



**City Council Workshop & Meeting  
Agenda  
February 5, 2024  
Auburn Hall, Council Chambers**

**5:30 P.M. City Council Workshop**

- A. Dangerous Buildings Process and Statute Overview – Eric Cousens
- B. Proposed Zoning Amendment Discussion (Sec. 60-1304) – Eric Cousens
- C. Tax Acquired Property – Kelsey Earle and Jay Brenchick
- D. Transportation Systems Department Position – Phil Crowell

**7:00 P.M. City Council Meeting** - Roll call votes will begin with Councilor Milks

**Pledge of Allegiance**

- I. **Consent Items** – All items with an asterisk (\*) are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or a citizen requests, in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.
  - 1. **Order 16-02052024\***  
Confirming Mayor Harmon’s re-appointment of Leonard Kimble to serve on the Ethics Panel with a term expiration of 11/01/2026.
  - II. **Minutes** – January 16,2024, Regular Council Meeting
  - III. **Communications, Presentations and Recognitions**
    - Presentation – Tax Increment Financing (TIF)/Credit Enhancement Agreement (CEA) – Glen Holmes
    - Formation of a Mayor’s Ad Hoc Committee on the Public Safety Building
    - Formation of a Mayor’s Ad Hoc Committee on Housing
  - IV. **Open Session** – *Members of the public are invited to speak to the Council about any issue directly related to City business or any item that does not appear on the agenda.*
  - V. **Unfinished Business**
    - 1. **Ordinance 03-01162024**

Amending Article V, Division 2, Sections 2-430, 2-431, 2-433, 2-434, 2-435, AND 2-441 of Auburn's Code of Ordinances and striking all language referencing the Regulatory Advisory Board.  
Second reading.

**2. Ordinance 04-01162024**

Amending Article V, Division 2, Sections 2-430, 2-431, 2-432, 2-433, 2-434, and 2-435 of Auburn's Code of Ordinances and reinstating the Board of Assessment Review ordinance.  
Second reading.

**3. Ordinance 06-01162024**

Amending Sec. 2-466 of the Auburn Code of Ordinances correcting the Planning Board Compensation language. Second reading.

**VI. New Business**

**1. Order 17-02052024**

Amending the Future Land Use Plan map in the Comprehensive Plan to designate City Assessor's Parcel I.D.'s 174-004, 174-004-001 and 174-004-002 land use as Suburban Development District.  
Public hearing.

**2. Ordinance 07-02052024**

Amending the zoning map of the City of Auburn entitled "City of Auburn, Zoning Map, dated May 16, 2016," revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance by amending approximately 11 acres of Parcel ID 174-004-001, located on Riverside Drive, from the Agriculture and Resource Protection (AGRP) zoning district to the Low-Density Rural Residence (RR) zoning district. Public hearing and first reading.

**3. Ordinance 08-02052024**

Amending the zoning map of the City of Auburn entitled "City of Auburn, Zoning Map, dated May 16, 2016," revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance by amending City Assessor's Parcel I.D.s 174-004, 174-004-001 and 174-004-002, located on Riverside Drive, from the Agriculture and Resource Protection (AGRP or AG) zoning district to the Low-Density Rural Residence or Rural Residence (RR) zoning district. Public hearing and first reading.

**4. Order 18-02052024**

Setting the date for a public hearing for a Dangerous Building located at 46 Fair Street.

**5. Order 19-02052024**

Ratifying the Fire Department's contract agreement (wages).

**6. Order 20-02052024**

Authorizing the use of \$89,306.42 from the fund balance to support the 2024 Lewiston Auburn Warming Center to be located in the City of Lewiston.

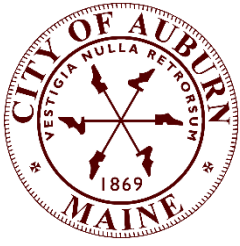
**VII. Open Session - *Members of the public are invited to speak to the Council about any issue directly related to City business or any item that does not appear on the agenda***

**VIII. Reports (Mayor, City Council, City Manager)**

**IX. Executive Sessions**

1. Economic development, pursuant to 1 M.R.S.A. §405(6)(C) where premature disclosure would prejudice the competitive or bargaining position of the City.

**X. Adjournment**



## City of Auburn City Council Information Sheet

**Council Workshop:** February 5, 2024

**Author:** Eric J. Cousens, Director of Planning and Permitting

**Subject:** Dangerous Buildings and 80K Action Overview

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**Information:** This workshop is to discuss the Dangerous Buildings Statute and how it can be used to correct problems with damaged or poorly maintained properties that become dangerous.

**Dangerous Buildings:** 17 M.R.S. §§2851-2859 authorize the municipal officers (City Council) to determine that a building or structure is "dangerous" and to order appropriate corrective action either by the owner or by the town if the owner does nothing to correct the issues. Other than in the case of a building which is so dangerous that immediate court action is required, there is no express authority given to the CEO to act under this statute. Buildings or structures which can be dealt with under this statute must fit within one of the following categories: • structurally unsafe; • unstable; • unsanitary; • constitutes a fire hazard; • is unsuitable or improper for the use or occupancy to which it is put; • constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment or is otherwise dangerous to life or property. An example of this process can be viewed at the [December 5, 2022 CC Meeting Packet](#) or the discussion and action can be viewed on the [City Youtube Page beginning at 2:10:50](#)

Prior to proposing a building for a Council Finding, generally a building may have sustained significant damage from an accident, fire or natural disaster or, staff has been working with a property owner for a long period of time and conditions have deteriorated.

A poorly maintained building impacts the decisions of abutting property owners and reduces investment in surrounding properties. Poor housing quality makes it harder to attract residents to the area which further reduces market competition and demand for a particular neighborhood. Likewise, a poorly managed building that allows for trash and debris problems, nuisance noise and/or pervasive criminal activity affects the behavior of other residents and can become more widespread in a neighborhood, with impacts that are similar to a poorly maintained building.

The City has a few options for enforcement when staff level options are exhausted and legal action is needed. The most common two options are Dangerous Building Cases or a lawsuit called an 80k Action.

**80K Action:** The term "80K" is derived from the rule contained in the Maine Rules of Civil Procedure which prescribes the legal procedure which must be followed in prosecuting land use violations. Rule 80K provides a "Summary Procedure," which means it moves faster than other court proceedings. The violator can answer the Complaint orally in court rather than in writing, and the court can decide the main issues

of the case with a minimum amount of formality. That reduces the time and expense involved, without sacrificing the due process rights of the person accused of the violation. Even this option costs at least \$2-3,000 and takes more time to get a court date than it used to.

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**Staff Recommended Action:** Discussion and questions.

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**Previous Meetings and History:** October 17, 2022 workshop.

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**City Manager Comments:**



I concur with the recommendation. Signature:

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**Attachments:** Dangerous Buildings Statute, images of example violations, Example findings and Order from previous action.

**§2851. Dangerous buildings**

The municipal officers in the case of a municipality or the county commissioners in the case of the unorganized or deorganized areas in their county may after notice pursuant to section 2857 and hearing adjudge a building to be a nuisance or dangerous, in accordance with subsection 2-A, and may make and record an order, in accordance with subsection 3, prescribing what disposal must be made of that building. The order may allow for delay of disposal if the owner or party in interest has demonstrated the ability and willingness to satisfactorily rehabilitate the building. If an appeal pursuant to section 2852 is not filed or, if an appeal pursuant to section 2852 is filed and the Superior Court does not order, stay or overturn the order to dispose of the building, the municipal officers or the county commissioners shall cause the nuisance to be abated or removed in compliance with the order. After recording an attested copy of the notice required by section 2857 in the registry of deeds located within the county where the building is situated, the municipality or the county may seek a writ of attachment of the property on which the building is located in accordance with Title 14, chapter 507 and the Maine Rules of Civil Procedure. [PL 2019, c. 557, §1 (AMD).]

For the purposes of this subchapter, "building" means a building or structure or any portion of a building or structure or any wharf, pier, pilings or any portion of a wharf, pier or pilings thereof that is or was located on or extending from land within the boundaries of the municipality or the unorganized or deorganized area, as measured from low water mark, and "parties in interest" has the same meaning as in Title 14, section 6321. [PL 2017, c. 136, §1 (NEW).]

**1. Notice.**

[PL 2017, c. 136, §1 (RP).]

**2. Notice; how published.**

[PL 2017, c. 136, §1 (RP).]

**2-A. Standard.** To adjudge a building to be a nuisance or dangerous, the municipal officers or county commissioners must find that the building is structurally unsafe, unstable or unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property.

[PL 2017, c. 136, §1 (NEW).]

**3. Recording of the order.** An order made by the municipal officers or county commissioners under this section must be recorded by the municipal or county clerk, who shall cause an attested copy to be served upon the owner and all parties in interest in the same way service of process is made in accordance with the Maine Rules of Civil Procedure. If the name or address cannot be ascertained, the clerk shall publish a copy of the order in the same manner as provided for notice in section 2857.

[PL 2017, c. 136, §1 (AMD).]

**4. Proceedings in Superior Court.** In addition to proceedings before the municipal officers or the county commissioners, the municipality or the county may seek an order of demolition by filing a complaint in the Superior Court situated in the county where the building is located. The complaint must identify the location of the property and set forth the reasons why the municipality or the county seeks its removal. Service of the complaint must be made upon the owner and parties in interest in accordance with the Maine Rules of Civil Procedure. After hearing before the court sitting without a jury, the court shall issue an appropriate order and, if it requires removal of the building, it shall award costs as authorized by this subchapter to the municipality or the county. The municipality or the county may petition the court for a writ of attachment of the property on which the building is located in accordance with Title 14, chapter 507 and the Maine Rules of Civil Procedure. Appeal from a decision of the Superior Court is to the law court in accordance with the Maine Rules of Civil Procedure.

[PL 2019, c. 557, §2 (AMD).]

## SECTION HISTORY

PL 1965, c. 284 (RPR). PL 1967, c. 401, §1 (AMD). PL 1973, c. 143, §1 (AMD). PL 1979, c. 27, §§1-3 (AMD). PL 1997, c. 6, §1 (AMD). PL 2017, c. 136, §1 (AMD). PL 2019, c. 557, §§1, 2 (AMD).

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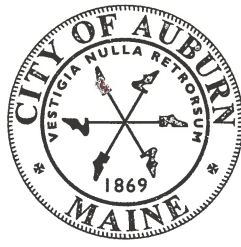
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# City Council Order

## IN CITY COUNCIL

### CITY OF AUBURN CITY COUNCIL FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF DEMOLITION

#### 110 HAMPSHIRE STREET

On December 5, 2022, at 7:00 p.m., the Auburn City Council held a hearing at 60 Court Street in Auburn, Maine to determine whether the (“Structures”) at 110 Hampshire Street in Auburn, Maine, further described in the deed recorded in the Androscoggin County Registry of Deeds at Book 10028, Page 126 (the “Premises”), are dangerous or nuisances pursuant to 17 M.R.S. § 2851. As such, the Council makes the following findings of fact and conclusions of law, and orders that the Structures be demolished.

#### Findings of Fact

Present at the hearing on this matter for the city was Eric Cousens, Director of Planning & Permitting, and Kris Beaudoin, Code Enforcement Officer. The following individuals appeared on behalf of the owner and/or parties in interest Alexandria Savard.

After considering the testimony and evidence presented, the City Council makes the following findings of fact:

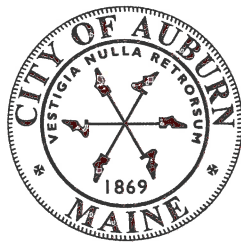
1. The Premises and Structures are owned by Lions Real Estate LLC (the “Owner”). Planning, Permitting & Code Department (“Department”) **Exhibits 1.**
2. Alexandria Savard Owner of Lions Real Estate LLC was served with copies of the Notice of Hearing (“Notice”) on November 17, 2022. **Exhibit 2.**
3. A copy of that Notice was also recorded in the Androscoggin County Registry of Deeds on November 16, 2022. **Exhibit 3.**
4. The Council has accepted and adopts the facts stated in the affidavits and supporting exhibits of Code Enforcement Officers Kris Beaudoin, Cy Wilkinson, and Jennifer Dick. Department **Exhibits 4, 5 and 6.**
5. The Structures are structurally unsafe.
6. The Structures are unfit for human occupancy due to significant structural damage.
7. The Structures constitute a hazard to health and safety because of inadequate maintenance.

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**Richard Whiting**, Ward One  
**Joseph Morin**, Ward Four  
**Belinda A. Gerry**, At Large

**Ryan Hawes**, Ward Two  
**Leroy G. Walker**, Ward Five  
**Jason J. Levesque**, Mayor

**Stephen G. Milks**, Ward Three  
**Dana Staples**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



## City Council Order

8. The Owner have been given the opportunity to remedy the conditions at the Premises but have failed to do so.

### Conclusions of Law

Applying the legal standards set forth in 17 M.R.S. § 2851, the Auburn City Council reaches the following conclusions of law:

9. The Structures are structurally unsafe and unstable.
10. The Structures are unsanitary.
11. The Structures constitutes a fire hazard.
12. The Structures are unsuitable and improper for human habitation.
13. The Structures are a hazard to health and safety because of inadequate maintenance, dilapidation, obsolescence, or abandonment.
14. The Structures are dangerous to life and property.

Any one of these conclusions would be sufficient to support a finding that the Structures are a nuisance and dangerous buildings, and the Council hereby concludes that the Structure at 110 Hampshire Street is a nuisance and dangerous building within the meaning of 17 M.R.S. § 2851.

### Order 15-12052022

Having found that the Structures at 110 Hampshire Street is a nuisance and dangerous buildings within the meaning of 17 M.R.S. § 2851, the Auburn City Council hereby ORDERS:

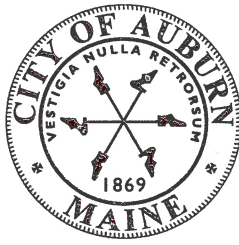
15. That the Owner, and/or their successors or assigns, demolish the Structures, remove all debris, and stabilize the site within ninety (90) days of service of this Order.
16. That if the Owners, and/or their successors or assigns, fail to comply with this Order in the time frame set forth herein, the City shall have the authority to carry out this Order.
17. That within ninety (90) days after demand by the City, the Owners, and/or their successors or assigns, shall reimburse the City for all expenses it incurs in connection with this proceeding, including, but not limited to, expenses for securing and maintaining the Structure, service and other costs incurred, attorneys' fees, and any and all demolition and clean-up costs.
18. That if the Owners, and/or their successors and assigns, fail to timely reimburse the City for the expenses provided for above, the City shall assess a special tax against the Premises, as provided for in 17 M.R.S. § 2853 and/or recover its costs by means of a collection action.

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**Richard Whiting**, Ward One  
**Joseph Morin**, Ward Four  
**Belinda A. Gerry**, At Large

**Ryan Hawes**, Ward Two  
**Leroy G. Walker**, Ward Five  
**Jason J. Levesque**, Mayor

**Stephen G. Milks**, Ward Three  
**Dana Staples**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



# City Council Order

*This decision may be appealed to Superior Court under Maine Rule of Civil Procedure 80B.*

I, Susan Clements-Dallaire, City Clerk for the City of Auburn, certify that on December 5, 2022, the Auburn City Council adopted the above Order.

Dated:

*Susan Clements-Dallaire*

Susan Clements-Dallaire  
City Clerk

STATE OF MAINE

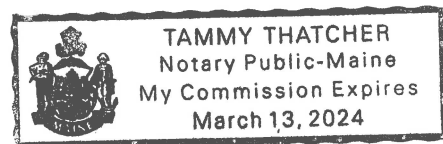
ANDROSCOGGIN, ss

DEC 8, 2022

Before me this day personally appeared Susan Clements-Dallaire who acknowledges the foregoing instrument to be her free act and deed.

*Tammy Thatcher*

Notary Public/Attorney at Law

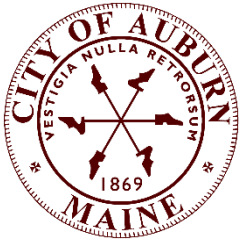


Passage on 12/5/2022, 6-1 (Councilor Walker opposed).

**Richard Whiting**, Ward One  
**Joseph Morin**, Ward Four  
**Belinda A. Gerry**, At Large

**Ryan Hawes**, Ward Two  
**Leroy G. Walker**, Ward Five  
**Jason J. Levesque**, Mayor

**Stephen G. Milks**, Ward Three  
**Dana Staples**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



**City of Auburn  
City Council Information Sheet**

**Council Workshop Date:** February 5, 2024

**Author:** John Blais, Deputy Director of Planning & Permitting

**Subject:** Review of Ordinance, Sec.60-1304 Public hearing, Findings Timing Consideration

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**Information:** The Council is considering a text change in Sec. 60-1304 regarding planning board holding a public hearing which is currently within 30 days and the review of the timing on the final action on a site plan within 60 days of receiving a complete application. These developments are typical for a review of projects that fall under special exception and site plan review. Often staff provide feedback for additional materials (traffic, lighting, stormwater, buffers etc.) that could extend the public hearing deadline and could make it challenging to complete the public hearing within the 30-day notice period and action from the planning board could extend 60 days if additional information is requested from the Planning Board. For example, a second opinion at the request of the planning board with an affirmative vote. Staff has looked at several other communities (Biddeford, South Portland, and Bangor) some communities provide shorter time frame (Bangor) while other increase the time frames which could fall more in -line with meeting the considerations of the public and planning board and adhering to established ordinance.

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**City Budgetary Impacts:** None

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**Staff Recommended Action:** Consider extending both the public hearing and the action of the planning board as referenced in Sec. 60-1304. Staff suggest extending the public notice period from 30 days to 90 days and the final action from 60 days to 120 days.

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**Previous Meetings and History:** None

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**City Manager Comments:**

I concur with the recommendation. Signature:

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**Attachments:** Auburn Sec. 60-1304, South Portland Article XV, Bangor 165-113, Biddeford Section 3

**Sec. 60-1304. Same—Public hearing; findings.**

The planning board shall, within 30 days of receipt of a completed application, hold a public hearing. Notice of a hearing shall be given in the manner provided for in division 3 of article XVII of this chapter. The planning board will take final action on the site plan within 60 days of receiving a completed application, or within such other time limit as may be mutually agreed to. Such final action shall consist of either:

- (1) A finding and determination that the proposed project will constitute a suitable development and will not result in a detriment to the neighborhood or the environment; or
- (2) A written denial of the application stating the reasons for such denial, upon a finding that:
  - a. The provisions for vehicular loading, unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets will create hazards to safety.
  - b. The bulk, location or operation of proposed buildings and structures will be detrimental to and adversely affect the use and values of existing development in the neighborhood or the health or safety of persons residing or working therein.
  - c. The provisions for on-site landscaping are inadequate to screen neighboring properties from unsightly features of the development.
  - d. The site plan does not adequately provide for the soil and drainage problems which the development may give rise to in accordance with section 60-1301(14).
  - e. The provisions for exterior lighting create safety hazards for motorists traveling on adjacent streets, or are inadequate for the safety of occupants or users of the site, or will create a nuisance affecting adjacent properties.
  - f. The proposed development will unduly burden off-site sewer drainage or water systems.
  - g. The proposed development will create a fire hazard by failing to provide adequate access to the site, or to buildings on the site, for emergency vehicles.
  - h. The proposed development violates provisions of the zoning regulations applicable to the site or other applicable laws, regulations or ordinances.
  - i. The proposed development will unduly impact the ability to provide municipal services.

(Ord. of 9-21-2009, § 7.1D(5))

and/or adjustment. Any office which does not attend a preapplication meeting may provide comments to the meeting record.

- (b) If any significant changes in the project details are made after the preapplication meeting, the applicant must notify the Staff Coordinator and any other City departments or divisions who attended the preapplication meeting.

[Amended 1-9-2017 by Ord. No. 17-055]

- (6) Notwithstanding other provisions of this chapter, the Planning Officer or their designee may refrain from placing an application on the agenda of the Planning Board upon the failure of an applicant or its representative to attend a preapplication meeting, or if the applicant makes significant changes to the project after the preapplication meeting.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

- (7) The Director of Community and Economic Development or their designee may, at their sole discretion, waive the requirement for a preapplication meeting where the elements of the project are simple, straightforward and do not warrant such advance planning.

## § 165-113 Planning Board review.

[Amended 8-8-2005 by Ord. No. 05-250; 2-11-2008 by Ord. No. 08-070; 1-9-2017 by Ord. No. 17-055]

For those site developments requiring a land development permit under § 165-109, the following procedures will be followed:

- A. Application initiation. After the Staff Coordinator receives an application, they shall forward the application and all plans and specifications to the Code Enforcement Division, Planning Division, Engineering Department, and any other staff as appropriate for processing. Staff shall determine whether the application is technically compliant and notify the Staff Coordinator and Planning Officer of their findings, along with any recommendations.
- B. Staff processing. The Planning Officer shall review the application and plans for compliance with the appropriate provisions of this chapter, including § 165-114 below, the requirements of the district in which it lies (Article XIII, XIV or XV) and the requirements of Article XVII, XVIII or XIX and shall, within 10 days after the application has been forwarded to staff for review, notify the applicant, in writing, of any deficiencies in the land development permit application or required submittals, as well as any recommended modifications. The applicant may then either amend the land development permit application and plans in accordance with the recommendations of the Planning Division staff or request Planning Board review thereon without amendment. Upon receipt of an amended application and plans or notification of the applicant's decision to request Planning Board review without amendment, the Planning Officer will place the request on the next agenda for the next Planning Board meeting with their written recommendation thereon, excepting that, if the next Planning Board meeting is fewer than seven days in the future, the Planning Officer may instead place the request on the agenda for the subsequent regularly scheduled meeting or a special meeting. The Planning Officer shall also cause the owners of record of property abutting and/or within 100 feet of the exterior boundaries of the property involved to be notified, in writing, of the pending request. Failure of any person owning property within said 100 feet to receive notice provided herein shall not invalidate any action by the Planning Board.
- C. Planning Board review.
- (1) The Planning Board shall review the application and plans at its next regularly scheduled meeting (or a special meeting called by the Planning Board). The Board shall make a final determination on the completeness and eligibility of any application and plans for Planning Board action. If final approval of a land development permit is before the Board (and the application and plans are complete), the Board shall, within 21 days after the date of such review, either approve, approve with modifications and/or conditions or disapprove the request. However, no land development permit will be approved unless it receives a majority of affirmative votes of the Planning Board members (i.e., four votes). If a majority of the Board shall so order, it shall hold a public hearing on any permit application for a land development permit which does not otherwise require a public hearing.
- (2) At any Planning Board review or public hearing, an applicant may be represented by their designated representative. Any scheduled public hearing will not be continued to another time except for good cause and by majority vote of the Planning Board. Any advertising costs necessitated by a rehearing requested by an applicant shall be borne by the applicant. Failure by the applicant or their designated representative to appear at the Planning Board meeting at which their proposal is to be heard may result in the review being tabled until the next regularly scheduled meeting, although the Board may take action if it so chooses.

- (c) Each applicant shall pay an application fee as specified in the Schedule of License, Permit, Inspection and Application Fees established by City Council order.
- (d) The Planning Board may establish additional requirements for applications by regulation and may, in reviewing any application for a site plan permit, require the applicant to submit additional information which will aid in review of the proposed development.
- (e) The Planning Board may establish a classification of minor site plan developments and adopt modified application forms appropriate for such development. Minor site plan developments shall be those proposed developments which, in the judgment of the Planning Board, are not so substantial in size or potential adverse impact that the full application form described herein is necessary.
- (f) Upon receiving an application, the Planning Department shall issue to the applicant a dated receipt. Within thirty (30) days of receipt of an application, the department shall notify the applicant in writing either that the application is a complete application or, if incomplete, the specific additional material needed to make a complete application.
- (g) A public hearing on an application for site plan approval shall be held within ninety (90) days of receipt of a completed application, unless the applicant agrees to an extension of the time period.
- (i) The Planning Board shall, within thirty (30) days of a public hearing, or such period as the applicant agrees to, issue a decision on the application, said decision to include findings of facts and any conditions imposed by the Board.

(5) Supplemental information for medium- and large-scale ground-mounted solar energy systems:

- (a) Plan drawings of the solar energy system signed by a Professional Engineer licensed to practice in the State of Maine showing the proposed layout of the system, any potential shading from nearby structures, the distance between proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the solar collector.
- (b) Documentation of the major system components to be used, including the panels, mounting system, and inverter(s).
- (c) For grid-intertie photovoltaic systems, evidence of meeting the local electric utility's transmission and distribution interconnection requirements for generation. This can be a Site Plan Condition of Approval if evidence is provided that the necessary application has been accepted for review by the utility.
- (d) Name, address, and contact information of the proposed system installer, the project proponent, project proponent agent, and all co-proponents or property owners, if any.
- (e) For large-scale solar energy systems, the following additional information is required:

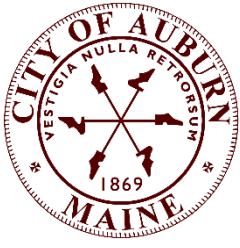


A.

Sketch plan. When an application, on a form provided by the City, is submitted to the Planning Board, that application will have formal standing before the Planning Board. The Planning Board shall then consider the sketch plan and provide planning direction to the applicant in accordance with all pertinent provisions of the ordinance. After completing its review of the application, the Planning Board shall vote to deny, approve or approve with conditions. The date of sketch plan approval, denial, or conditional approval shall be the date that the Planning Board votes on a sketch plan application.

B.

Final plan. Once the Planning Board votes to deem a final plan application is complete, the Board shall undertake the review of the proposal. Once review is complete, the Planning Board shall vote to deny, approve, or approve with conditions. For site plan applications, the date of final plan approval, denial or approval with conditions shall be the date that the Planning Board votes on a final plan application. In the case of subdivisions, the date of approval and the date of approval with conditions shall be the date that the chair of the Planning Board signs the recordable subdivision plan; if a subdivision application is denied, the date of denial shall be the date in which the Planning Board votes to deny the application.



**City of Auburn  
City Council Information Sheet**

**Council Workshop or Meeting Date:** February 5, 2024

**Author:** Kelsey Earle

**Subject:** Sale of Tax Acquired/City-Owned Properties

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**Information:**

City-owned properties are often kept for parks, cemeteries, river access, etc. Not all city-owned properties are tax-acquired.

Tax acquiring a property is a minimum 18-month process often closer to two-years. If a property is tax-acquired, the goal is to return the property to the tax roll. On June 30, 2023, L.D. 101 was signed into law, changing the process by which the city does so. L.D. 101 states that if tax acquired real estate will be sold to someone other than the former owner, written notice on a form prepared by the State Tax Assessor must be sent at least 90-days before the property is listed for sale. The law stipulates what costs may be deducted by the municipality from the sale of the property, any excess sale proceeds (defined in the law) must be paid to the former owner(s).

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**City Budgetary Impacts:** None

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**Staff Recommended Action:** For review.

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**Previous Meetings and History:**

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**City Manager Comments:**

I concur with the recommendation. Signature:

---

**Attachments:**

Copy of Notice of Sale template.

**CITY OF AUBURN**  
**NOTICE OF INTENT TO SELL TAX-ACQUIRED PROPERTY**  
**(36 M.R.S. § 943-C)**

IMPORTANT: DO NOT DISREGARD THIS NOTICE. YOU HAVE 90 DAYS TO RESPOND OR YOUR RIGHTS UNDER THIS ALTERNATIVE SALE PROCESS MAY BE FORFEITED.

SENT VIA FIRST-CLASS MAIL & CERTIFIED MAIL, RETURN RECEIPT REQUESTED

**DATE**

**FORMER OWNER**

**ADDRESS LINE 1**

**ADDRESS LINE 2**

Re: NOTICE OF SALE OF TAX ACQUIRED PROPERTY

The real estate tax lien mortgage held by the City of Auburn for unpaid real estate taxes on your former property located at **ADDRESS** (Tax Map **XX**, Lot **XX**) foreclosed on **DATE**. As a result, the City of Auburn now owns this property.

You are receiving this notice because the City of Auburn intends to sell this property. Under 36 M.R.S. § 943-C, as the former owner of this property, you have the right to require that the City of Auburn to hire a real estate broker to list and sell the property via quitclaim deed and pay to you, as the former owner, any sale proceeds in excess of:

- (1) The sum of all taxes owed on the property;
- (2) Property taxes that would have been assessed on the property during the period following foreclosure when the property is owned by the municipality;
- (3) All accrued interest;
- (4) Fees, including property listing and real estate broker's fees;
- (5) Any other expenses incurred by the municipality in selling or maintaining the property, including, but not limited to, an administrative fee equal to 10% of the property taxes owed and reasonable attorney's fees;
- (6) The cost to the municipality of the lien and foreclosure process, including, but not limited to, reasonable attorney's fees; and
- (7) Unpaid sewer, water or other utility charges and fees imposed by the municipality.

Pursuant to 36 M.R.S. § 943-C, "former owner" means the owner or owners of record at the time of foreclosure or, if deceased, the former owner's heirs, devisees or personal representatives.

As a condition of receiving the proceeds from the sale of your former property, you will be required to execute a quitclaim (release) deed conveying any interest you may have in the property to the City of Auburn. In addition, by accepting the proceeds, you also waive any right you may have to challenge the foreclosure by the Town.

If you want to require the Town to use the alternative sale process under 36 M.R.S. § 943-C and hire a real estate broker to sell the property, please complete and sign the second page of this notice and return it to the Town **on or before DATE [90 days from date of the notice]**.

FAILURE TO SUBMIT YOUR DEMAND IN WRITING WITHIN 90 DAYS OF THE DATE OF THIS NOTICE WILL RESULT IN THE LOSS OF YOUR RIGHT TO THE ALTERNATIVE SALE PROCESS.

If you have any questions, please contact me at **[EMAIL & PHONE #]** to discuss this notice.

Sincerely,

**NAME**  
**TITLE**

**Written Demand by Former Owner to Require the City of Auburn to Use the  
Alternative Sale Process for Sale of Foreclosed Property**

**Property Info:** ADDRESS  
Tax Map XX, Lot XX

*PROVIDE INFORMATION FOR ALL OWNERS OF RECORD AS OF FORECLOSURE DATE*

**OWNER 1**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Current Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**OWNER 2**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Current Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

---

If the owner(s) of record is deceased, and you are filing this demand as their heir, devisee, or personal representative, check here and enter your information below.

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Current Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**By signing this form, I declare under penalties of perjury that I was the owner of record of the property described above at the time of the foreclosure (or am the heir, devisee or personal representative of the owner of record) and am demanding that the City of Auburn use the alternative sale process under 36 M.R.S. § 943-C. I understand that I may be asked to verify my ownership or status, and my signature on this application shall serve as authorization for the Tax Collector or their designee(s) to investigate and verify any information contained herein.**

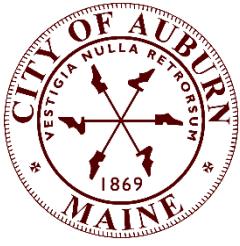
Dated: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Signed: \_\_\_\_\_

**SUBMIT THIS COMPLETED FORM TO:**

**[NAME & TITLE]   
CITY OF AUBURN   
60 COURT STREET   
AUBURN, ME 04210**



**City of Auburn  
City Council Information Sheet**

**Council Workshop or Meeting Date:** February 5, 2024

**Author:** Phil Crowell, City Manager

**Subject:** Transportation Director Position

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**Information:**

In 2022, a transportation systems position was created and funded with ARPA funds. The purpose of the position was to support the evaluation and analysis of transportation efforts throughout the City and regionally.

Since March 29, 2023, the Transportation Systems Director, has been managing the Auburn Lewiston Municipal Airport on a day-to-day basis. This has included addressing personnel/HR issues, reigning in spending and updating AR/AP processes, streamlining administrative activities, managing contracted services to meet airport needs, responding to the FAA and MaineDOT on compliance and project matters, and negotiating and advancing airport lease opportunities.

The airport is on an improved trajectory with major stakeholders and customers pleased with improved service and access. The upcoming airport master plan process and FAA-funded hangar project sets the stage for further financial improvements to make the operation more sustainable over time.

Efforts have also been underway to re-establish the freight intermodal facility which will require expanded outreach to business prospects, further negotiation with St. Lawrence and Atlantic, and coordination/securing support from MaineDOT. On-going interest in passenger rail service re-establishment will also require coordination at multiple levels, and the ability to recommend and advance to the state collective local positions. Finally, rail to trail project opportunities exist in both cities and stakeholder and public engagement will be needed as they move forward.

In addition to the airport and rail-related activities, both Auburn and Lewiston are embarking on significant transportation planning initiatives that will position both cities for state and federal funding. Those include the Safe Streets and Roads for All (SS4A) project, Village Partnership/Planning Partnership Initiative projects with MaineDOT, and UPWP funded projects through ATRC for Lisbon Street and Washington Street corridors.

Based on the background provided within the attached memo and the opportunities outlined above, Auburn and Lewiston could embark on a cooperative management structure for advancing these projects. The concept would be for the city of Lewiston, through the Lewiston and Auburn Railroad Company and the Auburn Lewiston Municipal Airport, to contract with the City of Auburn and its Transportation Department for management and policy development services. The City of Auburn, through expanded leases at the Intermodal Facility, could further fund the management and policy development services through an Enterprise Fund.

---

**City Budgetary Impacts:** None. Allocate existing budgetary accounts and new revenue.

---

**Staff Recommended Action:** Coordinate with the City of Lewiston, Auburn Lewiston Municipal Airport, and Lewiston Auburn Railroad Company to contract management for a Regional Multi-Modal position.

---

**Previous Meetings and History:** None

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**City Manager Comments:**



I concur with the recommendation. Signature:

---

**Attachments:** Transportation Systems Department Memo 1-26-24



# City of Auburn, Maine

Transportation Systems Department

Jonathan P. LaBonté, Director

60 Court Street | Auburn, Maine 04210

[www.auburnmaine.gov](http://www.auburnmaine.gov) | 207.333.6601

**TO:** Phil Crowell, Auburn City Manager

**FROM:** Jonathan P LaBonte

**DATE:** January 26, 2024

**RE:** Contract Management for Regional Multi-Modal Priorities

## **Background**

Since March 29, 2023, as Auburn's Transportation Systems Director, I have been managing the Auburn-Lewiston Municipal Airport on a day-to-day basis. This has included addressing personnel/HR issues, reigning in spending and updating AR/AP processes, streamlining administrative activities, managing contracted services to meet airport needs, responding to the FAA and MaineDOT on compliance and project matters, and negotiating and advancing airport lease opportunities. This added activity was completed as the Board Chair and the City of Auburn funded that time through my regular employment.

As President of the Lewiston and Auburn Railroad Company (LARC) representing the City of Auburn as an appointed resident and predating my employment with the City, a monthly stipend has been provided for management of LARC projects and relationships, as well as responding to requests from both cities for feedback and monitoring of rail-related activities at a local, regional, and state level (passenger rail studies, freight rail studies, rail to trail efforts). This stipend has been to the President of LARC as a resident appointee, and not as Transportation Systems Director. At present, LARC's President is the primary party monitoring rail-related initiatives which impact Auburn and Lewiston.

The city of Auburn is on a month-to-month lease with Power and Construction Group for the Auburn Intermodal facility. They are prepared to sign a long-term lease. St. Lawrence and Atlantic wishes to execute a lease for access to the Auburn Intermodal as well. Both of those parties would need access to and traverse both Airport and LARC properties to conduct their business. Unfortunately, business opportunities have been lost over the last decade because of the varied pricing to access airport, LARC, or city of Auburn properties.

## **Opportunity**

The airport is on an improved trajectory with major stakeholders and customers pleased with improved service and access. The upcoming airport master plan process and FAA-funded hangar project sets the stage for further financial improvements to make the operation more sustainable over time.

Re-establishing the freight intermodal facility will require expanded outreach to business prospects, further negotiation with St. Lawrence and Atlantic, and coordination/securing support from MaineDOT. On-going interest in passenger rail service re-establishment will also require coordination at multiple levels, and the ability to recommend and advance to the state collective local positions. Finally, rail to trail project opportunities exist in both cities and stakeholder and public engagement will be needed as they move forward.

In addition to the airport and rail-related activities, both Auburn and Lewiston are embarking on significant transportation planning initiatives that will position both cities for state and federal funding. Those include the Safe Streets and Roads for All (SS4A) project, Village Partnership/Planning Partnership Initiative projects with MaineDOT, and UPWP funded projects through ATRC for Lisbon Street and Washington Street corridors.



## **Framework**

While multiple organizational systems are still in place for air, rail, and highway project development in the two cities, improving central coordination and communication of policy direction and project management could position the region for increased private and public investment.

Based on the background provided and the opportunity outlined, the two cities could embark on a cooperative management structure for advancing these projects. The concept would be for the city of Lewiston, through the Lewiston and Auburn Railroad Company and the Auburn Lewiston Municipal Airport, to contract with the City of Auburn and its Transportation Department for management and policy development services. The City of Auburn, through expanded leases at the Intermodal Facility, could further fund the management and policy development services through an Enterprise Fund.

Scope of work components in a contract for management with the City of Auburn could include:

- Aviation – Airport Management Services (a new Auburn resident would be appointed and Jonathan would serve in a management role and not the current dual role)
- Rail – Freight business development, passenger rail service advancement, rail-trail project support would be among ongoing activities (a new Auburn resident would be appointed to the LARC board and Jonathan would serve in a designated management role)
- Highway – Project management support for planning initiatives underway/soon to be started. This task would need further definition, but could include coordination of UPWP/PPI efforts on behalf of the City of Lewiston (engagement with Lewiston city management and other designated parties, consultant, MaineDOT, ATRC, and FHWA on behalf of city)
- Organizational Review – Communicate with Auburn Manager and Lewiston Administrator on strategies that might support more efficient multi-modal policy making and budgeting.

## **Financial Model**

### **Auburn Lewiston Municipal Airport**

FY25 Expense

- ~\$65,000 to City of Auburn for contract management by Transportation Systems Director (~20 hours/week)

### **City of Auburn Intermodal Facility (will require updated leases)**

FY 24 Revenue (all to General Fund)

- Current revenue - \$28,200/annually for lease, \$0 for payment in lieu of taxes

FY 24 Expense - N/A

Proposed FY25 Revenue

- \$84,000/annually for lease **and** \$28,000/annually for payment in lieu of taxes

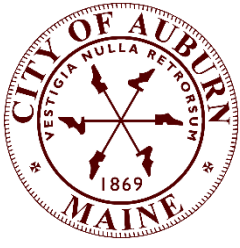
Proposed FY25 Expense

- \$28,000 to General Fund (Payment in lieu of taxes)
- \$84,000 to Transportation Enterprise Fund (business development and infrastructure growth activities)

### **Lewiston and Auburn Railroad Company**

FY 25 Expense

- \$40,000 to City of Auburn for contract management of freight rail properties, rail-related growth initiatives on behalf of LARC's shareholders (freight, intermodal, passenger, rail-trail) and other transportation projects as determined by shareholders.



**City of Auburn  
City Council Information Sheet**

**Council Workshop or Meeting Date:** February 5, 2024

**Order:** 16-02052024

**Author:** Sue Clements-Dallaire, City Clerk

**Subject:** Ethics Committee Appointments

---

**Information:** The Ordinance states that two regular voting members and one alternate member of the Ethics Committee are appointed by the Mayor and confirmed by the City Council and one regular voting member and one alternate is appointed by the School Committee Chair and confirmed by the School Committee.

Mayor Harmon would like to re-appoint Leonard Kimble to serve another term as a regular voting member with a term expiration of 11-1-2026.

---

**City Budgetary Impacts:** None

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**Staff Recommended Action:** Confirm the Mayor's re-appointment of Leonard Kimble to the Ethics Committee.

---

**Previous Meetings and History:** N/A

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**City Manager Comments:**



I concur with the recommendation. Signature:

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**Attachments:**



**ORDER 16-02052024**

# City Council Order

**IN CITY COUNCIL**

**ORDERED**, that the City Council hereby confirms Mayor Harmon's re-appointment of Leonard Kimble as a regular voting member to the Ethics Committee with a term expiration of November 1, 2026.

---

**Richard S. Whiting**, Ward One  
**Benjamin J. Weisner**, Ward Four  
**Belinda A. Gerry**, At Large

**Timothy M. Cowan**, Ward Two  
**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager

**IN COUNCIL REGULAR MEETING JANUARY 16, 2024, VOL. 37 PAGE 126**

Mayor Harmon called the meeting to order at 7:03 P.M. in the Council Chambers of Auburn Hall and led the assembly in the salute to the flag. All Councilors were present.

Pledge of Allegiance

**I. Consent Items**

**1. Order 07-01162024\***

Re-appointing Riley Bergeron to the Planning Board as a full member with a term expiration of 01/01/2027 as recommended by the Appointment Committee.

**2. Order 08-01162024\***

Appointing Timothy DeRoche to the Planning Board as a full member with a term expiration of 01/01/2027 as recommended by the Appointment Committee.

**3. Order 09-01162024\***

Appointing Ryan Smith to the Planning Board as a full member with a term expiration of 01/01/2027 as recommended by the Appointment Committee.

**4. Order 10-01162024\***

Appointing Paul Josephson to the Complete Streets Committee with a term expiration of 01/01/2027 as recommended by the Appointment Committee.

**5. Order 11-01162024\***

Appointing Barbara (Bonnie) Lounsbury to serve a 4-year term as Chair of the Registration Appeals Board as nominated by the Municipal Clerk.

Items #1, #2, and #3 were removed from the Consent Agenda and moved to New Business per the request of a member of the public (David Trask).

Motion was made by Councilor Gerry and seconded by Councilor Cowan for passage of the remaining two consent items.

Passage 7-0.

**II. Minutes – January 2, 2024, Regular Council Meeting**

Motion was made by Councilor Walker and seconded by Councilor Milks to approve the minutes of the January 2, 2024, Regular Council Meeting.

Passage 7-0.

**III. Communications, Presentations and Recognitions - None**

**IV. Open Session –**

**IN COUNCIL REGULAR MEETING JANUARY 16, 2024, VOL. 37 PAGE 127**

Evan Cyr, 122 Granite Street, talked about transparency, action taken at a previous meeting to rescind Planning Board appointments, an item that was tabled at the previous meeting, and the appointment process.

Jeff Cote, 465 Merrow Road provided a handout to Councilors and discussed the poor road conditions of Merrow Road.

**V. Unfinished Business - None**

**VI. New Business**

Orders 07-01162024, 08-01162024, and 09-01162024 below were removed from the Consent Agenda and placed under New Business.

**Order 07-01162024**

Re-appointing Riley Bergeron to the Planning Board as a full member with a term expiration of 01/01/2027 as recommended by the Appointment Committee.

Motion was made by Councilor Whiting and seconded by Councilor Gerry for passage.

Public comment – No one from the public spoke.

Passage 7-0.

**Order 08-01162024**

Appointing Timothy DeRoche to the Planning Board as a full member with a term expiration of 01/01/2027 as recommended by the Appointment Committee.

Motion was made by Councilor Gerry and seconded by Councilor Milks for passage.

Public comment – No one from the public spoke.

Passage 7-0.

**Order 09-01162024**

Appointing Ryan Smith to the Planning Board as a full member with a term expiration of 01/01/2027 as recommended by the Appointment Committee.

Motion was made by Councilor Gerry and seconded by Councilor Whiting for passage.

Public comment – David Trask, 89 Partridge Lane, spoke regarding transparency and inclusivity, action taken by the council to rescind the Planning Board appointments that were voted on at the 12-4-2023 council meeting, and the nomination of Mr. Smith.

Passage 4-3 (Councilors Walker, Weisner, and Milks opposed).

**IN COUNCIL REGULAR MEETING JANUARY 16, 2024, VOL. 37 PAGE 128**

- 1. Order 12-01162024**  
Approving the liquor license for Burnt Ends Barbeque, LLC. located at 120 Center Street.  
Public hearing and vote.

Motion was made by Councilor Milks and seconded by Councilor Walker for passage.

Public hearing - No one from the public spoke.

Passage 7-0.

- 2. Order 13-01162024**  
Amending Order 171-12182023, previously adopted by the City Council on 12/18/2023, correcting the language as outlined in Sec. 26-25 of our ordinance.

Motion was made by Councilor Whiting and seconded by Councilor Walker for passage.

Public comment – No one from the public spoke.

Passage 7-0.

- 3. Ordinance 03-01162024**  
Amending Article V, Division 2, Sections 2-430, 2-431, 2-433, 2-434, 2-435, and 2-441 of Auburn’s Code of Ordinances and striking all language referencing the Regulatory Advisory Board. Public hearing and first reading.

Motion was made by Councilor Gerry and seconded by Councilor Cowan for passage.

Public hearing – No one from the public spoke.

Passage 6-0-1 (Councilor Milks abstained).

- 4. Ordinance 04-01162024**  
Amending Article V, Division 2, Sections 2-430, 2-431, 2-432, 2-433, 2-434, and 2-435 of Auburn’s Code of Ordinances and reinstating the Board of Assessment Review ordinance. Public hearing and first reading.

Motion was made by Councilor Gerry and seconded by Councilor Whiting for passage.

Public hearing – No one from the public spoke.

Passage 6-0-1 (Councilor Milks abstained).

- 5. Ordinance 05-01162024**  
Amending Chapter 60, Article XV reinstating the Zoning Board of Appeals ordinance. Public hearing and first reading.

**IN COUNCIL REGULAR MEETING JANUARY 16, 2024, VOL. 37 PAGE 129**

Motion was made by Councilor Walker and seconded by Councilor Whiting for passage.

Public hearing – No one from the public spoke.

Passage 6-0-1 (Councilor Milks abstained).

**6. Ordinance 06-01162024**

Amending Sec. 2-466 of the Auburn Code of Ordinances correcting the Planning Board Compensation language. Public hearing and first reading.

Motion was made by Councilor Cowan and seconded by Councilor Whiting for passage.

Public hearing – No one from the public spoke.

Passage 7-0.

**7. Order 14-01162024**

Directing the Sustainability & Natural Resource Management Board to create a solid waste and recycling plan to be presented to the City Council no later than August 19, 2024.

Motion was made by Councilor Gerry and seconded by Councilor Cowan for passage.

Public comment – No one from the public spoke.

Passage 7-0.

**8. Order 15-01162024**

Appointing Mayor Jeffrey Harmon to serve on the Maine Municipal Associations' Legislative Policy Committee with a term expiration of June 2024.

Motion was made by Councilor Whiting and seconded by Councilor Cowan for passage.

Public comment – No one from the public spoke.

Passage 7-0.

**VII. Open Session -**

Evan Cyr, 122 Granite Street spoke again regarding transparency and letting a tabled item die without providing an explanation, adding that there are residents that are in full support of the delay of the Lake Auburn Watershed zoning ordinances.

**VIII. Reports**

**IN COUNCIL REGULAR MEETING JANUARY 16, 2024, VOL. 37 PAGE 130**

**Mayor Harmon** reported that the Auburn Water District Board of Trustees will be meeting tomorrow at the district office.

**Councilor Whiting** reported that the Auburn Nordic Association has plenty of snow, and he congratulated Miss Condit and Miss Garcia who both had top ten finishes in the Roy Varney Nordic Race.

**Councilor Cowan** reported that the Lewiston Auburn Transit Committee (LATC) will be meeting in February.

**Councilor Platz** provided an update on last School Committee meeting adding that more information can be found on the school department's website. He also gave a shout out to Public Works crews for their work with snow clean up.

**City Manager Crowell** reported that the 1<sup>st</sup> Legislative Policy Committee session for the Maine Municipal Association will be held later this week. He reported on the orientation process for city staff and announced that the City Council retreat is scheduled for February 3<sup>rd</sup> from 8:00 a.m. until noon at Auburn Hall, in the Community Room and is open to the public.

**December 2023 Finance Report – Kelsey Earle**

Motion was made by Councilor Milks and seconded by Councilor Weisner to accept the December Finance Report.

Passage 7-0.

**IX. Executive Sessions –**

**Labor contract discussion, pursuant to 1 M.R.S.A. §405(6)(D).**

Motion was made by Councilor Whiting and seconded by Councilor Cowan to go into executive session.

Passage 6-0 (Councilor Walker was not in the room for the vote). Time in – 8:04 pm.

Council was declared out of executive session at 8:40 pm.

**Economic development, pursuant to 1 M.R.S.A. §405(6)(C) where premature disclosure would prejudice the competitive or bargaining position of the City.**

Motion was made by Councilor Weisner and seconded by Councilor Walker to go into executive session.

Passage 7-0. Time in – 8:40 pm.



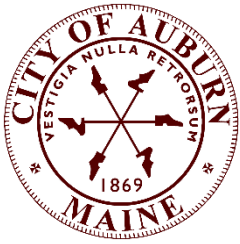
**IN COUNCIL REGULAR MEETING JANUARY 16, 2024, VOL. 37 PAGE 131**

Council was declared out of executive session at 9:17 pm.

**VIII. Adjournment** – the meeting adjourned at 9:17 pm.

**A TRUE COPY**

**ATTEST** *Susan Clements-Dallaire*  
Susan Clements-Dallaire, City Clerk



**City of Auburn  
City Council Information Sheet**

**Council Workshop or Meeting Date:** February 5, 2024

**Author:** Glen E. Holmes, Director of Business & Community Development

**Subject:** Tax increment Financing (TIF)/ Credit Enhancement (CEA) presentation

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**Information:** Staff will present an overview of Tax Increment Financing Districts and Credit Enhancement Agreements, providing information on the current agreements and districts and how they benefit the city.

---

**City Budgetary Impacts:** NONE

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**Staff Recommended Action:** NONE

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**Previous Meetings and History:** NONE

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**City Manager Comments:**

*Phillip Crowell Jr.*

I concur with the recommendation. Signature:

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**Attachments:** Presentation

# Tax Increment Financing

Planning Today for a Prosperous Tomorrow

Glen E. Holmes, Director of Business & Community Development



1

## TIF Basics

Tax Increment Finance (TIF) is a mechanism for capturing the future tax benefits of real estate improvements, in order to incentivize development and pay for the cost of municipal infrastructure and improvements.

Two types:      Affordable Housing – Approved by Maine State Housing Authority (MSHA)  
                          Municipal– Approved by Maine Department of Economic & Community Development (DECD)

- Large-scale redevelopment of blighted or under-utilized districts
- Provide Economic Development opportunities and/or Job Creation programs
- Promote Mixed-Use Developments & Incentivize Public-Private Partnerships
- Incentivize Affordable Housing Development
- Funding Brownfield/Blight Remediation and/or Neighborhood Revitalization Efforts
- Long-term financing of infrastructure improvements such as:
  - Public Facilities
  - Utilities
  - Transportation
  - Environmental Remediation



2

# Key Terms

- **TIF District** - Municipality created geographic area
- **Original Assessed Value (OAV)** -Current taxable value “frozen” before development
- **Increased Assessed Value (IAV)** – New taxes generated by development
- **Captured Assessed Value (CAV)** - % of taxes from IAV that is sheltered
- **Total Tax Shift** - Savings from sheltered CAV over term of TIF
- **TIF District Revenue (TDR)** - Taxes from CAV to fund Development Program
- **Development Program** – Approved plan & budget for TIF District Revenues
- **Credit Enhancement Agreement (CEA)** – Reimbursement of TDR to Developer
- **Omnibus TIF** – Larger scale, Multi-faceted incentives not totally defined at creation



3

# Policy & Procedures

City TIF Districts are managed by the **Finance Department** and **Business & Community Development Department** and follows a prescriptive policy and application process.

1. Interested businesses and/or developers complete a TIF application Package.
2. Business & Community Development staff review applications and prepare TIF packages.
3. Complete proposals are posted publicly for 10 days prior to a Public Hearing.
4. After Public Hearing, the City Council reviews and may vote to approve TIF District.
5. If the City Council approves the TIF it is sent to the proper state authority for approval.
  - Affordable Housing TIFs are approved by Maine State Housing Authority (MSHA)
  - Municipal TIFs are approved by Maine Department of Economic & Community Development (DECD)
6. If approved, city staff monitors the project for compliance for the term of the TIF.



4

# Example

## TIF #23 Schooner Memory Care – Construct 66 mixed-income assisted living units at 196 Stetson Rd

Original Assessed Value (OAV)	\$327,100	Development Program Budget	
New Investment	\$17,000,000	Max CEA = 35% CAV or	\$625,511
Amount of IAV Captured	58.5%	Admin Cost	\$40,600
Captured Assessed Value (CAV)	\$8,512,700	Road Improvements	\$1,203,500
<b>Total Projected Revenue</b>	<b>\$1,787,180</b>	<b>Total Project Expense</b>	<b>\$1,869,611</b>

TIF Cashflow to Date	
TIF Age	5 of 20 years
Revenue	\$463,649
Admin	\$1,733
CEA	\$121,698
Debt Service Payments for Road Improvements	\$389,160

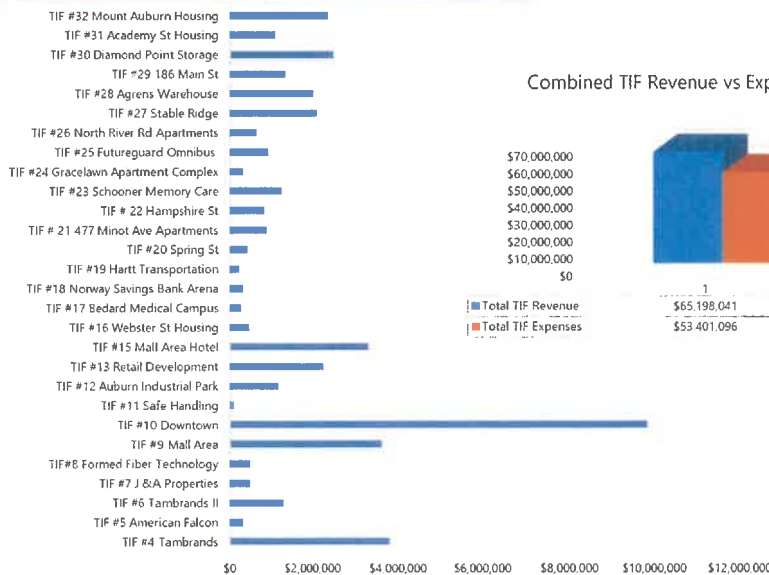
Community Benefit	
New Assisted living units	66
New FTE jobs created	56



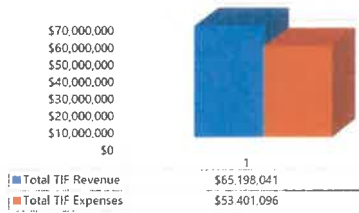
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# Current TIF Data

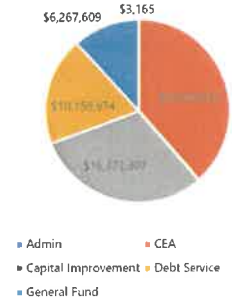
Total Projected Tax Shift = \$44,821,400



Combined TIF Revenue vs Expenses



TIF Expenses by Category



6

# Statutory Limitations

The city is must comply with Acreage and Valuation Caps as established by state statute.

- Each proposed TIF cannot exceed 2% of the total **acreage** of the city.
- The total amount of all current & proposed TIFs cannot exceed 5% of the total **acreage** of the city.
  - Exclusions from this calculation include:
    - Existing/proposed Downtown TIF Districts
    - Transit-Orientated Development TIF Districts
    - Community Wind Power TIF Districts
    - Pinetree Development Zones approved prior to Jan.1, 2009
- Total amount of all current and proposed TIFs cannot exceed 5% of the total **municipal valuation**.
  - Exclusions from this calculation include:
    - Affordable Housing Development Districts
    - Existing/proposed Downtown TIF Districts
    - Transit-Orientated Development TIF Districts
    - Community Wind Power TIF Districts
    - Pinetree Development Zones approved prior to Jan.1, 2009
    - Single Taxpayer/High Valuation TIF Districts

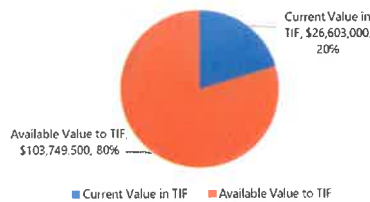


7

# Future TIF Capacity

Based on current active TIF Districts the City of Auburn has the available capacity for new TIFs. As existing TIFs expire or are modified, or the total valuation of the city increases, these values will change.

**Total Original Assessed Value (OAV) Allowable**



**Total Acres Allowable to TIF**

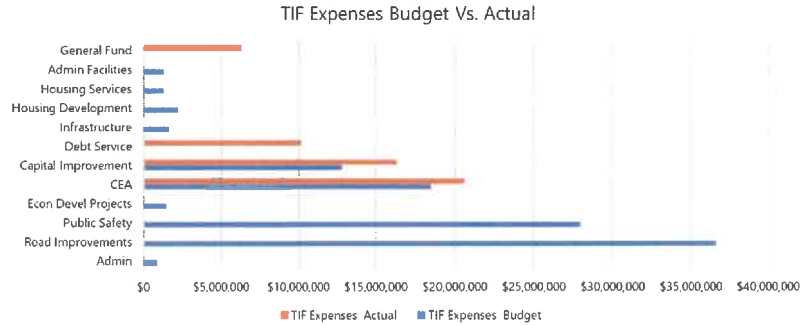


8

# Statutory Project Costs

The city is must provide an estimated budget for the captured TIF revenue for approval by DECD. State law provides allowable expenses and projects which may be included within the Project Cost budget.

- Authorized Project Costs – 30-A MRSA Section 5225
- Affordable Housing Development - 30-A MRSA Section 5249



9

# Risks and Common Criticism

## Common Risks:

- Development projections do not meet budget expectations
  - Potential development/investments do not materialize
  - Assessed value of projects is less than projected
  - Reduced MIL rate lowers TIF revenues
- Developer underperforms or project is under capitalized
- Projects and agreements are not adequately monitored to ensure public benefit
- No community support

## Common Criticisms:

- Taxpayers subsidizing private development through credit enhancement agreements
- TIF expenses by-pass public budget process



10

# Q & A





**CITY OF AUBURN  
TAX INCREMENT FINANCING  
&  
CREDIT ENHANCEMENT  
POLICY  
AND  
GUIDELINES**

The following are the City of Auburn Tax Increment Financing (TIF) Policy and Credit Enhancement Agreement Application Guidelines.

**I. Purpose and Introduction**

TIF allows municipalities to "shelter" new value resulting from private investment from the calculation of its State subsidies (education and revenue sharing) and County taxes. A municipality's total equalized assessed value is used to calculate General Purpose Aid to Education (subsidy), State Revenue Sharing (subsidy), and County taxes (expense). When a municipality's equalized assessed value increases, State Aid for Education decreases, municipal revenue sharing decreases, and the municipality pays a greater portion of County taxes. Specific municipal shelter benefits for the term of the TIF include: No reduction in State aid for education, no decrease in municipal revenue sharing, and no increase in County taxes (assuming 100% capture).

A Tax Increment Financing District is a tool available to the City of Auburn to promote economic development. TIF enables the City to revitalize and redevelop designated areas and build community and economic growth through public-private partnerships. The TIF District allows the City to capture some or all of the incremental real and/or personal property tax revenues derived from new development or expansion of an existing development and provides a means of financing the economic and community development goals of Auburn as set forth in the Development Program of the District adopted by the City Council and as authorized by state law. The captured tax revenues from a TIF District can be used to finance municipal investments and City infrastructure projects; and can also be used to provide incentive or financing to a private development in the form of an associated Credit Enhancement Agreement (CEA), as authorized by the Development Program of the District and state law.

These guidelines are to provide guidance and outline standards for the development of TIF's and CEA's in the City when utilizing TIF Districts and TIF revenue for the City's development and redevelopment efforts. Notwithstanding compliance with any or all of these guidelines, the creation of a TIF District or authorization of a Credit Enhancement Agreement is a policy decision of the City of Auburn to be evaluated by the City on a case-by-case basis. Adopting this policy or any TIF District does not create a right or entitlement to assistance by any applicant.

## **II. Eligibility for Assistance**

Economic development projects may be eligible for Tax Increment Financing assistance from the City when they meet the following standards:

- Would not occur without City assistance.
- Create or retain employment opportunities.
- Significantly expand the City's tax base by a minimum of \$1,000,000.
- Diversify the economy and tax base of the City
- Conform to the quality and types of development the City seeks as outlined in the Comprehensive Plan, Strategic Plan, Downtown Revitalization Plan, Economic Development Action Plan, and Zoning Ordinances.
- Demonstrate a public benefit, such as expanding public infrastructure to service areas beyond the project or creating job opportunities or affordable housing.
- Public benefits from development must outweigh any possible adverse impacts on existing businesses or residents of the City.

The City provides TIF assistance through a Credit Enhancement Agreement that provides developers with reimbursement of a percentage of the property tax revenue paid on the increased assessed value (or incremental value) of their property. Tax revenue on the incremental value returned to the developers under a Credit Enhancement Agreement will not exceed an average of 75% of the incremental taxes over the life of the particular tax increment financing district or the Credit Enhancement Agreement. Further, the City Council may establish a cap on the total incremental taxes to be reimbursed to a developer under a CEA on an annual and/or cumulative basis. The applicant is required to submit all documentation required by the City in consideration of a Credit Enhancement Agreement. A Public Hearing shall be held to receive public comment on a completed CEA application at least ten days prior to a meeting at which the CEA is being considered for approval by the City Council.

## **III. Application Process**

The City has established an Application for Tax Increment Financing & Credit Enhancement Agreement. Applications (whether initiated by the City or requested by a developer or business) will be reviewed by the Business and Community Development Department Staff and considered by the City Manager. Applications for a new TIF District or an amendment to an existing TIF District are subject to final approval by the City Council and the Maine Department of Economic and Community Development (DECD). The specific terms of TIF assistance through a CEA will be negotiated between the City and the applicant on a case-by-case basis. The City Manager or the City Manager's designee will negotiate for the City, and all recommendations for TIF assistance shall be based on the merits of the project and compliance with these guidelines. Based on City Council direction and approval, Business and Community Development staff will coordinate all activities regarding applications and will prepare materials as needed. The Director of Business and Community Development will assist the developer through the process. They will monitor ongoing investments in the development project if TIF assistance is granted.

All applicants for TIF assistance must pay a \$500 non-refundable application fee at the time of submission. All applicants are required to reimburse the City of Auburn for all legal and administrative costs incurred as a result of the TIF proposal, including the cost of preparing all materials necessary to establish a new TIF District, amend an existing TIF District and draft the Credit Enhancement Agreement. If a Credit Enhancement Agreement is approved, an annual fee equal to 2% of the incremental tax reallocated back to the project will be assessed.

#### **IV. Waiver of Provisions**

The City of Auburn reserves the right under certain conditions to waive the provisions of the policy. The decision to do so shall be made by applying the following guidelines to ensure that the project remains within the general parameters of the Auburn Comprehensive Plan and community development vision(s). Criteria to be considered with granting a waiver are:

- Consistency with the Auburn Comprehensive Plan
- Consistency with the Downtown Revitalization Plan
- Consistency with the City's Economic Development Plan
- Consistency with the Development Plan of the TIF District
- Consistency with other local, State, and Federal laws/rules
- Evidence of need, and
- Capacity to carry out the project

#### **V. Mandatory Guidelines**

In all instances, applicants for tax increment financing and Credit Enhancement Agreements must demonstrate that the City's participation is economically needed to undertake the project. Such justification is demonstrated by:

- Need to offset infrastructure costs unique to the site
- Need to offset economic advantages available if it should develop a project or expand operations outside of Auburn
- Lack of sufficient funding sources to meet the entire capital investments needed to undertake the project
- The project creates significant new tax value throughout the Downtown District and other areas the City Council deems necessary
- The developer is financially capable of undertaking the project
- The developer is compliant with all statutory and regulatory guidelines of the City of Auburn and the State of Maine

## **VI. Guidelines that Determine the Level of Municipal Participation**

Although the applicants' project need not meet each of the following criteria, the following will be used to determine the City of Auburn's participation level.

- Assists an established business in Auburn, retaining existing employment opportunities
- Creates long-term permanent and quality employment opportunities
- Contributes to the revitalization of the Downtown District or other areas in need of development or redevelopment
- Improves a blighted building site in need of rehabilitation
- Creates public infrastructure facilities that have applications beyond the particular development, road improvements, parking, sidewalks, green space, etc.
- Supports or will support community projects, job training, internships, and programs that assist the under-employed and supports local contractors and suppliers.

## **VII. Transfer of Ownership**

If the applicant transfers ownership of property in the TIF District subject to a CEA to which the applicant is a party, the applicant must notify the City Manager in writing prior to finalizing the transfer. The prospective new owner must agree, in writing, to accept the provisions of the agreement as presented to and approved by the City Council before the City will release any further TIF reimbursements under the CEA. Failure to provide notice of a transfer of ownership by the applicant or for the prospective new owner to accept the terms of the CEA before the transfer shall render the CEA invalid, and no further payments under it shall be authorized.

## **VIII. Annual Expenditure of TIF Revenues for Municipal Projects**

Each year the Director of Business and Community Development will review all proposed TIF Revenue expenditures as part of the City Budget process to ensure compliance with the existing TIFs.

Annual allocations of TIF revenues to fund existing Credit Enhancement Agreement commitments will be factored into the annual review of the use of the available TIF revenues and estimates of proposed Credit Enhancement Agreements will be calculated by the City Assessor and City Treasurer and provided to the City Manager for review and consideration.



**APPLICATION FOR BUSINESS ASSISTANCE**

Applicant Name	
Address	
Primary Contact	
Phone	
Email	
Project Name	

*On a separate sheet of paper please answer the following questions. Please include this coversheet with your formal application:*

1. In no more than three pages provide relevant information on the Applicant's background and development experience. Include resumes of key individuals assigned to the project.
2. Identify the Applicant's consultants involved or proposed to be involved in the project noting relevant experience on similar projects (i.e., engineer, land use planner, legal counsel, Applicant's financial advisor).
3. Describe the proposed project, including the size, scope, phasing, construction materials, and impact on parking, traffic and adjoining property. Discuss any development, planning, engineering, architectural or legal issues which may impact the City or adjoining property. Specifically outline residential development, if any, to be included in the project. Include any plans prepared for the project, if available. At a minimum, a concept plan shall be submitted with the application.
4. Define the boundaries of the proposed project by address and on a map.
5. Identify the property which is currently in the control of the Applicant via ownership or option. If under option note the option expiration date.
6. Is the property currently zoned for the proposed use? If not, what zoning change will be required?
7. Will the proposed project result in the relocation of economic activity from another location within the City? If so, discuss the nature of any anticipated relocations and the impact the relocation would have on the neighborhood where such activity is currently located.
8. State the need and justification for development assistance. Explain how the applicant intends to demonstrate compliance with a "but for" test. Substantiate that other alternative methods of financing have been thoroughly explored.
9. Identify sources, amounts, and status of all debt financing and/or equity funding available to complete the Project. Does the applicant anticipate the debt to be privately financed by the construction lender or developer or publicly sold? Please prepare information in the following table format'.

Contact Person & Phone #  
 Amount  
 Term Status

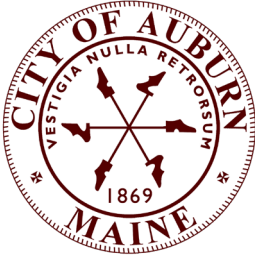


10. Provide an outline of the costs associated with the development of the proposed project(s) and related parcel(s) located within any relevant TIF districts. Identify in the outline those costs you would propose to fund and the proposed payback time or conditions.
11. In one page or less, discuss and document information used to describe the market feasibility of each element of the proposed project. If a formal feasibility or comparable studies have been prepared, attach such reports as an appendix to this application.
12. Estimate the incremental property taxes to be generated by the project.
13. Provide an estimate of the market value of all fixtures and equipment to be used by all owners or tenants of the proposed project which will be taxed as personal property.
14. Identify any proposed tenants of the project. Have leases been negotiated or signed? What type of lease is contemplated?
15. Who will own and operate the developed property?
16. Briefly describe the benefits of the proposed project to the City, particularly in economic and quality of life terms.
17. Attach a letter from a financial institution indicating that the applicant has sufficient financial resources to obtain the private financing for the project.
18. Describe the project schedule:
  - Preliminary Construction Start Date:
  - Preliminary Construction Completion Date:
  - Phasing Anticipated:
  - Date Occupied or Opened:

***Submit completed application to:***

Director of Business & Community Development  
City of Auburn  
60 Court St  
Auburn, Me 04210

Phone: (207) 333-6601 Ext. 1159  
Email: GHolmes@auburnmaine.gov



# City of Auburn, Maine

Mayor Jeffrey D. Harmon

60 Court Street | Auburn, Maine 04210

[www.auburnmaine.gov](http://www.auburnmaine.gov) | 207.333.6601

## Mayor's Ad-Hoc Public Safety Building Committee

### Charge

The **Mayor's Ad-hoc Public Safety Building Committee** will attend meetings with the Office of Facilities and Energy as they finalize design and construction documents to bring the project to the bid-ready (sometimes referred to as "shovel-ready") state.

### Responsibilities

The Committee's purpose is to:

- Make recommendations to the Office of Facilities and Energy for the hiring of a Design Team and Construction Manager
- Perform community outreach activities to ensure that residents' voices are heard and ensure they are informed of what is happening throughout this phase of the project

### Reporting

The Committee will file a periodic report to the City Council as key milestones are completed. The Committee's webpage will be updated regularly to keep residents informed.

### Committee Members

#### **Michael Heskanen**

Ward 2

*Retired Architect*

#### **Tim Simpson**

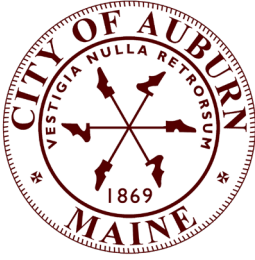
Ward 3

*Retired Pre-Sales Mechanical Engineer*

#### **Andy Titus**

Ward 3

*Former City Councilor*



# City of Auburn, Maine

Mayor Jeffrey D. Harmon

60 Court Street | Auburn, Maine 04210

[www.auburnmaine.gov](http://www.auburnmaine.gov) | 207.333.6601

## Mayor's Ad-Hoc Committee on Housing

### Charge

The **Mayor's Ad-hoc Committee on Housing** will provide recommendations to the City Council as to the number and type of housing units needed in Auburn through 2030 and strategies to achieve those housing goals.

### Reporting

The Committee will file a periodic report to the City Council as key milestones are completed. The Committee's webpage will be updated regularly to keep residents informed.

### Committee Members

#### Co-Chairs

Rick Whiting (City Councilor)

Ned Claxton (Homeowner and former State Senator)

#### Members

Mary Beth Booth (Condominium resident)

Jan Barrett (Senior housing resident)

Celia McGukian (Non-profit housing)

Chris Eugley (Homeowner and small landlord, <10 units)

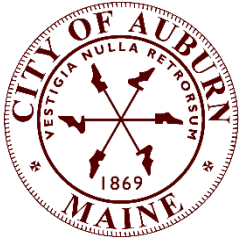
Kathryn Manson (Renter)

Fatuma Hussein (Non-profit developer)

Mathieu Duvall (Homeowner and former Planning Board member)

Anthony Jolicoeur (Large landlord, >10 units)





**City of Auburn  
City Council Information Sheet**

**Council Workshop or Meeting Date:** February 5, 2024

**Ordinances:** 03-01162024 through 04-01162024

**Author:** Sue Clements-Dallaire, City Clerk

**Subject:** Reinstating the Board of Assessment Review and the Zoning Board of Appeals and eliminating the Regulatory Advisory Board

---

**Information:** In 2021, Council voted to adopt the Regulatory Advisory Board to perform the responsibilities of the board of assessment review, and the zoning board of appeals. Staff is proposing to reinstate the Board of Assessment Review (with a few proposed amendments) and the Zoning Board of Appeals and eliminating the Regulatory Advisory Board.

---

**City Budgetary Impacts:** None

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**Staff Recommended Action:** Passage of second reading for Ordinance 03-01162024 which will eliminate the Regulatory Advisory Board, and Ordinance 04-01162024 which reinstates the Board of Assessment.

Ordinance 05-01162024 to reinstate the Zoning Board of Appeals will be brought back to the Council for a second reading following a review with the Planning Board.

---

**Previous Meetings and History:** Board of Assessment Review and Zoning Board of Appeals combined into the Regulatory Advisory Board in 2021. This was discussed during the January 2, 2024 City Council Workshop to eliminate the Regulatory Advisory Board and reinstate the Board of Assessment Review and the Zoning Board of Appeals. A public hearing was held and each passed the first reading on 1/16/2024.

---

**City Manager Comments:**

I concur with the recommendation. Signature:

---

**Attachments:** Proposed ordinance amendment striking references to the Regulatory Advisory Board, and ordinances proposing the reinstatement of the Board of Assessment Review and Zoning Board of Appeals Ordinances.



# City Council Order

## IN CITY COUNCIL

### AMENDING ARTICLE V, DIVISION 2, SECTIONS 2-430, 2-431, 2-433, 2-434, 2-435, AND 2-441 OF THE AUBURN CODE OF ORDINANCES STRIKING ALL LANGUAGE REFERENCING THE REGISTRATION BOARD OF APPEALS.

**Be it Ordained**, that the City Council hereby amends the code of ordinances Article V, Division 2, Sections 2-430, 2-431, 2-433, 2-434, 2-435, and 2-441 of the Auburn Code of Ordinances striking all language referencing the registration board of appeals as seen below.

#### **Sec. 2-430. Membership; responsibility.**

~~A board of regulatory advisory shall be appointed by the city council, consisting of seven members.~~

~~The purpose of the regulatory advisory board is to perform the responsibilities of the board of assessment review, board of appeals, and all other regulatory review functions as directed by the city council. The board shall develop such rules to govern its meetings (to include meetings dates and times) and operations as it deems advisable.~~

~~Persons appointed by the city council to serve on other boards, agencies, panels, and or commissions shall not serve concurrently on the regulatory advisory board.~~

~~(Code 1967, § 5-2.1; Ord. No. 04-02162021, 3-1-2021; Ord. No. 02-01032022, 1-18-2022)~~

Editor's note(s)—Ord. No. 04-02162021, adopted March 1, 2021 changed the title of § 2-430 from "membership; compensation of members" to "membership; responsibility."

#### **Sec. 2-431. Term of members.**

~~The initial terms of office of the members of the regulatory advisory board shall be staggered terms. The city council shall annually appoint one member to serve on the board for a three year term. Their successors shall be appointed for three year terms.~~

~~(Code 1967, § 5-2.2; Ord. No. 05-02162021, 3-1-2021)~~

#### **Sec. 2-433. Quorum.**

~~The regulatory board shall take no official action unless at least three members are present; provided, however, that a lesser number may adjourn the proceedings to a later time. When a regular member of the board is unable to participate in an appeal, the chair shall designate one of the alternate members to replace him.~~

~~(Code 1967, § 5-2.4; Ord. No. 07-02162021, 3-1-2021)~~



## City Council Order

**Sec. 2-434. Rules and regulations for conduct of hearings.**

~~The regulatory board may establish such rules and regulations governing the conduct of hearings before it as it may deem necessary consistent with this Code and with state law.~~

~~(Code 1967, § 5-2.5; Ord. No. 08-02162021, 3-1-2021)~~

**Sec. 2-435. Legal counsel.**

~~The regulatory board may have legal counsel present during any appeal hearing to advise on points of law and to assist the board in drafting its final decision.~~

~~(Code 1967, § 5-2.6; Ord. No. 09-02162021, 3-1-2021)~~

**~~Sec. 2-441. Compensation of the regulatory board.~~**

~~All members of the regulatory board shall receive annually \$600.00, payable quarterly.~~

~~(Ord. No. 41-11152021, 12-6-2021)~~

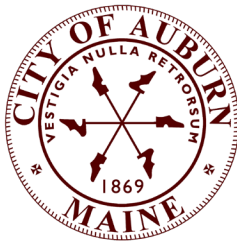
Passage of first reading on 1/2/2024 6-0-1 (Councilor Milks abstained).

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**Richard S. Whiting**, Ward One  
**Benjamin J. Weisner**, Ward Four  
**Belinda A. Gerry**, At Large

**Timothy M. Cowan**, Ward Two  
**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



# City Council Order

## IN CITY COUNCIL

### **AMENDING THE AUBURN CODE OF ORDINANCES, ARTICLE V, DIVISION 2, SEC. 2-430, 2-431, 2-432, 2-433, 2-434, 2-438, 2-441 TO REINSTATE THE BOARD OF ASSESSMENT REVIEW**

**BE IT ORDAINED**, that the City Council hereby amends the Auburn Code of Ordinances, Article V, Division 2, sec. 2-430, 2-431, 2-432, 2-433, 2-434, 2-438, 2-441 to reinstate the Board of Assessment Review

#### **DIVISION 2. - BOARD OF ASSESSMENT REVIEW**

*State Law reference— Board of assessment review, 36 M.R.S § 471-A and § 844-N.*

#### **Sec. 2-430. - Membership; responsibility.**

A board of assessment review (the Board) shall be appointed by the city council, consisting of five regular members and three alternate members, to serve without compensation.

The purpose of the board of assessment review is to hear property tax appeals pursuant to Maine Statute. The Board shall develop such rules to govern its meetings (to include meetings dates and times) and operations as it deems advisable.

#### **Sec. 2-431. - Term of members.**

The initial terms of office of the members of the board of assessment review shall be staggered terms. The city council shall annually appoint members to serve on the board for three-year terms. Their successors shall be appointed for three-year terms.

#### **Sec. 2-432. - Assessment review appeals procedure.**

When written application is made by a taxpayer for a review of a refusal by the tax assessor to grant a request for an abatement, the board of assessment review shall, within 14 days of the receipt of such request, set a date for hearing, of which the applicant shall receive at least seven days' written notice. In its conduct of the hearing the Board shall act as an impartial panel to receive evidence from the appellant and the assessor, advocating for neither party in rendering a decision. The Board shall conform that decision to all applicable statutes. At such hearing the applicant shall have the right to be heard in person, to present witnesses, to examine the tax assessor and any witnesses presented on behalf of the Assessing Department, and to be represented by counsel. Upon the evidence presented, the Board shall determine whether the applicant has met their burden of proof and may grant such reasonable abatement of their assessment as it determines to be proper.

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**Richard S. Whiting**, Ward One  
**Benjamin J. Weisner**, Ward Four  
**Belinda A. Gerry**, At Large

**Timothy M. Cowan**, Ward Two  
**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



# City Council Order

The board of assessment review must provide written notice of the decision on an appeal within 60 days of receiving the appeal unless the taxpayer agrees to an extension of the decision deadline.

**Sec. 2-433. - Quorum.**

The board of assessment review shall take no official action unless at least three members are present; provided, however, that a lesser number may adjourn the proceedings to a later time. When a regular member of the board is unable to participate in an appeal, the chair shall designate one of the alternate members to serve in place of any absent member.

**Sec. 2-434. - Rules and regulations for conduct of hearings.**

The board of assessment review may establish such rules and regulations governing the conduct of hearings before it as it may deem necessary consistent with this Code and with state law.

**Sec. 2-435. - Legal counsel.**

The board of assessment review may have legal counsel present during any appeal hearing to advise on points of law and to assist the board in drafting its final decision.  
*(other sections edited)*

Passage of first reading on 1/2/2024 6-0-1 (Councilor Milks abstained).

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**Richard S. Whiting**, Ward One  
**Benjamin J. Weisner**, Ward Four  
**Belinda A. Gerry**, At Large

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**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



**City of Auburn  
City Council Information Sheet**

**Council Workshop or Meeting Date:** February 5, 2024

**Ordinance:** 06-01162024

**Author:** Sue Clements-Dallaire, City Clerk

**Subject:** Amending Sec. 2-466 of the Code of Ordinances correcting the Planning Board Compensation language

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**Information:** In December of 2021, Council voted to adopt section 2-466 (g) of the code adding *“All members of the planning board, regular and associate, shall receive annually \$1,200, payable quarterly, with an effective date of January 1, 2022”*. When this was adopted, the compensation language in section 2-466 (a) that stated *“Members shall serve without compensation”* did get removed.

Passage of this ordinance amendment will clean up that language.

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**City Budgetary Impacts:** None

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**Staff Recommended Action:** Recommend passage.

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**Previous Meetings and History:** Public hearing and first reading held on 01/16/2024.

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**City Manager Comments:**

I concur with the recommendation. Signature:

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**Attachments:**



# City Council Order

## IN CITY COUNCIL

### Amending Chapter 2, Article V, Division 4, Sec. 2-433 (a) of the Auburn Code of Ordinances striking the language regarding compensation

**Be it ordained**, that the City Council hereby amends Chapter 2, Article V, Division 4, Sec. 2-433 (a) of the Auburn Code of Ordinances striking the language regarding compensation as shown below.

#### **Sec. 2-466. Membership: appointment, removal, terms, vacancies.**

- (a) There shall be a planning board of seven regular and two associate members. Members of the planning board shall be residents of the city. Persons appointed by the city council to serve on other boards, agencies, panels, and or commissions shall not serve concurrently on the planning board. ~~Members shall serve without compensation.~~
- (b) Regular members of the planning board shall be appointed by the city council for terms of three years. Such terms shall be staggered so that the term of not more than three members shall expire in any calendar year. Incumbent members of the planning board shall serve for the balance of their terms and thereafter until their successors are appointed.
- (c) The city council shall appoint two associate members for a term of three years each. Such terms shall be staggered so that the terms of not more than one associate member, expires in any calendar year. Associate members may participate in deliberations of the planning board but shall not vote unless temporarily acting on behalf of a regular member who is absent or has been recused.
- (d) Permanent vacancies on the planning board shall be filled by the city council for the unexpired term of the former member.
- (e) Any member of the planning board may be removed for cause by the city council at any time; provided, however, that before removal such members shall be given an opportunity to be heard in his own defense at a public hearing before the city council.
- (f) The planning board may appoint a high school student advisory representative who is a high school student residing in Auburn for a one year term. The student advisory representative may participate in deliberations of the planning board but shall not be entitled to vote.
- (g) All members of the planning board, regular and associate, shall receive annually \$1,200.00, payable quarterly, with an effective date of January 1, 2022.

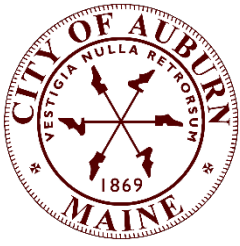
Passage of first reading on 1/2/2024 7-0.

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**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



**City of Auburn  
City Council Information Sheet**

**Council Workshop or Meeting Date:** February 5, 2024

**Order:** 17-02052024

**Author:** Katherine Cook, Planning Coordinator

**Subject:** First reading, Public Hearing: Consider amending the Comprehensive Plan Future Land Use Plan map in the Comprehensive Plan to designate City Assessor's Parcel I.D.s 174-004, 174-004-001 and 174-004-002 land use as Suburban Development District.

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**Information:** At the January 9<sup>th</sup>, 2024 Planning Board meeting, the Board voted to recommend that City Council amend the Future Land Use Plan map in the Comprehensive Plan to designate parts of City Assessor's Parcel I.D.s 174-004, 174-004-001 and 174-004-002 land use from Agriculture District to Suburban Development District following the FEMA 1% chance annual floodplain boundary. Their decision followed the findings that 1.) the proposed amendment aligns with the growth pattern existing across along Riverside Drive; 2.) Sec. 2-475(2)- Jurisdiction and authority states that among other powers, the planning board has the jurisdiction and authority to prepare and recommend to the city council changes in and amendments to the comprehensive plan as necessary, and 3.) The proposed future land use plan amendment is supported by the text of the Comprehensive Plan.

The Planning Board recommended initiating a Comprehensive Plan Future Land Use Plan Map Amendment at the December 12<sup>th</sup>, 2023 Meeting to be considered with the petition to rezone Parcel I.D. 174-004-001. Discussion at the meeting indicated that the Planning Board felt the zoning on three parcels, 174-004, 174-004-001, and 174-004-002, should be amended to Rural Residential to match the zoning southerly along Riverside Drive, but that they were more comfortable considering this after a Comprehensive Plan Future Land Use Map had been made to follow this pattern.

The proposal to recommend amending the Comprehensive Plan Future Land Use Plan Map is consistent with the land use patterns in the Riverside Drive area. Chapter 2, Sec. 1 of the Auburn Comprehensive Plan specifies that "The Suburban Development District (SD) allows for the development of a limited range of residential and community uses at a density of 6-8 units per acre in areas that are served or can be served by public/ community sewerage and/or public/community water. The Suburban Development District, which the Planning Board recommends overlay this area, generally follows the boundaries of the Suburban Residence and Multifamily Suburban zoning Districts except in this case along Riverside Drive, where the Suburban Development District follows the existing RR district abutting the three parcels considered.

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**City Budgetary Impacts:** None known.

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**Planning Recommended Action:** The Planning Board recommends City Council vote favorably to amend the Future Land Use Plan by updating the future development pattern on the three parcels from the Agriculture District to the Suburban Development District for the reasons listed in the Planning Board's Finding of Facts.

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**Previous Meetings and History:** January 9<sup>th</sup>, 2024 PB meeting

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**City Manager Comments:**



Consider the proposed recommendation. Signature:

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**Attachments:** Ordinance, Motion, Staff Report, Sketch Map.



# City of Auburn, Maine

Planning & Permitting Department

Eric Cousens, Director

60 Court Street | Auburn, Maine 04210

[www.auburnmaine.gov](http://www.auburnmaine.gov) | 207.333.6601

To: Auburn City Council

From: Auburn Planning Board

Subject: Planning Board Recommendation on Comprehensive Plan Amendment Near Riverside Drive

Date: 02/05/2024

This is the report from the Planning Board regarding the attached map amendment pursuant to Section 60-1496 of the City of Auburn Ordinances. After notice and Public Hearings held on January 9th, 2024, the Planning Board forwards this report to the City Council.

**PUBLIC HEARING/ COMPREHENSIVE PLAN MAP AMENDMENT:** Consider amending the Future Land Use Plan map in the Comprehensive Plan to designate City Assessor's Parcel I.D.s 174-004, 174-004-001 and 174-004-002 land use as Suburban Development District. The Future Land Use Plan is not a zoning map. It is intended to show, in a general sense, the desired pattern of future land use and development. This map amendment is supported in the text of the Comprehensive Plan and was initiated by the Planning Board.

**Motion:** To recommend amending the Future Land Use Plan map in the Comprehensive Plan to designate parts of City Assessor's Parcel I.D.s 174-004, 174-004-001 and 174-004-002 land use from Agriculture District to Suburban Development District following the FEMA 1% chance annual floodplain boundary as shown on the attached sketch map prepared for the January 9<sup>th</sup>, 2024, Planning Board meeting: Dave Trask; **Second:** Darren Finnegan.

**Amended:** to add the text "with the findings of fact that: (1) The proposed amendment aligns with the growth pattern existing across along Riverside Drive. (2) Sec. 2-475(2)- Jurisdiction and authority states that among other powers, the Planning Board has the jurisdiction and authority to prepare and recommend to the city council changes in and amendments to the Comprehensive Plan as necessary. (3) The proposed future land use plan amendment is supported by the text of the Comprehensive Plan: Evan Cyr; **Second:** Dave Trask;

**Vote:** 5-1-0 Motion carries



# City of Auburn, Maine

Office of Planning & Permitting

Eric Cousens, Director

60 Court Street | Auburn, Maine

04210 [www.auburnmaine.gov](http://www.auburnmaine.gov) |

207.333.6601

Date: January 5, 2024

To: Auburn Planning Board

From: Katherine Cook, Planning Coordinator

**Subject: Staff Report on Comprehensive Plan Map Amendment**

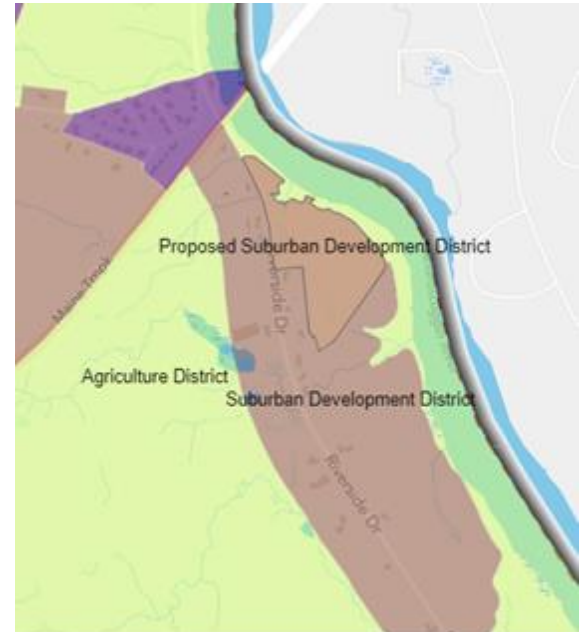
## I. Proposal: Public Hearing/ Comprehensive Plan Map

**Amendment:** Consider amending the Future Land Use Plan map in the Comprehensive Plan to designate City Assessor’s Parcel I.D.s 174-004, 174-004-001 and 174-004-002 land use as Suburban Development District. The Future Land Use Plan is not a zoning map. It is intended to show, in a general sense, the desired pattern of future land use and development. This map amendment is supported in the text of the Comprehensive Plan.

**II. Background:** In November, the Planning Board considered a petition signed by at least 25 registered Auburn voters to amend the zoning map for Parcel I.D. 174-004-001 along Riverside Drive. The parcel to be rezoned belongs to Robert Gagnon and was one of three parcels designated Agriculture and Resource Protection (AG or AGRP) with zone boundaries following these three property lines instead of the Low-Density Rural Residence or Rural Residential (RR) zoning district following the FEMA flood plain map (not the property lines) as are the parcels extending south along Riverside Drive after crossing under the Maine Turnpike. Mr. Gagnon’s proposed amendment is a parcel between two other parcels which are currently zoned AGRP.

The Planning Board questioned whether changing the zoning of just Mr. Gagnon’s parcel would constitute a spot zone. The Board tabled the decision in December and asked to review a map that follows the FEMA floodplain and includes amending the zoning of both abutting parcels from AGRP to RR in addition to the petitioned parcel. The total zoning map amendment consideration at this time became changing 18.2 +/- acres from AGRP to RR. They concluded the following parcels:

- PID 174-004 1.30 Acres
- PID 174-004-001 9.50 Acres
- PID 174-004-002 7.40 Acres



Future Land Use - 2021 Update

- Traditional Neighborhood Development District
- Conservation/Open Space
- Suburban Development District
- Commercial Development District
- Form-Based Code Development District
- Agriculture District
- Residential Development District
- Rural Development District
- Industrial Development District
- Commercial Form-Based Code Gateway Development District (Union/Center/Turner)
- Commercial Form-Based Code Gateway Development District (Washington Street)
- Other

Zoning map amendments are recommended by the Planning Board if they follow the Comprehensive Plan text and general land use development patterns. “The Future Land

Use Plan (FLUP) shows graphically how the City’s land use policies apply to the land area of the community, and where and how growth and development should and should not be accommodated over the next decade”.

At the December meeting, the city staff recommended amending the zoning map from AGRP to RR on the above listed three parcels following the floodplain because this would continue the zoning pattern existing south along abutting parcels on Riverside Drive. The board instead asked the city staff to prepare a Future Land Use Plan (FLUP) amendment updating the future development pattern on the three parcels from the Agriculture District to the Suburban Development District, which follows the same boundaries as the current designated RR zoning district. The zoning change may be recommended by the board with or without a recommendation to also amend the Comprehensive Plan, because the board has the flexibility, designated in its language to generally guide development, chapter 2 states, *“The Future Land Use Plan is not a zoning map. It is intended to show, in a general sense, the desired pattern of future land use and development. The intention is that the FLUP will guide near-term revisions to the city’s zoning ordinance and maps to ensuring the city’s land use regulations are consistent with the policies set forth in this Comprehensive Plan. In addition, by designating transitional districts, the Future Land Use Plan is designed to guide future zoning changes when the circumstances become appropriate.”*

The Planning Board asked to consider a Comprehensive Plan amendment to reflect the development pattern along the rest of the Riverside Drive. Recommending zoning map amendments alone is within the Planning Board’s range of authority, as is recommending amendments to the Comprehensive Plan, including the Future Land Use Plan. Sec. 2-475(2)- Jurisdiction and authority states that among other powers, the Planning Board has the jurisdiction and authority to *“prepare and recommend to the city council changes in and amendments to the comprehensive plan as necessary.”*

Amending the Comprehensive Plan is consistent with the text and authority allotted within the Comprehensive Plan and is consistent with existing land use patterns. Chapter 2, Sec. 1 of the Auburn Comprehensive Plan specifies that *“The Suburban Development District (SD) allows for the development of a limited range of residential and community uses at a density of 6-8 units per acre in areas that are served or can be served by public/community sewerage and/or public/community water. The Suburban Development District generally follows the boundaries of the Suburban Residence and Multifamily Suburban zoning Districts”*. One exception is along Riverside Drive, where the Suburban Development District follows the existing RR district abutting the three parcels considered. RR is a lower density and intensity use than SR.

**III. Planning Board Action:** Staff recommends that the Planning Board hold a public hearing and make a favorable recommendation to the city council to amend the Comprehensive Plan.

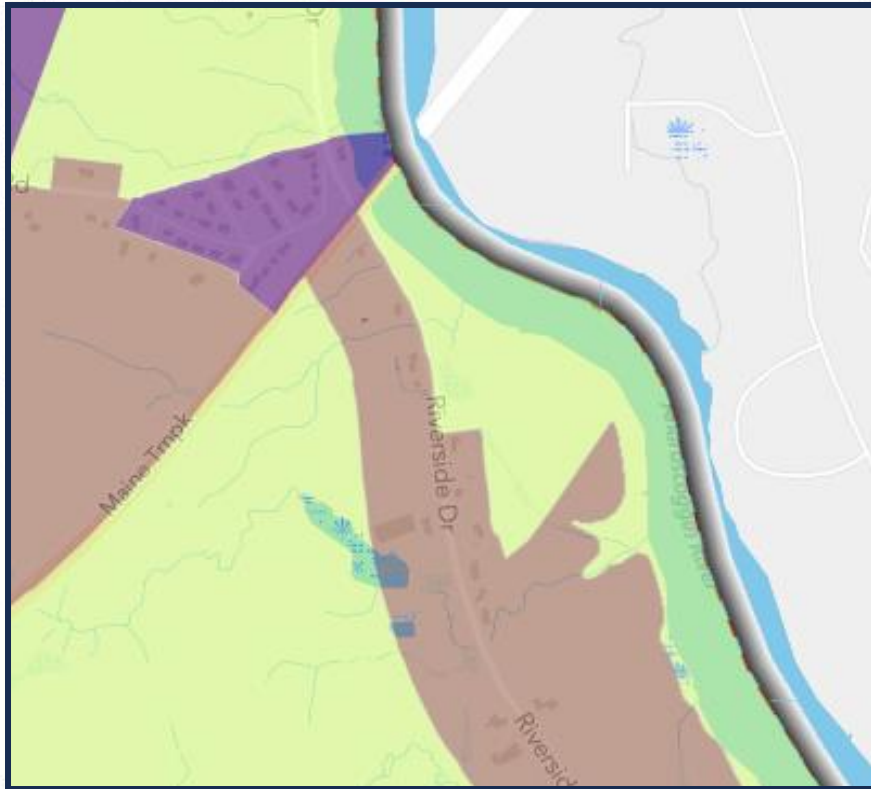
**IV. Suggested Finding of Fact:**

1. The proposed amendment aligns with the growth pattern existing across along Riverside Drive

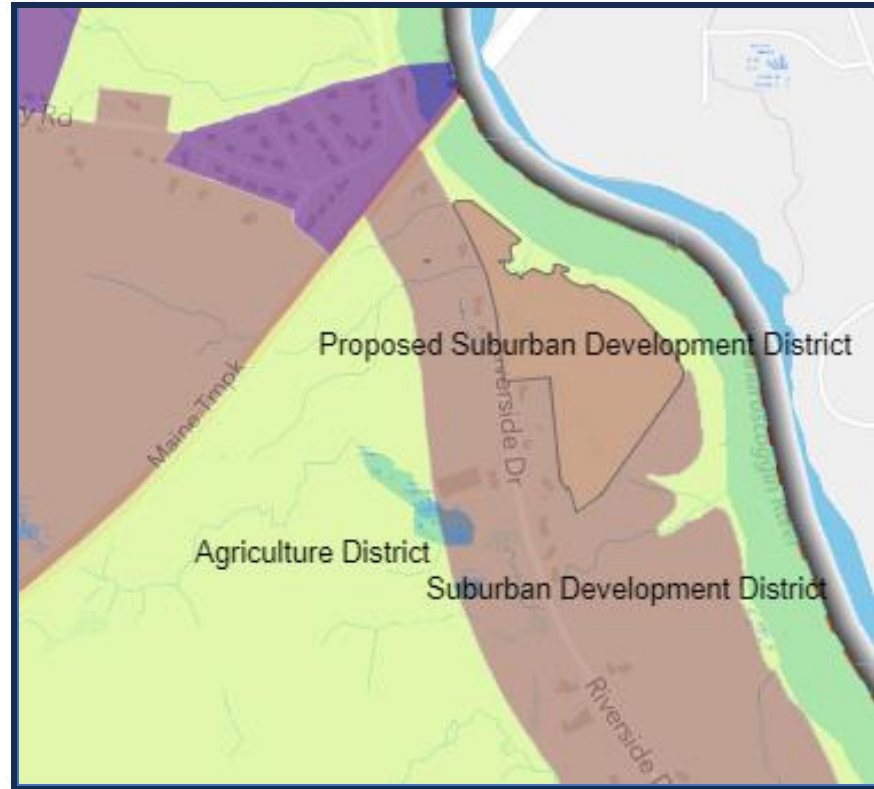
2. Sec. 2-475(2)- Jurisdiction and authority states that among other powers, the Planning Board has the jurisdiction and authority to prepare and recommend to the city council changes in and amendments to the Comprehensive Plan as necessary.
3. The proposed future land use plan amendment is supported by the text of the Comprehensive Plan.

**V. Suggested Motion:** I make a motion to recommend amending the Future Land Use Plan map in the Comprehensive Plan to designate parts of City Assessor's Parcel I.D.s 174-004, 174-004-001 and 174-004-002 land use from Agriculture District to Suburban Development District following the FEMA 1% chance annual floodplain boundary as shown on the attached sketch map prepared for the January 9<sup>th</sup>, 2024, Planning Board meeting.

**Comprehensive Plan 2010 (2021 Update) Future Land Use Plan Map  
Amendment Sketch Map Prepared for 01/09/2024 PB Meeting**



**Existing Future Land Use Plan**



**Proposed Future Land Use Plan**

- |   |                                      |   |       |
|---|--------------------------------------|---|-------|
| Traditional Neighborhood Development District | Form-Based Code Development District | Industrial Development District   | Other |
| Conservation/Open Space                       | Agriculture District                 | Commercial Form-Based Code Gateway Development District (Union/Center/Turner) |       |
| Suburban Development District                 | Residential Development District     | Commercial Form-Based Code Gateway Development District (Washington Street)   |       |
| Commercial Development District               | Rural Development District           |   |       |



**ORDER 17-02052024**

# City Council Ordinance

## IN CITY COUNCIL

**TITLE: Comprehensive Plan Future Land Use Plan Map Near Riverside Drive.**

**ORDERED**, that the City Council hereby approves the amendment of the Future Land Use Plan map in the Comprehensive Plan as follows:

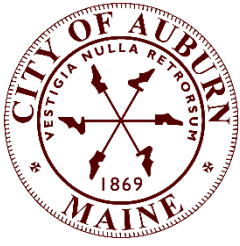
Amend the Future Land Use Plan map in the Comprehensive Plan to designate City Assessor's Parcel I.D.s 174-004, 174-004-001 and 174-004-002 land use as Suburban Development District following the 1% Chance FEMA Flood Hazard Line.

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**Richard S. Whiting**, Ward One  
**Benjamin J. Weisner**, Ward Four  
**Belinda A. Gerry**, At Large

**Timothy M. Cowan**, Ward Two  
**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



**City of Auburn  
City Council Information Sheet**

**Council Workshop or Meeting Date:** February 5, 2024

**Ordinance:** 07-02052024

**Author:** Katherine Cook, Planning Coordinator

**Subject:** First reading and Public Hearing: Consider the Petition-initiated proposal to amend Parcel ID 174-004-001 from the Agriculture and Resource Protection (AGRP) zoning district to the Low-Density Rural Residence or Rural Residence (RR) zoning district located on Riverside Drive

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**Information:** At the November 14<sup>th</sup>, 2023 Planning Board meeting, the Planning Board tabled the petition initiated by Robert Gagnon requesting to amend the zoning on one parcel to rezone a parcel on Riverside Drive, P.I.D. 174-004-001 from the Agriculture and Resource Protection zoning district to the Rural Residential zoning district with the concern that changing the zoning on one parcel while the two parcels abutting Mr. Gagnon's would remain zoned AGRP would amount to spot zoning. The Board asked to see another map amendment option in the following month which incorporated P.I.D.s 174-004 and 174-004-002 in addition to the original proposed change.

The following month, at the December 12<sup>th</sup> 2023 meeting, the Planning Board reviewed map amendment they initiated which included the parcel that was the subject of the petition with the two additional parcels. The PB voted to table the decision on both the petition-initiated amendment and the PB initiated amendment so they could initiate a Comprehensive Plan Future Land Use map change concurrently.

Finally, on the January 9<sup>th</sup> Planning Board meeting, the PB voted to take the petition off the table and made a motion to recommend against amending Parcel I.D. 174-004-001 from AGRP to RR with the finding that rezoning a single parcel creates a discontinuity for land use in the area and is inconsistent with the Future land Use Plan.

City Council has the option to deny this petition request for the reasons recommended by the Planning Board or may vote to approve this zoning amendment on the single parcel initiated by the petition, or the three parcels together initiated by the planning board. The single parcel in question is depicted in the FLUP as Agricultural but is abutting RR Designated land and would constitute a natural and predictable expansion of the Rural Residential zone following the pattern of several lots running southerly along Riverside Drive.



The City Council tonight will also vote on whether to amend the zoning on the Planning Board initiated zoning and Comprehensive Plan Future Land Use Plan map amendments. That is a separate decision from this one.

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**City Budgetary Impacts:** None known.

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**Planning Board Recommended Action:** The Planning Board recommends City Council not to approve the Petition-initiated proposal to amend Parcel ID 174-004-001 from the Agriculture and Resource Protection (AGRP) zoning district to the Low-Density Rural Residence or Rural Residence (RR) zoning district located on Riverside Drive

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**Previous Meetings and History:** November 14<sup>th</sup>, 2023, December 12<sup>th</sup>, 2023, January 9<sup>th</sup>, 2024 PB meetings

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**City Manager Comments:**

Consider the Proposed recommendation. Signature:



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**Attachments:** Ordinance, Motion, Staff Report, Sketch Map, Verified Rezoning Petition, Rural Residence Zoning District Ordinance.



# City of Auburn, Maine

Planning & Permitting Department

Eric Cousens, Director

60 Court Street | Auburn, Maine 04210

[www.auburnmaine.gov](http://www.auburnmaine.gov) | 207.333.6601

To: Auburn City Council

From: Auburn Planning Board

Subject: Planning Board Recommendation on Petition-initiated Map Amendment Near Riverside Drive

Date: 02/05/2024

This is the report from the Planning Board regarding the attached map amendment pursuant to Section 60-1496 of the City of Auburn Ordinances. After notice and Public Hearings held on January 9th, 2024, the Planning Board forwards this report to the City Council.

**PUBLIC HEARING/ MAP AMENDMENT:** Consider amending the official zoning map of the City of Auburn entitled "City of Auburn, Zoning Map, dated May 16, 2016," revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance by amending City Assessor's Parcel ID 174-004-001 from the Agriculture and Resource Protection (AGRP) zoning district to the Low-Density Rural Residence or Rural Residence (RR) zoning district. This parcel is located on Riverside Drive. This zoning amendment has been initiated via petition and is pursuant to Chapter 60, Article XVII, Division 2 Amendment to the Zoning Ordinance or Zoning Map.

**Motion:** To take from the table item #3 from the December 12, 2023 Planning Board meeting agenda, which consisted of a zoning map change initiated by a citizen petition: Evan Cyr; **Second:** Dave Trask; **Vote:** 6-0-0 **Motion carries**

**Motion:** To forward a recommendation to City Council to not amend the zoning map of the City of Auburn entitled "City of Auburn, Zoning Map, dated May 16, 2016," revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance by amending City Assessor's Parcel I.D. 174-004-001 and located on Riverside Drive, from the Agriculture and Resource Protection (AGRP or AG) zoning district to the Low-Density Rural Residence or Rural Residence (RR) zoning district following the interior 0.2% flood hazard line with the findings that rezoning a single parcel creates a discontinuity for land use in the area and is inconsistent with the future land use plan; **Second:** Tim DeRoche; **Vote:** 6-0-0. **Motion carries**

Date: November 14, 2023

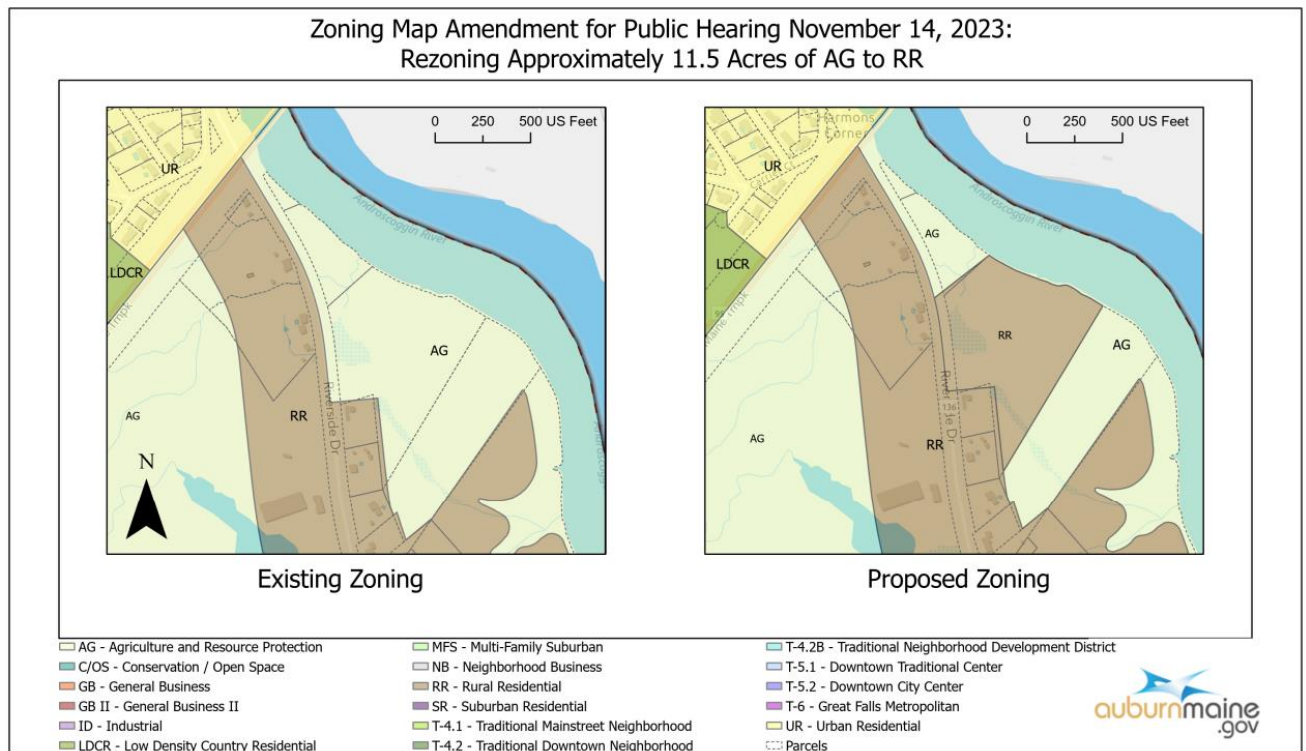
To: Auburn Planning Board

From: Katherine Cook, Planning Coordinator

**Subject: Staff Report on Zone Change Petition for Parcel ID 074-004-001 on Riverside Drive**

**I. Proposal: Public Hearing/ Map Amendment:**

Consider amending the official zoning map of the City of Auburn entitled “City of Auburn, Zoning Map, dated May 16, 2016,” revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance by amending City Assessor’s Parcel ID 174-004-001 from the Agriculture and Resource Protection (AGRP) zoning district to the Low-Density Rural Residence or Rural Residence (RR) zoning district. This parcel is located on Riverside Drive. This zoning amendment has been initiated via petition and is pursuant to Chapter 60, Article XVII, Division 2 Amendment to the Zoning Ordinance or Zoning Map.



Source: City of Auburn, Zoning Map, dated May 16, 2016

**Materials:**

1. Petition and Receipt
2. Zoning Map Amendment for Public Hearing November 14, 2023: Rezoning Approximately 11.5 Acres of AG to RR

## **II. Background:**

Amendments to the zoning ordinance, including the zoning map, may be initiated by the Planning Board on its own initiative or upon request by the City Council or by a petition signed by not less than 25 registered voters of the city (Ord. of 9-21-2009, Sec. 8.1A)

One of the primary tests of a zone change is its conformance with the Comprehensive Plan.

The 2021 Comprehensive Plan provides two standards and mechanisms to consider if rezoning the parcel is logical.

“The Future Land Use Plan (FLUP) shows graphically how the City’s land use policies apply to the land area of the community, and where and how growth and development should and should not be accommodated over the next decade. The Future Land Use Plan is not a zoning map. It is intended to show, in a general sense, the desired pattern of future land use and development. The intention is that this Future Land use Plan will guide near-term revisions to the City’s zoning ordinance and maps to assure that the City’s land use regulations are consistent with the policies set forth in this Comprehensive Plan. In addition, by designating transitional districts, the Future Land Use Plan is designed to guide future zoning changes when the circumstances become appropriate.

This parcel is shown in the FLUP as Agricultural, but the parcel is abutting with RR designated land. Staff believe this is a natural and logical expansion of the Rural Residential zone on Mr. Gagnon’s parcel.

## **Planning Board Action:**

Staff recommends that the planning board hold a Public Hearing and make a favorable recommendation to City Council on the proposal.

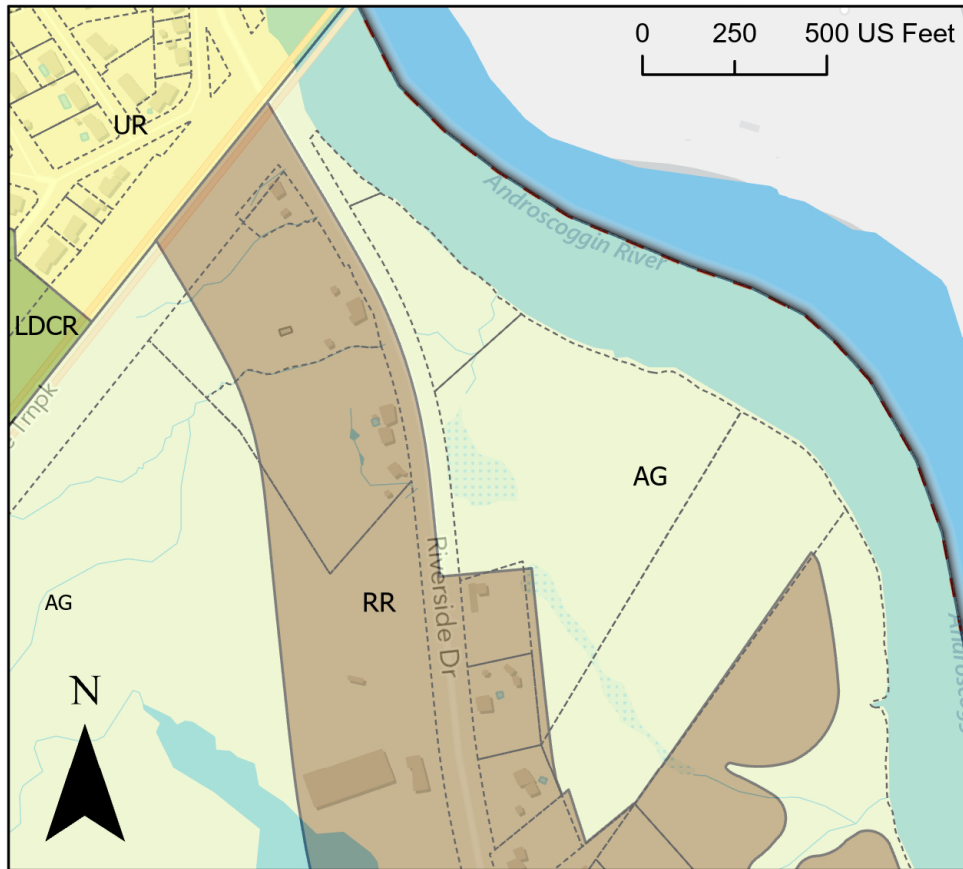
## **III. Suggested Finding of Fact:**

1. The applicant submitted rezoning petitions and signatures, City Zoning maps with Parcels identified, 500’ abutters list, and plans on October 6, 2023, thus meeting the time frame and submission standards (Sec. 60-1446). The 25 plus signatures have been attested by the City Clerks office.
2. The proposal can be implemented without detriment to city resources.
3. The proposal meets the general future land use plan pattern of development and is consistent with the current comprehensive plan.
4. The zone change will occur outside the Lake Auburn watershed.

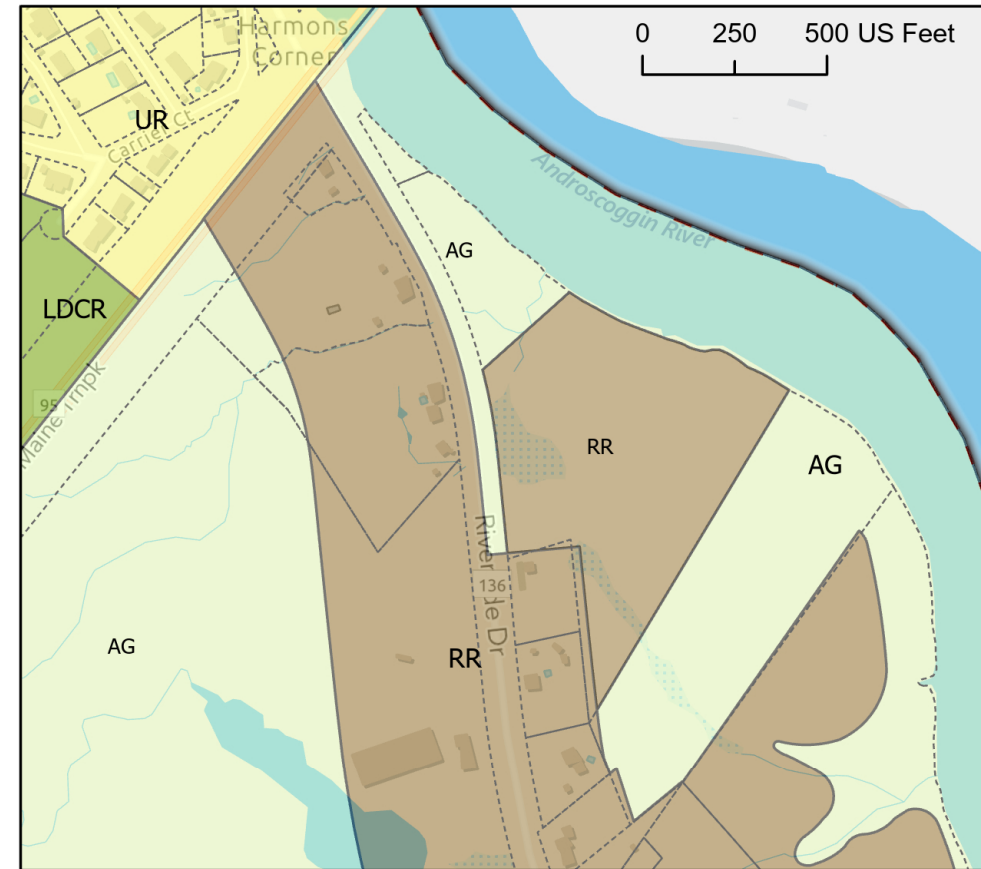
## **V. Suggested Motion:**

I make a motion to forward a favorable recommendation to City Council to amend the official zoning map of the City of Auburn entitled “City of Auburn, Zoning Map, dated May 16, 2016,” revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance by amending City Assessor’s Parcel ID 174-004-001 from the Agriculture and Resource Protection zoning district to the Low-Density Rural Residence or Rural Residence zoning district.”

## Zoning Map Amendment for Public Hearing November 14, 2023: Rezoning Approximately 10 Acres of AG to RR



Existing Zoning



Proposed Zoning

- |   |  |  |
|---|--|--|
| <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #d9ead3; margin-right: 5px;"></span> AG - Agriculture and Resource Protection</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #5cb85c; margin-right: 5px;"></span> C/OS - Conservation / Open Space</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #f0ad4e; margin-right: 5px;"></span> GB - General Business</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #d9534f; margin-right: 5px;"></span> GB II - General Business II</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #9b59b6; margin-right: 5px;"></span> ID - Industrial</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #5cb85c; margin-right: 5px;"></span> LDCR - Low Density Country Residential</li> </ul> | <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #d9ead3; margin-right: 5px;"></span> MFS - Multi-Family Suburban</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #f0ad4e; margin-right: 5px;"></span> NB - Neighborhood Business</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #d9534f; margin-right: 5px;"></span> RR - Rural Residential</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #9b59b6; margin-right: 5px;"></span> SR - Suburban Residential</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #d9ead3; margin-right: 5px;"></span> T-4.1 - Traditional Mainstreet Neighborhood</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #5cb85c; margin-right: 5px;"></span> T-4.2 - Traditional Downtown Neighborhood</li> </ul> | <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #5bc0de; margin-right: 5px;"></span> T-4.2B - Traditional Neighborhood Development District</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #5bc0de; margin-right: 5px;"></span> T-5.1 - Downtown Traditional Center</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #5bc0de; margin-right: 5px;"></span> T-5.2 - Downtown City Center</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #9b59b6; margin-right: 5px;"></span> T-6 - Great Falls Metropolitan</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #d9ead3; margin-right: 5px;"></span> UR - Urban Residential</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px dashed black; margin-right: 5px;"></span> Parcels</li> </ul> |
|---|--|--|



REZONING PETITION

We, the undersigned registered voters of the City of Auburn, do herein petition the City of Auburn to amend the Agricultural/Rural zoning portion of the zoning ordinance on (PID 174-004-001) to allow for a Zone change of AG – Agricultural and Resource Protection to Rural Residential to support housing opportunities in an otherwise residential zoned neighborhood along Riverside Drive (see attached map). The property has not been in agricultural use for the last 30 years. The abutting lot in common is currently zoned Rural Residential and is owned in common by Robert Gagnon who lives at 944 Riverside Drive.

One of the primary tests of a zone change is its conformance with the Comprehensive Plan. The proposed Future Land Use Plan as part of the 2021 Comprehensive Plan update process has this area zoned as Rural Residential. The lot could be considered spot zoned AG-with Rural Residential all around the lot. Majority of the lot is outside the floodplain.

Print Name	City of Auburn Legal Address	Signature
✓ LEROY WALKER SR	41 Broad St Auburn	Leroy Walker Sr
✓ SCOTT SCHULTZ	240 main st. Auburn	Scott Schultz
✓ TODD WATKINS	243 MAIN ST. #11 AUBURN	Todd Watkins
✓ TAMELA Colton Vigue	127 Winter Street Auburn	Tamel Vigue
✓ MARK VIGUE	127 winter Street Auburn	Mark Vigue
✓ JOHN M Vallieres	35 FIFTH ST Auburn	John M Vallieres
✓ Holly Miller	28 Newbury St. Auburn, ME	Holly Miller
✓ Michele Hall	157 Washington St S Auburn, ME	Michele Hall
✓ Billie Gagnon	25 Val View Drive Auburn, ME	Billie Gagnon
✓ PATRICK TRAVIS	27 ROY AVE Auburn ME	Patrick Travis
✓ CHRISSEY Ames	161 Fairview Ave Auburn, ME	Chrissey Ames
✓ Amy Tyler	87 Louise St Auburn ME 04210	Amy Tyler
✓ Joanne Labrie	371 main St, Auburn	Joanne Labrie
✓ Joshua Desmevais	19 Holly St Auburn	Joshua Desmevais
✓ Riana MOODY	19 Holly St Aub	Riana Moody
✓ Hannah Alcott	19 Holly St aub	Hannah Alcott
✓ Wayne Walter	420 mill St Auburn ME	Wayne Walter

REZONING PETITION

We, the undersigned registered voters of the City of Auburn, do herein petition the City of Auburn to amend the Agricultural/Rural zoning portion of the zoning ordinance on (PID 174-004-001) to allow for a Zone change of AG – Agricultural and Resource Protection to Rural Residential to support housing opportunities in an otherwise residential zoned neighborhood along Riverside Drive (see attached map). The property has not been in agricultural use for the last 30 years. The abutting lot in common is currently zoned Rural Residential and is owned in common by Robert Gagnon who lives at 944 Riverside Drive.

One of the primary tests of a zone change is its conformance with the Comprehensive Plan. The proposed Future Land Use Plan as part of the 2021 Comprehensive Plan update process has this area zoned as Rural Residential. The lot could be considered spot zoned AG-with Rural Residential all around the lot. Majority of the lot is outside the floodplain.

Print Name	City of Auburn Legal Address	Signature
✓ Robert Gagnon	944 Riverside Drive Aub	Robert M Gagnon
✓ TINA CROTEAU	734 PARK AVE AUB	Tina M. Croteau
✓ MORMANO-THERRIEN	3 PATTON ST. AUBURN	Mormano-Therrien
✓ Linda Therrien	3 Patton St Auburn	Linda Therrien
✓ Claudette Charest	54 Penley Cr. Rd. Auburn	Claudette Charest
✓ Rigo Scotts	336 South Witham R	Rigo Scotts
✓ Earnest Olson Jr	120 Sixth	Ernest Olson Jr
✓ JOHAN BROCHU	19 INTERURBAN Rd	Johan Brochu
✓ SOLIM RED	38 Cherry Lane.	Solim Red
✓ Janie Pelletier	7 Joselyn Street Auburn	Janie Pelletier
✓ Daryl Lamore	34 Westwaterman Rd Auburn	Daryl Lamore
✓ GARE LAUDLET	86 Taff Ave	Gare Laudlet
✓ SARA PAULASS	141 Fox Hollow Drive	Sara Paulass
✓ Caleb Johnson	134 Second St	Caleb Johnson


Note \* Twenty-five (25) registered Auburn voters' signatures are required on the petition (it is suggested that you get at least 35-40 signatures in case some signatures cannot be read or they are disqualified for some other reason).

REGISTRAR'S CERTIFICATION

MUNICIPALITY Auburn  
 TOTAL VALID 15 TOTAL INVALID 2

I hereby certify that the names of all the petitioners listed as valid appear on the voting list as qualified to vote.

DATE & TIME PETITION RECEIVED

Signature of Registrar: [Signature]  
 Date petition certified: 10/23/23

<u>Mike Violette</u>	<u>Mike Violette</u>	<u>145 3rd St Auburn ME</u>
<u>Katherine Cole</u>	<u>Katherine Cole</u>	<u>813 Sopers Mill Rd Auburn ME 04210</u>
<u>RUDY WINK</u>	<u>RUDY WINK</u>	<u>UPPER PENNY COUNCIL D AUBURN 04210</u>

Note \* Twenty-five (25) registered Auburn voters' signatures are required on the petition (it is suggested that you get at least 35-40 signatures in case some signatures cannot be read or they are disqualified for some other reason).

REGISTRAR'S CERTIFICATION

MUNICIPALITY Auburn  
 TOTAL VALID 14 TOTAL INVALID 3

I hereby certify that the names of all the petitioners listed as valid appear on the voting list as qualified to vote.

DATE & TIME PETITION RECEIVED

Signature of Registrar: [Signature]  
 Date petition certified: 10/23/23

PART II - CODE OF ORDINANCES  
Chapter 60 - ZONING  
ARTICLE IV. - DISTRICT REGULATIONS  
DIVISION 4. LOW DENSITY RURAL RESIDENCE DISTRICT

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***DIVISION 4. LOW DENSITY RURAL RESIDENCE DISTRICT***

**Sec. 60-228. Purpose.**

This district is intended to provide for low density rural residential areas while protecting adjacent agriculture and resource protection districts, allowing a degree of residential development compatible with maintenance of environmental quality and preservation of the open character of the area.

(Ord. of 9-21-2009, § 3.41A)

**Sec. 60-229. Use regulations.**

(a) *Permitted uses.* The following uses are permitted:

- (1) All uses permitted in the Agriculture and Resource Protection District pursuant to section 60-145(a), except 60-145(a)(14) and (15).
- (2) One-family detached dwellings.
- (3) Two-family dwellings.
- (4) Attached single-family dwellings, provided that they are approved by the planning board as part of a planned residential unit development and subdivision, under the provisions of division 9 of article IV and division 4 of article XVI of this chapter.
- (5) Mobile home parks, subject to the requirements and conditions of section 60-669, mobile home park standards.
- (6) Licensed veterinarians provided that the lot is of at least three acres.
- (7) Wayside stands.
- (8) Accessory uses, buildings or structures.
- (9) Lawn maintenance services.
- (10) Municipal uses and buildings.

(b) *Special exception uses.* The following uses are permitted by special exception after approval by the planning board in accordance with the provisions of division 3 of article XVI of this chapter:

- (1) Radio, radar, television and radio-telephone transmitting or broadcasting towers, but not studios or offices for such transmitting or broadcasting, provided that:
  - a. Every such tower shall be installed in a location and manner that ensures its safe operation and the safety of the surrounding residents, buildings occupants, land uses and properties.
  - b. In no case shall such tower be located less than 1½ times its height from the nearest property line.
- (2) Care homes, lodginghouses and boardinghouses.
- (3) Recreational uses of land intended or designed for public use, subject to the following conditions:



- 
- a. No such recreational use shall be expanded or extended so as to occupy additional land area greater than 20 percent of the original area or one acre, whichever is less; or by the construction of a structure or an addition to an existing structure by more than 900 square feet of additional floor space unless the owner or occupant first obtains approval of the planning board.
  - b. Any proposed new or expanded recreational use shall be completed on or before the estimated completion date except that the planning board may grant reasonable extension of time where good cause for the failure to complete is shown.
- (4) Child day care centers, provided that:
    - a. They are located on arterial and collector streets as defined in the Auburn Tomorrow Comprehensive Plan.
    - b. They shall not be located closer than 1,000 feet from other established day care centers.
    - c. These standards shall not apply to section 60-52.
  - (5) Cemeteries, provided that:
    - a. At least 20 acres in area.
    - b. Not located in any environmental overlay district or over any known aquifer.
  - (6) Community-based residential facilities, provided that:
    - a. The minimum distance between any two such facilities shall be 1,500 feet.
    - b. Any such facility shall house no more than eight persons.
  - (7) Licensed kennels provided that there shall be available land area of at least three acres.
  - (8) Training schools.
  - (9) Handling, storage and sale of agricultural services, equipment, and supplies accessory to the farming use.
  - (10) Adult day centers.
  - (11) Landscape services.
  - (12) Wholesale nurseries, subject to the following conditions:
    - a. At least one-half of the area of the lot (up to a maximum of three acres) is in active nursery production in a husband type manner.
    - b. The plants and trees propagated, grown and nurtured in the nursery are used as the primary products by the owner/operator of the landscape service.
  - (13) Schools.
  - (14) Churches or temples.
  - (15) Libraries.
  - (16) Museums.
  - (17) Adaptive reuse of structures of community significance.
  - (18) Public safety services.
    - a. All projects shall provide a community impact and needs analysis with review and approval from city council or its designee.

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(19) Government services.

- a. All projects shall provide a community impact and needs analysis with review and approval from city council or its designee.

(20) Government offices.

- a. All projects shall provide a community impact and needs analysis with review and approval from city council or its designee.

(21) Municipal or public utilities and communication facilities.

(Ord. of 9-21-2009, § 3.41B; Ord. No. 05-04032017, § 2, 4-24-2017; Ord. No. 12-08192019, 9-9-2019; Ord. No. 11-03012021, § 12, 3-15-2021; Ord. No. 02-02132023, 2-17-2023)

### **Sec. 60-230. Dimensional regulations.**

All structures in this district, except as noted, shall be subject to the following dimensional regulations:

- (1) *Minimum lot area, width and depth.* No lot shall be created and/or no building shall be erected on a lot containing less than 43,560 square feet and measuring less than 250 feet in width. No lot shall be less than 150 feet in depth. The keeping of horses, mules, cows, goats, sheep, hogs, and similar sized animals for domestic use of the residents of the lot is permitted, provided that the land area required per animal unit conforms to the definition of farm, livestock contained in section 60-2.
- (2) *Density.* The density of dwelling units shall not exceed an average of one dwelling per acre.
- (3) *Yard requirements.*
  - a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 25 feet or 25 percent of the average depth of lot, whichever is less.
  - b. *Side.* There shall be a minimum distance of five feet between any building and the side property line plus the side yard setback shall be increased one foot for every five feet or part thereof increase in street frontage over 50 feet to a maximum of 15 feet for side yard setback.
  - c. *Front.* There shall be in front of every building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot whichever is less.
- (4) *Height.* The height of all dwelling structures shall be limited to two and one-half stories or 35 feet in height. A public building, church or temple, and accessory buildings and structures may have a maximum height of 65 feet from grade, provided that the front yard, rear yard, and each of the side yards shall be increased by one foot for each foot in height in excess of 35 feet.
- (5) *Off-street parking.* Off-street parking spaces shall be provided in accordance with the requirements of specific uses as set forth in article V of this chapter.

(Ord. of 9-21-2009, § 3.41C; Ord. No. 11-03012021, §§ 13, 14, 3-15-2021)

### **Secs. 60-231—60-253. Reserved.**



# City Council Ordinance

## IN CITY COUNCIL

### **TITLE: Zoning Map Amendment Rezoning Certain Land from AGRP to RR**

**BE IT ORDAINED**, that the City Council hereby approves the amendment of Chapter 60, Zoning, of the Code of Ordinances as follows:

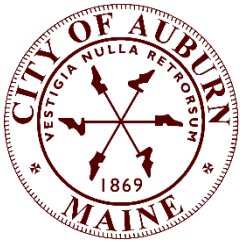
Amend the official zoning map of the City of Auburn entitled “City of Auburn, Zoning Map, dated May 16, 2016,” revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance, by amending part of City Assessor’s Parcel ID 174-004-001 from the Agriculture and Resource Protection (AGRP) zoning district to the Low-Density Rural Residence or Rural Residence (RR) zoning district following the 1% Chance FEMA Flood Hazard Line.

---

**Richard S. Whiting**, Ward One  
**Benjamin J. Weisner**, Ward Four  
**Belinda A. Gerry**, At Large

**Timothy M. Cowan**, Ward Two  
**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



**City of Auburn  
City Council Information Sheet**

**Council Workshop or Meeting Date:** February 5, 2024

**Ordinance:** 08-02052024

**Author:** Katherine Cook, Planning Coordinator

**Subject:** First reading and Public Hearing: Consider the Planning Board initiated amendment to change part of 174-004, 174-004-001 and 174-004-002 located on Riverside Drive, from the Agriculture and Resource Protection (AGRP) zoning district to the Low-Density Rural Residence or Rural Residence (RR) zoning district.

---

**Information:** At the December 12<sup>th</sup> 2023 Planning Board meeting, the Board tabled the petition initiated by Robert Gagnon requesting to amend the zoning on one parcel on Riverside Drive, P.I.D. 174-004-001 from the Agriculture and Resource Protection zoning district to the Rural Residential zoning district. This decision was tabled because the Board stated that changing the zoning on one parcel would amount to spot zoning if the two parcels abutting Mr. Gagnon's remained zoned AGRP. The Board asked to see another map amendment option in the following month which incorporated P.I.D.s 174-004 and 174-004-002 in addition to the original proposed change.

The following month, at the December 12<sup>th</sup>, 2023, Planning Board meeting, the Planning Board reviewed a map amendment they initiated which included the parcel that was the subject of the petition with two additional parcels. The Planning Board voted to table the decision on both the petition-initiated amendment (one parcel only) and the Planning Board-initiated amendment (3 parcels) so they could initiate a Comprehensive Plan Future Land Use map change concurrently.

Finally, on the January 9<sup>th</sup> Planning Board meeting, the Board took a vote which resulted in a tie to recommend amending Parcel I.D.s 174-004, 174-004-001 and 174-004-002. A tie vote does not get approved. Following the failure of this motion, the Planning Board voted to not amend Parcel I.D.s 174-004, 174-004-001 and 174-004-002, but did not make specific findings.

City Council has the option to approve or deny approve this zoning amendment on these three parcels. Staff understands both options could be consistent with the Comprehensive Plan.

---

**City Budgetary Impacts:** None known.

---

**Planning Board Recommended Action:** The Planning Board recommends that the City Council vote not to approve the proposal to amend zoning map by amending part of 174-004, 174-004-001 and

174-004-002 located on Riverside Drive, from the Agriculture and Resource Protection (AGRP) zoning district to the Low-Density Rural Residence or Rural Residence (RR) zoning district following the annual 2% Flood Hazard Line based on the Planning Board Recommendation.

**Previous Meetings and History:** November 14<sup>th</sup>, 2023, December 12<sup>th</sup>, 2023, January 9<sup>th</sup>, 2024, PB meetings; Sketch Map for Public Hearing December 12, 2023, Rezoning Approximately 19 Acres of AG to RR; Division 4 Low Density Rural Residential Zoning District Regulations.

---

**City Manager Comments:**



Consider the proposed recommendation. Signature:

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**Attachments:** Ordinance, Motion, Staff Report on Zone change for Parcel I.D. 074-004, 074-004-001, and 074-004-002, Sketch Map.



# City of Auburn, Maine

Planning & Permitting Department

Eric Cousens, Director

60 Court Street | Auburn, Maine 04210

[www.auburnmaine.gov](http://www.auburnmaine.gov) | 207.333.6601

To: Auburn City Council

From: Auburn Planning Board

Subject: Planning Board Recommendation on Petition-initiated Map Amendment Near Riverside Drive

Date: 02/05/2024

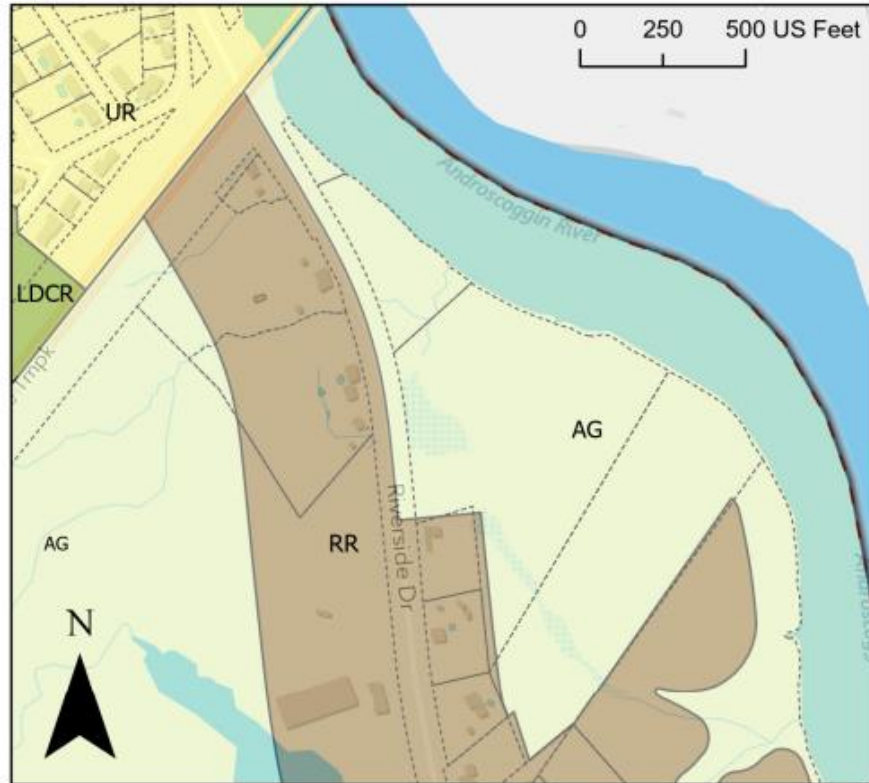
This is the report from the Planning Board regarding the attached map amendment pursuant to Section 60-1496 of the City of Auburn Ordinances. After notice and Public Hearings held on January 9th, 2024, the Planning Board forwards this report to the City Council.

**PUBLIC HEARING/ MAP AMENDMENT (TABLED FROM DECEMBER 12, 2023):** Consider amending the official zoning map of the City of Auburn entitled "City of Auburn, Zoning Map, dated May 16, 2016," revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance by amending City Assessor's Parcel I.D.s 174-004, 174-004-001 and 174-004-002, located on Riverside Drive, from the Agriculture and Resource Protection (AGRP or AG) zoning district to the Low-Density Rural Residence or Rural Residence (RR) zoning district.

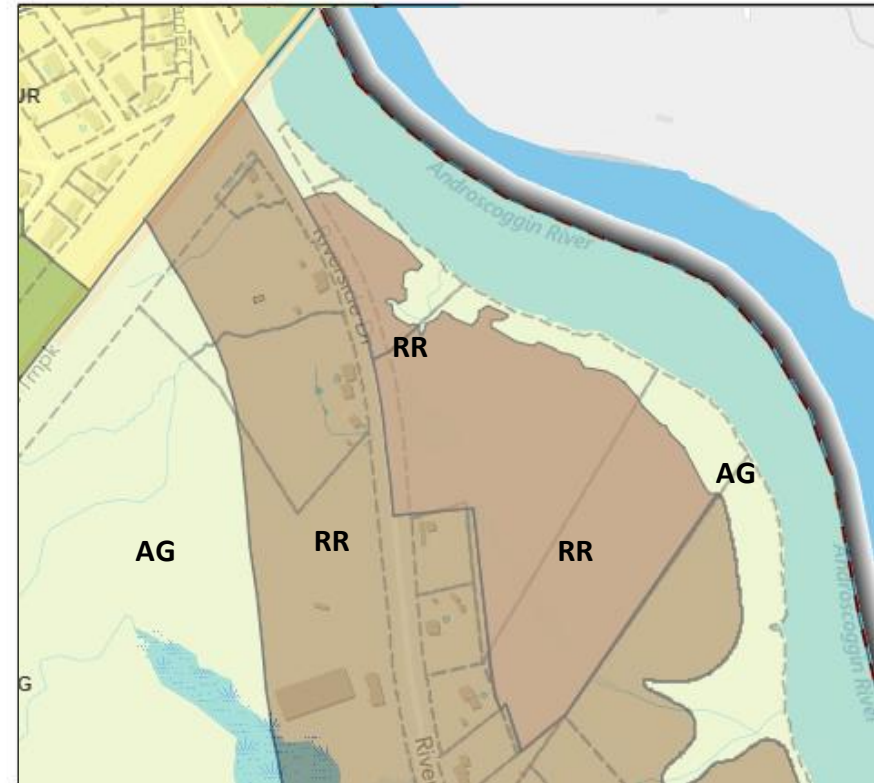
**Motion:** To forward recommendation to City Council to amend the official zoning map of the City of Auburn entitled "City of Auburn, Zoning Map, dated May 16, 2016," revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance by amending City Assessor's Parcel IDs 174-004-001, 174-004-002 and 174-004 from the Agriculture and Resource Protection zoning district to the Low-Density Rural Residence or Rural Residence zoning district following the interior 0.2% annual chance flood hazard line for total zone change of 18.2+/- acres with the findings that the proposal can be implemented without detriment to city resources, that the proposal meets the general future land use development pattern in the area and is consistent with the revised comprehensive plan; **Second: Dave Trask; Vote: 3-3-0. Motion does not carry.**

**Motion:** To forward a recommendation to City Council to not amend the official zoning map of the City of Auburn entitled "City of Auburn, Zoning Map, dated May 16, 2016," revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance by amending City Assessor's Parcel IDs 174-004-001, 174-004-002 and 174-004 from the Agriculture and Resource Protection zoning district to the Low-Density Rural Residence or Rural Residence zoning district following the interior 0.2% annual chance flood hazard line for total zone change of 18.2+/- . **Second: Tim Deroche; Vote: 3-2-1 Motion Carries**

## Zoning Map Amendment for Public Hearing December 12, 2023: Rezoning Approximately 19 Acres of AG to RR



Existing Zoning



Proposed Zoning

- |   |  |  |
|---|--|--|
| <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #d9ead3; margin-right: 5px;"></span> AG - Agriculture and Resource Protection</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #cfe2f3; margin-right: 5px;"></span> C/OS - Conservation / Open Space</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #f4cccc; margin-right: 5px;"></span> GB - General Business</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #e06666; margin-right: 5px;"></span> GB II - General Business II</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #cfe2f3; margin-right: 5px;"></span> ID - Industrial</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #d9ead3; margin-right: 5px;"></span> LDCR - Low Density Country Residential</li> </ul> | <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #d9ead3; margin-right: 5px;"></span> MFS - Multi-Family Suburban</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #f4cccc; margin-right: 5px;"></span> NB - Neighborhood Business</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #e06666; margin-right: 5px;"></span> RR - Rural Residential</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #cfe2f3; margin-right: 5px;"></span> SR - Suburban Residential</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #d9ead3; margin-right: 5px;"></span> T-4.1 - Traditional Mainstreet Neighborhood</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #cfe2f3; margin-right: 5px;"></span> T-4.2 - Traditional Downtown Neighborhood</li> </ul> | <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #cfe2f3; margin-right: 5px;"></span> T-4.2B - Traditional Neighborhood Development District</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #d9ead3; margin-right: 5px;"></span> T-5.1 - Downtown Traditional Center</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #e06666; margin-right: 5px;"></span> T-5.2 - Downtown City Center</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #cfe2f3; margin-right: 5px;"></span> T-6 - Great Falls Metropolitan</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #d9ead3; margin-right: 5px;"></span> UR - Urban Residential</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px dashed black; margin-right: 5px;"></span> Parcels</li> </ul> |
|---|--|--|





# City Council Ordinance

## IN CITY COUNCIL

**TITLE: Planning Board-Initiated Zoning Map Amendment Near Riverside Drive**

**BE IT ORDAINED**, that the City Council hereby approves the amendment of Chapter 60, Zoning, of the Code of Ordinances as follows:

Amend the official zoning map of the City of Auburn entitled “City of Auburn, Zoning Map, dated May 16, 2016,” revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance, to amend City Assessor’s Parcel I.D.s 174-004, 174-004-001 and 174-004-002, located on Riverside Drive, from the Agriculture and Resource Protection (AGRP or AG) zoning district to the Low-Density Rural Residence or Rural Residence (RR) zoning district following the 1% Chance FEMA Flood Hazard Line.

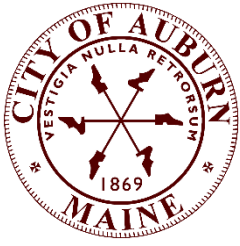
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**Richard S. Whiting**, Ward One  
**Benjamin J. Weisner**, Ward Four  
**Belinda A. Gerry**, At Large

**Timothy M. Cowan**, Ward Two  
**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager





**City of Auburn  
City Council Information Sheet**

**Council Workshop:** February 5, 2024

**Order:** 18-02052024

**Author:** Eric J. Cousens, Director of Planning and Permitting

**Subject:** Setting Hearing Date for a Potentially Dangerous Building at 46 Fair Street (PID 337-002)

---

**Information:** Staff has been working with the property owner for over a year to encourage the correction of violations at the property. The Owner is Red Coral Investments, LLC, a Registered Corporation in Nevada. Staff believes that it is necessary to present the information to the Council to determine if the structure is Dangerous pursuant to 17 M.R.S. §§2851-2859 also known as the Dangerous Buildings Statute. We would like the Council to schedule a hearing for that purpose at the regularly scheduled Council Meeting on March 18, 2024, at 7PM.

---

**Staff Recommended Action:** Vote to approve the attached order to schedule a Dangerous Buildings Hearing for 46 Fair Street at the regularly scheduled Council Meeting on March 18, 2024, at 7PM, City Council Chambers at Auburn Hall, 60 Court Street, Auburn, ME 04210.

---

**Previous Meetings and History:** None

---

**City Manager Comments:**

I concur with the recommendation. Signature:

---

**Attachments:** Order.



**ORDER 18-02052024**

# City Council Order

## IN CITY COUNCIL

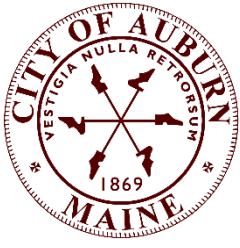
**Ordered,** that the Auburn City Council schedule a Dangerous Buildings Public Hearing pursuant to 17 M.R.S. §§2851-2859 to consider 46 Fair Street, Auburn Maine at the regularly scheduled Council Meeting on March 18, 2024, at 7PM, City Council Chambers at Auburn Hall, 60 Court Street, Auburn, ME 04210.

---

**Richard S. Whiting**, Ward One  
**Benjamin J. Weisner**, Ward Four  
**Belinda A. Gerry**, At Large

**Timothy M. Cowan**, Ward Two  
**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



**City of Auburn  
City Council Information Sheet**

**Council Workshop or Meeting Date:** 02/05/2024

**Order:** 19-02052024

**Author:** Brian Wood, Assistant City Manager

**Subject:** Authorization for the City Manager to execute the Collective Bargaining Agreement between the City of Auburn and the IAFFA Local 797 from 07/01/2022 To 06/30/2025

---

**Information:** The Collective Bargaining Agreement between the City of Auburn and IAFFA Local 797

The following is a summary of the changes:

Adjusted an increase in the FY 24 contract of 2.5% effective 2/4/2024, to reflect market value for retention and recruitment.

---

**City Budgetary Impacts:**

---

**Staff Recommended Action:** Staff recommends the City Council vote for passage of this Resolve.

---

**Previous Meetings and History:**

---

**City Manager Comments:**

I concur with the recommendation. Signature:

---

**Attachments:** Contract Agreement from 07/01/2022



**CITY OF AUBURN**

---

**Auburn Firefighters Association  
Local No. 797**

# Collective Bargaining Agreement

Between the

**City of Auburn**

and the

**AUBURN FIREFIGHTERS ASSOCIATION  
(LOCAL NO. 797)**

July 1, 2022 – June 30, 2025



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# CITY OF AUBURN

## Auburn Firefighters Association Local No. 797



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# CITY OF AUBURN



## Auburn Firefighters Association Local No. 797

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# CITY OF AUBURN

## Auburn Firefighters Association Local No. 797



### PREAMBLE

105 Agreement made this day: \_\_\_\_\_ by the City of Auburn and the Auburn  
Firefighters Association, Local No. 797, International Association of Firefighters, AFL-CIO  
(hereinafter referred to as the Association.)

110 Pursuant to the provisions of Title 26 M.R.S.A., Chapter 9-A, §961, the City of Auburn,  
Maine enters into this agreement with the Auburn Firefighters Association, Local No. 797,  
International Association of Firefighters, AFL-CIO (herein referred to as the Association) to  
promote the improvement of the relationship between the City and the Association and their  
employees/members by providing a uniform basis for recognizing the right of public employees  
to join labor organizations of their own choosing and to be represented by such organizations in  
115 collective bargaining for terms and conditions of employment.

In consideration of the respective promises of the parties hereto and, pursuant to the  
provisions of M.R.S.A. Tile 26, Chapter 9-A (1973), and in order to increase general efficiency  
in the Fire Department, and to promote morale, equal rights, well being, and security of the Fire  
120 Department's permanent employees, it is agreed by the parties hereto as follows:

### ARTICLE I - Recognition

#### Section 1 - Association

125 The City hereby recognizes the Association as the sole and exclusive bargaining agent of  
all members of the Auburn Fire Department except for the Chief, Deputy Chief, EMS Director  
and clerical staff for purposes of bargaining with respect to rates of pay, wages, hours of work,  
working conditions and all other terms and conditions of employment.

#### Section 2 - Non-Discrimination

130 The City agrees that no employee shall in any manner be discriminated against or  
coerced, restrained or influenced on account of membership in the Association by reason of  
135 his/her holding office therein, or by reason of being a member of a collective bargaining  
committee of the Association, and the City agrees that the provisions of this Article shall be  
applicable to all persons to whom this Agreement applies without discrimination.

140 All employees have the right to work in an environment free from discrimination  
unrelated to job performance. Intimidation and harassment of employees, whether it be by



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## **Auburn Firefighters Association Local No. 797**

fellow employees or by management personnel, including sexual harassment in all its various forms, is unacceptable conduct, which may constitute as grounds for disciplinary action. This provision shall not in any way prevent the Association from discharging its duty of fair representation of any of its members.

145

### Section 3 - Public Servants/Ethical Standards

The individual members of the Department and of the Association are to regard themselves as public servants, and as such they are to be governed by the highest ideals of honor and integrity in order that they may merit the respect and confidence of the general public.

150

### Section 4 - Union Political Activity

No firefighter shall be discharged, disciplined or discriminated against because of activity on behalf of the Union, which does not interfere with the discharge of his/her duties or any assignment, violate any provisions of the agreement, or violate any policy, ordinance, law of the City of Auburn, State of Maine, or of the United States. Political activity by Local 797 for candidates to Auburn City Council, Auburn School Committee, County Government, or State elected office shall provide an accounting of all contributions to the City Manager and City Clerk.

155

160

## **ARTICLE II - Management Rights**

Except as otherwise provided in this contract, the City shall remain vested solely and exclusively with all of its common law and its statutory rights and with all management and supervision of operations and personnel including the right to hire, promote, suspend or otherwise discipline firefighters with just cause under the City Charter and Ordinances.

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## **ARTICLE III - Labor Management**

170

### Section 1 - Purpose

The City, Union, and its members, agree to participate in a Labor Management Committee, whose purpose is to work together in identifying and implementing improvements to the operations of the Auburn Fire Department and service to the citizens of Auburn. The goals of the Committee include fostering good communications (both internal and external to the department), sharing operational ideas and departmental concerns, reviewing operational and capital budgetary items as well as future planning initiatives, improving customer service

175

# CITY OF AUBURN

## Auburn Firefighters Association Local No. 797



180 (internal and external), increasing accountability and effectiveness, increasing productivity and realization of cost savings.

### Section 2 - Employee's Role

185 Employees are encouraged to openly and actively share ideas and suggestions with the Committee. When faced with a concern or complaint, employees may introduce the subject at the Labor Management Committee for discussion and potential resolution. If this does not resolve the issue, employees may refer to Article XII, "Grievance Procedure".

### Section 3 - Management's Role

190 Management is encouraged to foster a work environment which allows employees to be knowledgeable of departmental activities and planning, actively approach management, and to have the opportunity for open dialog. Management is also encouraged to discuss employee concerns and complaints, and to solicit input and suggestions to improve the operations of the Department and the work environment.

### Section 4 - Committee Participation

200 The Labor Management Committee will meet monthly and consist of at least two (2) representatives from both the City and the Union. For the City, the members may include, but not limited to, the Fire Chief, Deputy Fire Chief, the Human Resources Director, the Assistant City Manager, the City Manager, or another member of city administration. The Union agrees to appoint at least three (3) representatives to the Committee and other members as may be needed for individual issues and/or sub-committees. Each Labor Management Committee meeting shall be called to order after a quorum of four (4) members—but no less than two City and two Union members—by the Fire Chief, or in his absence the Union President, or in his absence another person appointed by the Fire Chief, who will serve as chair; have its meeting time be posted in a place accessible to all employees and be open to other employees; have an agenda with at least unfinished and new business items; shall be recorded by way of written minutes; and shall have its draft and/or approved minutes be electronically posted. Notice for items to be placed on the Labor Management Committee Agenda shall be made not less than three (3) working days prior to the scheduled meeting. There shall be no extra compensation for those appointed to serve on the Labor Management Committee, unless already scheduled to work. Other Union members may attend if their work schedule permits.

215



220 It is in the best interest of the City of Auburn, the Fire Department, and our citizens, to  
create a forum such as the Labor Management Committee to function productively and  
effectively. If, at any time, either party determines the process is not working or is failing, either  
party may invite the Assistant City Manager or City Manager to attend to help facilitate and  
foster a healthy work environment between labor and management.

For the FY23 work plan the committee has been agreed to set the following priorities:  
The committee will select scheduling software that will meet the following needs of the  
organization and will implement use of the system.

- 225 • Improves efficiency of scheduling OT by allowing for automated calling or texting of  
staff to fill available vacancies. The system shall also be used for staff to respond to the  
request.
- Allows all staff (via online access or app), to see upcoming shifts and schedules.
- 230 • Allows for staff to enter time off requests and for Officers to approve or deny such  
requests.

### **ARTICLE IV - Dues Check-Off**

#### Section 1 - Fair Share

235 The Association shall have exclusive rights to payroll deductions of membership dues  
and service fees. Any firefighter who at any time on or after the effective date of this Agreement  
is not a member of the Association shall, within thirty days after such conditions are met be  
required to choose from the options of: (1) membership in the Association; (2) payment to the  
240 Association of a service fee equal to 80% of Association dues as a contribution towards the cost  
of collective bargaining, contract administration and the adjustment of grievances; or (3)  
exclusion from both. Each such firefighter shall be required to make his/her choice in writing on  
payroll deduction forms supplied by the Association. Failure to choose membership or the 80%  
service fee option shall constitute a choice of exclusion from both. An employee choosing  
245 exclusion from both membership and 80% service fee option shall be irrevocably bound by such  
choice except as provided hereinafter and if the employee request, shall be entitled to the  
services of the Association under the agreement only upon payment to the Association of  
reasonable fees, including fifty dollars per hour for employee representative services, and  
attorney's fees and costs and expenses, including arbitration fees and expenses, incurred by the  
250 Association on behalf of such employee. Any firefighter who is required by this Article or who  
was required under the terms of the predecessor agreement, to select from the options set about  
above may change his/her status with respect to those options during the 20-day period  
immediately prior to the expiration of this Agreement by giving written notice to the City and to  
the Association during that period.

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255

The Union agrees to assume full responsibility to ensure full compliance with the requirements laid down by the US. Supreme Court in Chicago Teachers Union v. Hudson 106 S. Ct. 1066(1986), with respect to the constitutional rights of fair share fee payers.

260

It is specifically agreed that any dispute concerning the amount of fair share fee and/or the responsibilities of the Union with respect to fair share fee payers as set forth above shall not be subject to the grievance and arbitration procedures set forth in this Agreement.

265

Any employee covered by this Agreement at any time may submit a grievance to the City and have such grievance adjusted without the intervention of the Association, if the adjustment is not inconsistent with the terms of this collective bargaining agreement and if the Association has been given reasonable opportunity to be present at any such meeting of the parties called for the resolution of such grievance.

270

The Association agrees in consideration thereof for itself and its members to individually and collectively perform loyal and efficient work and services, and it and they will use their influence and best efforts to promote and advance the interests of the taxpayer of Auburn.

### Section 2 - Check-off

275

Upon written authorization of a firefighter, approved by the Association President, the City agrees to have the appropriate City Department deduct from the pay of each firefighter, as so authorized, the amount of funds as indicated on the Fair Share Agreement between the firefighter and Association, to be deducted from his/her pay check each week, and deliver same to the Association Treasurer at his/her request, provided, however, that if any employee has no check due him or the check is not large enough to satisfy other deductions, then in that event no deduction will be made from said firefighter for that period. In no event will the City be obligated to collect fines or assessments charged by the Association to its members. The City shall not be obliged to deduct funds from the weekly pay after receiving written notice, on forms provided by the Association, that he/she no longer authorizes such deductions. The Association agrees in consideration thereof for itself and its members to individually and collectively perform loyal and efficient work and service, and it and they will use their influence and best efforts to promote and advance the interests of the taxpayer of Auburn.

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Section 3 - Association Indemnification

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The Association shall indemnify, defend and save the City harmless against any and all claims, demands, suits, or other forms of liability (monetary or otherwise) and for all legal costs that shall arise out of or by reason of action taken or not taken by the City in complying with provisions of this Article. If an improper deduction is made, the Association shall refund directly to the employee any such amount.

300

**ARTICLE V - Strikes and Slowdowns**

305

The Association agrees that firefighters who are subject to the terms of this Agreement shall have no rights to engage in any work stoppage, slowdown, or strike in consideration of the right to a resolution of disputed questions. Any or all employees who violate the provisions of this Article may be subject to disciplinary action, including discharge. This provision is not intended to reflect an employee's refusal to carry out an unjustifiable management request.

**ARTICLE VI - Wages and Compensation**

310

Section 1 - Wages

All firefighters covered under this Agreement shall be paid in accordance with the attached wage schedule(s).

315

FY 2023 – 4.5% COLA  
FY 2024 – 5% COLA, Effective 2/4/2024, an additional 2.5% to reflect market adjust.  
FY 2025 – 5.5% COLA

320

All firefighters must complete performance evaluations on their anniversary date of hire or date of promotion. Firefighters who are eligible for a step-increase will receive it effective on their anniversary date of hire or promotion.

325

Firefighters who are promoted will be slotted at the entry step of the new rank or at the step which brings them closest to but not less than 7.5%. The slotting of firefighters promoted to a higher rank will be considered as part of the overall pay plan recommendation by Labor Management Committee.

# CITY OF AUBURN

## Auburn Firefighters Association Local No. 797



330 Any firefighter who receives a change or lapse in EMS license shall immediately notify the officer in charge of EMS Services in writing. Any firefighter who continues to receive EMS pay after his/her license has lapsed or who falsifies his/her license may be subjected to one week's suspension without pay.

### Section 2 – Lateral Entry

335 The Fire Chief can adjust the starting pay rate for new employees between the entry step and the 6th anniversary step. Employees may be credited up to 1 step for every 1 year of full time employment status with a Fire or EMS agency. Only time worked at a fire department that has 24/7 staffing or an EMS service that responds to 1000 calls for service annually will be considered. Only full years (365 days) will be credited.

340 Employees who have not reached the 6<sup>th</sup> anniversary step may be brought up to the 6<sup>th</sup> anniversary step by being credited 1 step for every 1 year of full-time employment status with a Fire or EMS agency that occurred prior to their hire. Only time worked at a fire department that has 24/7 staffing or an EMS service that responds to 1000 calls for service annually will be considered. Only full years (365 days) will be credited. The employee shall submit request for this adjustment and must provide proof of full-time employment status.

345 The Union President or their designee must be notified in writing when an employee receives a wage adjustment as described in this article.

### 350 Section 3 – Ambulance Assignment Incentive

Effective July 1, 2022 a stipend of \$3.50 per hour shall be paid to each firefighter working on the Rescue/Ambulances.

355 Paramedics performing a precepting function for EMS students shall be paid a stipend of \$1.00 per hour while precepting.

### Section 3 - Tuition Reimbursement for Work-Related Courses

360 The City will reimburse 100% of the tuition for courses, seminars and conferences as long as the following criteria are met:

1. The course, seminar, conference receives written pre-approval by the Fire Chief.
- 365 2. The course is *directly work-related* (with the exception of elective courses accepted as part of the course curriculum for a Degree in Fire Science or Paramedicine); and

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## Auburn Firefighters Association Local No. 797



3. The firefighter agrees to use the knowledge and skills gained in training paid in part by the City for the benefit of the City.

370

4. Approved courses in the amount of \$100.00 or greater may be pre-paid by the City. Upon successful completion of a course with a passing grade or certificate of completion, the City will reimburse the individual firefighter for the balance due of the approved tuition expenses, which are not covered by scholarships, or other educational financial assistance. If the firefighter receives pre-payment for the course and he/she does not pass or receive a certification/license of completion, he/she will reimburse the City for the cost of the course.

375

The City will pay the full cost of all pre-approved EMS related courses, case reviews, seminars and skill labs. The City agrees to fund paramedic training for at least one employee per year, as needed. If a firefighter does not obtain the license or pass the course, case review, seminar or skill lab, after the City has paid the cost of the course, the firefighter/EMT will reimburse the cost incurred by the City at the full rate up to a maximum of \$30,000. As of October 16, 2012, if the firefighter has successfully completed an EMS upgrade, through the reimbursement of the city, the firefighter will be required to maintain the license for a minimum of three years. Should the firefighter separate prior to completing eighteen months of service at the new license level the firefighter will reimburse the city a prorated amount of the tuition with a maximum reimbursement of \$30,000. The breakdown of the proration will be as follows:

380

385

- Firefighters that separate from the department less than six months after completion of the course will be required to repay the entire cost of tuition and books
- Firefighters that separate between six and twelve months after completion of the course will be required to repay fifty percent of the cost of tuition and books
- Firefighters that separate between twelve months and eighteen months will be required to repay twenty-five percent of the tuition and books

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395

After maintaining the license upgrade beyond the three-year minimum, the firefighter will be required to provide a three (3) month notice of intent to have the license lapse.

400

5. The City will reimburse costs of textbooks for pre-approved courses up to 50% or \$50.00 whichever is greater. Approval for reimbursement for textbooks is dependent upon the constraints on funds in the Fire Department training account.

405

In response to a request, the Battalion Chief or Acting Battalion Chief may reassign on a temporary basis, personnel in order to allow on-duty personnel to attend educational

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opportunities in the local area. This section is intended to apply to those classes that have been requested by individual firefighters as opposed to departmental training. If the battalion is not at minimum, the firefighter(s) may attend class on duty in their personal vehicle but will remain on call and will take a portable radio with them to class. At the discretion of the Battalion Chief or the Acting Battalion Chief, the firefighter may only need to respond on a "Condition" assignment. If battalion staffing is at minimum, the firefighter(s) may take apparatus to class if the other members of that company are in agreement to go along with the firefighter(s) attending class or the firefighter may attend class in a privately owned vehicle with a portable (the apparatus would be treated as per current standards for apparatus down one firefighter on emergency leave). Whenever possible, if more than one firefighter on duty is attending the same class, the Battalion Chief or the Acting Battalion Chief will assign these personnel to the same piece of apparatus in order to limit the number of units on delayed response. Reassignments will be made in such a way as to keep Rescue in service and in normal response whenever possible. The following conditions will be required in order to utilize on duty participation for class:

1. On-duty attendance to class must be pre-approved by the Fire Chief.
2. The Chief has the right to limit the number of on-duty personnel attending class.
3. The class may only be in either Auburn or in a community that is contiguous to the City of Auburn.
4. Units must remain in service at all times.
5. Spare Department vehicles may be used in place of privately-owned vehicles.
6. There will always be a minimum of ten (10) firefighters in Auburn not on delayed response, unless specifically approved by the Chief or his designee.

### Section 4 – EMS Licenses

- All employees, excluding the FPO, must maintain an EMS license not lower than the EMT-Basic level. Any employee that does not have an EMS license at the signing of this contract will not be required to maintain an EMT-Basic License.
- Any state, region or department mandated EMS license upgrade or training for EMT and above shall either be provided by the department while on duty or be fully compensated by the City to include overtime, tuition, and books.





- 445 • The City shall provide an adequate training program to assure that all current EMS providers are able to achieve the Maine EMS required continuing education hours in order to renew their license.
- Paramedic hiring is preferred.
- New Hires after January 1, 2015, are required to be a Paramedic within four (4) years.
- Support for new hires and current employees that volunteer to attend Paramedic training:
  - 450 ➤ Approved costs, fees, overtime and/or shift coverage needed for the firefighter to attend the Paramedic course or to maintain licensure shall be borne by the City.
  - Except as otherwise identified “Approved costs or fees” shall mean the costs of textbooks, registration, lab, testing, tolls, and parking.
  - 455 ➤ A department vehicle and fuel shall be provided for travel or mileage for use of a personal vehicle shall be reimbursed at the prevailing city rate (\$.38 for 2016), but not less than 60% of the IRS standard mileage rate, from point of departure or duty station if training occurs on a scheduled duty day.

### **ARTICLE VII - Hours of Work and Overtime**

#### 460 Section 1 - Hours of Work

465 Firefighters' regular workweek shall consist of an average of forty-two (42) hours per week. For the duration of this contract, the regular tour of duty (on-duty shift) shall consist of a twenty-four-hour continuous time period commencing at 7:00 a.m. and ending at 7:00 a.m. the following day. Firefighters shall remain in active status performing work assignments between the hours of 7:00 a.m. and 10:00 p.m. and 6:00 a.m. and 6:59 a.m. during on-duty shifts, except for the free time periods. The department will be organized under a four (4) battalion system.

470 A work cycle, for the duration of this contract, is defined as one twenty-four-hour tour of on-duty time (on-duty shift) followed by three consecutive twenty-four-hour time periods off beginning at 7:00 a.m. following the on-duty shift.

#### Section 2 - Use of Free Time

475 Firefighters shall be permitted to use recreational facilities furnished by the Auburn Firefighters Benefit Association when they are not specifically assigned to firefighting or other duties. It is understood that firefighters on a voluntary basis will frequently use their free time for study and on-the-job training.

480

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### Section 3 - Overtime and Compensatory Time

485 Firefighters performing work on scheduled off-duty shifts shall have a choice of being  
compensated at their overtime rate of one and one-half (1½) times their hourly rate as per the  
attached wage schedule or by accruing compensatory time at one and one half times the number  
of hours actually worked, except that for multiple alarms. (See Article XV) Firefighters  
participating on teams established or created by the Department (with the exception of  
490 firefighters serving on the Labor Management Committee) on their off-duty time shall have a  
choice of being compensated at their regular overtime rate or by accruing compensatory time at  
one and one-half times the number of hours actually worked. The following conditions shall  
apply to the accrual of comp time:

- 495 1. Effective May 26, 2015, firefighters may accrue up to 96 hours with an option to increase  
that number on a case-by-case basis as determined by the Fire Chief or his designee.
- 500 2. Comp time accrued on or after May 26, 2015, may be carried for up to twenty-four (24)  
months. If the comp time is not used and has been carried for more than twelve (12) months,  
it will be paid out the last pay-period of the fiscal year at the regular hourly rate in effect for  
the firefighter at that time.
- 505 3. No firefighter may choose to take comp time on a day on which his/her battalion would  
thereby be reduced below the minimum staffing level (because of prior scheduled vacations,  
existing extended sick leave, on-the-job injuries, or other cause known at the time notice is  
given). Compensatory time shall only be taken in 12 or more hour increments which begin or  
end at 07:00.

510 Any on-duty firefighter returning to the fire station and completing his/her duties prior to  
7:15 a.m. after answering a call received before the completion of his/her work shift at 7:00 a.m.  
shall receive no extra compensation. If he/she returns and completes his/her duties after 7:15  
a.m. he/she shall be paid for one-half (1/2) hour at his/her overtime rate. If after 7:30 a.m. and  
before 8:00 a.m. he/she shall be paid for one (1) hour at his/her overtime rate; if after 8:00 a.m.,  
at his/her overtime rate for all time worked after 7:00 a.m. as set forth in the attached schedule.

### **ARTICLE VIII - Acting Rank**

515 Any firefighter selected to act as an officer of higher rank shall be entitled to receive  
acting rank in the amount of seven and one half (7.5)% over the non-EMS firefighter base hourly  
rate for the amount of hours performing acting rank

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520 A firefighter performing overtime work while acting in higher rank shall receive one and one-half (1 ½) times his/her hourly rate of pay in such higher rank for such overtime work.

525 Firefighters, Lieutenants and Captains shall have the right to decline to serve as an officer of higher rank unless, in the judgment of the Chief, the Deputy Chief, or the Battalion Chief on duty, no other qualified on-duty firefighter is willing and available to serve. No firefighter who has been assigned to act in higher rank and who, in the judgment of the supervising officer, is performing such duties in a proper manner shall be reassigned to other duty for the purpose of depriving him/her of an opportunity to receive extra pay under the provisions of this Article.

530 If an Engine or Truck company Lieutenant is on vacation, floating holiday, wellness day or comp time, a Lieutenant from that Platoon, assigned to a rescue, shall have the option to fill the vacant Lieutenants position on the Engine or Truck. These opportunities shall be distributed as equally as practical among the Rescue Lieutenants.

### 535 **ARTICLE IX - Holidays**

Each firefighter covered by this Agreement, shall, in addition to his/her regular weekly wage, be paid 1/4 of his/her weekly wage for each of the following holidays:

- |     |                          |                                       |
|-----|--------------------------|---------------------------------------|
| 540 | 1. New Year's Day        | 8. Columbus / Indigenous Peoples' Day |
|     | 2. Washington's Birthday | 9. Veteran's Day                      |
|     | 3. Patriot's Day         | 10. Thanksgiving Day                  |
|     | 4. Memorial Day          | 11. Christmas Day                     |
|     | 5. Juneteenth            | 12. Martin Luther King Day            |
| 545 | 6. Independence Day      | 13. Any one-time national holiday     |
|     | 7. Labor Day             | mandated by the President and         |
|     |                          | observed by other Auburn City         |
|     |                          | Departments                           |

550 Holiday pay will be based on the non-EMS firefighter's rank and step.

The day after Thanksgiving will be holiday routine, but the firefighter will not receive holiday pay.

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555 Firefighters shall receive holiday pay during the pay period following the date in which the holiday falls. The Office Manager will post the calendar noting the holiday pay dates for the year.

### ARTICLE X - Vacations

560

#### Section 1 - Vacation Accrual

565 For the purposes of this article, it is understood that years of service will mean continuous years of service. Probationary firefighters (members with less than twelve (12) months of service) will accumulate hours at the rate of eight (8) hours per calendar month. Probationary firefighters may not take vacation leave during their first twelve (12) months of service unless there are special circumstances which would warrant the Chief, or in his absence, the Deputy Fire Chief authorizing a waiver of the restriction on vacation leave. Requests for waivers and the administrative decision regarding the request shall be in written form.

570

575 Firefighters with less than six (6) years of service will accrue vacation hours at the rate of eight (8) hours per calendar month. Firefighters with a minimum of six (6) years of service but less than fourteen (14) years of service will accrue vacation hours at the rate of twelve (12) hours per calendar month. Firefighters with fourteen (14) or more years of service shall accrue vacation hours at the rate of sixteen (16) hours per calendar month. Effective January 1, 2014 firefighters with twenty (20) or more years of service shall accrue vacation hours at twenty (20) hours per calendar month. If the firefighter's anniversary date of hire falls on or before the 15<sup>th</sup> of the month, the firefighter will receive his/her additional vacation accrual that month. If the firefighter's anniversary date falls on or after the 16<sup>th</sup> of the month, then the firefighter will receive his/her additional vacation accrual the following month. This will occur only during the sixth, fourteenth and twentieth years of service.

580

Vacation hours will continue to accrue during sick leave absences, while on on-the-job-injury, or any other paid absences authorized by the Chief or Deputy Chief.

585

590 Except for the first month of service and the last month of service, vacation hours for each month shall be awarded on the last day of each calendar month and then added to the firefighter's current balance. The month in which employment begins shall be counted as a month of service if the date of hire occurs before the 16<sup>th</sup> of that month. The month in which employment terminates shall count as a month of service if the date of resignation is after the 15<sup>th</sup> day of the month. The Fire Department administration will post a report detailing each firefighter's total accumulation of vacation hours. Firefighters may take vacation time at any

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595 point throughout the year, but on January first of any year, all vacation balances will not be in a negative number. It must be zero or greater. It will be the responsibility of the Deputy Chief to make sure no one uses more time than they should.

600 Unless otherwise specified in this Article, vacation leave will be taken in increments of one-week periods (blocks). For vacation leave purposes, a one-week period is defined as commencing on Sunday at 7:00 hours and ending on the following Saturday (at the end of the shift 07:00 hours).

605 Vacation leave will be deducted on an hour for hour basis with a minimum of a twenty-four (24) hour time period (continuous block of time). Thus, if two duty days fall within the vacation week, then forty-eight (48) hours will be deducted from the firefighter's total hours accumulated. Also, if only one duty day falls within the vacation week, then twenty-four (24) hours will be deducted from the firefighter's total vacation hours.

### Section 2 - Vacation Selection

610 Vacations shall be chosen by firefighters on the basis of total years of service in the department without regard for time served in a specific rank. A maximum of two firefighters per battalion can be on vacation at the same time.

615 Vacation period selections for the upcoming calendar year shall commence with the initial department wide process conducted in the first full week of November starting on Monday and ending on Thursday of the present year. The Battalion Chief will notify all upcoming year shift members in writing of the date and time for vacation selection at least two (2) weeks prior to actual picking date. During this period of time all vacation weeks will be picked. Firefighters may decline to select any or all of their vacation periods during this process. Any firefighter who declines to select their vacation period(s) during this process forfeits his selection and may not select his/her vacation periods until the vacation process is completed. The firefighter who declines to select their vacation period(s) must notify the Deputy Chief, or in his absence, the Chief, of his decision.

625 For purposes of record keeping, the firefighter's declination(s) shall be noted (and initialed) in the appropriate block(s) on the cover sheet attached to his/her battalion's schedule.

The selection of vacation periods earned for the upcoming calendar year shall take priority over all other earned periods of time off (including vacation periods carried over from

# CITY OF AUBURN

## Auburn Firefighters Association Local No. 797



630 the previous year). During the month of November each firefighter, based on seniority, shall have the opportunity in a department wide process to:

635 **1.** Select/decline their first two seven (7) day vacation blocks (to be completed during the first full week of November on their duty day starting Monday). If an employee is not present during this time frame, he/she needs to leave a list with the Battalion Chief of the dates he/she wishes to take, as well as a phone number, so the Battalion Chief can contact the employee if the dates he/she has asked for are not available. If the employee does not conform to this, he/she will forfeit their vacation selection and not be allowed to pick their vacation until after November 21st. Any employee who passes on their picks at this point or  
640 any other point in the vacation selection process will not be allowed to pick the remaining vacation time until after November 21st.

645 **2.** After seven (7) years of service, select/decline their third seven (7) calendar day vacation block upon the battalion's completion of step 1 (to be completed on the first duty day of that week), and then,

650 **3.** After fifteen (15) years of service, select/decline their fourth seven (7) calendar day vacation block upon the battalion's completion of step 2. (Selection of fourth week block will be completed on the first duty day in the first week of November.)

**4.** After twenty-one (21) years of service, select/decline their fifth seven (7) calendar day vacation block upon the battalion's completion of step 3. (Selection of fifth week block will be completed on the first duty day in the first week of November.)

655 If firefighters are changing battalion, they shall select vacations dates with the battalion they will be working with in the upcoming year.

660 Upon completion of the November selection process, the battalion cover sheet and vacation selection process shall be forwarded to the Deputy Chief and a copy posted on-line. Following the completion of the November selection process, the firefighters may randomly substitute/exchange up to two vacation block weeks (48 on-duty hours per week) for up to four individual vacation days (twenty-four hour on-duty shifts). The selection of individual vacation days shall commence no sooner than 11/21. All requests for earned time off including carried over vacation periods, etc. for the upcoming calendar year shall not be accepted nor submitted  
665 prior to 07:00 hours on 11/21. All time off requests will be submitted using SOP N-103. The requests shall be forwarded to a Battalion Chief in written form including the date of the request,

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time of day the request was submitted (hours: minutes), and the signature of the BC or his replacement.

### 670 Section 3 - Vacation Changes

Any firefighter having declined to select a vacation period during the November process shall be allowed to select any unclaimed vacation period (less than two firefighters on vacation) for that calendar year. The request shall be forwarded to the Battalion Chief in written form  
675 including the date of the request, time of day the request was submitted (hours: minutes), and signature of the BC or his replacement. A firefighter's change of a previously selected vacation period will not be allowed if it causes replacement hiring to maintain the minimum staffing level per battalion on a day when a floating holiday has already been confirmed. A firefighter who requests vacation time that includes a day already approved as a floating holiday and that would  
680 cause replacement hiring to maintain minimum staffing level per battalion on that day will be responsible to find a swap or have to forego the change in vacation.

Firefighters shall be entitled to unlimited changes in previously selected vacations provided that notice of such change is approved by the Battalion Chief, and all other conditions  
685 for vacation changes are met. Approval or denial of the requested change shall be in written form. Such approval by a Battalion Chief shall not be unreasonably withheld.

A firefighter may accumulate an absolute maximum of 350 hours at the end of any calendar year. If the hours exceed 350 hours, all unused hours will be forfeited, except if a  
690 firefighter is unable to take vacation due to an on-the-job-injury or extended sick leave. If a firefighter is unable to take vacation due to an OJI or extended sick leave, he/she can exceed the cap by 192 hours.

### 695 Section 4 - Floating Holidays

Each firefighter is entitled to choose and take off one floating holiday per calendar year. From 07:00 hours on the Friday after vacation selection through 11/20, firefighters shall either pick or pass on selecting their floating holidays. All requests shall include a single date selection and will be submitted to the Battalion Chief's office in e-mail form. Firefighters may choose a  
700 day on which their battalion would thereby be reduced below the apparatus staffing level except due to prior scheduled vacations or floating holidays. Within twenty-four (24) hours of the request, the Battalion Chief shall notify the requesting firefighter that his/her floating holiday date is confirmed, approved pending the battalion's return above the apparatus staffing level, or that it is denied because of prior scheduled vacation or floating holidays. A floating holiday that

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705 is approved pending the battalion's return above the apparatus staffing level will be a placeholder only. The firefighter shall ensure that his/her holiday has been confirmed at least one shift before his/her selected date.

710 If selecting a holiday after 11/20, no firefighter may choose a holiday on a day on which his/her battalion would thereby be reduced below the apparatus staffing level (because of prior scheduled vacations, existing extended sick leave, on-the-job injuries, or other cause known at the time notice is given). Within twenty-four (24) hours of the request, the Battalion Chief shall notify the requesting firefighter that his/her floating holiday date is confirmed, or that it is denied because it would cause a reduction in force below the staffing level per apparatus.

715 The purpose of this provision is to allow the firefighter choosing a floating holiday to make advance plans for the enjoyment of that holiday, while minimizing the occasion on which the City will incur extra cost for replacement to maintain apparatus staffing.

720 Floating holidays may not be carried over from one year to another without the approval of the Chief. The Chief will consider any extenuating circumstances when approving or denying the carryover of floating holidays.

### **ARTICLE XI - Sick Leave**

#### 725 Section 1 - Use of Sick Leave

730 It is the expectation of the City of Auburn and I.A.F.F., Local 797 that firefighters will be available for duty. However, it is recognized from time to time, a firefighter will be absent due to illness. Therefore, firefighters shall accrue sick leave at a rate of thirteen (13) hours for each calendar month of service to be used for the firefighter's personal illness or for a member of the firefighter's "immediate family". For purposes of this article, "immediate family" is defined as a spouse, significant other, child, or parent. A firefighter absent because of any one or more of the foregoing reasons shall cause such fact to be reported to the officer in charge immediately. A  
735 firefighter shall also be entitled to sick leave when his/her disability arises out of or in the course of actual gainful employment outside the Fire Department, except when he/she is receiving worker's compensation for injury or illness. A firefighter on sick leave shall call in when he/she is able to return to duty.

740 Actual hours of sick leave used shall be charged against a firefighter for each workday that he/she is absent from duty for any of the reasons set out in the first paragraph of this Article.





## Section 2 - Return to Work/Fitness for Duty

745 Any firefighter who is unable to work for eight (8) consecutive calendar days (counted  
beginning with the date of absence shown on the "Report of Absence" Report ) or more due to  
personal injury or illness shall deliver a doctor's certificate before returning to work stating that  
the firefighter is fit for duty. The expenses, if any, for obtaining the doctor's certificate shall be  
borne by the City, including reimbursement to the firefighter within one (1) week of submission  
750 of a request for reimbursement with attached receipt. The officer on duty may require him/her to  
report to work if it is his/her regularly scheduled workday. Such returning firefighters shall be  
charged for sick leave on a pro-rated basis, and his/her replacement, if any, shall be paid on a  
pro-rated basis.

## 755 Section 3 - Sick Leave Authentication

The Fire Chief, or his designee will review the sick leave records to determine if there is  
a potential pattern of sick leave abuse. Such patterns might include but are not limited to the  
following be:

- 760
1. The firefighter uses sick days as soon as they are credited to him/her
  2. High usage of sick leave for the firefighter or his immediate family without corresponding  
documentation as to the reasons for sick leave
  - 765 3. Use of sick leave the shift before or the shift after scheduled vacation, floating holidays or  
swaps
  4. Use of sick leave on the days for which leave had been previously requested, but denied
  - 770 5. Use of sick leave on a particular day of the week
  6. Use of sick leave which corresponds to an undesirable work assignment
  7. Use of sick leave for a full 24-hour shift when the firefighter could have reported back to  
775 work for a partial shift
  8. Use of sick time for reasons other than as defined explicitly in Article XI Section 1

780 If the Fire Chief or his/her designee notes an occurrence of sick leave use as described  
above, the principles of "progressive discipline" will be in order recognizing that the gravity and  
severity of the sick leave abuse may influence what discipline is issued.

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- 785
- a. Written warning - Copy to Union President. Any written warning inserted in the Employee's personnel file shall be removed after a two (2)-year period with no subsequent offenses.
  - b. Written reprimand – Copy to Union President. Any written reprimand inserted in the Employee's personnel file may be removed following the process outlined in Article XVIII Section 5 - Discipline
  - c. Suspension up to 2 (two) duty days (notice to be given in writing – copy to Union President).
- 790

If the Employer has reason to discipline an Employee, it shall be done in a manner that will not embarrass the employee before other Employees or the public.

### Section 4 - Wellness Incentive Days

795

Firefighters who participate in the City of Auburn Wellness Incentive Program and who have earned a Wellness Day Off may request the Wellness Day off by submitting the request 96 hours in advance to his/her Battalion Chief. It is the responsibility of the firefighter to call into the Battalion Chief no earlier than 6:00 a.m. to determine if his/her shift is within the apparatus staffing for the day. If the shift does not have to hire extra personnel, the firefighter may have the shift off without being charged against his/her accrued sick or vacation leave. If the apparatus is at minimum staffing, the firefighter may not use his/her Wellness Incentive Day on that day.

800

### Section 5 - Sick Bank

805

The City Manager may from time to time authorize a sick bank for individual employees on a case-by-case basis if they meet certain criteria. If a firefighter voluntarily participates in a City-wide sick bank, the hours donated will be deducted from the firefighter's accumulated sick and/or vacation leave.

810

## **ARTICLE XII - Grievance Procedure**

### Section 1 - Grievance Procedure

815

A grievance shall be defined as any dispute or disagreement raised by an employee in the bargaining unit or the City involving interpretation or application of the specific provisions of this collective bargaining agreement. Grievances, when presented by the Union to the City or by the City to the Union shall state in writing what provision of the collective bargaining agreement has been violated, and how the agreement has been violated, and shall state what the requested remedy is. Grievances shall be settled as provided in the following sections.

820



## Section 2 - Firefighters Grievance

825       **Step 1.** The aggrieved firefighter shall first meet with the individual(s) with whom he/she has  
the issue in order to determine all the facts and to attempt to resolve the issue before  
proceeding with the grievance. This meeting should be held as soon as reasonably  
possible.

830       **Step 2.** Any aggrieved firefighter shall submit his/her grievance to the Association.

835       **Step 3.** The Association may submit a grievance on its own behalf, or that of one or more of  
its members. Any such grievance will be submitted by delivery in writing to the Fire  
Chief. A grievance on behalf of less than all members of the Association shall be filed  
within thirty (30) calendar days after the aggrieved firefighter(s) knew, or should have  
known of the facts giving rise to the grievance. A grievance on behalf of the Association  
itself, or of all of its members, shall be filed within thirty (30) calendar days after one or  
more of the Association elected officers knew, or should have known of the facts giving  
rise to the grievance. Any grievance not filed within the thirty (30) calendar days time  
840       limit or, under any circumstances, within one (1) year of the time of occurrence that gave  
rise to the grievance shall not be considered timely and shall be deemed waived. The Fire  
Chief shall issue a written response to the Association within ten (10) administrative  
working days of a receipt of a grievance.

845       **Step 4.** (Optional) If unsatisfied with the Fire Chief's action, the Association may request a  
meeting with the Assistant City Manager or Human Resources Director to review the  
grievance. The meeting shall include all parties pertinent to the grievance and shall be held  
within ten (10) working days from the date of the Fire Chief's decision.

850       **Step 5.** If unsatisfied with the Fire Chief's action, or the steps as outlined in Step 4 above, the  
Association may appeal in writing to the City Manager within ten (10) administrative  
working days after receipt of the Fire Chief's decision (or ten (10) administrative working  
days after meeting outlined in Step 4 above). The City Manager will schedule and hear the  
appeal within ten (10) administrative working days after receipt of the notice of appeal. At  
855       this hearing the Association may present witnesses and evidence in support of their  
position. The City Manager shall forthwith consider the appeal, witnesses and evidence  
and notify the Association of his/her decision within ten (10) administrative working days  
after the hearing takes place.

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860 **Step 6.** If unsatisfied with the City Manager's decision the Association, within ten (10)  
administrative working days after receipt of the City Manager's decision, may advance the  
grievance to mediation pursuant to Title 26, M.R.S.A. §965(2), Mediation, so as to have a  
mediator appointed from the Panel of Mediators to assist the parties in resolving the  
grievance. Upon filing for mediation, the requesting party may simultaneously file for  
865 arbitration, provided the mediation be scheduled and take place prior to arbitration. To  
expedite the process, the requesting party may provide the estimated share of providing the  
service and then be reimbursed pursuant to Title 26, M.R.S.A §965(5). Mediators  
appointed to grievances that are furthered to arbitration are not allowed to participate with  
the arbitration process. Upon mutual consent, the City and Association may waive the  
870 preceding steps and progress to Arbitration.

In the event the parties were unable to resolve the grievance, the grievance may be  
advanced to binding arbitration, by giving written notice of its intention to do so within ten  
(10) administrative working days after the conclusion of the mediation process. The parties  
875 shall agree upon a single neutral arbitrator *from the Maine Board of Arbitration and  
Conciliation (MBAC)* or if the parties are unable to agree, either party may request the  
American Arbitration Association (AAA) to assign an arbitrator. The request to the *MBAC*  
or *AAA* must be made within thirty (30) days after the conclusion of the mediation process.  
The arbitration shall be in accordance with the Rules of the *MBAC* or the *AAA*. The  
880 arbitrator shall have no authority to add to, subtract from or modify the provisions of this  
Agreement. The arbitrator shall be requested to issue his decision within thirty (30) days  
after the conclusion of the testimony and argument. The decision shall be final and binding  
upon the parties thereto although subject to appeal to the Maine Superior Court and Maine  
Supreme Judicial Court.

885 Costs associated with this process and arbitrator decisions shall be determined by Title 26,  
M.R.S.A. §965.

### Section 3 - City Grievance

890 The City shall notify the Association within thirty (30) days of the day it knows, or  
reasonably should have known the facts giving rise to the dispute. Any grievances not filed  
within the thirty (30) day time limit, or, under any circumstances, within one year of the time of  
occurrence that gave rise to the grievance shall not be considered timely and shall be deemed  
895 waived. Within ten (10) administrative working days thereafter, the parties shall meet to attempt  
to resolve the matter at the Labor Management Committee.

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If unsatisfied with the Labor Management process, the City within ten (10) administrative working days may advance the grievance to mediation pursuant to Title 26, M.R.S.A. §965(2), Mediation, so as to assist the parties in resolving the grievance. Upon filing for mediation, the requesting party may simultaneously file for arbitration, provided the mediation be scheduled and take place prior to arbitration. To expedite the process, the requesting party may provide the estimated share of providing the service and then be reimbursed pursuant to Title 26, M.R.S.A. §965(5). Subsequent and necessary action may be advanced within ten (10) administrative working days after receipt of the mediation process, whereby the parties were unable to effect a settlement of their controversy, by either party, pursuant to Title 26, M.R.S.A. §965(4), Arbitration. Mediators appointed to controversies that are furthered to arbitration are not allowed to participate with the arbitration process. Upon mutual consent, the City and Association may waive the preceding steps to Arbitration. Costs associated with this process and arbitrator decisions shall be determined by Title 26, M.R.S.A. §965, Obligation to bargain, as amended.

### Section 4 - Extensions of Time Limits

Time limits provided herein may be extended by written agreement of the parties. Request for extension shall not unreasonably be withheld.

## **ARTICLE XIII - Leaves**

The Auburn Fire Department and the City of Auburn have a proprietary interest in ensuring the safety and security of its staff, citizens, and visitors. To that end it is the goal of both stakeholders to limit the amount of time that firefighters are away from their apparatus or stations. Evidence has proven that the earlier a sufficient number of trained responders arrive to manage an incident, regardless of nature, the faster the incident will be controlled increasing the chances of a positive outcome.

### Section 1 - Funeral Leave

Leave of absence without loss of pay and without loss of sick leave shall be granted to any firefighter for five (5) consecutive calendar days because of death of a spouse or child and three (3) consecutive calendar days because of a death in the immediate family, plus any actual travel time reasonably required to return from out-of-state. Immediate family shall be defined to include mother, stepmother, father, stepfather, brother, stepbrother, sister, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, grandparents, spouse's grandparents, grandchildren, and any other person living in the firefighter's household. Such leave shall commence not later than the date of interment. Any additional time needed

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940 after the expiration of the five (5) day period in the case of a spouse or child or three (3) day period in the case of other immediate family members shall be charged against the firefighter's sick leave. If the firefighter is unable to return to duty at the end of the five (5) or three (3) day period, he/she shall so notify the Battalion Chief on duty at Central Fire Station by the fifth or third day.

945 A firefighter may also be granted leave to attend the funerals of the persons not mentioned in the Article at the discretion of the Chief. If the firefighter takes more than six (6) hours for the funeral for an individual not specifically mentioned in the list above, the entire time will be charged against the firefighter's accrued sick leave.

### Section 2 - Emergency Leave

950 Any firefighter shall be permitted to leave immediately (without loss of pay) and without replacement on account of any emergency concerning his/her home or his/her family upon giving notice to the Battalion Chief or officer in charge, provided that he/she report within an hour after taking leave the amount of time that will be required to attend the emergency. Any time away from work in excess of one (1) hour will be charged to sick leave.

955

### Section 3 – Incidental Leaves

960 Incidental Leave is an unplanned leave for taking care of non-emergency personal business, such as going to the bank to cash a check. It is not meant for a long-term absence of more than 15 to 30 minutes or for planned events. These are reasonable conditions to be imposed on incidental leave to accomplish the needed task. The Battalion Chief and the Acting Battalion Chief may approve incidental leave and have the right to impose other restrictions on this leave or may allow for longer leave if the reason makes sense. For normal incidental leave 15 to 30 minutes will be the time limits to shoot for.

965 Emergency leave is for an *emergency*, and not a leave to be used for in a planned event. Emergency leave is for those unplanned events that need your immediate attention such as an emergency concerning your family or your home.

### Section 4 - Association Meetings and Seminar Leave

970

A firefighter shall be granted leave of absence without loss of pay to attend meetings or seminars approved by the Association provided, however, that such leave shall not exceed an accumulated total of three (3) on-duty working days, and provided further, that the City shall not

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975 be required to grant such leave if a replacement would have to be obtained in accordance with  
the staffing requirements established in Article XV, Section 1 of this Agreement.

Leave will be granted for the firefighter for the meeting and any reasonable travel time.  
The firefighter will be expected to return to work following the leave. Multi-day/overnight leave  
will be granted as necessary. The maximum number of days approved shall not exceed twelve  
(12) on-duty days per calendar year. If approved, association leave shall be interpreted the same  
980 as Floating Holidays when approving other time off.

### Section 5 - Leave of Absence

985 An Employee may be granted a leave of absence without pay by the City Manager on the  
recommendation of the Fire Chief with such leave not to exceed one (1) year in length. A request  
for absence will not be unreasonably withheld if there is no undue hardship within the  
department. The granting of the leave shall protect the Employee's existing continuous service  
for the leave period but shall not count as service time for Maine State Retirement, nor shall  
vacation or sick leave accrue during the absence, nor will the Employee receive pay for  
990 municipal holidays or any other benefits such as health insurance. The Employer may hire a  
replacement for the vacant position, if the employee desires to return to work, the employee must  
notify the Fire Chief in writing. The Employee will be required to maintain all certifications for  
the position and to take a pre-employment medical exam, substance abuse test, physical agility  
test to determine if he/she is physically fit to perform the essential job functions, and criminal  
995 background. The Employee will only be offered reinstatement if a position is available and if the  
request is made within the granted leave period.

## **ARTICLE XIV - Exchange of Shifts and Transfers**

### 1000 Section 1 - Exchange of Shifts

Firefighters shall be permitted to exchange work shifts provided that exchanges of shifts shall  
not occur in which it would allow an individual to accept and get paid for overtime and then  
trade that shift. Further provisions include:

- 1005
1. Their replacements are qualified to perform their duties.
  2. Exchanges may be made for the purpose of engaging in gainful employment so long as  
such gainful employment involves activities directly related to the firefighter's job duties  
and/or professional development. Such an exchange must be pre-approved in writing by the  
1010 Chief or his/her designee. Approved exchanges for gainful employment shall not count  
towards the bank referenced below.

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1015 **3.** An employee whose loaned time off is being repaid may perform such work as he/she usually performs when not on duty with the Fire Department.

1020 **4.** Exchanges being made for the purpose of satisfying military service requirements or approved education and training, shall not be counted towards the bank referenced in number five below for either the firefighter initiating or fulfilling “pay-back” the swap

1025 **5.** Each firefighter shall have a bank of 288 hours from which he/she may draw for exchange of shifts in excess of twelve (12) hours. Swaps of twelve (12) hours or less do not count toward the swap bank. Swaps referenced in #7 below may also not count at the discretion of the Chief or his/her designee.

1030 **6.** No more than three (3) firefighters on any work shift may be granted such exchanges except that, in the discretion of the Battalion Chief, additional exchanges may be permitted provided their replacements are qualified and no weakening in the department's firefighting capacity will result.

1035 **7.** A firefighter may not be allowed to participate in 24-hour exchanges of shifts which would cause him to be off-duty for more than four consecutive work cycles (a work cycle is defined as one 24-hour period on-duty followed by three 24 hour periods off-duty) unless approved by the Chief or his/her designee. Situations qualifying for such approval include but shall not be limited to military leave, educational endeavors, and extended illness/injury.

**8.** The Battalion Chief may approve swaps according to these guidelines except as noted elsewhere in this article.

1040 **9.** Swaps shall be repaid on an hour-for-hour basis within one year of the swap being initiated. With the exception of IAFF Local 797 union business, no other arrangements or considerations shall be made between the swapping parties.

1045 **10.** If an individual is hired for 12 or more hours of overtime, they may allow another individual to work up to six (6) sequential hours of that shift. The hired individual will be checked off according to the overtime hiring rules and each party will be compensated at time and one half for the actual hours they worked.

1050 This exchange of twenty-four (24) hour shift limitation shall not affect vacation or other off-duty time provided for in this agreement and is not intended to prevent individuals from



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coordinating exchanges of shift with vacations or other off-duty time provided for in this agreement.

1055 The limitation on the number of allowable exchanges of twenty-four-hour shifts shall not affect occasions when the firefighter requests a swap for the purposes of attending a job-related seminar, course or other educational program, provided that the firefighter has the proper documentation as to the nature and schedule of the seminar, course, etc., and has received prior approval from the Chief or his designee.

1060 If a firefighter who is due to work the shift of another on account of an exchange becomes ill or is injured off the job more than 24 hours prior to the time he/she is due to report for that shift, it is that firefighter's responsibility to find a replacement so that the exchange does not cost the City additional money in the form of overtime for a replacement. If a firefighter who is due to work the shift of another is injured on the job more than seventy-two (72) hours  
1065 prior to the time he/she is due to report for duty, it is that firefighter's responsibility to find a replacement so that the exchange does not cost the City additional money in the form of overtime for a replacement. If such a replacement is not found, the firefighter shall be responsible for reimbursing the City in the amount of the difference between what his regular pay would have been for that shift and the amount actually paid to the person who replaced him/her.

1070

### Section 2 - Transfers, Permanent Positions, Bidding, EMT Assignments

1075 **1. Vacancies:** When a permanent vacancy occurs in a position, transfers will be governed by the provisions of this article. As used in this article a "vacancy" shall mean a position not occupied due to death, retirement, transfer, resignation, dismissal, promotion of an incumbent or an unfilled newly created position. When a vacancy occurs, rank for rank picking by seniority will be done within the battalion that has the vacancy. Only the affected rank will pick. If the selection creates a non-EMS unit, refer to Section 2-5.

1080 **2. Establishing Permanent Positions:** On the first Wednesday of every other October commencing in 2002, each member will be given the opportunity to pick his permanent assignment from any of the remaining positions in his rank. An Executive Committee member will assist the Deputy Chief in the administration of this transfer process. The most senior Battalion Chief will pick first having four (4) choices. The next senior Battalion Chief will have  
1085 three (3) choices, etc., until all Battalion Chiefs have picked. The next picking will be done by the Captains, Lieutenants and the Privates observing the same procedure.

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1090 Positions above and beyond those required for the in-service apparatus shall be known as  
Float positions. An in-service apparatus is one that will be staffed 24 hours a day, 7 days a week  
and is subject to positional picking process. Employees assigned to Float positions may be  
1095 assigned to work on any apparatus, at any time, based on the needs of the department. This may  
include but is not limited to, being assigned to backfill so others can participate in training or  
meetings, staffing department details, storm coverage, or staffing additional apparatus during  
peak times or during events. In these instances, the Battalions Chief will consider seniority, when  
circumstances permit, by giving the more senior float the option of offered assignments.

1095 Float positions may also be used at the discretion of the Battalion Chief, to relieve individuals  
on apparatus assignment on a temporary basis when deemed necessary. This shall not be used to  
move an employee off their assigned apparatus position against their will. The Deputy Chief  
will monitor float assignments to ensure no one Float is being unfairly burdened.

1100 Unless needed elsewhere, when at full staff levels, additional personnel will be assigned to the  
aerial or an engine. Due to the nature of the position, those in the Float position will not have  
consistent contact with any one officer. Therefore, the Captain of the platoon shall be identified  
as their officer.

1105 After all members have picked according to the provisions of this section they will be in  
their permanent positions. If a member is not available to make this selection, a prioritized list of  
selections must be left in writing with the Deputy Chief. All transfers will take effect on the first  
Sunday in January.

1110 Any employee who holds an EMS position under this Article, shall maintain his/her EMS  
license required for his/her permanent position.

1115 **3. Bidding:** Every year (except when establishing permanent positions) during the last two  
weeks in September any member who would like to change his position shall put it in writing in  
a sealed envelope and submit it to the Deputy Chief. Those positions will be put into a pool and  
are the only positions up for bid. All bids will be awarded in order of seniority according to  
rank. Members who have not submitted their position to the pool will not be allowed to bid.  
Posting date will be October 1st and will include all available positions and personnel by rank  
and seniority. Bidding will be done during the first two weeks in October.

1120 **4. Seniority:** Transfers shall be rank for rank and seniority is defined as time in rank. "Time-in-  
rank" seniority is defined as the length of continuous service in their present rank from the date  
of promotion, less any adjustments due to approved leaves of absence without pay (unless  
otherwise agreed by the City Manager).

1125



In the case of an officer who has been reduced in rank, that officer's time-in-rank seniority shall be considered to be the length of continuous service in that particular rank including the time the officer was in the rank from which he was reduced. If time in rank is equal, then time in the Department prevails.

1130

## **5. EMT Assignment Procedures:**

(a) The rescue crew shall consist of a State of Maine licensed paramedic and at least a State of Maine licensed EMS provider.

1135

(b) All apparatus will have at least one State of Maine licensed EMS provider assigned to it.

(c) Paramedics will be distributed as equally as possible between the battalion with a minimum of four (4) assigned per battalion.

1140

(d) If an apparatus/rescue does not have a State of Maine licensed EMS provider assigned to it after establishing permanent positions, the senior State of Maine licensed provider of the same rank on the battalion will be asked to go to the apparatus/rescue that is lacking a State of Maine licensed EMS provider. If he chooses that assignment, he will bump the junior person of the same rank on that truck. The person who got bumped has the right to go to the firefighter on the battalion that he is most senior to and bump him, that following suit until everyone has a position. If he chooses, he can go to the vacant spot held by the State of Maine licensed EMS provider that is moving. If the senior State of Maine licensed EMS provider of the same rank does not want to move, the next senior State of Maine licensed EMS provider of the same rank on the battalion will be asked to go to that position continuing the same procedure as described above. This process will be repeated until all apparatus/rescue have State of Maine EMS provider assigned to it. If the EMS position is not filled, the junior State of Maine EMS provider of the same rank on that battalion will assume that position.

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**6. Paramedic Roster:** The Fire Department shall have a minimum Paramedic roster level of sixteen (16). Current Paramedics will be included as part of the roster. The increase to 16 paramedics will be accomplished as new firefighters are hired. Paramedics shall be required to maintain their EMS license while part of the minimum paramedic roster level. The most senior Paramedic will be removed from the Paramedic roster when his/her replacement has attained their Paramedic license. On a case-by-case basis, a firefighter may request a temporary reduction in their EMS License due to personal reasons. Any reduction will first be discussed by Labor Management Committee.

1160



1165 Paramedic Roster Rules

1. Employees hired after January 1, 2015, shall obtain and continue to retain a paramedic license while part of the minimum Paramedic roster. This includes complying with state mandated continuing education requirements. Maintenance of such licensure level required by this article shall constitute a condition of employment and failure to maintain such required license shall be considered just cause for dismissal.  
1170
2. Employees hired before January 1, 2015, shall continue to retain a Paramedic license while part of the minimum Paramedic roster. This includes complying with state mandated continuing education requirements. Any employee whose EMS license has lapsed or has been downgraded for failure to comply with continuing education requirements will  
1175 forfeit their EMS pay and be reduced an amount equal to two (2) anniversary steps. If and when the employee's license is reinstated, the employee will return to full pay and status.
3. Paramedics may request to downgrade licensure under the following conditions:
  - a. There are sufficient number of Paramedics with less seniority which will allow  
1180 the reduction to occur without negatively impacting minimum Paramedic staffing levels;
  - b. The Paramedic has experienced a catastrophic event, not of his own doing, that would prohibit him/her from continuing to perform as a Paramedic safely. For example, an incident that results in post-traumatic stress.
  - 1185 c. Either incident will require an administrative review followed by discussion with the Labor/Management Group.

Actions against the Provider's License:

1. Any employee whose EMS license is being investigated by MEMS shall notify the Chief or  
1190 his designee immediately.
2. The employee shall maintain full pay and status pending the results of the MEMS investigation unless the State, Regional, and/or Department's Medical Director prohibits the employee from working in EMS or limits the capacity in which an employee can provide EMS.
- 1195 3. In cases where the employee is prohibited from working in EMS or has limits on their capacity in which he/she can provide EMS as a result of an internal action, the employee will be paid in accordance with their ability to perform EMS.
4. Providers hired after January 1, 2015 that are on the Paramedic Roster who are downgraded as an action of MEMS from an investigation, regardless of duration, may be subject to  
1200 termination.

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1205 **7. Filling of a Temporary Vacancy:** This situation is intended to cover long term vacancies of one month or more such as leaves of absence, on the job injuries and/or extended sick leave a firefighter from an unaffected battalion may volunteer to fill the vacant position after the need for the vacancy has been posted. The specific criteria (such as rank and EMS licensure level) will be identified in the posting and only those that fit the criteria may apply. The vacancy will be posted for two work cycles (8 days). Any firefighter who would like to volunteer to fill the temporary vacancy shall do so in writing to the Deputy Chief. The volunteer with the most seniority will be selected.

1210 Should no firefighter volunteer to fill the temporary vacancy, then the Chief will select a firefighter to do so from an unaffected battalion. Those firefighters filling temporary vacancies may take previously selected vacations and floating holidays, even though it will cause a decrease in the apparatus staffing for those days. The Chief will take into consideration other types of negative impacts the firefighter may have when filling the temporary vacancy. The firefighter who is assigned to fill the temporary vacancy will go back to his previous assignment when the absent firefighter returns to the department or the vacancy becomes permanent. If the bidding for the temporary vacancy creates a non-EMS pump/rescue, refer to Sec. 2-5.

## 1220 **ARTICLE XV - Recall to Work**

### Section 1 - Off-Duty

1225 Off-duty firefighters may be recalled to duty in the case of multiple alarms, major emergencies, or when staffing per apparatus is below the required level. The required minimum staffing level for each structural engine company is three (3); aerial company is three (3) and one Battalion Chief. The parties agree that in no event will the City be required to assign more than three firefighters per apparatus as set forth above, plus the Battalion Chief. The Chief may increase the staffing requirements when conditions reasonably warrant his/her doing so.

1230 Staffing for other apparatus not listed above will be at the discretion of the Fire Chief or designee.

1235 Stand-by duty shall no longer be required provided that a sufficient number of firefighters return to duty for multiple alarms or major emergencies. If a sufficient number of firefighters do not return to duty, in the judgment of the Chief, up to four (4) firefighters may be required to serve on stand-by. All firefighters will be called on multiple alarms and Box 33's unless canceled by the Incident Commander.

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1240 The firefighter will be notified of second alarms and/or Box 33's by automated text messaging system (primary notification) and/or by telephone (secondary notification). Acknowledgment of arrival time occurs when the firefighter reports for duty at the station or substation and is logged on to the Battalion Chief's multiple alarm sheets.

1245 The time of work performed in the case of multiple alarms shall be computed from the time of notification based upon the nearest quarter hour, except that any firefighter reporting more than forty-five (45) minutes after notification of the alarm shall be paid for work performed computed from actual reporting. Any firefighter must report within forty-five (45) minutes from the time the firefighter is notified of a multiple alarm to be eligible for three hours of time and a half for a minimum payment.

1250 Any firefighter responding to a multiple alarm arriving more than one (1) hour prior to the time that he/she would otherwise have been required to report for duty shall receive a minimum of \$50.00.

1255 Section 2 - Replacement Coverage Turns

1260 When staffing falls below requirements as set forth in Article XV, Section 1, replacements shall be obtained from the extra work list. When there is no EMT on duty and additional staff is required, the City shall recall an EMT as the name appears on the extra work list or compulsory work list. If there are no firefighters/EMTs willing to work, replacements shall then be obtained from the compulsory work list. Any firefighter or firefighter/EMT selected to work from the compulsory work list shall have the right to find his/her own replacement.

1265 When hiring a replacement, the Department will follow the Rules for Overtime Hiring.

## **ARTICLE XVI - Health and Safety**

1270 Section 1 - Health Promotion Program and Employee Cost Share

Firefighters and the City agree to implement a Health Promotion Program with the following goals:

1275 1. To promote wellness and health by rewarding employees and their dependents for healthy behavior that will encourage employees to develop and maintain healthy habits;

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2. To reduce the overall need for health care services by City employees and their dependents; and,

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3. To slow the rate of increase in the City's health insurance premiums.

Employees (and the spouse if applicable) who participate in the Health Promotion Program and make their best efforts to achieve health management goals will pay a minimum of 15% of the monthly premiums. Employees who do not participate in the Health Promotion Program will pay a maximum of 25% of the monthly premiums, as established by the Maine Municipal Employees Health Trust (or alternative health insurance carrier); regardless if the employee is in a single, single parent or family plan. The employee's contribution will be withheld on a weekly basis, based upon 48 weeks in the calendar year.

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In the event that the Health Promotion Program is eliminated, through loss of funding or any other reason, the employee cost share will continue to be 15% of monthly premiums for the life of this agreement.

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A full description of the Health Promotion Program is attached as Appendix A.

### Section 2 - Health Insurance

The Association recognizes the increasing cost of providing health insurance to employees. To assist the City in addressing this mutual concern, the Association will join with the City in its efforts to provide further education and information for members in regards to the use of MMEHT cost containment benefit guidelines.

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Effective 1/1/14 the City will implement the PPO 500 Plan through the Maine Municipal Employees Health Trust, on a voluntary basis at the employer/employee cost share as outlined in Article XVI Section 1. Health Promotion Program and Employee Cost. Employees who opt to remain in the Point of Service C Plan will pay the difference in premiums between the PPO 500 Plan and the POS C Plan for single, single parent and family subscribers. The City may change or offer alternative health insurance programs including, but not limited to insurance carriers, health maintenance organizations, preferred provider organizations, or to self-insure so long as the new or alternative coverage and benefits are substantially similar to the plan most recently provided to the membership and further provided that:

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1. The City, by written communication, notifies the Association, no less than sixty days prior to implementation, of the specific details of any changes or alternatives in health insurance.

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2. That the City, subsequent to the written notification but within sixty days, meets with the Association to discuss the changes or alternatives.

1320 3. That any disagreement between the parties to this labor contract as to the changes or alternatives being "substantially similar" be resolved by arbitration.

4. That such changes or alternatives shall not increase the financial burden places upon employees above the current level.

1325 The City may institute cost containment measures relative to insurance coverage so long as the basic level of insurance benefits remains "substantially similar" to the current coverage and no financial burden is incurred by the employees. Such changes may include, but are not limited to, mandatory second opinions for elective surgery, pre-admission and continuing admission review, prohibition on weekend admission except in emergency situations, and mandatory out-patient elective surgery for certain designated surgical procedures.

1330 The City shall provide adequate staff assistance to help firefighter's process claim forms, including mailing of claims and medical forms to health care providers.

1335 Section 3 – Health Reimbursement Account –

1340 Effective 7/1/14, the City will implement a Health Reimbursement Account (HRA) for use toward deductibles and co-insurance in the amount of \$750 for single person and \$1,500 for single parent subscribers and family subscribers in the PPO 500 Plan. Unused money in the HRA rolls over from one year to the next and each fiscal year, the City will refund each account up to the \$750 and \$1500 maximums.

1345 Section 3 - Payment Program for Waiving Health Insurance Coverage with the City of Auburn

Any firefighter may elect to waive coverage in the City's health insurance plan. Any firefighter waiving full coverage or partial coverage for which he/she would otherwise be eligible shall be paid according to the following conditions:

1350 Except as stated in Article XVII Section 1. Separation From Department, any firefighter eligible for full family coverage or single coverage and who elects to waive health insurance coverage shall receive a payment equal to the amount of five (5) months of health insurance premiums. The waiver payments will be made in twelve (12) monthly payments.



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1355 A firefighter who is eligible for a full family plan but opts to take either a "single parent plan" or a "single plan" shall receive an annual payment equal to five months of the difference in premiums between the plan for which he/she is eligible and the plan which he/she opts to take.

1360 Firefighters who are married to other City (non-school) employees covered by the health insurance shall be eligible for an amount equal to five (5) months of insurance premiums at the single rate if he/she waives health insurance coverage with the City.

1365 The payments in lieu of health insurance shall be based on the premiums in effect the month the premiums are paid. All health insurance waiver premiums are based upon the PPO 500 Plan premiums effective 1/1/2014.

A new firefighter who waives health insurance coverage shall not be eligible for the payment in lieu of insurance until he/she has successfully completed the probationary period.

1370 If the firefighter wishes to be reinstated on the health insurance policy or change his/her coverage from a single or a single parent plan (if he/she would otherwise be eligible for full coverage) he/she may do so as long as he or she follows the insurance carrier's requirements for evidence of insurability and portability of coverage provisions.

1375 If a firefighter is reinstated (or covered for the first time) after receiving payment for waiving health insurance coverage, the firefighter shall repay the City the balance of the payment, pro-rated on a monthly basis.

1380 In order to receive payment for waiving health insurance coverage or to be reinstated on the health insurance plan, the firefighter must submit written notice to the Human Resources Director. Discontinuance of health insurance or reinstatement of coverage will be effective the first day of the following month in which written notice has been received, provided that the employee meets all conditions, which may be imposed by the health insurance carrier.

### 1385 Section 4 - Extent of Coverage

1390 The extent of coverage provided under the existing insurance policies (including HMO and self-insured plans) referred to in the Agreement shall be governed by the terms and conditions set forth in said policies or plans in existence at the time of the dispute. Any questions or disputes concerning said insurance policies or plans or benefits hereunder shall be resolved in accordance with the terms and conditions set forth in said policies or plans and shall

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not be subject to the grievance and arbitration procedures set forth in the Agreement. The failure of any insurance carrier(s) or plan administrator(s) to provide any benefit for which it has contracted or is obligated shall result in no liability to the City, nor shall such failure be considered a breach by the City of any obligation undertaken under this or any other Agreement.

### Section 5 - Benefits Supplementing Workers' Compensation Benefits

If a firefighter receives a personal injury or is disabled by occupational disease arising out of and in the course of his/her employment by the City, the City will, provided that the provisions of this Article are met by the firefighter, continue his/her full contract wages and other benefits, without interruption or waiting period, so long as he/she is incapacitated to perform firefighter's work as a result of the personal injury or occupational disease. The City has the right to contest a workers' compensation claim. Such a claim will be appealed and resolved according to the procedures provided by the workers' compensation statutes and regulations.

An aggrieved firefighter may seek relief only under the Workers' Compensation Act before the Workers' Compensation Commission. In the event of a final decision by the Workers' Compensation Commission that the firefighter's injury or illness arose out of and in the course of his/her employment with the City, and incapacitated him/her for his/her work as a firefighter, then, in addition to benefits payable under the Workers' Compensation Act, the City shall provide the firefighter all additional benefits due under this contract, if any, retroactive to the date of incapacity. No firefighter shall receive any combination of benefits from the City or its Workers' Compensation carrier, including, but not limited to sick pay and vacation pay, which benefits total more than such employee's benefits under this contract, or the Workers' Compensation Act, whichever is greater. No firefighter shall lose sick pay benefits during time he/she is entitled to benefits under this section.

The firefighter who is receiving or claims benefits under this Article shall, if requested by the City, promptly file a claim for Workers' Compensation benefits. Otherwise, the employee may exercise rights under Workers' Compensation Act as he/she wishes, or not. If a claim for Workers' Compensation benefits is not filed within thirty (30) days after receipt of a written request making reference to this provision in the contract, then the City may terminate wages provided under this Article unless and until the firefighter files the requested claim.

Upon filing a claim for continuation of wages under this Article, the firefighter shall, upon request by the City, execute a certificate authorizing the City to obtain in writing from any physician, osteopath, chiropractor, or any other health care provider, any written information

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1430 which is or has been obtained in connection with the examination or treatment of the employee and which relates to any injury or disease for which compensation is claimed.

1435 The City shall have, for any benefits paid a firefighter pursuant to this Article, the identical lien and rights as against third parties and the firefighter as the City or its insurance carrier may give as regards worker's compensation benefits under 39 M.R.S.A. §68. At the request of the City, the firefighter shall sign such documents and perform such acts as are reasonably required in order to effectively subrogate the City to the firefighter's claim(s).

1440 The rights of the City and the firefighter under this Article are in addition to and not limited by the Workers' Compensation Act of the State of Maine and regulations issued pursuant thereto.

### Section 6 - Expense of Injury or Illness

1445 The City shall pay all hospital, medical, and surgical expenses incurred by any firefighters on account of injury or illness arising out of and during the course of their employment; except that it shall not be required to pay for any such expenses which are covered by insurance provided by the City or otherwise assumed by the City.

### Section 7 - Light Duty Return to Work

1450 The City and Local 797, IAFF agree to continue the Light Duty Return-to-Work Program for firefighters. The goal of the program is:

- 1455 1. To assist the firefighter in the return to his/her pre-injury position with the Fire Department;
2. To provide some "connectedness of the firefighter to the Department;
- 1460 3. To speed the recovery process;
4. To provide for meaningful work for the Department and the Firefighter;
- 1465 5. To make maximum use of the Firefighter's skills and abilities. To that end, the City has defined specific work assignments or light duty activities that will be made available to employees injured at work who are unable for period of time, as defined in this section, to perform their regular firefighting duties.

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1470 a. No light duty assignment shall result in the transfer, displacement, or lay-off of another firefighter, nor shall any assignment be made for the purpose of demeaning, discriminating or punishing the employee for his/her injury, illness, or absence from work.

1475 b. The individual participating in the light duty program will not count toward the apparatus staffing level on duty for that shift.

1480 c. The injured employee will not be required to work on any other shift that his battalion would normally work, unless mutually agreed between the firefighter and the City. If mutually agreed between the firefighter and the City, the firefighter will work the administrative work schedule (8:00 a.m. - 4:30 p.m. M-F) or an alternative flexible schedule to be determined on a case by case basis. It is understood that any alternate schedule will be based upon an average of a 42-hour work week. The firefighter will not be required to work for any other department than the Fire Department, unless mutually agreed upon between the City and the firefighter.

1485 d. The employee on light duty will receive full pay and benefits as provided by Article XVI Health and Safety, Section 5. Benefits Supplementing Workers' Compensation Benefits.

1490 e. In order to improve the effectiveness of the Light Duty Return to Work Program, and to fully utilize the skills and abilities of the injured firefighter, the Deputy Chief, the Battalion Chief on-duty and the injured firefighter will meet at the beginning of the shift to discuss the firefighter's medical restrictions; the work that falls within the medical restrictions that need to be performed that day; the firefighter's special training, expertise or interests; and the firefighters suggestions for ways that he/she might best enhance the Department's operations while on light duty

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At the end of each shift, the firefighter on light duty will provide a description of the activities performed during the shift and will turn this record into the Battalion Chief at the end of each shift

1500 f. The firefighter may be on light duty status for a maximum of one year, or until he/she reaches maximum medical improvement, or until he/she is able to return to regular status, whichever occurs first. A firefighter's medical condition will be reviewed at least quarterly (more frequently if necessary) to determine if the firefighter is still unable to return to firefighter duties.

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1510 g. The hours worked on light duty will be turned into the City's workers' compensation claims manager weekly in order that the workers' compensation benefit may be re-calculated. This will have no effect on the firefighter's regular wages from the City, as the firefighter will endorse the workers' compensation check over to the City as is current practice.

1515 h. No firefighter will be required to perform light duty activities that are not within the employee's work capacity. If the employee and the Fire Chief are unable to reach agreement as to the employee's capacity to perform any light duty job, the Chief or his designee will submit a written light duty job description to the department designated physician for his/her determination that the proposed duties are within the employee's work capacity.

1520 i. Light duty assignments may be filled by the firefighter who is unable to perform regular duty as a result of an off-the-job illness or injury as long as the following conditions are met:

1525 i. Participation is on a voluntary basis;

ii. The firefighter has exhausted his accrued sick leave;

1530 iii. There is a light duty position available. Light duty positions will be filled first by firefighters who are unable to return to regular duty as a result of an on-the-job illness or injury.

1535 iv. The firefighter may be in light duty capacity for a maximum of three months, or until he/she reaches maximum medical improvement, or until he/she is able to return to regular duty, whichever is soonest.

v. Firefighters on light duty due to an off-the-job illness or injury will work the administrative work schedule (8:00 a.m. - 4:30 p.m. M-F).

1540 vi. Firefighters on light duty due to an off-the-job illness or injury will receive payment only for those hours actually worked.

j. The department will develop a list of light duty activities for the firefighter. It will be management's right as to which activity is filled by which firefighter. It shall be the

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1545 responsibility of the Fire Chief or his designee to match the work capacity skills and abilities of the firefighter with the light duty activities available at the time of the injury.

### Section 8 - Damage to Glasses and Teeth

1550 The City shall pay all expenses incurred by a firefighter for loss or damage of eyeglasses, false teeth, and hearing aids while on an emergency call. This benefit shall not diminish any benefits available under the Workers' Compensation Act.

### Section 9 - Department Physician

1555 The City of Auburn may retain a department designated physician to be the primary contact for all work-related injuries, to oversee the Respiratory Fitness Program and for other situations when in the judgment of the Fire Chief, medical consultation regarding a firefighter's fitness for duty is needed.

1560 In recognition of the essential job functions, which require the firefighter to be in good physical condition, the City and the firefighter have mutual interest in the firefighter's overall health and well-being. Firefighters are strongly encouraged to have regular exams on a schedule set forth by their primary care physician and to discuss with their primary care physician the physical demands of their profession. The City offers a comprehensive health insurance  
1565 package, as well as an Employee Assistance Program and Wellness related programs, which defray the costs of annual medical exams and follow-up treatment.

### Section 10 - Substance Abuse Testing Program

1570 The City of Auburn and Local 797 will reach agreement on all sections of the Substance Abuse Testing Policy for firefighters before it is submitted to the Department of Labor for approval. If the Substance Abuse Testing Policy is found not to be in compliance with state statutes, the City and the Union agree to reopen the contract for purposes of renegotiating only those specific sections of the Substance Abuse Testing Policy found not to be in compliance.  
1575 These sections will be resubmitted to the Department of Labor for approval.

1580 No substance abuse test will be administered until the Substance Abuse Testing Policy for firefighters (attached as an addendum to this contract) has been approved by the Department of Labor and all regulations pertaining to implementation have been met.

### Section 11 - General Safety



The Health and Safety Team will continue to consider and make recommendations on safety issues.

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## Section 12 – Vaccination Requirements

In accordance with Maine EMS rules Chapter 21 “Immunization Requirements”, the city must require that a Covered Emergency Medical Services Person provide to the City, a Certificate of Immunization or documentation of an Exemption pertaining to COVID 19 and Influenza. The intent of this article is to ensure that both the City and the employees remain in compliance with this Maine EMS Mandate.

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Per Maine EMS, “Covered Emergency Medical Services Person” means an advanced emergency medical services person, a basic emergency medical services person or any person licensed by this board who routinely provides Direct Patient Care. For the purposes of this definition, EMS students that provide Direct Patient Care are Covered Emergency Medical Services Persons.

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Employees that meet the definition of “Covered Emergency Medical Service Person” are required to meet the vaccination requirements and to provide proof to the Deputy Chief, of such vaccinations or an exemption as described in the rule.

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Compliance with the vaccination rule is a condition of employment. An employee found to be in non-compliance with this rule will be given a one time, thirty (30) day period, to come into compliance. During this 30-day period the firefighter will be required to find voluntary alternate ride assignments if currently assigned to a rescue. The department expects all licensed uniformed firefighters to provide patient care. Failure to come into compliance may result in termination.

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Firefighters required to receive vaccination or boosters off duty will be compensated at the firefighter’s overtime rate.

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If an employee should experience any signs or symptoms that prevent them from working within 72 hours of receiving a vaccination or booster shot, on or off duty, the firefighter shall be allotted administrative leave until signs and symptoms cease.

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As with any workplace injury, the employee may report suspected illness or injury resulting from vaccination. Such report will be processed through the normal Workers Compensation Claims process.

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Any firefighter that elects to separate from the department rather than meet the COVID and Influenza vaccination requirements as defined by the rule, will be allotted all benefits of separation under Article XVII-Separation from the Department.

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If upon implementation of this vaccination requirement, any current employee elects not to receive the vaccinations to become compliant with the rule, and is separated from the Fire

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Department, for one year the employee will be considered for any city position that the employee may be eligible for.

### 1630 **ARTICLE XVII - Separation from Department**

#### Section 1 - Retirement

1635 The members of the Auburn Fire Department participate in the Maine Public Employees Retirement System Consolidation Plan -- Special Plan II. Effective 7/1/14, the City will implement MePERS Special Plan 3C (two-thirds pension at 25 years with no minimum age) for those firefighters who have less than 25 years of service with the Department. Firefighters with 25 years of service or more at the time of implementation of Special Plan 3C will not be eligible for Special Plan 3C.

1640 The City will implement a In Service Retirement Program for Firefighters who reach 25 years of service in the MePERS on 7/1/14 or later. Participants in the In-Service Retirement Program will retire in order to draw his/her pension and will remain employed for up to five additional years or upon reaching thirty (30) years of service as defined by MePERS.

1645 At the completion of the Firefighter's twenty fourth (24<sup>th</sup>) year as determined by MePERS, the Firefighter will declare his/her intention to participate in the In-Service Retirement Program when eligible and will state his/her intentions to the Fire Chief or his/her designee. The Firefighter may opt into the In-Service Retirement Program at any time after attaining 25 years  
1650 of service, however, may participate in the plan until he/she reaches 30 years of total service.

1655 The firefighter in the In-Service Retirement Program will cash out all accrued vacation time and all accrued sick time as per this article. Firefighters may reserve 48 hours of sick leave from being cashed out. This sick time may be retained and used as a starting sick leave balance upon participation in the In-Service Retirement Program. Firefighters must state in writing to the Office Manager that they want to reserve this sick time from being cashed out prior to the final submission of the termination forms and cash-out is submitted to the Finance Department. The Firefighter understands that any sick leave hours held in reserve and not cashed out may negatively affect his/her pension through Maine Public Employees Retirement System. It is  
1660 his/her responsibility to thoroughly understand any potential impacts. During the five years that the firefighter works under the In-Service Retirement Program, the firefighter will accrue vacation and sick time, but will be entitled to cash-out only accrued but unused vacation leave. Firefighters who retire and participate in the In-Service Program who have more than 1440 hours of accrued sick leave at retirement will put the excess hours over 1440 into a "lapsed sick leave"  
1665 account. The use of the lapsed sick leave account is for the sole purpose of covering the



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firefighter's extended absences of more than 3 weeks and for conditions that would be covered by the City's Family and Medical Leave policy. The lapsed sick leave account is for the firefighter's own personal absence as a result of illness or accident and is not intended to be transferred to a sick bank for any other firefighter or City employee.

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The City will share the savings generated from not making employer contributions to MePERS with the Firefighter on the In-Service Retirement Program on a 50/50 basis, with the savings for the firefighter to be paid to a supplemental retirement fund or a Retirement Health Savings Account.

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### Section 2 - Vacation Cash-out

If a firefighter separates from the department with accrued and unused vacation hours, he/she will be entitled to "cash out" the unused vacation hours according to the following parameters:

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1. Up to 350 hours.
2. Up to 480 hours if on OJI or extended sick leave.

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Upon separation, if the firefighter's vacation bank is in the negative, the hours will be deducted from the firefighter's last paycheck.

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For purposes of "cashing out" unused vacation time, each period/week of vacation time shall be calculated as being equivalent to forty-two hours at the firefighters' regular rate of pay. A vacation hour is equivalent to .875 pay hours (48 times .875 equals 42 hours at regular rate of pay).

### Section 3 – Cash out of Accrued Sick Leave

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With the exception of a voluntary election for those firefighters participating in the In-Service Retirement Program, one-half (1/2) of the accumulated sick leave, subject to a maximum of 720 hours, shall be paid the firefighter upon involuntary separation or retirement, resignation with ten (10) years or more of service with the City of Auburn. In the event of a non-work-related death of a firefighter, 50% of the accrued sick leave up to a maximum of 720 hours will be paid to the firefighter's beneficiaries. In the event that a firefighter dies in the line of duty, 100% of the firefighter's accumulated sick leave will be paid to the firefighter's beneficiary. The City's obligations in this regard shall be satisfied by payment, in the discretion of the Manager, to

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1705 the deceased's estate, his/her administrator or executor, or his/her widow/widower or children, or other person(s) designated in writing by the deceased.

### Section 4 - Compensatory Time

1710 Any accrued but unused compensatory time will be paid to the firefighter upon separation from the department.

### Section 5 - Uniform Reimbursement

1715 The balance in the uniform reimbursement account will be paid in cash in the event of the firefighter's separation from service (retirement, resignation etc.). Any cash payment from this account will be taxed. All firefighters retiring or entering the DROP Program during the term of this contract shall receive the accrued balance of the clothing allowance. All others will have two (2) years (until June 30, 2016) to spend down the balance to meet the two-year maximum balance.

1720 Upon termination of employment, the department member shall reimburse the City for that portion of the clothing allowance paid but not earned. The earned portion of clothing allowance shall consist of the number of months in the final year of employment that a person has been on duty. In this instance, "on duty" refers to separation date from the department.

### Section 6 - Lay-offs

1730 **Lay-off** – In the event it becomes necessary for the City to lay-off firefighters for any reason(s), the firefighters shall be laid off in the inverse order of seniority by rank. Any officer selected to be laid off may elect to accept a reduction in rank in which case the least senior member of the Department in the next lowest rank shall be laid off or reduced in rank if a lower rank is available. Any officer electing to accept a reduction in rank in lieu of a proposed lay-off must be qualified as determined by the Fire Chief to assume the duties of the new position. If there is a conflict between seniority during a lay-off and assignment of paramedics in accordance to Section 2-5 EMT Assignments, Section 2-5 of the contract shall have precedence.

1740 In the event the Department must make deep personnel cuts which result in lay-off of 50% of the firefighters, the Fire Chief will have complete discretion as to who will be laid off as long as he/she can demonstrate the reasons for his/her selections. Continuous time in the Department will be given the utmost consideration when these selections are made.

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If possible, the City will provide a two-week notice to the firefighters affected by the lay-offs.

1745           **Recall** – The firefighters who are laid off shall be placed on a recall list for a period of two years. Firefighters who are reduced in rank will be placed on a reinstatement list. If there is a recall, firefighters who are on the recall list shall be recalled or reinstated to their original rank in the inverse order of their lay-off or reduction in rank provided that they are presently qualified to perform the duties as determined by the Chief. The firefighters will be required maintain all  
1750 certifications for the position and to take a pre-employment medical exam, substance abuse test and physical agility test to determine if he/she is physically fit to perform the essential job functions of the job. It is the responsibility of the firefighter to provide the Fire Department and the Human Resources Department with a current address and telephone number. Notice of recall will be sent to the firefighter by certified mail. The firefighter has ten (10) working days to  
1755 respond to the recall notice.

No new firefighters will be hired within this one-year period unless all the laid-off firefighters have been afforded the recall.

## 1760   **ARTICLE XVIII - Miscellaneous Provisions**

### Section 1 - Uniform Reimbursement Policy

1765           The City will establish a reimbursable uniform account similar to the Wellness Account. An amount equal to the following amounts will be credited to the firefighter on July 1<sup>st</sup> of each year:

1770                           Probationary and Permanent Firefighter – \$485.  
                                  Captain -- \$510.00  
                                  Battalion Chief -- \$510.00

1775           In addition to the above, the City will purchase full dress uniforms for those members of the department required to wear such uniforms at any time. The City will reimburse the firefighter \$100.00 toward the purchase of a new uniform jacket on a one-time basis only.

a. Procedures for submitting bills: The firefighter will purchase the uniforms as per the attached list and then submit the receipts to the AFD administrative office personnel. The administrative personnel will forward the receipts to the Finance Department for reimbursement to the firefighter.



1780

b. Accrual: The entire uniform credit does not have to be drawn down completely each year. Effective 6/30/16, the Firefighter may carryover the value of one year's uniform allowance from one fiscal year to next in order to purchase more expensive uniform items, but in no case may the firefighter's balance in the uniform reimbursement account exceed two years of allowance, except as specifically provided in Article XVII Separation from Department Section 5 Uniform Reimbursement. In April, the City will notify the firefighters of the current balance in the account on order that they may draw down the balance below the maximum two-year allowance. In this way, the firefighter may use the accrual from more than one year to make large infrequent uniform purchases such as structural firefighting boots. The Labor Management Committee will monitor the usage of the uniform reimbursement account. If it appears that firefighters are not drawing down the balance in the accounts over a two to three year period, then the Labor Management Committee will consider the implementation of caps on the maximum amount that can be carried over from one year to the following year (uniform accrual).

1785

1790

1795

c. List of approved uniform items: The firefighter may submit receipts for reimbursement for uniform clothing as specified in the uniform policy in the AFD Employee Handbook. Items purchased through the uniform reimbursement account must meet IRS regulations in order to be tax exempt. This list is subject to change if the Department uniform policy changes.

1800

Section 2 – Laundry Service

Effective 7/1/14 the City will discontinue contracted laundry service and firefighter will launder department bed linens, towels, and uniforms at the stations. Firefighters will receive \$100 per firefighter per year to be used toward the purchase of personal bed linens and towels and laundry cleaning supplies. The City will continue to provide and maintain a washer and dryer at each station. The Fire Chief through Labor/Management will establish policy on items to be purchased with this account and the method of purchasing these items.

1805

1810

Section 3 – Use of Wireless Internet

The City agrees to provide internet access/service in all AFD stations for use by bargaining unit employees consistent with the City's Computer Use and Support Policy.

1815

Section 4 - Association Meetings

The Auburn Firefighters Association shall be permitted to hold regularly scheduled meetings at the Central Fire Station, but substation firefighters shall not be called in by the

# CITY OF AUBURN

## Auburn Firefighters Association Local No. 797



1820 Association. The Association shall also be permitted to hold four (4) meetings per year at the  
Central Fire Station at which all units shall be allowed to attend. In addition to the above, the  
Association shall be granted the right to hold additional meetings at Central Station where such  
are required solely for the purpose of submitting a proposed collective bargaining agreement to  
the membership for ratification and to include all units at such meetings. The Chief shall be  
notified of any such special meetings in advance.

### 1825 Section 5 - Discipline

1830 Employees shall only be disciplined or discharged for just cause. The employer shall  
have the authority to bypass any step in the discipline process that is warranted by the severity of  
the infraction.

- a. Oral reprimand requires a written record of the oral warning given and the reason(s)  
therefore. Any documented oral reprimand inserted in the Employee's personnel file  
shall be removed after a six (6) month period.
- 1835 b. Written warning requires written notification, indicating the violation, reason(s)  
therefore, to the employee with a copy given to the Union President. Any written  
warning inserted in the Employee's personnel file shall be removed after a two (2) year  
period with no subsequent offenses.
- 1840 c. Written reprimand requires written notification indicating the violation, reason(s)  
therefore, to the employee with a copy given to the Union President. A written reprimand  
which has not previously been the subject of a hearing shall not be placed in a member's  
personnel file unless the member is first given the opportunity to see a copy of the  
reprimand. Within five (5) days thereafter, the member may file a written reply. If the  
1845 Chief thereafter places the written reprimand in the member's personnel file, he/she shall  
also include the reply. Two years after the incident, a firefighter may submit a request to  
the Chief that single incidents be purged from his/her file, such request to be determined  
by a three-member committee composed of: The City Manager or designee, the Chief of  
the Fire Department, and the Association President or designee (who shall serve on the  
committee only at the request of the individual).
- 1850 d. Suspension/Demotion requires written notification, indicating the violation, reason(s) and  
dates of suspension, demotion, probation, to the employee with a copy given to the Union  
President.
- 1855 e. Discharge requires written notification, indicating the violation, reason(s) and dates of  
suspension, demotion, probation, to the employee with a copy given to the Union  
President.

If the Employer has reason to reprimand an Employee, it shall be done in a manner that  
will not embarrass the employee before other Employees or the public. Any disciplinary action

# CITY OF AUBURN



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## Auburn Firefighters Association Local No. 797

1860 or measure will be governed according to Fire Department Rules and Regulations. Such discipline may be processed as a grievance through the regular grievance procedure.

### Section 6 - Indemnity

1865 The City agrees to protect, save harmless, and indemnify a firefighter from and against all fines, penalties, loss, damage, cost and expense suffered or sustained by him/her or for which he/she may be held or become liable by reason or injury, including death, to persons or property, or other causes whatsoever, in the event an attempt should be made to hold him/her liable therefore in connection with the performance of his/her duties as a firefighter, including, without limitation on the foregoing, the operation of Fire Department vehicles and apparatus.

1870

### Section 7 - Residence of Firefighters

Firefighters may live in any location. The lack of a residency requirement may be re-evaluated in terms of impact on the department.

1875

### Section 8 - Jury Duty and Court Appearances

1880 Requirements of jury duty for firefighters shall be as outlined in the Administrative Manual of the City of Auburn, however, if the firefighter is excused by the court for any reason, he/she shall be required to return promptly thereafter unless the time of release is less than one hour of the time the firefighter tour of duty is scheduled to end.

1885 Fire Department personnel covered by this Agreement required to make an off-duty attendance at court for purposes directly related to their work as Auburn Firefighters shall receive a minimum of three (3) hours pay at his/her regular base hourly rate for each such attendance or time and one-half (1 1/2) his/her regular base hourly rate for all hours in attendance, whichever is greater. Any compensation (from other than the City) received by firefighters for attendance at any court or official hearing while on duty or if called while off-duty for a work-related matter shall be paid to the City.

1890

## **ARTICLE XIX - Fire Prevention Officer**

1895 NFPA Standards and Rules as it applies to inspections, reference, enforcement, and review as it pertains to plans review, building, construction and code enforcement may be conducted by planning/code enforcement staff.

# CITY OF AUBURN

## Auburn Firefighters Association Local No. 797



The Fire Prevention Officer will be paid according to the attached wage schedule. The Fire Prevention Officer's evaluation will be conducted on his/her anniversary date of hire.

1900 The Fire Prevention Officer will be entitled to the same tuition and books reimbursement as provided to other firefighters.

The Fire Prevention Officer will work the administrative work schedule -- 8:00 a.m. to 4:30 p.m. Monday through Friday.

1905  
Flexitime –

The purpose of flex time is to allow some flexibility in the FPO's work schedule so that he/she can more effectively meet the demands of his/her job that occur outside normal business hours.

1910

Flexitime will not be awarded on a strict hour for hour basis; rather, the DC and the FPO will meet after the event to determine how much flexitime is appropriate.

1915 The FPO will make every attempt to submit a verbal request for flexitime off to the DC as soon as possible so that administration can plan for the absence of the FPO.

Overtime –

1920 Overtime will be paid to the FPO at the rate of 1 and ½ times his/her normal rate of pay. A minimum of 3 hours of overtime will be paid when he/she is called before 7:00 am or after 4:30 pm on a normal working day, or for fire investigations occurring anytime during normally scheduled off duty time. The FPO will be compensated at the OT rate only for actual hours worked on all other call back situations.

1925

Overtime will be paid in the event that the Police Department, Chief, Deputy Chief, or an Acting/Battalion Chief requests that the FPO attend an emergency event outside his normal work schedule.

1930 Upon receiving such a request, the FPO will make every attempt to contact the requestor and either resolve the issue over the phone or confirm that it is a situation that requires his attendance.

# CITY OF AUBURN

## Auburn Firefighters Association Local No. 797



1935 A brief written explanatory report will be submitted to the Deputy Chief along with a request for overtime payment. Upon approval, this will be forwarded to the Office Manager for payroll processing.

1940 Should the situation in fact turn out not to warrant the presence of the FPO, this will be included in a brief report specified in #4 and appropriate action will be taken to educate the person who made the errant request.

Overtime pay will not be withheld from the FPO in the event of an unnecessary request so long as the FPO complies with item 3.

1945 The Fire Prevention Officer will receive the following holidays off with no additional compensation:

- |      |                          |  |
|------|--------------------------|--|
| 1950 | 1. New Year's Day        | 8. Columbus /Indigenous Peoples' Day   |
|      | 2. Washington's Birthday | 9. Veteran's Day                       |
|      | 3. Patriot's Day         | 10. Thanksgiving Day and the day after |
|      | 4. Memorial Day          | 11. Christmas Day                      |
|      | 5. Juneteenth            | 12. Martin Luther King Day             |
|      | 6. Independence Day      | 13. Any one-time national holiday      |
| 1955 | 7. Labor Day             | mandated by the President and          |
|      |                          | observed by another Auburn City        |
|      |                          | Departments                            |

He/she will receive one personal day per contract year.

1960 Vacation accrual for the Fire Prevention Officer will be as follows: One day per month; 15 days per year after completion of the fifth year of employment; 20 days per year after completion of the 12th year of employment. The Fire Prevention Officer may accumulate, up to a maximum of 30 days.

1965 The Fire Prevention Officer will accumulate one sick day (7.5 hours) per month up to a maximum of 150 days. The Fire Prevention Officer may cash out one half of accumulated sick leave up to a maximum of 75 days conditional upon him/her having 10 or more years of employment with the City of Auburn.

1970 The Fire Prevention Officer may also take Wellness Days, if earned through the City's Wellness Program. He must schedule Wellness Days off through the Deputy Fire Chief.



# CITY OF AUBURN

**Auburn Firefighters Association  
Local No. 797**



The Fire Prevention Officer will annually be credited with \$385 in the uniform reimbursement account.

1975

## **ARTICLE XX - Duration of the Contract**

This agreement shall be effective upon execution and shall continue in force and in effect from July 1, 2022 until June 30, 2025. The provisions hereof shall remain in effect after that termination date if the parties are engaged in collective bargaining, mediation, fact-finding, or interest arbitration pursuant to the Maine Public Employees Labor Relations Act, or legal action relating thereto. No interest arbitration decision shall be given retroactive effect unless it is determined by reference to the facts and circumstances surrounding the negotiation that retroactive application would be just. In that case, the decision shall be made retroactive to the extent State law gives the arbitrator the power to make it so.

1980

1985

## **ARTICLE XXI - Inconsistent Rules, Regulations and Ordinances**

The City may adopt such rules, regulations, ordinances, or charter provisions as it deems necessary for the operation of the Fire Department and the conduct of its employees, provided such rules do not conflict with any of the provisions of this Agreement. Any disagreements between the City and the Association as to whether or not a particular rule, regulation, ordinance conflicts with this Agreement shall be resolved by the arbitration procedure as outlined in Article XII of the Collective Bargaining Agreement.

1990

1995

To the extent any rule, regulation, or ordinance is found to be inconsistent with this Collective Bargaining Agreement, this Collective Bargaining Agreement shall prevail to the extent of the inconsistency.

2000

The President of the Association shall receive a copy of all departmental orders and notices and copies of proposed changes in the Administration Manual.

## **ARTICLE XXII - Active Agreement**

The contract may be changed during the term of this agreement when (1) the members of the Labor Management Committee have reached consensus and agreed to discuss any particular change(s) in the contract; and (2) the Union and the City Council have voted to make the change that was discussed and is being proposed by the Labor Management Committee.

2005

# CITY OF AUBURN

**Auburn Firefighters Association  
Local No. 797**



2010 **ARTICLE XXIII - Savings Clause**

If any provision of this agreement, or the application of such provision, should be rendered or declared invalid by any court action or by reason of any existing or subsequently enacted legislation, the remaining parts or portions of this Agreement shall remain in full force and effect.

2015

# CITY OF AUBURN

**Auburn Firefighters Association  
Local No. 797**



2020 **IN WITNESS WHEREOF**, the City of Auburn has caused its corporate seal to be affixed to  
this instrument, and has caused this instrument to be signed for it and in the name of its  
appropriate municipal authorities and by its duly authorized officials as set forth below, and  
Auburn Firefighters Association, Local No. 797, of the International Association of Firefighters,  
A.F.L.-C.I.O. has caused this instrument to be signed by its President, thereunto duly authorized,  
on the date first above mentioned.

2025

Witnesses:

City of Auburn

2030

\_\_\_\_\_

By: \_\_\_\_\_

Phil Crowell  
Its City Manager

2035

Auburn Firefighters Association, Local  
797 of the International Association of  
Firefighters A.F.L.-C.I.O.

2040

\_\_\_\_\_

By: \_\_\_\_\_

Chris Moretto  
Its President

2045



## **Appendix A - Health Promotion Program**

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The program seeks voluntary participation in a health promotion and health care management system which focuses primarily on prevention activities. The goals include:

2055

- To improve the health of each employee, through a personal risk assessment, continual education, and personal wellness plans;
- By employees being actively involved in their overall healthcare and by focusing on prevention, the use of higher cost medical services may decline which will result in long term savings in health insurance premiums;
- To reward employees and their dependents for healthy behavior.

2060

### Health Risk Analysis and Education

2065

The first major part of the program is an individual health risk analysis which will be available for each employee who desires one. This service may be provided by a health care provider that will be under contract with the City to provide these services or by the employee's primary care physician. If the employee opts to use his/her primary care physician, the result of the health risk analysis will be provided to the City's contracted health promotion provider. The health risk analysis will include but not be limited to high blood pressure, elevated cholesterol, diabetes screening, smoking, and proper body weight. The aggregate results of the analysis for all City employees will be available to the City. However, consistent with federal law, the City will not have access to individual's health risk analysis.

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2075

A health care educator will be assigned and responsible to work with each and every member that signs up for the program (dependents are not required but are encouraged to participate in the program). These educators will work to establish the base line for health risk factors for each member. Once established, the educators will work with the member to provide wellness goals and benchmarks. Educational material and motivation will be a core part of the program.

2080

After the initial consultation, each member will receive at least one additional face-to-face meeting annually. Such meetings will be primarily designed to be on the job site for the employees and in a private setting. Depending on the results of the health risk analysis and the goals of the member, additional meetings will be scheduled. Should a face-to-face consultation not be practical, phone and email may be acceptable alternatives.

2085

# CITY OF AUBURN

## Auburn Firefighters Association Local No. 797



2090 The City, after consultation with the Health Care Provider and the City Wellness Team, will, at a minimum, provide monthly health related programs and topics that relate to the challenges that are facing the members. The City will continue to seek creative and meaningful ways to reward and recognize employees making progress in obtaining their individual health care goals.

### Health Care Advisory Team

2095 The City's Wellness Team will meet regularly to assist in recommending health-related programs, adjustments to the percentage distribution and any wellness issues or concerns that may arise. There will be at least one fire fighter on the team. Though the Team may recommend changes or adjustments to the program, the City will make the final determination to either accept or reject such recommendations. Lastly, since communications is such an integral part of any successful program, the Team will serve as an information conduit to City employees to  
2100 assist in keeping them apprised of ongoing health care issues.

### Health Care Management Proposal

2105 Except as stated in Article XVII Section 1 Separation From Department, the insurance proposal is as follows: Employees' portion of health insurance premium increases from 15% to 25%, effective January 1, 2021. The program's implementation date is July 1, 2021. During the first year of the program employees need only agree to participate in the program to obtain the 10% health insurance premium savings. After January 1, 2022, employees are expected to meet the specific goals by utilizing their 'best efforts' as established by the Health Care Educators to  
2110 obtain the full 10% savings.

- Health Promotion Program and Health Insurance Cost Share

2115 The employee cost share for firefighters who do not participate in the Health Promotion Program will be 25%. Employees who are participating in the Health Promotion Program are expected to meet the specific goals by utilizing their 'best efforts'. The program has two goals: First, to improve the health of each employee through risk assessment and education; second, to reduce the long-term cost of health insurance for each employee and the City. As such, an employee who makes a 'best effort' but falls short of fully meeting their goals will not be  
2120 penalized, providing, however, that the following three criteria are met:

- a. the employee has participated in the Health Risk Assessment;
- b. has made reasonable progress and improvement since the last measurement;

# CITY OF AUBURN

## Auburn Firefighters Association Local No. 797



2125 c. has been recommended by their health care provider/educator as having made their ‘best effort’.

2130 The City will meet and discuss with the Union in all cases it deems an employee to not have met this standard. Each case shall be decided on an individual basis and shall not be used as a reference in any way for any other employee.

2135 At all times, the employee Primary Care Physician (PCP) shall be responsible for establishing and /or modifying appropriate goals. The Health Care Educator shall be responsible, in consultation with the employee’s PCP, to determine the appropriate activities to meet such goals and to determine whether or not the employee has made a ‘best effort’. In the event of a conflict between the PCP and the Health Care Educator, the employee’s PCP shall have final say in re-determining and/or modifying previously established goals.

### Cafeteria Benefit Plan Options

2140 The City will contribute \$650 to the Cafeteria Benefit Plan, of which the Flexible Spending Account is an option. The Flexible Spending Account can be used for office visit co-payments, lab work, diagnostic testing, prescriptions and other medicals. A firefighter may elect to put money from the Cafeteria Benefit into the Flex Spending Account and may increase the amount in the account by making additional contributions through payroll deductions. All 2145 money must meet the standards set by the IRS. Additionally, firefighters may cash out up to 48 hours of accrued time (sick or vacation) to the Cafeteria Benefit Plan, to be used towards the Flexible Spending Account or any other option on the plan.

### Wage Schedule

2150 Please see the attached Fire Fighter and Fire Prevention Officer Wage Schedules dated July 1, 2022 to June 30, 2025.



**ORDER 19-02052024**

# City Council Order

## IN CITY COUNCIL

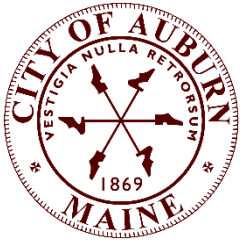
**ORDERED**, that the City Council hereby authorizes the City Manager to execute a revised Collective Bargaining Agreement, predicated on the wage reopener MOU signed in April of 2023, between the City of Auburn and the Local 797 representing the Auburn Fire Department Collective Bargaining Unit.

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**Richard S. Whiting**, Ward One  
**Benjamin J. Weisner**, Ward Four  
**Belinda A. Gerry**, At Large

**Timothy M. Cowan**, Ward Two  
**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



**City of Auburn  
City Council Information Sheet**

**Council Workshop or Meeting Date:** February 5, 2024

**Order:** 20-02052024

**Author:** Phil Crowell, City Manager

**Subject:** 2024 Lewiston Auburn Warming Center

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**Information:**

The Immigrant Resource Center is requesting the cities of Lewiston and Auburn provide the 2024 warming center services funding. The Immigrant Resource Center is requesting \$98,223.42 from the City of Lewiston and \$89,306.42 from City Of Auburn to operate the 2024 warming center.

The proposed warming center will be located at Calvary United Methodist Church located at 59 Sabattus Street in Lewiston. This facility offers unique advantages for our intended services. Located in downtown Lewiston, this facility ensures direct access to public transportation for client visits. Conveniently situated within walking distance of essential and social services such as health, food, housing, mental health, recovery services, education, laundry services and much more.

The warming center will operate for 8 weeks, starting on 2/8/24 and closing on 4/5/24. The center will have operation hours from 6pm to 8am Monday through Friday. And it will operate 24 hours on Saturday and Sunday to accommodate the limited services over the weekend.

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**City Budgetary Impacts:** Authorize the use of Fund Balance in the amount of \$89,306.42

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**Staff Recommended Action:** Consider the order being proposed and funding allocation.

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**Previous Meetings and History:** None

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**City Manager Comments:**

I concur with the recommendation. Signature:

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**Attachments:** Warming Center Proposal and Warming Center Budget



## **Lewiston Auburn Warming Center Request For Funding Proposal**

### **I. Background & Unmet Needs**

In recent years, Lewiston Auburn has witnessed a significant rise in homelessness, necessitating comprehensive homelessness prevention services. Through creative collaboration and partnerships, a temporary warming center was established in January 2023, to provide a warm meal and place for the unhoused in Androscoggin County. While this initiative successfully addressed the immediate needs of providing shelter and meals during the coldest hours (12am-8am), it did not present a sustainable, long-term solution to homelessness. Hence, we need to establish a temporary warming center for the 2024 winter season.

### **II. Format, Delivery, and Scope**

#### *A. Location and Facilities:*

The proposed warming center will be located at Calvary United Methodist Church located at 59 Sabattus Street in Lewiston. This facility offers unique advantages for our intended services. Located in downtown Lewiston, this facility ensures direct access to public transportation for client visits. Conveniently situated within walking distance of essential and social services such as health, food, housing, mental health, recovery services, education, laundry services and much more.

#### *B. Operation:*

The warming center will operate for 8 weeks, starting on 2/8<sup>th</sup> and closing on 4/5<sup>th</sup> 2024. The center will have operation hours from 6pm to 8am Monday through Friday. And it will operate 24 hours on Saturday and Sunday to accommodate the limited services over the weekend.

#### *C. Staffing and Services:*

Operated in collaboration with the Immigrant Resource Center of Maine, the cities of Auburn and Lewiston, and various partner agencies, the warming center will engage with mental health providers, recovery service providers, navigation service providers, schools, food service providers, housing authorities, HUBs, health care providers, outreach workers, landlords, general assistance offices, and larger social services networks. Staff will offer direction, supervision, and supportive services to individuals at the center, assisting them in accessing community-based programs related to housing, case management, mental health, substance use, employment and more. Security personnel, contracted through vendors, will enhance safety measures.

Additionally, the warming center will have Homelessness prevention services that will include GAP rental assistance, wrap-around services, rapid re-housing, and stability services, ensuring that unhoused individuals can attain and maintain permanent housing.

### **III. Budget**

The Immigrant Resource Center is requesting the cities of Lewiston and Auburn provide the 2024 warming center services funding. The Immigrant Resource Center is requesting \$98,223.42 from the City of Lewiston and \$89,306.42 from City Of Auburn to operate the 2024 warming center. Please see the attached budget that details the funding request.

Immigrant Resource Center of Maine  
Warming Center Budget 2024

Name of Line Item	Lewiston	Auburn
<b>Personnel</b>		
1. Center Staff (3 @100%) \$28.00/hr./98 hr.week/10.5 weeks	\$ 32,928.00	\$ 32,928.00
2. Program Manager (1@10%) \$37.00/hr/4 hr. week/8 weeks	\$ 592.00	\$ 592.00
3. Administration & Finance (3 @ 5%) \$164.75(average)/2hr.week/10.5 weeks	\$ 1,318.00	\$ 1,318.00
<b>TOTAL PERSONNEL</b>	<b>\$ 34,838.00</b>	<b>\$ 34,838.00</b>
<b>Fringe Benefits</b>		
1. Employer's FICA/Medicare	\$ 1,332.55	\$ 3,135.55
2. Unemployment Insurance	\$ 891.85	\$ 891.85
3. Worker's Compensation	\$ 421.54	\$ 421.54
4. Health/Dental/Vision Insurance	\$ 7,149.60	\$ 7,149.60
<b>TOTAL FRINGE BENEFITS</b>	<b>\$ 9,795.54</b>	<b>\$ 11,598.54</b>
<b>Consultants</b>		
1. Security (1 @ 100%) \$38.00/hr/98hr. Week/ 10.5 weeks	\$ 14,896.00	\$ 14,896.00
<b>TOTAL CONSULTANTS</b>	<b>\$ 14,896.00</b>	<b>\$ 14,896.00</b>
<b>Supplies</b>		
1. Paper Products (@150.00/week) x 12.5 weeks	\$ 937.50	\$ 937.50
2. Cleaning Supplies (@ \$300.00/week)	\$ 2,250.00	\$ 2,250.00
<b>TOTAL SUPPLIES</b>	<b>\$ 3,187.50</b>	<b>\$ 3,187.50</b>
<b>Insurance</b>		
1. Liability & Property Damage	\$ 2,500.00	\$ 2,500.00
<b>TOTAL INSURANCE</b>	<b>\$ 2,500.00</b>	<b>\$ 2,500.00</b>
<b>Other</b>		
1.Calgary Church	\$ 15,000.00	\$ 5,000.00
2.Food (@ \$2,800.00/week) 10.5 Weeks	\$ 14,700.00	\$ 14,700.00
3.First-Aid Kit	\$ 200.00	\$ 200.00
4.Gloves and Masks	\$ 500.00	\$ 250.00
5.Narcan (Naloxone Duty Belt Pouch   Holds Two NARCAN® Nasal Sprays) @ \$180.00/pack	\$ 360.00	\$ 140.00
6.Cleaning and Desinfecting Crew for Closing Center	\$ 1,500.00	\$ 1,500.00
7.Travel @ .45¢ (15 miles/day/73/days)	\$ 246.38	\$ 246.38
8.Miscellaneous	\$ 500.00	\$ 250.00
<b>TOTAL OTHER</b>	<b>\$ 33,006.38</b>	<b>\$ 22,286.38</b>
<b>TOTAL</b>	<b>\$ 98,223.42</b>	<b>\$ 89,306.42</b>



**ORDER 20-02052024**

# City Council Order

## IN CITY COUNCIL

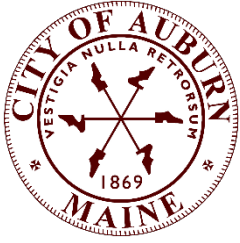
**Ordered,** that the City Council hereby authorizes the use of \$89,306.42 from the Fund Balance to provide funding for 2024 warming center services. The proposed warming center will be located at the Calvary United Methodist Church located at 59 Sabattus Street in Lewiston from 2/8/2024 through 4/5/2024.

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**Richard S. Whiting**, Ward One  
**Benjamin J. Weisner**, Ward Four  
**Belinda A. Gerry**, At Large

**Timothy M. Cowan**, Ward Two  
**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



## City of Auburn City Council Information Sheet

**Council Workshop or Meeting Date:** February 5, 2024

**Subject:** Executive Session

**Information:** Economic development, pursuant to 1 M.R.S.A. Section 405(6) (C) which premature disclosure would prejudice the competitive or bargaining position of the city.

**Executive Session:** On occasion, the City Council discusses matters which are required or allowed by State law to be considered in executive session. Executive sessions are not open to the public. The matters that are discussed in executive session are required to be kept confidential until they become a matter of public discussion. In order to go into executive session, a Councilor must make a motion in public. The motion must be recorded, and 3/5 of the members of the Council must vote to go into executive session. An executive session is not required to be scheduled in advance as an agenda item, although when it is known at the time that the agenda is finalized, it will be listed on the agenda. The only topics which may be discussed in executive session are those that fall within one of the categories set forth in Title 1 M.R.S.A. Section 405(6). Those applicable to municipal government are:

A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:

- (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;
- (2) Any person charged or investigated must be permitted to be present at an executive session if that person so desires;
- (3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against that person be conducted in open session. A request, if made to the agency, must be honored; and
- (4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present. This paragraph does not apply to discussion of a budget or budget proposal;

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

- (1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire;

C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency;

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions;

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage;

F. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute;

G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and

H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph C in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter.