed project cannot meet Section 15.68.280(A) of this ordinance, then a habitat impact assessment must be conducted in accordance with Sections 15.68.440 and 15.68.450.

15.68.290 Critical Facilities.

- A. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area.
- B. Construction of new critical facilities in the Special Flood Hazard Area shall be permissible if no feasible alternative site is available, provided;
1. Critical facilities shall have the lowest floor elevated three feet above the base flood elevation or to the height of the 500-year flood, whichever is higher. If there is no available data on the 500-year flood, the permit applicants shall develop the needed data in accordance with FEMA mapping guidelines.
 2. Access to and from the critical facility shall be protected to the elevation of the 500-year floodplain. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Section 6. Standards for Protection of Structures

15.68.300 Applicability.

The protection requirements in this section apply to all new structures and substantial improvements, which include:

- A. Construction or placement of a new structure.
- B. Reconstruction, rehabilitation, or other improvement that will result in a substantially improved building.
- C. Repairs to an existing building that has been substantially damaged regardless of the actual repair work that is done .
- D. Placing a manufactured home on a site.
- E. Placing an occupied recreational vehicle or travel trailer on a site for more than 180 days.

15.68.310 Flood Protection Standards.

- A. All new structures and substantial improvements shall have the lowest floor, including basement, elevated to or above the FPE.
- B. New construction and substantial improvement of any residential structure in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.
- C. The structure shall be aligned parallel with the direction of flood flows where practicable.
- D. The structure shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.
- E. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- F. All materials below the FPE shall be resistant to flood damage and firmly anchored to prevent flotation. Materials harmful to aquatic wildlife, such as creosote, are prohibited below the FPE.
- G. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage
- H. Electrical, heating, ventilation, duct work, plumbing, and air-conditioning equipment and other service facilities shall be elevated to or above the FPE. Water, sewage, electrical, and other utility lines (excluding storm drainage facilities) below the FPE shall be constructed so as to minimize water from entering or accumulating within them during conditioning of flooding.
- I. Fully enclosed areas below the lowest floor that are subject to flooding shall be used only for parking, limited storage, or building access and shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by a registered professional engineer or licensed architect in the State of Washington and/or meet or exceed the following minimum criteria:
 - 1. A minimum of two openings having a total net area not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - 2. The bottom of all openings shall be no higher than one foot above grade.
 - 3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

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4. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of flood waters.

15.68.320 Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall meet the requirements of subsection A or B below:

A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

1. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated least one foot above the BFE, or as required by ASCE 24, whichever is greater.
2. If located in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.
3. If buildings are constructed or substantially improved with fully enclosed areas below the lowest floor, that are subject to flooding, the areas shall be used only for parking, limited storage, or building access, and shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - a. Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
4. Alternatively, a registered engineer or architect may design and certify engineered openings.

B. If the requirements of Section 15.68.320(A) are not met, then new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

1. Together with attendant utility and sanitary facilities, be dry floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry floodproofed to the elevation required by ASCE 24, whichever is greater;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this

subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 15.68.220(B);

15.68.330 Manufactured Homes.

All manufactured homes to be placed or substantially improved on sites shall be:

- A. Elevated on a permanent foundation in accordance with Section 15.68.310(A) and
- B. Securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to other applicable anchoring requirements for resisting wind forces.
- C. If manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.

15.68.340 Recreational Vehicles.

Recreational vehicles placed on sites shall:

- A. Be on the site for fewer than 180 consecutive days, or
- B. Be fully licensed and ready for highway use, on their wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached addition; or
- C. Meet the requirements of Section 15.68.340 and the anchoring requirements for manufactured homes in Section 15.68.330.

15.68.350 Appurtenant Structures.

A structure which is on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure and is not used for human habitation may be exempt from the elevation requirements of Section 15.68.310(A), provided:

- A. It is used only for parking or storage;
- B. It is constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters;
- C. It is anchored to prevent flotation which may result in damage to other structures;
- D. All portions of the structure below the FPE must be constructed of flood-resistant materials;
- E. Service utilities such as electrical and heating equipment meet the standards of Section 15.68.310(F) and Section 15.68.360;
- F. It has openings to allow free flowage of water that meet the criteria in Section 15.68.310(I);
- G. The project meets all the other requirements of this ordinance, including Section 7 and 15.68.410.

15.68.360 Utilities.

- A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- B. New water wells shall be located outside the floodway and shall be protected to the FPE;

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- C. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the floodwaters;
 - D. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. A habitat impact assessment shall be conducted in accordance with Section 15.68.440 as a condition of approval of an onsite waste disposal system to be located in the Special Flood Hazard Area.

Section 7. Standards for Habitat Protection

The provisions of this Section shall apply in the Special Flood Hazard Area and channel migration zone.

15.68.370 Non-Development Activities.

Activities that do not meet the definition of “development” are allowed in the Special Flood Hazard Area and Protected Area without the need for a floodplain development permit under this ordinance, provided all other Federal, State and local requirements are met. The following are examples of activities not considered development or “unnatural changes to improved or unimproved real estate”.

- A. Routine maintenance of landscaping that does not involve grading, excavation or filling;
- B. Removal of noxious weeds and hazard trees and replacement of non-native vegetation with native vegetation;
- C. Normal maintenance of structures, such as re-roofing and replacing siding, provided such work does not qualify as a substantial improvement;
- D. Normal maintenance of above ground utilities and facilities, such as replacing downed power lines and utility poles;
- E. Underground and above ground utility work located in previously disturbed areas, with no significant vegetation impacts, and will have no appreciable change in grade;
- F. Normal maintenance and preservation of public streets and private streets or parking lots (with approval of Floodplain Administrator) , including, but not limited to filling potholes, patching, crack seal, chip seal, repaving and installing signs and traffic signs, traffic control devices, striping/channelization, pavement markings, repair/replacement of sidewalk/curb and gutter, ADA improvements, non-motorized improvements, repair of guardrails, repair of retaining walls, management of hazardous trees, fencing repair, lighting repair, but not including expansion of paved areas;
- G. Public street improvements with no significant vegetation impacts, and no appreciable change in grade;
- H. Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility are allowed in the Special Flood Hazard Area without the need for a floodplain development permit. Normal maintenance does not include repair from flood damage, expansion of the prism, expansion of the face or the toe or addition for protection on the face or toe with rock armor; and
- I. Plowing and other normal flood protection practices (other than structures or filling) on farms in the Special Flood Hazard Area and in existence as of the effective date of this ordinance do not require a floodplain development permit. Clearing additional land for agriculture after the date of this ordinance will require a floodplain development permit and a Habitat Assessment.

15.68.380 Activities Allowed with a Floodplain Development Permit.

The following activities are allowed in the Special Flood Hazard Area without the analysis required in Section 15.68.410 or the habitat impact assessment required under Section 15.68.440, provided that all other requirements of this ordinance are met, including obtaining a floodplain development permit:

- A. Repairs or remodeling of an existing structure, provided that the repairs or remodeling are not a substantial improvement or a repair of substantial damage.
- B. Expansion or reconstruction of an existing structure that is no greater than ten percent beyond its existing footprint, provided that the repairs or remodeling are not a substantial improvement or repair of substantial damage. If the structure is in the floodway, there shall be no change in the structure's dimensions perpendicular to flow and a no rise analysis and certification must be provided, even if the change in dimensions is parallel to flow.
- C. Activities with the sole purpose of creating, restoring or enhancing natural functions associated with floodplains, streams, lakes, estuaries, marine areas, habitat and riparian areas that meet Federal and State standards, provided the activities do not include structures, grading, fill, or hard surfaces.
- D. Development of open space and recreational facilities such as parks, trails and hunting grounds, that do not include structures, fill, hard surfaces or removal of more than five percent of the native vegetation on that portion of the property in the Special Flood Hazard Area.
- E. Repairs to onsite Septic Systems provided the ground disturbance is the minimum necessary and best management practices (BMP's) to prevent stormwater runoff and soil erosion are used.

15.68.390 Other Activities.

All other activities listed in Sections 15.68.370 or 15.68.380 that are allowed by Title 18 (Zoning) of the Auburn City Code are allowed, provided they meet all the other requirements of this ordinance, including the analysis required under Section 15.68.420, 15.68.430, and the habitat impact assessment required under Section 15.68.440, and a floodplain development permit is issued.

15.68.400 Native Vegetation.

The site plan required in the Floodplain Development Application Packet shall show existing native vegetation.

- A. Within the riparian buffer zone, native vegetation shall be left undisturbed, except as provided in Sections 15.68.370 and 15.68.380(C).
- B. Outside the riparian buffer zone, removal of native vegetation shall not exceed 35 percent of the surface area of the portion of the site in the Special Flood Hazard Area. Native vegetation in the riparian buffer zone portion of the property can be counted toward this requirement.
- C. If the proposed project does not meet the criteria of Sections 15.68.400(A) and (B), a habitat impact assessment shall be conducted pursuant to Section 15.68.440 and, if necessary, a habitat mitigation plan shall be prepared and implemented pursuant to Section 15.68.450.

15.68.410 Floodway Standards.

A. In addition to the other requirements of this ordinance, a project to develop in the floodway as delineated pursuant to Sections 15.68.130(C), 15.68.130(D) or 15.68.150(E) shall meet the following criteria:

1. The applicant shall provide a certification by a registered professional engineer licensed in the State of Washington demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed development would not result in any increase in flood levels during the occurrence of the base flood discharge.
2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for the following. The following exceptions must still meet all other requirements in the ordinance, including Section 15.68.410(A)(1).

- a. Repairs, reconstruction, or improvements to a residential structure that do not increase the ground floor area, providing the cost of which does not exceed 50 percent of the market value of the structure either, (1) before the repair, or reconstruction is started, or (2) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications that have been identified by a local code enforcement official, and which are the minimum necessary to assure safe living conditions, or to an historic structure, may be excluded from the 50 percent calculation;

- b. Repairs, reconstruction, replacement, or improvements to existing farmhouse structures located in designated floodways and that are located on lands designated as agricultural lands of long-term commercial significance under RCW 36.70A.170 may be permitted subject to the following:

- i. The new farmhouse is a replacement for an existing farmhouse on the same farm site;
- ii. There is no potential building site for a replacement farmhouse on the same farm outside the designated floodway;
- iii. Repairs, reconstruction, or improvements to a farmhouse shall not increase the total square footage of encroachment of the existing farmhouse;
- iv. A replacement farmhouse shall not exceed the total square footage of encroachment of the farmhouse it is replacing;
- v. A farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within ninety days after occupancy of a new farmhouse;
- vi. For substantial improvements and replacement farmhouses, the elevation of the lowest floor of the improvement and farmhouse respectively, including basement, is a minimum of one foot higher than the BFE;
- vii. New and replacement water supply systems are designed to eliminate or minimize infiltration of floodwaters into the system;
- viii. New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of floodwater into the system and discharge from the system into the floodwaters; and

ix. All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

c. For all substantially damaged residential structures, other than farmhouses, located in a designated floodway, the Floodplain Administrator may make a written request that the Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the local permitting authority repair, replacement, or relocation of a substantially damaged structure consistent with WAC 173-158-076. The property owner shall be responsible for submitting to the local government and the Department of Ecology any information necessary to complete the assessment. Without a favorable recommendation from the department for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed per WAC 173-158-070(1).

d. Before the repair, replacement, or reconstruction is started, all requirements of the NFIP, the state requirements adopted pursuant to 86.16 RCW, and all applicable local regulations must be satisfied. In addition, the following conditions must be met:

i. There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway.

ii. A replacement residential structure is a residential structure built as a substitute for a legally existing residential structure of equivalent use and size.

iii. Repairs, reconstruction, or replacement of a residential structure shall not increase the total square footage of floodway encroachment.

iv. The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the BFE.

v. New and replacement water supply systems are designed to eliminate or minimize infiltration of floodwater into the system.

vi. New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of floodwater into the system and discharge from the system into the floodwaters.

vii. All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

e. Repairs, reconstruction, or improvements to residential structures identified as historic structures that do not increase the building's dimensions.

B. In riverine Special Flood Hazard Areas where a floodway has not been delineated pursuant to Sections 15.68.130(C), 15.68.130(D) or 15.68.150(E), the applicant for a project to develop in the SFHA shall provide a certification by a registered professional engineer in the State of Washington demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the

proposed development and all other past or future similar developments would not cumulatively result in an increase of flood levels during the occurrence of the base flood discharge by more than one-half foot.

15.68.420 Standards for Shallow Flooding Areas (AO Zones)

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In addition to other provisions in this code, the following additional provisions also apply in AO zones.

- A. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement and mechanical equipment) elevated above the highest adjacent grade to the structure, one foot or more above the depth number specified in feet on the community's FIRM (at least two feet above the highest adjacent grade to the structure if no depth number is specified).
- B. New construction and substantial improvements of nonresidential structures within AO zones shall either:
 - 1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
 - 2. Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer, or architect as in Section 15.68.310(I).
- C. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
- D. Recreational vehicles placed on sites within AO zones on the community's FIRM either:
 - 1. Be on the site for fewer than 180 consecutive days, or
 - 2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - 3. Meet the requirements of subsections (1) and (3) above and the anchoring requirements for manufactured homes (Section 15.68.330(B)).

15.68.430 Compensatory Storage.

New development shall not reduce the effective flood storage volume of the Special Flood Hazard Area. A development proposal shall provide compensatory storage if grading or other activity eliminates any effective flood storage volume. Compensatory storage shall:

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- A. Provide equivalent volumes at equivalent elevations to that being displaced. For this purpose, “equivalent elevation” means having similar relationship to ordinary high water mark and to the best available 10-year, 50-year and 100-year water surface profiles.
 - B. Be hydraulically connected to the source of flooding.
 - C. Provide compensatory storage in the same construction season as when the displacement of flood storage volume occurs and before the flood season begins.
 - D. The newly created storage area shall be graded and vegetated to allow fish access during flood events without creating fish stranding sites.

15.68.440 Habitat Impact Assessment.

Unless allowed under Sections 15.68.370 and 15.68.380, a permit application to develop in the Special Flood Hazard Area shall include an assessment of the impact of the project on federal, state or locally protected species and habitat, water quality and aquatic and riparian habitat. The assessment shall be:

- A. A Biological Evaluation or Biological Assessment developed per 50 C.F.R., Subsection 402.12 to initiate Federal Interagency consultation under Endangered Species Act Section 7.a.2; or,
- B. Documentation that the activity fits within Section 4.d of the Endangered Species Act; or,
- C. Documentation that the activity fits within a Habitat Conservation Plan approved pursuant to Section 10 of the Endangered Species Act, where any such assessment has been prepared or is otherwise made available; or
- D. An assessment prepared in accordance with *Regional Guidance for Floodplain Habitat Assessment and Mitigation*, FEMA Region X, 2013. The assessment shall determine if the project would adversely affect:
 - 1. Species that are Federal, state or local listed as threatened or endangered.
 - 2. The primary constituent elements for critical habitat when delineated, including but not limited to water quality, water quantity, flood volumes, flood velocities, spawning substrate, and/or floodplain refugia for listed salmonids.
 - 3. Essential Fish Habitat designated by the National Marine Fisheries Service.
 - 4. Fish and wildlife habitat conservation areas.
 - 5. Other protected areas and elements necessary for species conservation.

15.68.450 Habitat Mitigation Plan.

- A. If the assessment conducted under Section 15.68.440 concludes the project is expected to have an adverse effect on water quality and/or aquatic or riparian habitat or habitat function, the applicant shall provide a plan to mitigate those impacts, in accordance with *Regional Guidance for Floodplain Habitat Assessment and Mitigation*, FEMA Region X, 2013.
 - 1. If the USFWS or NMFS issues an Incidental Take Permit under Section 10 of the Endangered Species Act or a Biological Opinion under Section 7 of the Endangered Species Act; then it can be considered to qualify as a plan to mitigate those impacts.

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2. If the project is located in the Protected Area, the mitigation plan shall stipulate avoidance measures as are needed to ensure that there is no adverse effect during any phase of the project. No compensatory mitigation is allowed in the Protected Area.
 3. If the project is located outside the Protected Area, the mitigation plan shall include such avoidance, minimization, restoration, or compensation measures so that indirect adverse effects of development are mitigated such that equivalent or better habitat protection is provided for the following functions:
 - a. Stormwater: Reduce flood volumes and stormwater runoff from new development by ensuring that increased volumes of stormwater reach the river at the same frequency, timing and duration as historical runoff. Low Impact Development (LID) is required to be incorporated as described in Section 15.68.270(B).
 - b. Riparian Vegetation: Maintain or replace riparian function by providing equivalent area, diversity, and function of riparian vegetation as currently exists on the site. Riparian retention requirements are outlined in ACC 15.68.400.
 - c. Hyporheic Zones: No activity is allowed that interferes with the natural exchange of flow between surface water, groundwater and hyporheic zone, however, natural hyporheic exchange may be enhanced or restored.
 - d. Wetlands: Wetland function must be maintained or replaced by providing equivalent function.
 - e. Large Woody Debris: Any large woody debris (LWD) removed from the floodplain must be replaced in kind, replicating or improving the quantity, size, and species of the existing LWD per Washington Department of Fish and Wildlife Aquatic Habitat Guidelines.
 4. No new stream crossings are allowed outside the Protected Area unless approval has been obtained as stated in Section 15.68.460(A).
- B. The plan's habitat mitigation activities shall be incorporated into the proposed project. The floodplain development permit shall be based on the redesigned project and its mitigation components.
- C. As required in Section 15.68.230, the floodplain administrator or designee shall not issue a certificate of occupancy or final permits until all work identified in the Habitat Assessment and mitigation plan has been completed or the applicant has provided the necessary assurance that unfinished portions of the project will be completed, in accordance with Section 15.68.230(A).
- D. Third-Party Review. For the habitat impact assessment required in Subsection 15.68.440 or the habitat mitigation plan required in this section, the city may require third-party review when the professional opinions of the applicant's representative and the city's reviewers cannot be reconciled. Third-party review requires the applicant's habitat impact assessment, habitat mitigation plan, and/or additional technical studies to be reviewed by an independent third party, paid for by the applicant but hired by the city. Third-party review shall be conducted by a qualified consultant as defined in the Floodplain Habitat Assessment and Mitigation Regional Guidance, FEMA Region X, 2013.

15.68.460 Alteration of Watercourses and SFHA Boundaries.

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- A. In addition to the other requirements in Chapter 15.68, if a project will alter or relocate boundaries of the SFHA, then the applicant shall also submit a request for a Conditional Letter of Map Revision (CLOMR), where required by FEMA with engineering documentation and analysis regarding the proposed change. The project will not be approved unless FEMA issues the CLOMR (which requires Endangered Species Act consultation) and the provisions of the letter are made part of the permit requirements. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.
- B. If a CLOMR application is made, then the project proponent shall also supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit, including all required property owner notifications.
- C. The floodplain administrator or designee shall notify adjacent communities and the Washington Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator;
- D. Assure that the flood-carrying capacity of the altered or relocated portion of the watercourse is maintained. If the maintenance program does not call for cutting of native vegetation, the system shall be oversized at the time of construction to compensate for said vegetation growth or any other natural factor that may need future maintenance.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5516 (Gaub)

Date:

May 19, 2020

Department:

Public Works

Attachments:

[Resolution No. 5516](#)

[Exhibit A](#)

[Vicinity Map \(CP2006\)](#)

[Vicinity Map \(CP2007\)](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council to adopt Resolution No. 5516.

Background Summary:

Resolution No. 5516 authorizes the Mayor to accept federal grants to be administered through the Washington State Department of Transportation (WSDOT).

The City applied for and was awarded the following federal grants:

- \$673,540.00 to finance the design, environmental permitting, and construction phases of the 3rd Street SW Bridge Deck Preservation project. This project will repair and seal bridge decks over A Street SW, BNSF/Sound Transit Tracks, and C Street SW. There is no local funding match requirement.
- \$647,850.00 to finance the design, environmental permitting, and construction phases of the Lea Hill Rd Bridge Deck Preservation project. This project will repair and resurface the Lea Hill bridge over the Green River. There is no local funding match requirement.

The Local Agency Agreement template used for each grant is attached for reference as Exhibit A.

Reviewed by Council Committees:**Councilmember:****Staff:**

Gaub

Meeting Date: June 1, 2020

Item Number:

RES.A

RESOLUTION NO. 5516

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO ACCEPT AND EXPEND FEDERAL GRANT FUNDS TO BE ADMINISTERED THROUGH THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

WHEREAS, the City desires to improve safety, capacity, and efficiency of the City's street network throughout Auburn; and

WHEREAS, it is in the best interest of the City to use grant monies to finance capital improvements to the transportation system; and

WHEREAS, the need for the 3rd Street SW Bridge Decks Preservation and Lea Hill Rd Bridge Deck Preservation projects are recognized in Auburn's adopted Transportation Improvement Program; and

WHEREAS, completing this project will improve safety, capacity, and efficiency of the City's street network; and

WHEREAS, the City applied for and was awarded the following federal grants to be administered by the Washington State Department of Transportation (WSDOT) with required local funding match percentage as indicated:

- \$523,540.00 to finance the design, environmental permitting, and construction phases of the 3rd Street SW Bridge Deck Preservation Project (13.5% local funding match required for the Construction Phase)
- \$547,850.00 to finance the design, environmental permitting, and construction phases of the Lea Hill Rd Bridge Deck Preservation Project (13.5% local funding match required for the Construction Phase);

WHEREAS, funding has been made available in the approved City budget to meet the local funding match requirements for the grant; and

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

Section 1. The Mayor is authorized to accept the WSDOT grant funds for the 3rd Street SW and Lea Hill Road Deck Preservation projects, to expend both the grant and matching funds, and to negotiate and execute Local Agency Agreements between the City and the Washington State Department of Transportation for the design phase for each of the above-identified projects.

Section 2. The Mayor is authorized to negotiate and execute supplemental agreements consistent with project and grant requirements as may be necessary for all future phases for each of the projects, up to the total amount of the grants and associated budget.

Section 3. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 4. This Resolution will take effect and be in full force on passage and signatures.

Dated and Signed this _____ day of _____, 2020.

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Kendra Comeau, City Attorney


**Washington State
Department of Transportation**

Agency

Address

Local Agency Agreement
CFDA No. 20.205

(Catalog or Federal Domestic Assistance)

Project No.**Agreement No.**

For OSC WSDOT Use Only

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) 2 CFR Part 200, (4) 2 CFR Part 180 – certifying that the local agency is not excluded from receiving Federal funds by a Federal suspension or debarment, (5) the policies and procedures promulgated by the Washington State Department of Transportation, and (6) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name

Length

Termini

Description of Work

Project Agreement End Date

Proposed Advertisement Date

Claiming Indirect Cost Rate

Yes No

Type of Work		Estimate of Funding		
		(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE	a. Agency			
%	b. Other			
Federal Aid	c. Other			
Participation	d. State			
Ratio for PE	e. Total PE Cost Estimate (a+b+c+d)			
Right of Way	f. Agency			
%	g. Other			
Federal Aid	h. Other			
Participation	i. State			
Ratio for RW	j. Total R/W Cost Estimate (f+g+h+i)			
Construction	k. Contract			
%	l. Other			
Federal Aid	m. Other			
Participation	n. Other			
Ratio for CN	o. Agency			
	p. State			
	q. Total CN Cost Estimate (k+l+m+n+o+p)			
	r. Total Project Cost Estimate (e+j+q)			

Agency Official

By

Title

Washington State Department of Transportation

By

Director, Local Programs

Date Executed

Construction Method of Financing (Check Method Selected)

State Ad and Award

Method A - Advance Payment - Agency Share of total construction cost (based on contract award)

Method B - Withhold from gas tax the Agency's share of total construction coast (line 5, column 2) in the amount of

\$ _____ at \$ _____ per month for _____ months.

Local Force or Local Ad and Award

Method C - Agency cost incurred with partial reimbursement

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the federal funds obligated, it accepts and will comply with the applicable provisions set forth below. Adopted by official action on _____, Resolution/Ordinance No. _____.

Provisions

I. Scope of Work

The Agency shall provide all the work, labor, materials, and services necessary to perform the project which is described and set forth in detail in the "Project Description" and "Type of Work."

When the State acts for and on behalf of the Agency, the State shall be deemed an agent of the Agency and shall perform the services described and indicated in "Type of Work" on the face of this agreement, in accordance with plans and specifications as proposed by the Agency and approved by the State and the Federal Highway Administration.

When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with local government accounting procedures prescribed by the Washington State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall be retained and made available for such inspection for a period of not less than three years from the final payment of any federal aid funds to the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering.
2. Right of way acquisition.
3. Project construction.

Once written authorization is given, the Agency agrees to show continuous progress through monthly billings. Failure to show continuous progress may result the Agency's project becoming inactive, as described in 23 CFR 630, and subject to de-obligation of federal aid funds and/or agreement closure.

If right of way acquisition, or actual construction of the road for which preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which preliminary engineering phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

If actual construction of the road for which right of way has been purchased is not started by the close of the tenth fiscal year following the fiscal year in which the right of way phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

1. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

Method A – The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency's share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a billing to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

Method B – The Agency's share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allotments. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

Method C – The Agency may submit vouchers to the State in the format prescribed by the State, in duplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation unless claimed under a previously approved indirect cost plan.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project. The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section IX).

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 60 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

X. Traffic Control, Signing, Marking, and Roadway Maintenance

The Agency will not permit any changes to be made in the provisions for parking regulations and traffic control on this project without prior approval of the State and Federal Highway Administration. The Agency will not install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and MUTCD. The Agency will, at its own expense, maintain the improvement covered by this agreement.

XI. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution, performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project, PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

XII. Nondiscrimination Provision

No liability shall attach to the State or Federal Government except as expressly provided herein.

The Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract and/or agreement or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts and agreements. The WSDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Agency of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor in 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the required contract provisions for Federal-Aid Contracts (FHWA 1273), located in Chapter 44 of the Local Agency Guidelines.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

- (1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.
- (2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.
- (3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.
- (4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

- (a) Cancel, terminate, or suspend this agreement in whole or in part;
- (b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and
- (c) Refer the case to the Department of Justice for appropriate legal proceedings.

XIII. Liquidated Damages

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 635, Subpart 127, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

XIV. Termination for Public Convenience

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

- (1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.
- (2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.
- (3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.
- (4) The Secretary is notified by the Federal Highway Administration that the project is inactive.
- (5) The Secretary determines that such termination is in the best interests of the State.

XV. Venue for Claims and/or Causes of Action

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

XVI. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The approving authority certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification as a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

XVII. Assurances

Local agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities, and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Additional Provisions

Instructions

1. **Agency Name and Billing Address** – Enter the Agency of primary interest which will become a party to the agreement.
2. **Project Number** – Leave blank. This number will be assigned by WSDOT.
3. **Agreement Number** – Leave blank. This number will be assigned by WSDOT.
- 4.

- a. **Project Description** – Enter the project name, total length of the project (in miles), and a brief description of the termini. Data entered here must be consistent with the name, length, and termini noted in the STIP and Project Prospectus

Example: (Name) “Regal Road”, (Length) “1.2 miles”, (Termini) “Smith Road to Main Street”

- b. **Description of Work** – Enter a concise statement of the major items of work to be performed. Statement must be consistent with the description of work noted in the STIP and Project Prospectus.

Example: “Overlay Regal Road; install curb, gutter, and sidewalk; illumination; and traffic signal at the intersection of Regal Road and Dakota Avenue.”

- c. **Project Agreement End Date** – Enter your Project Agreement End Date. This date is based on your projects Period of Performance (2 CFR 200.309).

For Planning Only projects – WSDOT recommends agencies estimate the end of the project’s period of performance and add three years to determine the “Project Agreement End Date”.

For PE and RW – WSDOT recommends agencies estimate when the phase will be completed and add three years to determine the “Project Agreement End Date”.

For Construction – WSDOT recommends agencies estimate when construction will be completed and add three years to determine the “Project Agreement End Date”.

- d. **Proposed Advertisement Date** – At construction authorization only, enter the proposed project advertisement date.
- e. **Claiming Indirect Cost Rate** – Check the Yes box if the agency will be claiming indirect costs on the project. For those projects claiming indirect costs, supporting documentation that clearly shows the indirect cost rate being utilized must be provided with the local agency agreement. Indirect cost rate approval by your cognizant agency or through your agency’s self-certification and supporting documentation is required to be available for review by FHWA, WSDOT and /or State Auditor. Check the No box if the agency will not be claiming indirect costs on the project. See section 23.5 for additional guidance.

5. Type of Work and Funding (Round all dollar amounts to the nearest whole dollar)

- a. **PE** – Lines a through d show Preliminary Engineering costs for the project by type of work (e.g., consultant, agency, state services, etc.).

*Federal aid participation ratio for PE – enter ratio for PE lines with amounts in column 3.

- **Line a** – Enter the estimated amount of agency work in columns 1 through 3.
- **Line b & c** – Identify user, consultant, etc., and enter the estimated amounts in columns 1 through 3.
- **Line d** – State Services. Every project must have funding for state services. Enter the estimated amounts in columns 1 through 3.
- **Line e** – Total of lines a + b + c + d.

- b. **Right of Way** – If a Right of Way phase is authorized on the project, the appropriate costs are shown in lines f through i.

*Federal aid participation ratio for RW – enter ratio for RW lines with amounts in column 3.

- **Line f** – Enter the estimated amount of agency work in columns 1 through 3.
- **Line g & h** – Identify user, consultant, etc., and enter the estimated amounts in columns 1 through 3.
- **Line i** – State Services. Every project must have funding for state services. Enter the estimated amounts in columns 1 through 3.
- **Line j** – Total of lines f + g + h + i.

- c. **Construction** – Lines k through p show construction costs for the project by type of work (e.g., contract, consultant, agency, state services, etc.).

*Federal aid participation ratio for CN – enter ratio for CN lines with amounts in column 3.

- **Line k** – Enter the estimated cost of the contract.
- **Lines l, m, & n** – Enter other estimated costs such as utility and construction contracts or non-federally matched contract costs.
- **Line o** – Enter estimated costs of all construction related agency work.
- **Line p** – State Services. Every project must have funding for state services. Enter the estimated amounts in columns 1 through 3.
- **Line q** – Total Construction Cost Estimate. Total of lines k + l + m + n + o + p.

- d. **Total Project Cost Estimate**

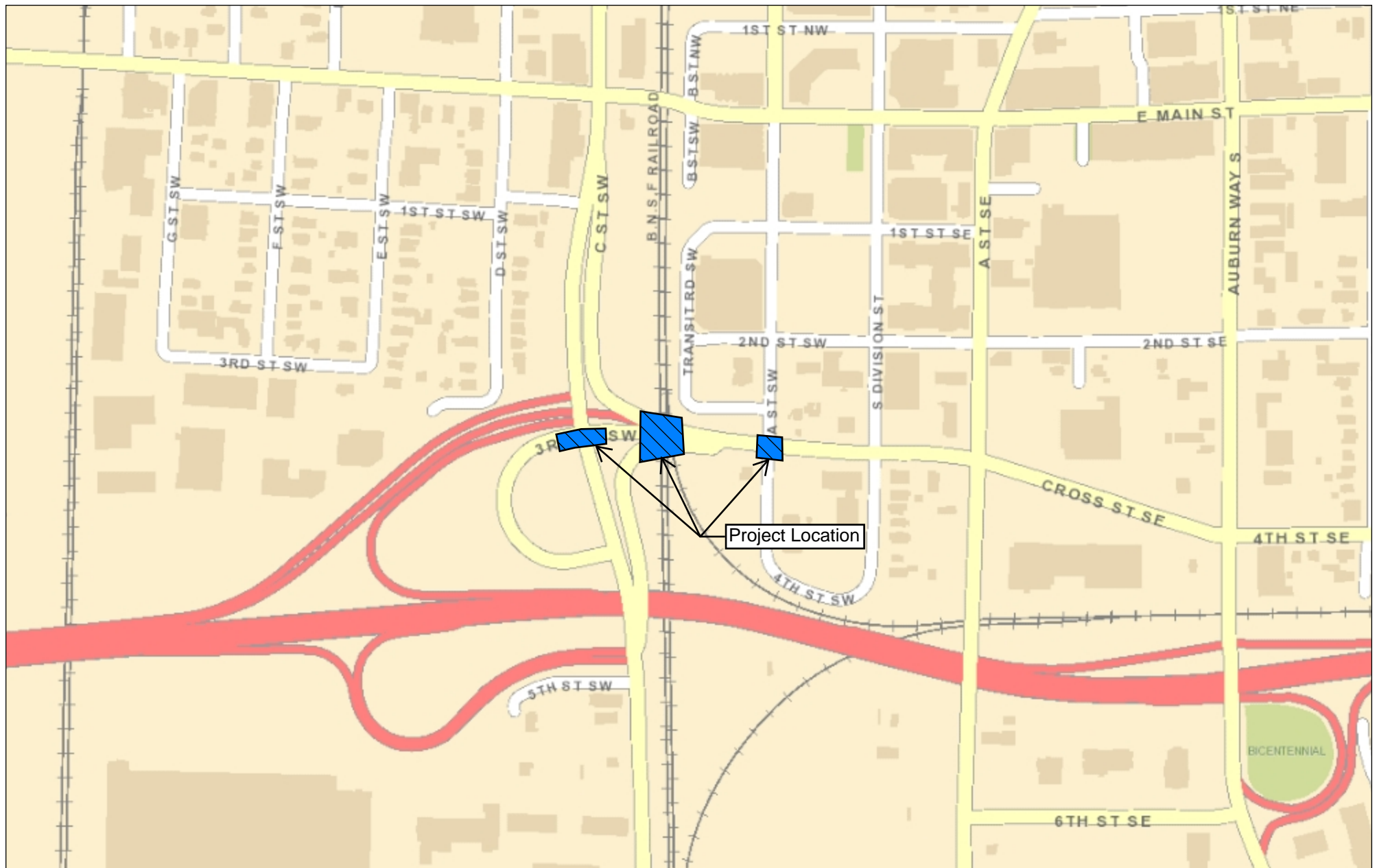
- **Line r** – Total Cost Estimate of the Project. Total of lines e + j + q.

*Please remember, if the federal aid participation rate entered is not the maximum rate allowed by FHWA, then the participation rate entered becomes the maximum rate allowed.

6. **Signatures** – An authorized official of the local agency signs the agreement, and writes in their title. **Note:** Do **NOT** enter a date on the Date Executed line.

7. **Method of Construction Financing** – Choose the method of financing for the construction portion of the project.
 - a. **Method “A”** is used when the state administers the contract for the agency.
 - b. **Method “B”** is also used when the state administers the contract for the agency.
 - c. **Method “C”** is used with projects administered by the local agency. The agency will submit billings monthly through the state to FHWA for all eligible costs. The billings must document the payment requests from the contractor. If state-force work, such as audit and construction engineering, is to receive federal participation, it will be billed to the agency and FHWA simultaneously at the indicated ratio. To show continuous progress agencies should bill monthly until agreement is closed.
8. **Resolutions/Ordinances** – When someone other than the County Executive/Chairman, County Commissioners/Mayor is authorized to sign the agreement, the agency must submit to WSDOT with the agreement a copy of the Resolution/Ordinance designating that individual.
9. **Parties to the Agreement** – Submit one originally signed agreement form to the Region Local Programs Engineer. It is the responsibility of the local agency to submit an additional, originally signed agreement form if they need an executed agreement for their files. The agreement is first executed by the agency official(s) authorized to enter into the agreement. It is then transmitted to the state for execution by Local Programs. The agreement is dated at the time of final execution by Local Programs.

CP2006 - 3rd St SW Bridge Decks Preservation



752.3 0 376.2 752.3 Feet

NAD_1983_StatePlane_Washington_North_FIPS_4601_Feet

1 in = 376 ft

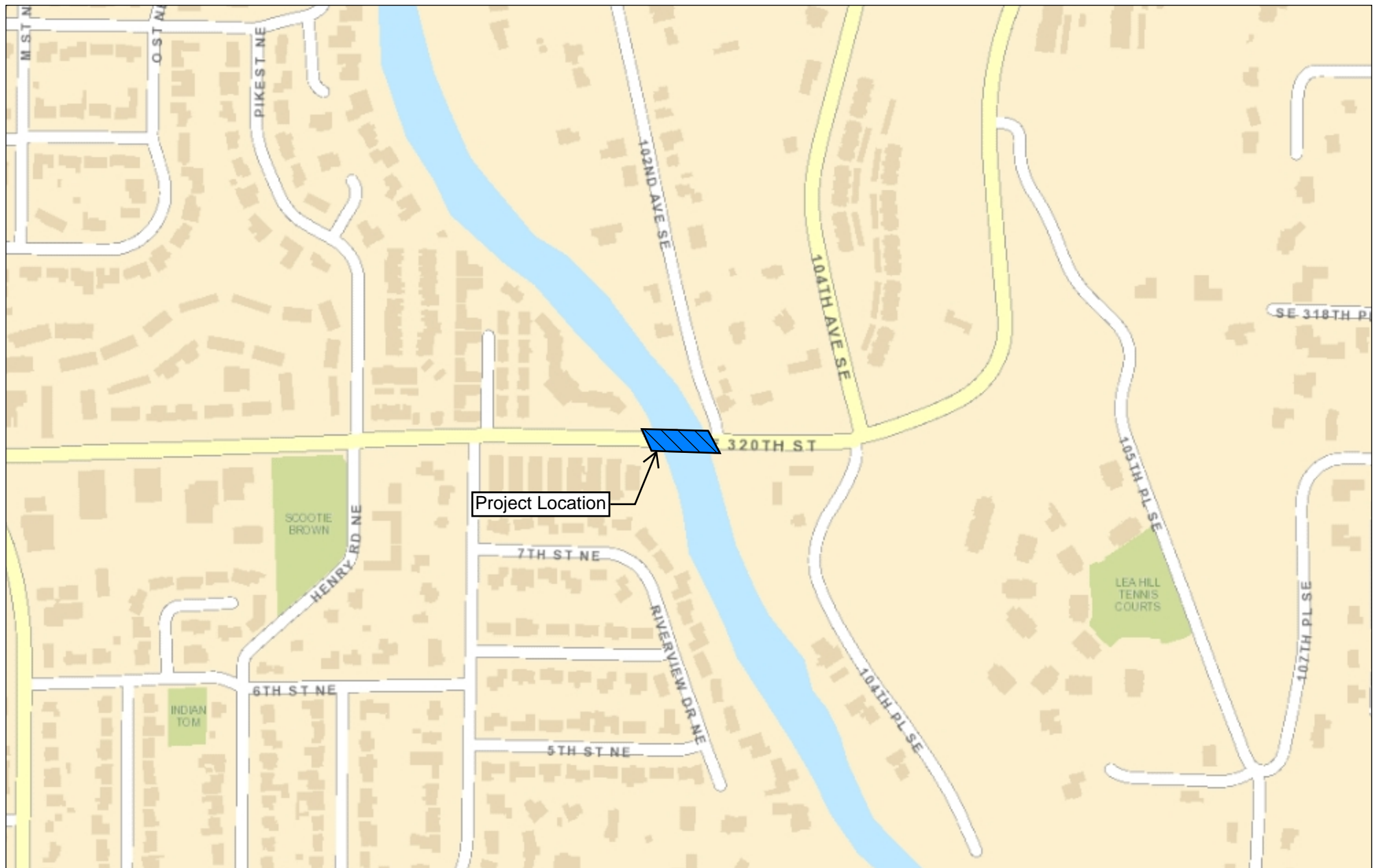
1:4,514

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

CP2007 - Lea Hill Rd Bridge Deck Preservation Vicinity Map



752.3 0 376.2 752.3 Feet

NAD_1983_StatePlane_Washington_North_FIPS_4601_Feet

1in = 376 ft

1:4,514



Page 118 of 159

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



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5518 (Gaub)

Date:

May 21, 2020

Department:

Public Works

Attachments:

[Resolution No. 5518](#)

[Draft Transit Service Financial Partnership](#)

[Agreement](#)

[Route 497 Map](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council to adopt Resolution No. 5518.

Background Summary:

Resolution No. 5518 authorizes an interlocal agreement with King County Metro and Pierce Transit for Transit Route 497.

In November 2008, King County Metro, Pierce Transit, and City of Auburn signed a Transit Service Financial Agreement to provide commute alternatives to Pierce County residents who work in King County. Route 497 started service in 2009. King County Metro had a funding mechanism for this service which was cancelled, and therefore a new funding mechanism was put in place. The original Transit Service Agreement expires in September of 2020, and is replaced by this new Transit Service Financial Partnership Agreement.

The City budget for this Transit Service is \$200,000 for 2020 in the 102 Fund and future years will be included in the 2021 and 2022 budgets. Actual costs of service are approximately \$45,000 per quarter. The cost of service is expected to rise by 3% annually.

Reviewed by Council Committees:**Councilmember:****Staff:**

Gaub

Meeting Date: June 1, 2020

Item Number:

RES.B

RESOLUTION NO. 5518

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A FINANCIAL AGREEMENT BETWEEN THE CITY OF AUBURN, KING COUNTY METRO, AND PIERCE TRANSIT FOR BUS ROUTE 497

WHEREAS, in November 2008, King County Metro, Pierce Transit, and City of Auburn signed a Transit Service Financial Agreement to provide commute alternatives to Pierce County residents who work in King County; and

WHEREAS, in 2009, as a result of the Transit Service Financial Agreement, Pierce Transit started the operation of route 497; and

WHEREAS, since 2008, the Service Partners signed five (5) amendments to the Transit Service Financial Agreement to provide additional service to meet the added train service at the Auburn station, and to extend the terms of the agreement to September of 2020.

WHEREAS, original Transit Service Agreement expires in September of 2020, and is replaced by this new Transit Service Financial Partnership Agreement upon the effective date;

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, King County Metro, and Pierce Transit, which agreement will be in substantial conformity with the agreement attached as Exhibit A.

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

Section 3. This Resolution will take effect and be in full force on passage and signatures.

Dated and Signed this _____ day of _____, 2020.

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Kendra Comeau, City Attorney

TRANSIT SERVICE FUNDING AGREEMENT**BY AND BETWEEN****KING COUNTY****AND****THE CITY OF AUBURN****AND****PIERCE TRANSIT**

THIS TRANSIT SERVICE FUNDING AGREEMENT ("Agreement") is made by and between King County, a political subdivision of the State of Washington, through its Metro Transit Department ("County" or "Metro Transit"), the City of Auburn, a municipal corporation of the State of Washington ("City"), and the Pierce County Public Transportation Benefit Area Corporation d/b/a Pierce Transit, a municipal corporation of the State of Washington ("Pierce Transit"). The County, the City and Pierce Transit may hereinafter be referred to individually as "Party" or collectively as the "Parties."

WHEREAS, in November 2008, the Service Partners signed a Transit Service Financial Agreement to provide commute alternatives to Pierce County residents who work in King County; and

WHEREAS, in 2009, as a result of the Transit Service Financial Agreement, Pierce Transit started the operation of route 497; and

WHEREAS, since 2008, the Service Partners signed five (5) amendments to the Transit Service Financial Agreement to provide additional service to meet the added train service at the Auburn station, and to extend the terms of the agreement to September of 2020.

WHEREAS, original Transit Service Agreement expires in September of 2020, and is replaced by this new Transit Service Financial Partnership Agreement upon the effective date; and

WHEREAS, Pierce Transit provides public transit service in urbanized areas of Pierce County as well as multiple populations centers in unincorporated areas of Pierce County; and

WHEREAS, Pierce Transit provides public transit service on its Route 497 serving Lakeland Hills and the Auburn Transit Center/Sounder Station, a major transportation hub located in the City of Auburn connecting transit riders in south King County with a variety of public transportation service options including Sounder commuter rail service and Sound Transit Express (ST Express) regional bus service operated by Sound Transit, Pierce Transit bus service, and Metro Transit bus service; and

WHEREAS, Route 497, known alternately as the Lakeland Hills Connector or Lakeland Hills Shuttle/Express, is a feeder route designed to provide transit service connections between residential areas and major transit points such as the Auburn Transit Center/Sounder Station in order to, among other things, reduce single occupancy vehicle usage, provide commute alternatives for Pierce County residents who work in King County, and alleviate commuter parking demand in downtown Auburn; and

WHEREAS, the Parties have determined that the Route 497 serves and benefits customers of all three Parties; and

WHEREAS, among other things, the Parties' previous financial service partnership agreement provided for Pierce Transit to establish and operate transit service enhancements serving the Lakeland Hills area and the Auburn Transit Center/Sounder Station consistent with the funding provisions provided for in the agreement; and

WHEREAS, although both the Transit Now Service Partnership Program and the Parties' previous financial service partnership agreement have expired, the Parties have identified funding within their respective organizations to continue to participate in a mutually beneficial contractual relationship whereby each Party will fund a share of Pierce Transit's cost of operating Route 497; and

WHEREAS, Pierce Transit has determined it has the resources available to operate the Route 497 service hours in accordance with the schedule specified within this Agreement;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements set forth herein, the Parties hereby agree as follows:

1. PURPOSE OF AGREEMENT

The purpose of this Agreement to establish the terms, conditions and responsibilities of the Parties in relation to the funding and operating of transit service on Pierce Transit's Route 497.

2. PIERCE TRANSIT'S RESPONSIBILITIES

- 2.1 Pierce Transit will provide transit service on Route 497 in accordance with the service specifications set forth in Attachment A, which is incorporated herein and made a part of this Agreement by this reference.
- 2.2 While Pierce Transit will retain authority and responsibility for conducting public participation processes in advance of any significant service modification, as defined by Pierce Transit's adopted service modification procedures, Pierce Transit will work together with the County and the City in the design and implementation of any such changes.
- 2.3 Pierce Transit's cost allocation model will be used to determine the Parties' financial contributions in accordance with this Agreement.

- 2.4 Pierce Transit will provide performance data using its standard ridership and service monitoring practices.
- 2.5 The transit service provided for herein will be open to the general public.
- 2.6 Promotion. Pierce Transit will advertise the Route 497 via its normal marketing channels, and will include the service information in Pierce Transit timetables and on Pierce Transit's web site.

3. PARTIES' FINANCIAL RESPONSIBILITIES

Each Party to this Agreement will be responsible for contributing one-third (1/3) of the cost for operating the Route 497, based on Pierce Transit's fully allocated operating hourly rate and a capital cost component for the transit vehicles. The cost each Party will be responsible for on an annual basis shall be determined in accordance with Attachment A of this Agreement.

4. TERM OF AGREEMENT

- 4.1 This Agreement shall commence upon signing by the Parties (the "effective date") and, for the service specified in Attachment A, expire five (5) years after the start of the effective date, unless extended or earlier terminated pursuant to the terms of this Agreement. If after five (5) years the Parties desire to continue this Agreement beyond the initial five-year period, this Agreement may be extended by the Parties for up to an additional five (5) years without additional approval by the Pierce Transit Board of Commissioners ("Board"), the Auburn City Council ("City Council"), or the King County Council ("County Council").
- 4.2 This Agreement is subject to review and approval by the County Council and, if necessary, the Board and the City Council.

5. INVOICES/PAYMENT PROCEDURES

- 5.1 Pierce Transit will invoice the County and the City at the end of each quarter for each Parties' share based on one-third of the actual cost to operate the service during that quarter. The invoices will be based on the Pierce Transit service costs specified in Attachment A.
- 5.2 Estimates of the total service costs based on scheduled service hours are shown in Attachment A. These estimates will be adjusted in January each year, based on Pierce Transit's fully allocated cost and the capital cost associated with the transit vehicles. Pierce Transit will provide the annual adjustments to the County and the City for the service described in Attachment A.
- 5.3 The County and the City shall make payment to Pierce Transit within forty-five (45) days after receipt of an invoice. Should either the County or the City fail to pay Pierce Transit the amount due within forty-five (45) days of receipt of a billing invoice from Pierce Transit, a late payment

assessment shall be applied to any outstanding balance due for that invoice. The late payment assessment shall be fixed at the maximum rate allowable under Washington State law.

6. RECORDS

- 6.1 Maintenance of Records. During the term of the Agreement and for a period not less than six (6) years from the date of its expiration or earlier termination, the records and accounts pertaining to this Agreement are to be kept available by the Parties for inspection and audit by the other Parties, and the State Auditor, and copies of all records, accounts, documents, or other data pertaining to the Agreement will be furnished upon reasonable notice. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the six-year retention period.
- 6.2 Disclosure of Public Records. The Parties acknowledge that all non-privileged, non-exempt records that may be maintained pursuant to Subsection 6.1 of this Agreement are subject to public disclosure under the Washington State Public Records act, Chapter 42.56 RCW.

7. INDEMNIFICATION AND LEGAL RELATIONS

- 7.1 It is understood and agreed that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other person or entity. No joint venture or partnership is formed as a result of this Agreement. No employees or agents of one Party or its contractors or subcontractors shall be deemed, or represent themselves to be, employees, agents, contractors or subcontractors of the other Party.
- 7.2 Each Party shall comply, and shall ensure that its contractors and subcontractors, if any, comply with all federal, state and local laws, regulations, and ordinances applicable to the work and services to be performed under this Agreement.
- 7.3 Each Party shall protect, defend, indemnify and save harmless the other Party, its elected officials, officers, officials, employees and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from each Party's own negligent acts or omissions. Each Party agrees that it is fully responsible for the acts and omissions of its own subcontractors, their employees and agents, acting within the scope of their employment as such, as it is for the acts and omissions of its own employees and agents. Each Party agrees that its obligations under this provision extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees or agents. The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Party's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the other Party only, and only to the extent necessary to provide the indemnified Party with a full and complete indemnity of claims made by the indemnitor's employees. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

- 7.4 Each Party's rights and remedies in this Agreement are in addition to any other rights and remedies provided by law.
- 7.5 This Agreement shall be interpreted in accordance with the laws of the State of Washington. The Superior Court of King County, Washington, located in Seattle, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.
- 7.6 The provisions of this Section 7 shall survive the expiration or earlier termination of this Agreement.

8. INSURANCE REQUIREMENTS

Each party shall self-insure or procure and maintain for the duration of the Agreement, insurance or self-insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of this Agreement by the Parties.

9. CHANGES AND MODIFICATIONS

This Agreement may be amended or modified only by a prior written amendment signed by authorized representatives of the Parties hereto. Such amendments and modifications may be executed by the General Manager of the County's Metro Transit Department without additional King County Council approval, so long as any such amendments are consistent with the intent and purpose of this Agreement.

10. TERMINATION OF AGREEMENT

- 10.1 Any Party may terminate this Agreement in writing if another Party substantially fails to fulfill any or all of its obligations under this Agreement through no fault of the other Parties; provided, however, that, insofar as practicable, the Party terminating the Agreement will give written notice of its intent to terminate not less than 135 calendar days prior to the County's next scheduled service change date. Any such notice of intent to terminate shall be delivered to the non-terminating Parties by certified mail, return receipt requested, at the addresses specified in Section 17 of this Agreement.
- 10.2 In addition to termination under Subsection 10.1 of this Agreement, any Party may terminate this Agreement for its convenience, provided that the other Parties will be given written notice of the intent to terminate not less than 135 calendar days prior to the County's next scheduled service change date. Any such notice of intent to terminate shall be delivered to the non-terminating Parties by certified mail, return receipt requested, at the addresses specified in Section 17 of this Agreement.
- 10.3 Performance of any responsibilities undertaken by the County pursuant to this Agreement beyond the County's current appropriation year is conditional upon the appropriation by the County Council of sufficient funds to support the work provided for in this Agreement. Should such an appropriation not be approved, the Agreement shall terminate at the close of the current

appropriation year. The County is on a biennial budgeting cycle and appropriations end on December 31st of the last year of the biennium (even calendar years).

- 10.4 Performance of any responsibilities undertaken by the City of Auburn pursuant to this Agreement beyond the City's current appropriation year is conditional upon the appropriation by the City Council of sufficient funds to support the work provided for in this Agreement. Should such an appropriation not be approved, the Agreement shall terminate at the close of the current appropriation year. The City of Auburn is on a biennial budgeting cycle and appropriations end on December 31st of the last year of the biennium (even calendar years).
- 10.5 Performance of any responsibilities undertaken by Pierce Transit pursuant to this Agreement beyond the agencies current appropriation year is conditional upon the appropriation by Pierce Transit Board of Commissioners sufficient funds to support the work provided for in this Agreement. Should such an appropriation not be approved, the Agreement shall terminate at the close of the current appropriation year. Pierce Transit is on an annual budget cycle and appropriations end on December 31st.
- 10.6 If any Party terminates, the other Parties will pay Pierce Transit a pro-rated amount for services performed in accordance with the Agreement to the date of termination.

11. FORCE MAJEURE

Any Party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by a cause beyond its control, including, but not limited to: any incidence of fire, flood, earthquake or acts of nature, including adverse winter weather; strikes or labor actions; commandeering material, products, or facilities by the federal, state or local government; local government; a declared State of Emergency due to a public health emergency or pandemic; and/or national fuel shortage; when satisfactory evidence of such cause is presented to the other Parties, and provided further that such non-performance is beyond the control and is not due to the fault or negligence of the Party not performing.

12. WAIVER OF DEFAULT

Waiver of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing, signed by authorized representatives of the Parties, and attached to the Agreement as an exhibit.

13. ASSIGNMENT

This Agreement shall be binding upon the Parties, their successors, and assigns; provided, however, that no Party shall assign or transfer in any manner any interest, obligation or benefit of this Agreement without the other Parties' prior written consent.

14. NO THIRD PARTY BENEFICIARIES

Nothing in this Agreement, express or implied, is intended to confer on any person or entity other than the Parties hereto and their respective successors and assigns any rights or remedies under or by virtue of this Agreement.

15. MUTUAL NEGOTIATION AND CONSTRUCTION

This Agreement and each of the terms and provisions hereof shall be deemed to have been explicitly negotiated between, and mutually drafted by, the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against any Party.

16. ALL TERMS AND CONDITIONS

This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties related to the subject matter hereof, contains all the terms and conditions agreed upon by the Parties, and constitutes the entire agreement between the Parties. This Agreement may be amended only by written agreement of the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties hereto.

17. CONTACT PERSONS

The Parties shall designate a contact person for purposes of sending inquiries and notices regarding the execution and fulfillment of this Agreement.

	City of Auburn
Contact Name	Cecile Malik
Department	Public Works
Title	Senior Transportation Planner
Address	25 West Main Street, Auburn, WA 98001-4998
Telephone	253-876-1964
E-Mail	cmalik@auburnwa.gov

	Pierce Transit
Contact Name	Duane Wakan
Department	Planning
Title	Senior Planner
Address	3701 96 th Street SW Lakewood, WA 98499
Telephone	(253) 983-3396
E-Mail	dwakan@piercetransit.org

	King County
Contact Name	

Department	
Title	
Address	
Telephone	
E-Mail	

Each Party agrees to advise the other Parties in writing with updates to its contact information as needed.

18. EXECUTION OF AGREEMENT – COUNTERPARTS

This Agreement may be executed in three (3) counterparts, each one of which shall be regarded for all purposes as an original.

19. EFFECTIVE DATE

This Agreement shall take effect on the last date it has been executed by all Parties.

KING COUNTY

CITY OF AUBURN

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

PIERCE TRANSIT

By: _____

Title: _____

Date: _____

ATTACHMENT A
TRANSIT SERVICE FUNDING AGREEMENT
City of Auburn
Pierce Transit
King County Metro

A. Service Description

The Lakeland Hills-Auburn Transit Center/Sounder Station route (Route 497) is a commuter bus service operated by Pierce Transit through a funding agreement with King County and the City of Auburn. The Lakeland Hills feeder operates between Lake Tapps Parkway and the Auburn Transit Center/Sounder Station, with one-way service to the station in the a.m. peak and from the station to Lakeland Hills in the p.m. peak.

The purpose of the Lakeland Hills feeder service is to provide peak service to connect residential areas to Auburn Transit Center/Sounder Station to facilitate transfers to Sounder commuter rail, Sound Transit express bus service, and Metro Transit bus service.

Service Level:

Annual Service Hours:	39,267.84
Number of Weekday A.M. Trips:	9 Northbound
Number of Weekday P.M. Trips:	9 Southbound

Start Date for Service. Service under this Agreement will begin on October 1, 2020.

B. Service Costs

1. Operating Cost

The operating cost for the Lakeland Hills service (Rt. 497) beginning October 1, 2020 will be based on Pierce Transit's hourly rate of **\$ 102.97**. The Parties agree that the hourly operating rate may be adjusted each year to reflect changes to Pierce Transit's service operation costs, however it is agreed that the operating hourly rate for this Agreement shall not increase by more than three percent (3%) each year.

2. Capital Cost

In addition to the operating costs, the Parties agree to pay for a share of Pierce Transit's capital costs related to the provision of transit coaches for the Lakeland Hills service. The

capital cost for this service from October 1, 2020 through December 31, 2020 is **\$ 21,320.21**. This cost will be equally shared by the Parties.

3. Monetary Contributions

The Parties agree that beginning October 1, 2020 and through the term of this Agreement, the costs for providing weekday AM northbound and weekday PM southbound trips on the Lakeland Hills service (Route 497) will be divided equally between the three Parties.

The total service costs for the period of October 1, 2020 through December 31, 2020 are estimated below. The Parties will each be responsible for one-third (1/3) of the total costs.

October 1, 2020 – December 31, 2020	Operating Cost (\$102.97/hr x 727.68 quarterly hrs.)	Capital Cost	TOTAL COST
City of Auburn	\$24,970.40	\$7,106.74	\$32,083.14
King County	\$24,976.40	\$7,106.74	\$32,083.14
Pierce Transit	\$24,976.40	\$7,106.74	\$32,083.14
Total:	\$74,929.21	\$21,320.21	\$96,249.42

Route 497

Printed Date: 5/7/2020

Map Created by City of Auburn eGIS

Imagery Date: May 2015

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



10,666.7 0 5,333.3 10,666.7 Feet

NAD_1983_StatePlane_Washington_North_FIPS_4601_Feet

1in = 5,333 ft

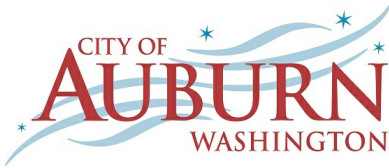
1: 64,000



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Notes

To and from Lakeland Hills and Auburn Transit Station.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5520 (Gaub)

Date:

May 26, 2020

Department:

Public Works

Attachments:

[Resolution No. 5520](#)

[Exhibit A](#)

[Letter of Concurrence dated May 1, 2020](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council to adopt Resolution No. 5520.

Background Summary:

Resolution No. 5520 authorizes the Mayor to execute an Interlocal Agreement between the City of Auburn and the Auburn School District relating to Project No. CP1902 – Pedestrian Safety Sidewalk and ADA Improvements.

A Traffic Impact Analysis for the Auburn School District's Elementary 16 Project determined that the District's project will have impacts to the intersection of 124th Avenue SE and SE 316th Street (Intersection) that require mitigation.

The City and District cooperatively developed an approach to mitigate the impacts by making improvements to the Intersection. City Project CP1902 – Pedestrian Safety Sidewalk and ADA Improvements is planned to be constructed in the summer of 2020. The City's project is constructing sidewalks, curb ramps, and crosswalk enhancements with Rapid Rectangular Flashing Beacons (RRFB) at several locations throughout the City. Likewise, the required mitigation improvements at the Intersection include new sidewalk, curb ramps, and the enhancement of a crosswalk with an RRFB. Adding the Intersection improvements to the City project will allow the City to design and construct them to be consistent with the other City Project improvements and is expected to result in a lower cost to the District compared to constructing the required Intersection improvements separately.

The District has agreed to reimburse the City a maximum amount of eighty-five thousand dollars and no cents (\$85,000.00) for direct and related indirect costs to complete the required mitigation improvements. This amount includes ten thousand dollars and no cents (\$10,000.00) as a contingency to address changes and unexpected conditions.

In addition to the District Funds, the City is working with King County Metro to secure funding for a portion of the Improvements. Metro has indicated that it may contribute up to \$50,000.00 towards the Improvements; however, no commitment has been received at this time.

Reviewed by Council Committees:

Councilmember:

Meeting Date: June 1, 2020

Staff:

Item Number:

Gaub

RES.C

RESOLUTION NO. 5520

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO
EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE
CITY OF AUBURN AND THE AUBURN SCHOOL DISTRICT
RELATING TO PROJECT NO. CP1902 – PEDESTRIAN
SAFETY SIDEWALK AND ADA IMPROVEMENTS

WHEREAS, the City is designing and constructing pedestrian improvements throughout the City, hereinafter referred to as the “City Project”; and

WHEREAS, the Auburn School District (District) is required to construct improvements at the intersection of 124th Avenue SE and SE 316 Street, hereinafter referred to as the “Improvements,” to mitigate level of service impacts associated with the Elementary 16 Project, hereinafter referred to as the “District Project” which lies adjacent to the City Project; and

WHEREAS, constructing the City Project and District Project Improvements concurrently will maximize public benefit; and

WHEREAS, the City is willing to include the design and construction of the District Project with the City Project; and

WHEREAS, the District is willing to compensate the City for the City’s costs to design and construct the Improvements; and

WHEREAS, the City and the District are authorized to enter into this Agreement pursuant to RCW 39.34.030.

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

Section 1. The Mayor is authorized to execute an Interlocal Agreement with the Auburn School District related to pedestrian safety sidewalk and ADA improvements, which Agreement will be in substantial conformity with the Agreement attached as Exhibit A.

Section 2. The Mayor is authorized to implement those administrative procedures necessary to carry out the directions of this Resolution.

Section 3. This Resolution will take effect and be in full force upon passage and signatures.

Signed _____.

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Kendra Comeau, City Attorney

**INTERLOCAL AGREEMENT BETWEEN
CITY OF AUBURN AND AUBURN SCHOOL DISTRICT
FOR CITY PROJECT NO.CP1902 – PEDESTRIAN SAFETY
SIDEWALK AND ADA IMPROVEMENTS**

THIS INTERLOCAL AGREEMENT (Agreement) made and entered into on this day of _____, 2020, by and between the City of Auburn, a municipal corporation of the State of Washington, hereinafter referred to as “City” and, the Auburn School District, hereinafter referred to as the “District.”

WITNESSETH:

WHEREAS, the City is designing and constructing pedestrian improvements throughout the City, hereinafter referred to as the “City Project”; and,

WHEREAS, the District is required to construct improvements at the intersection of 124th Avenue SE and SE 316th Street, hereinafter referred to as the “Improvements”, to mitigate level of service impacts associated with the Elementary School No. 16 Project, hereinafter referred to as the “District Project” which lies adjacent to the City Project; and,

WHEREAS, constructing the City Project and District Project Improvements concurrently will maximize public benefit; and,

WHEREAS, the City is willing to include the design and construction of the District Project with the City Project; and,

WHEREAS, the District is willing to compensate the City for the City’s costs to design and construct the Improvement in an amount not to exceed the amount listed in Section 1 of this Agreement; and

WHEREAS, the City and the District are authorized to enter into this Agreement by RCW 39.34.030.

NOW THEREFORE in consideration of their mutual covenants, conditions and promises, **THE PARTIES HERETO DO HEREBY AGREE** as follows:

1. General

The District shall reimburse the City a maximum amount of eighty-five thousand dollars and no cents (\$85,000.00) for direct and related indirect costs to complete the Improvements in accordance with the estimate shown in Attachment A. The City agrees to design and construct the Improvements, which include the installation of a Rapid Rectangular Flashing Beacon system (RRFB) pedestrian crosswalk system, approximately 75 feet of curb, gutter and sidewalk, a new curb ramp, and restriping of the current dedicated south bound left turn lane to a two-way left turn lane.

The City will provide the District with a separate engineer's estimate for the Improvements portion of the construction contract.

The City will procure and administer contracts associated with completing the Improvements in accordance with the applicable requirements of local, state, and federal laws, including, but not limited to requirements of: prevailing wages, competitive bidding, Title VI non-discrimination, contractor bonding and payment retainage, and in accordance with the City of Auburn Design and Construction Standards.

2. Compensation and Payment.

The parties shall finance the City Project reflected in this Agreement as follows: District agrees to reimburse the City actual direct and related indirect costs associated with performance of the Improvements work in an amount not to exceed the amount listed in Section 1 of this Agreement. The cost estimate breakdown of the Improvements is attached as Attachment A. The City shall be solely responsible for all costs that exceed this amount, unless the Parties implement Section 4. The amount reimbursed to the City by the District will be reduced by the amount of funds, if any, the City receives from King County Metro for the purposes of constructing the Improvements.

Upon completion of the City Project,, the City shall submit one inclusive first and final itemized invoice to the **District's representative, Jeffrey L. Grose, 915 Fourth Street NE, Auburn, WA, 98002**, for the City's actual direct and related indirect costs incurred associated with performance of the City Project. The District shall provide payment in full within sixty (60) calendar days upon receipt of the itemized invoice. If the District objects to all or any portion of the invoice, the District shall notify the City within twenty (20) calendar days after receipt of the City's invoice. If only a portion of the invoice is disputed, the District agrees to pay the undisputed portion of the invoice. The Parties shall immediately make every effort to settle the disputed portion of the invoice.

Both parties have established and maintain an appropriate budget for the obligations in this Agreement as required by law.

3. Time for Performance and Term of Agreement.

The Term of this Agreement shall commence on the date hereof and shall terminate upon completion of the performance of the Improvements by the City or as otherwise provided in paragraph 15 of this Agreement.

4. Cost Increase.

The total Agreement amount includes approximately \$10,000.00 of contingency to address changes and unexpected conditions that may be reasonably expected for the Improvements. Within ten (10) calendar days of the City becoming aware that the Improvement costs may exceed the amount listed in Section 1 of this Agreement, it shall notify the District in writing and mutually agree upon a course of action in execution of the Improvements.

5. Ownership and Use of Documents.

All documents, reports, memoranda, diagrams, sketches, plans, surveys, design calculations, working drawings and any other materials created or otherwise prepared by

either party as part of its performance of this Agreement shall be owned by and become the property of that party, and may be used by that party for any purpose.

6. Records Inspection and Audit.

(a) The City shall maintain books, records, documents, correspondence and other evidence pertaining to the costs and expenses of the Improvements (hereinafter referred to collectively as “the records”), to the extent and in such detail as will properly reflect all costs, direct and operating, of labor, materials, equipment, supplies and services and other costs and expenses of whatever nature for which reimbursement shall be provided by the District. The books and records required under this Section shall be maintained in accordance with generally accepted accounting standards.

(b) The City shall retain the records and make them available for audit for a period of six (6) years after final payment is made by the District.

7. Continuation of Performance.

In the event that any dispute or conflict arises between the parties while this Contract is in effect, the parties agree that, notwithstanding such dispute or conflict, the parties shall continue to make a good faith effort to cooperate and continue work toward successful completion of assigned duties and responsibilities.

8. Administration of Agreement.

This Agreement shall be administered by the Auburn School District Capital Projects Department on behalf of the District, and by the Mayor of the City, or designee, on behalf of the City. Any written notices required by the terms of this Agreement shall be served on or mailed to the following addresses:

<u>City of Auburn</u> Auburn City Hall 25 West Main ATTN: Jacob Sweeting Auburn, WA 98001-4998 (253) 804-3118	<u>Auburn School District</u> Contact Name: Jeffrey L. Grose Title: Executive Director of Capital Projects Address: 915 Fourth Street NE Auburn, WA 98002 Email: jgrose@auburn.wednet.edu Phone: 253-931-4826
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9. Notices.

All notices or communications permitted or required to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered in person or deposited in the United States mail, postage prepaid, for mailing by certified mail, return receipt requested, and addressed, if to a party of this Agreement, to the address for the party set forth above, or if to a person not a party to this Agreement, to the address designated by a party to this Agreement in the foregoing manner.

Any party may change his, her or its address by giving notice in writing, stating his, her or its new address, to any other party, all pursuant to the procedure set forth in this section of the Agreement.

10. Insurance.
Each party shall maintain insurance in accordance with its policies.
11. Indemnification.
Each party shall indemnify, defend and hold harmless the other party and its officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, including attorney fees, by any reason of or arising out of the act or omission of that party, its officers, agents, employees, or any of them relating to or arising out of the performance of this Agreement except for injuries and damages caused by the sole negligence of the indemnifying party. If a final judgment is rendered against the indemnified party, its officers, agents, employees and/or any of them, or jointly against the indemnifying party and the indemnified party and their respective officers, agents and employees, or any of them, the indemnifying party shall satisfy the same to the extent that such judgment was due to the indemnifying party's negligent acts or omissions.
12. Amendment, Modification or Waiver.
No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or of any effect unless made in writing, signed by the party or parties to be bound, or such party's or parties' duly authorized representative(s) and specifying with particularity the nature and extent of such amendment, modification or waiver. Any waiver by any party of any default of the other party shall not effect or impair any right arising from any subsequent default.
13. Entire Agreement.
This Agreement contains the entire understanding of the parties hereto in respect to the transactions contemplated hereby and supersedes all prior agreements and understandings between the parties with respect to such subject matter.
14. Counterparts.
This Agreement may be executed in multiple counterparts, each of which shall be one and the same Agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.
15. Termination.
Neither the District or City may terminate this agreement without the written concurrence of the other party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective the day and year first set forth above.

CITY OF AUBURN

AUBURN SCHOOL DISTRICT

Nancy Backus
Mayor

Cindi Blansfield
Associate Superintendent,
Business and Operations

Attest:

Shawn Campbell, City Clerk

Approved as to form:

Kendra Comeau, City Attorney

Attachment A

**CP1902, Pedestrian Safety Sidewalk and ADA Improvements
Engineer's Estimate**

Schedule C - Street Improvements (Additive 1)	\$	62,500.00	
Schedule A Sales Tax	0%	<u>\$0.00</u>	
Subtotal Schedule A			<u>\$62,500.00</u>
Construction Contract Contingency			<u>\$10,000.00</u>

TOTAL CONSTRUCTION ESTIMATE	\$72,500.00
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Design:	Design Engineering (In-house)	\$6,500.00
Construction:	Construction Engineering (In-house)	<u>\$6,000.00</u>

TOTAL DESIGN ESTIMATED COSTS	\$12,500.00
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TOTAL PROJECT ESTIMATE	\$85,000.00
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Attachment A

Schedule C - Street Improvements (Additive 1)

Site 2

Sales Tax Rate 0%

Bid Item	Std or SP	Sec. No.	Description	Quantity	Unit	Unit Price	Total Price
1	Std	1-04	Minor Changes	3500.00	EST	\$ 1.00	\$ 3,500.00
2	Std	1-07	SPCC Plan	1.00	LS	\$ 30.00	\$ 30.00
3	Std	1-09	Mobilization	1.00	LS	\$ 5,400.00	\$ 5,400.00
4	SP	1-10	Project Temporary Traffic Control	1.00	LS	\$ 2,100.00	\$ 2,100.00
5	SP	1-10	Traffic Control Supervisor	1.00	LS	\$ 450.00	\$ 450.00
6	Std	2-01	Roadside Cleanup	300.00	EST	\$ 1.00	\$ 300.00
7	SP	2-02	Clearing and Grubbing	1.00	LS	\$ 600.00	\$ 600.00
8	SP	2-02	Removal of Curb and Gutter	36.00	LF	\$ 10.00	\$ 360.00
9	SP	2-02	Removal of Concrete or Asphalt Pavement	43.00	SY	\$ 12.00	\$ 516.00
11	Std	4-04	Crushed Surfacing Top Course	15.00	TON	\$ 55.00	\$ 825.00
12	Std	5-04	Commercial HMA	6.50	TON	\$ 200.00	\$ 1,300.00
13	Std	7-05	Adjust Catch Basin	1.00	EA	\$ 300.00	\$ 300.00
14	Std	8-01	Inlet Protection	9.00	EA	\$ 80.00	\$ 720.00
15	SP	8-02	Roadside Restoration	1000.00	EST	\$ 1.00	\$ 1,000.00
16	Std	8-04	Cement Conc. Traffic Curb and Gutter	100.00	LF	\$ 40.00	\$ 4,000.00
17	Std	8-04	Cement Conc. Pedestrian Curb	12.00	LF	\$ 35.00	\$ 420.00
18	Std	8-14	Cement Conc, Curb Ramp Type Parallel A	1.00	EA	\$ 3,000.00	\$ 3,000.00
20	SP	8-14	Cement Conc. Sidewalk	35.00	SY	\$ 40.00	\$ 1,400.00
	Std	8-14	Detectable Warning Surface	8.00	SF	\$ 100.00	\$ 800.00
21	SP	8-20	RRFB	1.00	LS	\$ 28,000.00	\$ 28,000.00
	SP	8-21	Traffic Sign	2.00	LS	\$ 1,000.00	\$ 2,000.00
22	Std	8-21	Relocate Permanent Traffic Sign and Post	2.00	EA	\$ 200.00	\$ 400.00
23	Std	8-22	Plastic Crosswalk Line	276.00	SF	\$ 6.50	\$ 1,794.00
24	Std	8-22	Paint Line	641.00	LF	\$ 3.50	\$ 2,243.50
	Std	8-22	Removing Painted Traffic Marking	4.00	EA	\$ 3.50	\$ 14.00
25	Std	8-22	Remove Paint line	685.00	LF	\$ 1.50	\$ 1,027.50

Subtotal Schedule C \$ 62,500.00

May 1, 2020

Jeffrey L. Grose
Executive Director of Capital Projects
Auburn School District No. 408
915 4th Street NE
Auburn, WA 98002
(253) 931-4826
jgrose@auburn.wednet.edu

RE: Elementary 16 Traffic Mitigation

Dear Mr. Grose:

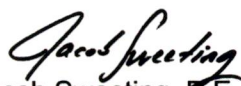
This letter represents concurrence between the City of Auburn (City) and the Auburn School District (District) regarding traffic mitigation necessary at the intersection of 124th Ave SE and SE 316th Street (Intersection) as a result of the Elementary 16 Project (Project). The District completed the SEPA Environmental Evaluation and issued a determination of non-significance on October 16, 2019. Subsequently, the District continued to work with the City to address City review comments of the Traffic Impact Analysis for the Project. The work involved evaluation of additional intersections to determine impacts and required mitigation. The evaluation showed that the Project increased delays at the Intersection. The analysis of baseline conditions showed that the Intersection will operate below adopted level of service standards without the Project. Therefore, mitigation is required to improve the intersection operations to baseline condition or better.

The City and District cooperatively developed an approach to mitigate the impacts by making improvements to the Intersection. The improvements are to convert the southbound left-turn lane on 124th Ave SE at the Intersection into a two-way left-turn lane and to construct pedestrian improvements at the Intersection to encourage reduction in vehicular traffic and increase transit and non-motorized travel. The District provided a memo dated April 10, 2020, that indicates these improvements mitigate the Project impacts at the Intersection. The reduction in delay exceeds the delay caused by the Project and therefore the improvements may also be considered as mitigation, if needed, for the District's Lea Hill Elementary re-build project.

The City currently has a project it intends to construct in the summer of 2020 that includes pedestrian improvements at many sites throughout the City, including this Intersection (City Project). However, the City Project includes improvements at the Intersection as an alternate bid to only be constructed if the City is able to secure funding for the improvements. The City has been working with King County Metro (Metro) to secure funding for a portion of the improvements and Metro has indicated that it may contribute up to \$50,000.00 towards improvements at the Intersection.

The District and City have agreed to include the required improvements to mitigate the Project impact with the City Project. The District will pay the City for its costs to design and construct the project, estimated to be \$75,000.00. This amount will be reduced by any funding the City receives from Metro for improvements at the Intersection. If the actual costs exceed \$85,000.00, the City and District shall evaluate the costs and benefits of proceeding with the Project and mutually agree upon a course of action. This arrangement will be established through an agreement to be executed between the City and District prior to the City awarding its construction contract. The agreement will include provisions to address cost overruns, estimation of soft costs, and basis for construction costs.

Sincerely,



Jacob Sweeting, P.E.
City Engineer, Assistant Director of Engineering Services
Public Works Department

The District concurs with the mitigation approach detailed in this letter:

Jeffrey L Grose

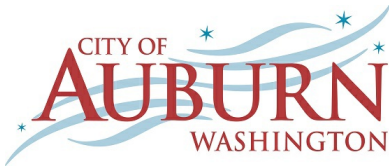
Digitally signed by Jeffrey L Grose
DN: C=US,
E=jgrose@auburn.wednet.edu,
CN=Jeffrey L Grose
Date: 2020.05.02 08:43:53-07'00'

Date: May 2, 2020

Executive Director of Capital Projects, Auburn School District N. 408

JS/as

cc: Alexandria Teague
SEP-19-0029
Electronic Distribution Only



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5523 (Tate)

Date:

May 27, 2020

Department:

Community Development

Attachments:

[Resolution No. 5523](#)

[CDBG-CV Amendment](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council to adopt Resolution No. 5523.

Background Summary:

This item is brought forward to City Council while under various orders of the Governor of the State of Washington because it pertains to COVID 19 and the City's response efforts.

On March 27, 2020, the U.S. Congress passed The Coronavirus Aid, Relief, and Economic Security Act (H.R. 748), also known as the CARES Act. The bill allocates \$5 billion in supplemental Community Development Block Grant (CDBG) funding for grants to prevent, prepare for, and respond to the coronavirus (CDBG-CV).

On May 11, 2020, City staff presented an overview of these funds, the federal planning requirements, possible uses, and the timeline for implementation at a City Council Study Session. The Human Services Committee held a Special Meeting on May 18, 2020 to discuss the allocation of CDBG-CV funds. During that meeting, this Action Plan Amendment was approved and recommended to move forward to City Council for adoption.

This substantial amendment of the 2019 Action Plan is a requirement of the U.S. Department of Housing and Urban Development (HUD), in order for the City of Auburn to receive the allocation related to the first funding round of CDBG-CV from the CARES Act. This plan is amended to incorporate the initial \$371,805 of CDBG-CV funds to prevent, prepare for, and respond to the coronavirus. Of these CDBG-CV funds, the Committee is proposing that \$346,805 will be allocated to Public Services, including COVID-related health services and emergency subsistence (rental assistance) programs, with the remaining \$25,000 for program administration. Any future allocations of CDBG-CV funds will require additional plan amendments incorporating spending plans for those resources.

The amendment details a plan for allocating the identified public services resources. In order to allocate resources efficiently and with limited administrative delays, Council will be approving the distribution plan included in the amendment, rather than individual agency contracts. Through this resolution, the Mayor is provided the authority to implement administrative procedures necessary to carry out the directives of this plan.

Reviewed by Council Committees:

Councilmember: Trout-Manuel

Staff: Tate

Meeting Date: June 1, 2020

Item Number: RES.D

RESOLUTION NO. 5523

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, ADOPTING THE SUBSTANTIAL AMENDMENT TO THE 2019 COMMUNITY DEVELOPMENT BLOCK GRANT ANNUAL ACTION PLAN TO INCORPORATE CDBG-CV FUNDS

WHEREAS, the City of Auburn was designated as an entitlement community by the U.S. Department of Housing and Urban Development (HUD) for its Community Development Block Grant (CDBG) Program; and

WHEREAS, the primary objective of the Consolidated Plan and CDBG Program is the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-income and moderate-income; and

WHEREAS, on March 27, 2020, the U.S. Congress passed The Coronavirus Aid, Relief, and Economic Security Act (H.R. 748), also known as the CARES Act, which allocates \$5 billion in supplemental CDBG funding for grants to prevent, prepare for, and respond to the coronavirus (CDBG-CV);

WHEREAS, to allocate additional funds received, a substantial amendment must be made to the 2019 Annual Action Plan that serves as a federally required planning document to guide the City of Auburn's human service and community development efforts; and

WHEREAS, the planning process to develop the Consolidated Plan involved citizen participation and guidance from non-profit and governmental agencies serving low income residents in the community.

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

Section 1. Pursuant to the provisions of 24 CFR 91, the 2019 Annual Action Plan previously adopted by the City of Auburn City Council is amended, consistent with the attached Exhibit "A", making approximately \$371,805 of CDBG-CV funds available for projects that are consistent with federal regulations and with the objectives and policies of the Auburn Community Development Block Grant Consolidated Plan, primarily to provide public services that prevent, prepare for, and respond to the coronavirus for low to moderate income Auburn residents.

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

Section 3. 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

Kendra Comeau, City Attorney

City of Auburn
Community Development Block Grant
Substantial Amendment to the 2019 Annual Action Plan
Incorporating CDBG-CV Funds

A. BACKGROUND

- a. Each year the City of Auburn executes specific actions to implement the objectives and strategies of the five-year Consolidated Plan, which are outlined in the Annual Action Plan.
- b. As a result of the CARES Act signed by President Trump on March 27, 2020, Congress allocated an additional \$371,805 in CDBG funds to the City of Auburn “to prevent, prepare for, and respond to the coronavirus (COVID-19).” These funds, called CDBG-CV, are administered by the Department of Housing and Urban Development and are required to be incorporated into our CDBG planning documents.
- c. Due to timing of the 2020 Annual Action Plan submittal, it is more expedient to amend the 2019 Annual Action Plan to incorporate these CDBG-CV funds.
- d. Therefore, the City is proposing the following plan amendment to address needs in the community related to COVID-19 with CDBG-CV funds.

B. AMENDMENT

- a. Amend the 2019 Annual Action Plan to allow for the allocation of \$371,805 in CDBG-CV funds.
- b. Funds shall be awarded for the following purposes

Project	CDBG-CV Fund Allocation
Public Services – Housing Stability: Emergency Subsistence	\$246,805
Public Services – COVID Health Services	\$100,000
Administration	\$25,000
Total Funds Included in Amendment:	\$371,805

Executive Summary

AP-05 Executive Summary - 91.200(c), 91.220(b)

1. Introduction

This substantial amendment of the 2019 Action Plan is a requirement of the U.S. Department of Housing and Urban Development (HUD), in order for the City of Auburn to receive the allocation related to the first funding round of Community Development Block Grant Coronavirus (CDBG-CV) from the CARES Act. This plan is amended to incorporate \$371,805 of CDBG-CV funds to prevent, prepare for, and respond to the coronavirus (COVID-19). Of these CDBG-CV funds, the City is proposing that \$346,805 will be allocated to Public Services, with the remaining \$25,000 for program administration.

2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

This Action Plan Amendment allocates a total of \$371,805 dollars in anticipated 2019 Community Development Block Grant Coronavirus funds (CDBG-CV), to support the Community Development Block Grant program. With the overall goal of preventing, preparing for, and responding to coronavirus, the following objectives and outcomes will be employed:

1. Support programs providing emergency subsistence for low to moderate income Auburn residents
2. Support health interventions that treat or test for COVID-19
3. Administer the Community Development Block Grant program to meet community needs related to COVID-19 and HUD requirements

4. Summary of Citizen Participation Process and consultation process

Consistent with the City of Auburn's amended Citizen Participation Plan, the amended 2019 Action Plan was made available for public review between May 20 and May 24, 2020 on the City of Auburn website and via email or mail, if requested.

Notice of CDBG-CV funds availability and the Amended 2019 Action Plan were posted on the City of Auburn Community Services webpage and in the Seattle Times on May 20, 2020.

5. Summary of public comments

No comments were received.

6. Summary of comments or views not accepted and the reasons for not accepting them

7. Summary

AP-12 Participation - 91.401, 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting

The Amended 2019 Action Plan was available for public review between May 20, 2020 – May 24, 2020 on the City of Auburn website and by email or mail, if requested.

Notice of CDBG-CV funds availability and the Amended 2019 Action Plan were posted on the City of Auburn Community Services webpage and in the Seattle Times on May 20, 2020.

Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1	Newspaper Ad	Non-targeted/broad community		No comments were received.		

Table 1 – Citizen Participation Outreach

Expected Resources

AP-15 Expected Resources - 91.420(b), 91.220(c)(1,2)

Introduction

The City of Auburn anticipates receiving \$371,805 in CDBG-CV funds.

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG-CV	public - federal	Admin and Planning Public Services	\$371,805	0	0	\$371,805		

Table 2 - Expected Resources – Priority Table

Discussion

The City of Auburn will use CDBG funds to support all eligible projects and activities that align with CDBG guidelines and regulations.

AP-35 Projects - 91.420, 91.220(d)

Introduction

Auburn's Annual Action Plan provides descriptions of proposals of how funds will be prioritized to achieve goals identified in the Consolidated Plan. Projects funded by the City will address the priority needs of providing assistance to prevent homelessness, ensure affordable housing and a suitable living environment. Projects and programs are selected through a competitive application process to ensure optimal quality services is provided to the community in use of the funds.

#	Project Name
1	Public Services – Emergency Subsistence
2	Administration
3	COVID-Related Health Services

Table 3 – Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

The allocations proposed are based on the assessment of Auburn's needs, the resources available in the region, the availability of other funds also focusing on needs, and the purpose of CDBG-CV funds. Data from the City's most recent Community Needs Assessment was used in making a funding determination, as well as consultation with regional partners, other entitlement jurisdictions, and service providers in the community.

Resources shall be allocated in accordance to the following guidelines:

1. Emergency Subsistence Funds (\$246,805):

a. Step 1: Allocate Emergency Subsistence funds for low to moderate income renters to an agency with current program capacity and an existing contractual relationship with the City

Of the agencies currently contracted to provide rental assistance services to Auburn residents, only two have experience managing federal funds. These are Multi Service Center and Catholic Community Services. Staff are working to assess capacity and will make an allocation determination based on agency's ability to deploy resources quickly and with a minimum of additional hiring required. The amount they are able to receive may not match the total funds available for emergency subsistence payments. If the City still has funds available for this purpose, additional distribution will occur utilizing the process outlined in Step 2 below.

- b. Step 2: Allocate Emergency Subsistence funds to an agency with a presence in South King County and an active rental assistance program that currently receives CDBG or CSGF funds.**

The federal requirements governing these funds are intensive, and it is important that agencies have the existing structure in place to accurately track staff time, client service eligibility, and all other applicable federal regulations. The amount they are able to receive may not match the total funds available for emergency subsistence payments. If the City still has funds available for this purpose, additional distribution will occur utilizing the process outlined in Step 3 below.

- c. Step 3: Allocate Emergency Subsistence funds via an open RFP process.**

Any funds set aside for Emergency Subsistence payments not allocated in Steps 1 and 2 will be made available via an application process to support emergency subsistence programs for low to moderate income renters or low to moderate income homeowners. Agencies without a current structure in place in South King County would be eligible to apply. Agencies will need to have an existing program in place, experience managing federal funds and meet all standard City of Auburn CDBG requirements for agencies applying for Human Services funding.

2. Allocate Health Service funds (\$100,000) to Health program with existing contractual relationship with the City and a COVID health services program already in place

Auburn currently funds Healthpoint, International Community Health Services, King County Sexual Assault Resource Center, and Seattle-King County Public Health/SKC Mobile Medical Program to provide healthcare services to Auburn residents. Staff are working to assess current COVID service delivery and capacity, and will make an allocation determination based on agency's ability to deploy resources quickly and with a minimum of additional hiring required.

AP-38 Project Summary
Project Summary Information

1	Project Name	Emergency Subsistence
	Target Area	
	Goals Supported	End Homelessness Ensure Decent, Affordable Housing
	Needs Addressed	
	Funding	CDBG-CV: \$246,805
	Description	Respond to the impacts of COVID-19 on Auburn residents by providing emergency subsistence support for low to moderate income renters or homeowners.
	Target Date	12/31/2020
	Estimate the number and type of families that will benefit from the proposed activities	An estimated 150 low to moderate income households in Auburn will benefit from this activity.
	Location Description	n/a
	Planned Activities	
2	Project Name	Administration
	Target Area	
	Goals Supported	Planning and Administration
	Needs Addressed	
	Funding	CDBG-CV: \$25,000
	Description	General CDBG-CV administration and project management
	Target Date	12/31/2020
	Estimate the number and type of families that will benefit from the proposed activities	n/a
	Location Description	n/a
	Planned Activities	General planning and administration of the CDBG-CV programs include: management of all CDBG-CV related finances, contracting for services, all grant reporting, monitoring of subrecipients and providing guidance of program implementation in Auburn.
	Project Name	COVID-Related Health Services

3	Target Area	
	Goals Supported	
	Needs Addressed	
	Funding	CDBG-CV: \$100,000
	Description	These funds will support COVID-related health services (testing and treatment) for Low to Moderate Income Individuals at a Community Healthcare Organization. Funds must be used to support Auburn residents.
	Target Date	12/31/2020
	Estimate the number and type of families that will benefit from the proposed activities	At least 100 low to moderate income Auburn residents will have benefitted from the proposed activities.
	Location Description	n/a
	Planned Activities	Providing healthcare services which include testing and treatment for COVID-19.