



PLANNING COMMISSION AGENDA
May 11, 2010, 7:00 p.m.
Multipurpose Room/Council Chamber
Burien City Hall, 400 SW 152nd Street
Burien, Washington 98166

**This meeting can be watched live on Burien Cable Channel 21 or
streaming live and archived video on www.burienmedia.org**

I. ROLL CALL

II. AGENDA CONFIRMATION

III. PUBLIC COMMENT Public comment will be accepted on topics not scheduled for a public hearing.

IV. APPROVAL OF MINUTES a. March 23, 2010
b. March 30, 2010

V. OLD BUSINESS None

VI. NEW BUSINESS Zoning Code Amendments: Introduction and discussion on merging Burien Municipal Code (BMC) Title 18 (Interim Zoning Code) into BMC Title 19 (New Zoning Code)

**VII. PLANNING COMMISSION
COMMUNICATIONS**

VIII. DIRECTOR'S REPORT

IX. ADJOURNMENT

Future Agendas (Tentative) May 25:
-Public hearing and possible recommendation on Zoning Code Amendments merging BMC Title 18 into BMC Title 19

June 8:
-Recommendation on Zoning Code Amendments merging BMC Title 18 into BMC Title 19 (if needed)
-Discussion and possible recommendation on annual Comprehensive Plan amendment docket

Planning Commissioners

Joe Fitzgibbon (Chair)

Jim Clingan (Vice Chair)
Rachel Pizarro

Greg Duff
Nancy Tosta

Ray Helms
John Uptegrove

City of Burien

BURIEN PLANNING COMMISSION MEETING

March 23, 2010

7:00 p.m.

City Council Chambers

MINUTES

Planning Commission Members Present:

Joe Fitzgibbon, Janet Shull, Jim Clingan, Rebecca McInteer, Rachel Pizarro

Absent:

None

Others Present:

David Johanson, senior planner; Scott Greenberg, planning director; Nicole Faghin, Reid Middleton, Inc.

Roll Call

Chair Fitzgibbon called the meeting to order at 7:04 p.m. Upon the call of the roll all commissioners were present.

Agenda Confirmation

Motion to approve the agenda as printed was made by Commissioner McInteer. Second was by Commissioner Shull and the motion carried unanimously.

Public Comment – None

Approval of Minutes

A. March 9, 2010

Motion to approve the minutes as submitted was made by Commissioner Shull. Second was by Commissioner Clingan and the motion carried unanimously.

Old Business

A. Discussion and Possible Recommendation: Shoreline Master Program Update

Senior planner David Johanson called attention to item 33 and said staff was in agreement with the proposed change to paragraph (a). He noted that the revision allows for maintenance of existing or approved conditions without a shoreline review or

vegetation management plan. Actions beyond the maintenance threshold, however, would need some sort of review. The commissioners concurred.

With regard to paragraph (b), Mr. Johanson said mitigation may not always be necessary where alterations to vegetation within the shoreline jurisdiction are made. He said the recommendation of staff was to revise the paragraph to state that if mitigation of impacts is necessary, it should take the form of a vegetation enhancement and should result in improvements to ecological functions.

Commissioner Clingan asked what triggers vegetation conservation requirements. He asked if the City will be directing property owners to change the vegetation in their setback and buffer areas. Mr. Johanson said vegetation management will only be required when alterations are made. According to BMC 19.10.020, alteration includes but is not limited to grading, filling, dredging, draining, channelizing, applying herbicides or pesticides, or any hazardous substance, paving, constructing, applying gravel, modifying for surface water management purposes, cutting, pruning, topping or trimming or relocating or removing vegetation, or any other human activity that results in or is likely to result in impact to existing vegetation, hydrology, wildlife or wildlife habitat. Walking, fishing, passive recreation, or regular maintenance such as lawn mowing does not constitute alteration. Community Development director Scott Greenberg noted that the definition already applies within the shoreline area and all critical areas. The proposed language is more flexible.

Commissioner Clingan said he was concerned about including words such as pruning, noting that it could become an enforcement nightmare. Mr. Johanson said pruning could be considered to be regular maintenance, depending on the extent of the pruning. Pruning back a rosebush would be maintenance, but pruning a significant tree on a steep slope by removing the lower limbs would not. In the bigger picture, the vegetation conservation section seeks to fill the gap between existing critical areas and the water.

The commissioners agreed with the recommendation of staff.

Mr. Johanson noted that the proposed revisions to paragraph (c) and its subparagraphs are intended to provide additional clarification with regard to the notion of where revegetation is required the focus should be on the areas that are the most degraded. He said staff was not recommending the proposed change to subparagraph (iv) because the fact that lawn is not an acceptable ground cover is addressed in subparagraph (vi). He said staff agreed with the comments about subparagraph (v) in that any proposed alteration will result in the loss of vegetative areas; such losses will trigger improvements somewhere else.

The commissioners agreed with the recommendation of staff.

Mr. Johanson referred next to item 92 and noted that the same issue is called out in item 45. He said the initial discussion focused on accessory structures and where they can be located. The intent was to build in flexibility with regard to where accessory structures

can be placed. In item 45 the term of concern was “where feasible.” He said staff revisited that section and the wording of paragraph (g) under item 92 adds the word “appurtenances” in the context of how it is used in the shoreline management code. The notion that Whatcom County has a sort of administrative variance for such structures is not exactly correct; their administrative variance process is intended to deal with single-family structures. As proposed, accessory structures and appurtenances must be behind the home and outside of the buffer, with the exception of fences up to six feet tall, which are exempted. The “where feasible” phrase was eliminated.

There was unanimous consensus in favor of making the proposed change as recommended by staff.

With regard to paragraph (k) of item 92, Mr. Johanson said the proposed wording clarifies that detached accessory dwelling units are not allowed in the buffer or setback.

Chair Fitzgibbon referenced Comprehensive Plan policy HS 1.11 and asked if it would be necessary to modify it at some future time to acknowledge the change to (k). Mr. Johanson said he did not think so. Accessory dwelling units are permitted in the shoreline district, but not inside the buffer.

Commissioner Clingan asked what the outcome would be for an existing accessory dwelling unit located within 65 feet of the ordinary high water mark should the primary residence burn down. Mr. Johanson said the accessory dwelling unit would be allowed to remain; if determined to a nonconforming structure, the nonconforming section of the code would apply.

The commissioners supported the change as recommended by staff.

Nicole Faghin called the attention of the commission to item 16, noting that it has to do with the way the critical areas ordinance for Burien is set up. She said there is a clearly stated exemption from regulation for small Category 3 wetlands of less than a thousand square feet. By pulling the critical areas ordinance into the Shoreline Master Program, the areas also will be exempted from protection under that program. The issue was put to the Department of Ecology and their recommendation was to include the small wetlands in the shoreline program and regulate them.

Ms. Faghin said the code section in question is 20.30.025. With respect to the item 16 comment, a new item will need to be added to clearly state that “small wetlands less than a thousand square feet and hydraulically isolated, or manmade ponds smaller than one acre and excavated from uplands without a surface water connection to streams, lakes, rivers or other wetlands, will be regulated under the Shoreline Master Program as a wetland.”

The commissioners agreed to hold off making a decision about the proposed language until after reviewing how the issue would be regulated.

Ms. Faghin called attention to item 65A and the issue of how Lake Burien has been categorized as a critical area with respect to the Shoreline Master Program. She said the commenter suggests that the lake is called a Category 2 in one place and a Category 4 in another place. The inconsistency dates back to adoption of the critical areas ordinance in 2003 and involves a map and regulation language. When the critical areas ordinance was adopted, the King County map showed Lake Burien as a Category 2; that was pulled forward into the critical areas ordinance. However, the critical area regulations were written to call out Lake Burien as a Category 4. The two categories have different buffer width requirements.

Ms. Faghin said the inventory done for the Shoreline Master Program update was based on a mapping exercise, so it called out Lake Burien as a Category 2. When the regulations language was drawn up, the text of the critical areas ordinance was used as the foundation, so Lake Burien was called a Category 4.

The Department of Ecology was asked for direction. They indicated that with respect to the critical areas ordinance, the discrepancy will need to be addressed by the City in the next update of the ordinance. With respect to the Shoreline Master Program, an addendum or errata will need to be included for the inventory that explains the discrepancy and where it came from. Additionally, the regulatory language should have all references to any category stricken with respect to Lake Burien.

Ms. Faghin said the item 17 comment suggested the wetland rating system that should be used is the Washington State Wetland Rating System for Western Washington Revised. In 2003 when the critical areas ordinance was adopted, there was a different system in place that had been adopted by the Department of Ecology for identifying, delineating, categorizing and rating wetlands. The City adopted that system into the critical areas ordinance. The rating system has since been updated, however. The Department of Ecology wants wetlands as they relate to the Shoreline Master Program properly rated based on the new system.

Ms. Faghin said the Department of Ecology has recommended a three-step process for addressing the issue: a delineation, a rating system, and identification of buffers. The delineations are to be based on the very specific language of the delineation manual. Once a wetland is delineated, a rating for it will need to be evaluated based on the revised Department of Ecology rating system. The required buffer will be predicated on delineation and the category in accordance with the Department of Ecology manual documentation, Appendix 8C. The cleanest approach will be for the City to adopt the entire Department of Ecology document that determines buffer widths as an appendix to the Shoreline Master Program and reference it in the Shoreline Master Program. In addition, a wetland definition will be added to section 20.40 of the Shoreline Master Program, with the language taken straight from the RCW.

Appendix 8C will determine buffer widths on a case-by-case basis. The first step is to work through the rating system. Generally, a Type 4 wetland has a 50-foot buffer, and a Type 3 wetland as a 150-foot buffer. Appendix 8C allows for some flexibility in how to

determine buffers; it allows for reducing the width where there is more intense development, allows for buffer averaging, and so forth.

Mr. Greenberg said the flexibility incorporated into Appendix 8C eliminates the need for the City to create the science to support the flexibility. The Department of Ecology likes the approach, which will allow the Shoreline Master Program to comply with the Department of Ecology guidelines.

Answering a question asked by Commissioner Shull, Ms. Faghin said it will not be possible to determine where a specific wetland fits until it is categorized; size alone is not the determinant. The categorization process takes into account the functions and values of a wetland, which in turn informs the process of determining buffer width.

Chair Fitzgibbon asked who would be responsible for delineating and rating wetlands, city staff or the Department of Ecology. Mr. Greenberg said currently the City requires critical area studies for any development in a critical area. That approach will continue, so the applicant would have to pay to have the determination made.

Commissioner Clingan suggested the commission should hold off making a decision one way or another on the proposal until the next meeting, giving the commissioners a little more time to review the specifics. Mr. Greenberg said that would be okay with staff.

Commissioner Shull called attention to Figure 5 under 20.30.050 and noted that there is a reference to Lake Burien. She asked if those dimensional standards could change. Mr. Johanson pointed out that Appendix 8C applies only to wetlands. Some stretches of shoreline may not have any wetlands, and in those cases the riparian buffer would apply. Figure 5 would not change.

Commissioner McInteer said she liked the flexibility the proposed approach offers, but she agreed the commission should be given more time to review the particulars before reaching a decision.

Mr. Johanson turned next to item 49 and the topic of providing access to beaches via stairways or trams. The proposal is that impact to slopes should be minimized by having neighboring properties share facilities such as stairways or trams. He said the City's experience with sharing has been that sharing tends to be problematic. He recommended using the word "encourage" in place of "shall."

The commissioners agreed with the proposal.

Mr. Johanson called attention to item 91 and the process used to install a mooring buoy. The use matrix table in the proposed Shoreline Master Program calls for a conditional use permit. However, upon further review staff concluded that that process would be too onerous. In conference with the Department of Ecology, he said staff was recommending the review process should be shoreline exemption instead of a conditional use permit. Any other permits required by the Department of Natural Resources or the Department of

Fish and Wildlife would still apply. The commissioners agreed with the recommendation of staff.

The issue of overwater structures was focused on next. Mr. Johanson referred to the language supplied to the commissioners at the March 16 meeting.

Ms. Faghin said the issue relates to 20.30.075 and the need for overwater structures to be more inclusive. She said a global change was made to the text to correct that issue. The commissioners agreed with the revision.

Ms. Faghin noted that all new development standards were added to the section, starting with paragraph (h). Additionally, two new elements were added dealing with decking and piles to be consistent with the Department of Fish and Wildlife requirements. A new section was added with regard to repair and replacement as well, and another addressing floats and swim platforms.

Commissioner Shull called attention to paragraph (b)(i) and asked if the statement “all new overwater structures on Lake Burien are exempt from the grating requirement” should in fact reference replacement structures. Ms. Faghin said the section has to do with replacements of up to 100 percent, so the resulting replacement structure would in fact be an entirely new dock. She allowed that some rewording could provide clarity and proposed deleting “all new.” The commissioners concurred.

Commissioner Clingan referred to the development standards in paragraph (h) and suggested that the level of detail included is too much. Some of the details may not apply to specific properties, and the issue previously discussed relative to sharing stairways and trams may equally apply to sharing docks and the like. Ms. Faghin explained that the Department of Fish and Wildlife and Corps of Engineers standards are very strict, and applicants wanting a permit for a dock must obtain their permits as well as the City’s permits. The section was drafted to line up with those other processes so that an applicant will not find themselves spending time and money in design work only to find out that the City’s standards do not mesh with the standards of the other two permitting agencies. That was the reason for including all of the detail.

Chair Fitzgibbon offered his support for the specific language and the attempt to align the City’s standards with those of the other permitting agencies. What appears to be a new restriction will actually save property owners a possible costly step in the process.

Commissioner Clingan suggested the section will encourage people to take very good care of their existing docks. He also noted that a maximum of two new recreational floats will be allowed on Lake Burien, and asked where that recommendation came from. Ms. Faghin said that came from staff and the consultant and was based on the size of the lake and the programs of other jurisdictions.

Commissioner Shull said the programs in some jurisdictions allow either a dock or a swim float but not both. She said she was bothered by the strict limitation on swim floats

applicable to the entire lake. Mr. Johanson said staff could look into taking that approach.

Ms. Faghin clarified that the language relative to floats is intended to indicate structures anchored in 15 feet of water or more. Commissioner Shull said she could understand the reason behind the restriction but suggested it could be troublesome in practice. The limitation would make more sense if the floats were joint-use structures.

Mr. Greenberg pointed out that there are not a lot of guidelines for docks and overwater structures in the Shoreline Master Program guidelines. There is nothing included about the total number of floats or about what their maximum size should be.

Chair Fitzgibbon commented that if all of the property owners along Lake Burien have decided not to have a swim float, there will be no problem. However, there is a fairness issue involved: the strict limit means the first two in the door will be winners and everyone else will lose out. He said he could support language allowing either a dock or a float but not both.

Commissioner Clingan observed that the two floats currently in the lake appear to be part of the Lake Burien community. Mr. Johanson said he has been told that the floats are jointly owned, but that information has not been verified.

Commissioner McInteer suggested the staff should go back and get the information the commission needs in order to make a decision.

Ms. Faghin said limiting swim floats on waters where there could be conflicts between people and motorboats certainly makes sense. In the case of Lake Burien and along the city's marine shorelines, that particular issue does not really apply.

Staff was directed to come back with additional information and to take up the issue again at the next commission meeting.

Turning to the issue of nonconformance and the percentage threshold, Mr. Johanson said the staff reviewed nine readily accessible Shoreline Master Programs from other jurisdictions. Three of them included the notion of allowing single family residential structures to be rebuilt if they suffer damage not exceeding 75 percent. Six of the programs allowed single family structures to be replaced provided the replacement did not involve expansion or the creation of any new nonconformance. For one of the nine programs it could not be determined if it differed from the zoning code for the jurisdiction. Seven of the nine did not have a percentage threshold but stressed that replacement cannot create any new nonconformance. The WAC specifies that for jurisdictions that do not have their own regulations, structures damaged beyond the 75 percent threshold can be replaced only if they comply with all new regulations. Burien's regulations include a 50 percent threshold and require an application be filed within 18 months. Most jurisdictions require the replacement work to be completed within 24 months.

Chair Fitzgibbon pointed out that the current 50 percent standard was adopted by the City only a year ago and at the time received absolutely no public comment. He said, however, that he could support the 75 percent threshold given that catastrophic events are rare, and the other things being asked of shoreline owners. He said he was sensitive to the fact that using the 75 percent threshold in the Shoreline Master Program would mean all property owners outside of the shoreline jurisdiction would be held to a higher standard.

Commissioner Clingan agreed. He pointed out that the threshold triggers some regulations that other property owners in the city would not have to adhere to under the same circumstances.

Commissioner Shull said she was leaning toward making the change from the 50 percent threshold to a 75 percent threshold. She agreed that the number of instances in which the threshold will be met can be assumed to be few. Structures damaged to any degree can be rebuilt under the provisions; the threshold only triggers buffer enhancements.

Commissioner McInteer commented on the need to be consistent with the rest of the code. She suggested the 50 percent threshold is reasonable. The point most people have missed is the fact that any damaged structure can be rebuilt, whether the structure is conforming or nonconforming. She said she would not support changing the threshold to 75 percent.

Commissioner Clingan asked if the percentage threshold was to be based on assessed value or replacement cost. He advocated for replacement cost. Mr. Greenberg said when the zoning code was adopted in 1999 the City moved away from using replacement value because it was impossible to calculate with any degree of certainty. In cases of catastrophe, the City does not want to be put in the position of having to challenge figures. Assessment value is a fixed number generated by a third party.

Commissioner Shull stated her preference for retaining the assessed value language. Chair Fitzgibbon concurred, as did Commissioners McInteer and Pizarro.

With regard to the Ruth Dykeman property, Mr. Greenberg said the Comprehensive Plan specifies that Special Planning Area 2 includes the site on Lake Burien. The policy language goes on to state that while the City encourages and supports the continued operation of the center, any proposed change in use in the future should be reviewed to ensure that public access to the water is prohibited, and support the historical link with Old Burien.

Mr. Greenberg said staff checked with the Department of Ecology and found that the policy language barring public access to the water is inconsistent with the current state shoreline guidelines and the Shoreline Management Act. Accordingly, when the Comprehensive Plan is next updated the language of the policy will need to be revised.

Mr. Johanson called attention to item 13 which refers to the use matrix in the Shoreline Master Program. He said the proposed language does not apply because there is no use with a higher review process in an adjacent shoreline jurisdiction. He recommended no change and the commissioners concurred.

With regard to item 51, Mr. Johanson said staff agreed that using the phrase “persons requesting an exemption” would be clearer than the draft language. The commissioners agreed with the proposed language change.

Turning to item 87, Mr. Johanson said the issue was that a specific definition be created for the duties, responsibilities and expertise of the shoreline administrator. He observed that the proposed Shoreline Master Program includes a definition in 20.40.125 that indicates that the shoreline administrator is the city manager or his or her designee in the Community Development Department who is responsible for administering the City of Burien’s Shoreline Master Program. He said staff was not recommending any change to the language. The commissioners agreed with the staff recommendation.

Commissioner Clingan asked how many structures in the shoreline district might be made nonconforming with the buffers and setbacks as proposed. Mr. Johanson said he would have to research that and bring the information to the commission at its next meeting. Commissioner Clingan said he would also like to know how many undeveloped properties exist in the shoreline district.

Commissioner Clingan said he continued to have reservations with the proposed buffer widths and setbacks in the proposed Shoreline Master Program, which are significantly greater from what currently exists. Nonconforming structures are potentially more difficult to sell, and the stricter requirements could even reduce property values. Whether or not the Department of Ecology has concerns, the City has the authority to submit its own customized plan. While the provisions that allow damaged structures to be rebuilt are lenient, the wider buffers may trigger some financial burdens for property owners.

Chair Fitzgibbon suggested holding that discussion over to the next meeting. He added that regardless of what the final decision is relative to buffer widths and setbacks, some will think the City has gone too far and others will think the City did not go far enough.

Commissioner McInteer said change is coming to Burien, and that change will involve certain state and federal standards. Burien will not be able to be a shire unto itself. The commission should listen to everyone with an opinion in an attempt to come to a logical and intelligent recommendation. It will not be possible to make everyone happy.

Commissioner Clingan suggested that the Shoreline Master Program should include a definition for designated view corridor. There are many references in the plan to view access, and some clarification would be in order. Mr. Greenberg agreed to look at that issue and come back with a recommendation.

There was agreement to schedule the next commission meeting for March 30.

New Business – None

Planning Commission Communications – None

Director’s Report

Mr. Greenberg reported that at its meeting on March 22 the City Council delayed its appointment of new commissioners. He said Commissioners Shull and McInteer will remain on the commission until replacements are selected. The intent of the council is to wait until work on the Shoreline Master Program is completed.

Mr. Greenberg said a bill passed by the Legislature and signed by the governor extends the time limits for preliminary subdivisions of five lots or more from five years to seven years. The change will expire in 2017.

Adjournment

Motion to adjourn was made by Commissioner Shull. Second was by Commissioner Pizarro and the motion carried unanimously.

Chair Fitzgibbon adjourned the meeting at 9:15 p.m.

Approved: _____

Joe Fitzgibbon, chair
Planning Commission

City of Burien

BURIEN PLANNING COMMISSION
SPECIAL MEETING
March 30, 2010
7:00 p.m.
Multipurpose Room/Council Chambers
MINUTES

Planning Commission Members Present:

Joe Fitzgibbon, Janet Shull, Jim Clingan, Rebecca McInteer, Rachel Pizarro

Absent:

None

Others Present:

David Johanson, senior planner

Roll Call

Chair Fitzgibbon called the meeting to order at 7:00 p.m. Upon the call of the roll all commissioners were present.

Agenda Confirmation

Motion to approve the agenda as printed was made by Commissioner McInteer. Second was by Commissioner Pizarro and the motion carried unanimously.

Public Comment – None

Approval of Minutes – None

Old Business

- A. Discussion and Possible Recommendation: Shoreline Master Program Update

Senior planner David Johanson called attention to the Planning Commission draft of the Shoreline Master Program update developed by action and discussion over the past several meetings. He noted that there remained several information requests and began the discussion with them.

The first issue dealt with piers, docks and floats, or what is called in the draft document “over-water structures.” He said the recommendation of staff was the language included on page IV-20 of the draft. The new language defers to the regulations of the Department

of Fish and Wildlife and the Army Corps of Engineers. If those regulations change, the City will not need to update its Shoreline Master Program accordingly.

Commissioner Clingan voiced his support for the change, especially the strike out of (h) on page VI-21.

Chair Fitzgibbon indicated his agreement and reiterated the notion of having the Shoreline Master Program matching the regulations of the Department of Fish and Wildlife and the Army Corps of Engineers. It should be expected that their standards will change over time, thus they should not be set in stone at the city level.

Commissioner Shull concurred. She pointed out, however, that in some instances the Department of Ecology has asked jurisdictions to be more prescriptive and suggested they may have a comment on the wording.

Commissioner McInteer asked if the Army Corps of Engineers and the Department of Fish and Wildlife even have regulations for over-water structures. Mr. Johanson said the Army Corps of Engineers has standards associated with its regional general permit. He said he did not know if the Department of Fish and Wildlife has any specifically written code regulations relative to docks, piers and floats.

Chair Fitzgibbon suggested that if the Department of Ecology wants jurisdictions to adopt more restrictive standards on the size of over-water structures, they should say so and be specific. Mr. Johanson said staff had not conferred with the Department of Ecology. The consultant, Nicole Faghin with Reid Middleton, had conversations with the Department of Fish and Wildlife and other jurisdictions. He stated that it is possible that the Department of Ecology will want to see more prescriptive language after it reviews the City's submittal.

Commissioner Shull commented that regardless of what the Department of Ecology will ultimately say, the City should move forward with the language as proposed because it represents what will work well for Burien.

Mr. Johanson called attention next to page VI-6 and the topic of the wetland rating system. He said the revised language encapsulates the discussion the commission had on March 23. The proposal is to adopt the appendix with all three of its alternatives for determining wetland buffers. The applicant would select which alternative to use when making application for a project. Mr. Johanson stressed that the wetland rating would only apply to wetlands within the shoreline jurisdiction. The commissioners agreed with the proposed revision.

Mr. Johanson turned next to the issue of designated view corridors and the desire of the commission to have staff return with a definition or description. He said the discussion involved developing an access plan that would include view corridors. One of the potential motions on the second page of the staff memo included making that

recommendation to the City Council. Mr. Johanson explained that the term “access” includes both physical and visual.

Commissioner Clingan said it was his understanding that view corridors involve views across public properties. He pointed out that the document includes many references to visual access, but the document does not define or describe what the term means. He said that was why he previously raised the issue. Mr. Johanson suggested the development of an access plan is one way the issue could be further refined.

Chair Fitzgibbon voiced the opinion that a public access plan would be a valuable document for the City to have.

Commissioner McInteer pointed out that no view easements have been allowed in Burien, so the issue needs to be more readily developed than it could be in the Shoreline Master Program.

Mr. Johanson said the final follow-up item was related to nonconforming homes and undeveloped lots. He said a quick check of the City’s GIS yielded the information that with a 50-foot buffer and a 15-foot building setback approximately 140 to 165 of the 300 to 320 single family structures in the marine shoreline jurisdiction would become nonconforming, or about half of the total. On Lake Burien, there are approximately 68 homes located outside the 30-foot buffer, and only two located within the 15-foot building setback. There are between 45 and 60 vacant lots in the marine shoreline jurisdiction, which is 200 feet landward of the ordinary high water mark. Of those, only 20 to 30 are literally on the waterfront.

Commissioner Clingan said he raised the question in order to better understand how many structures and families would be affected. He suggested the number is quite high and said he was bothered by making so many structures nonconforming. The provisions allow for rebuilding structures that are damaged by one means or another, so hopefully the point is moot. However, nonconformance is something that must be disclosed as a part of any real estate transaction, and that could make a property more difficult to sell and therefore affect the price. It should come as no surprise that some in the community are concerned about that. Redmond has approved a plan that includes only a 20-foot buffer on the shore of Lake Sammamish.

Mr. Johanson said the proposed buffers of 50 feet in the marine shoreline and 30 feet for Lake Burien came about through a process involving staff, consultants and the Department of Ecology. The foundation for the buffers is set in the guidelines. The 30-foot buffer for Lake Burien was developed by mirroring the requirements for the wetlands. The document entitled “Protecting Nearshore Habitat and Functions in Puget Sound, An Interim Guide” dated October 2007 was relied on in developing the proposed 50-foot buffer for the marine shoreline. The document indicates buffers ranging from 98 feet to 328 feet intended to protect ecological functions. He said the table on page III-40 lists additional sources with buffers ranging from 78 feet to 600 feet. The fact that Burien’s shoreline environment is largely built out played into what the buffer should be. The average setback for the single family homes in the three most-developed reaches of

Burien's shoreline was determined to be 68 feet. Research was done to determine the buffer widths imposed by other jurisdictions with similar shoreline environments, and it was found that Federal Way has a 50-foot buffer and Des Moines has a 115-foot buffer. Considering all of those factors, it was determined Burien should have a 50-foot buffer.

Mr. Johanson pointed out that along with the 50-foot buffer, the proposal includes relief mechanisms, including the common line setback that is obtainable through a conditional use permit process.

The vegetation conservation area extends 150 feet. So even though the City's buffer is only 50 feet, the vegetation within 150 feet must be managed to capture the available scientific information. Ensuring no net loss of ecological function will occur through a combination of vegetation management, buffers, and permit reviews. The indication Burien has received from the Department of Ecology is that the proposed buffers will be accepted.

Commissioner Clingan voiced concern about the proposed tripling of the current setback that exists along the shoreline, and doubling the setback that currently exists on Lake Burien. He said he did not like the idea of turning about half of the structures on the shoreline into nonconforming uses. The City probably should act as an advocate for its citizens rather than as an agent for the state and cut the buffers down to 20 feet and leave the setback where it is, he said. If the City's plan gets turned down, negotiations could take place then.

Commissioner McInteer said three parties have come together to develop the current buffer recommendation: staff, the consultant, and the Department of Ecology. She said her initial reaction was that the commission should accept their recommendation, which is based on the data. The public needs to bring its emotions up to date. There has been no testimony by anyone who wants to see Lake Burien or Puget Sound become a rocky bathtub. The testimony has been that the public likes fishing, swimming, boating, and seeing birds and wildlife. The buffers that currently are in place will not be enough to protect the shoreline. Buffers have a purpose, which is to protect ecological functions, including flora and fauna. She said she was troubled by creating nonconforming structures, but in the end the City will be in a better state going forward with the proposed buffer width. To reduce the width below 50 feet would be to go against the data.

Commissioner Shull said she would not be comfortable in reducing the buffer width from what is recommended in the draft document for many of the same reasons. She said she understands the concerns relative to nonconforming structures, but the fact is much of the development along the shorelines was done before there was solid and compelling science regarding the cumulative impacts for the city and the region. Burien is not the only community dealing with the issue of increasing the buffers and the nonconformities it will create. There are good provisions in the draft that will allow structures to be rebuilt if they are destroyed, and for the development of vacant properties up to the common line setback. The proposal achieves a good balance of protecting the environment, looking out for private property rights, and the interests of the public.

Recommending a reduced buffer and setback will not achieve the goal of protecting the shoreline environment.

Commissioner Pizarro voiced her support for the comments made by commissioners McInteer and Shull.

Chair Fitzgibbon thanked Commissioner Clingan for bringing up the issue for discussion. He said the issue gets to the heart of what the Shoreline Master Program update is seeking to accomplish. The state has asked all jurisdictions to do a better job of protecting the shorelines than has historically been done. The Shoreline Management Act was originally approved by the voters 40 years ago when it was realized what harm was being caused by having a fragmented approach to development along the shorelines. Since then the body of knowledge of what can facilitate and what can damage shoreline ecological functions has advanced. The fact that some structures will be made nonconforming is not the end of the story given that the provisions include flexibility for reconstructing buildings that are destroyed and that allow for some structures to be expanded.

Continuing, Chair Fitzgibbon said there is an added value that comes to property owners whose properties are on a shoreline that is ecologically healthy. A healthy and viable shoreline is one of the things that make Burien a good place to live. He said he would not support reducing the buffers from what has been proposed.

Commissioner Clingan brought to the table a hypothetical situation. He allowed that a structure destroyed by fire would be allowed to be rebuilt, but he asked how a garage, cabana or other improvement located in the right-of-way would be handled. Mr. Johanson said the City will look at every situation on a case-by-case basis and apply the standards as appropriate. The first test would be to determine whether the garage or cabana had been legally established. After that, the applicable section on nonconforming structures would be applied.

Commissioner Pizarro asked if development of a public access plan, if the City Council decides to go in that direction, would offer an additional opportunity to continue reviewing the citizen comments. Mr. Johanson said that concept remains loosely defined. He said serious thought would need to be given to how to develop the plan and the appropriate level of public involvement.

Answering a question asked by Commissioner Pizarro, Mr. Johanson said the Shoreline Master Program, once it is adopted, will be placed on a regular update cycle just like the Comprehensive Plan.

Chair Fitzgibbon said the commission has been working diligently on the Shoreline Master Program update for about four months. Because of the high level of interest in the topic, it would be a good idea to have the draft on the table for a couple of months after the commission makes its final recommendation and before the City Council begins its deliberations. That would allow the public to be fully prepared with questions for the

City Council. Mr. Johanson said there will be at least one public hearing before the City Council, and following the council process the Department of Ecology will schedule a public hearing locally.

Commissioner Clingan said he has spoken to several people who think an interim period would be a very good idea indeed. He said the public turnout had been impressive from day one of the commission's work and the comments made have been reasonable and instructive.

Chair Fitzgibbon thanked the commissioners and staff for their work on the topic. He allowed that the draft update is not perfect and will face additional revisions at the council level. No jurisdiction that has undertaken the work has found it to be easy and without controversy.

Motion to recommend to the City Council approval of the draft Shoreline Master Program dated March 30, 2010, was made by Commissioner McInteer. Second was by Commissioner Shull and the motion carried unanimously.

Motion to recommend to the City Council that a public access plan be prepared after the new Shoreline Master Program is in effect was made by Commissioner Pizarro. Second was by Commissioner Shull and the motion carried unanimously.

New Business – None

Planning Commission Communications

Chair Fitzgibbon highlighted the fact that commissioners McInteer and Shull were meeting as commissioners for the last time. He said he had thoroughly enjoyed serving with both and noted that they would be missed.

Director's Report

Mr. Johanson reported that the Shoreline Master Program update is scheduled to be discussed by the City Council on April 5.

Adjournment

Motion to adjourn was made by Commissioner Shull.

Chair Fitzgibbon adjourned the meeting at 8:15 p.m.

Approved: _____

Joe Fitzgibbon, chair
Planning Commission

**CITY OF BURIEN, WASHINGTON
MEMORANDUM**

DATE: May 4, 2010
TO: Planning Commission
FROM: Scott Greenberg, AICP, Community Development Director
SUBJECT: Merger of Burien Municipal Code (BMC) Title 18 into BMC Title 19

PURPOSE

Since 1999, Burien has operated with two Zoning Codes. BMC Title 18 (the “Interim Zoning Code” was adopted in 1993 at city incorporation. BMC Title 19 (the “New Zoning Code”) was created in 1999. While many sections of BMC 18 have been modified and moved into BMC 19, several sections remain in BMC 18. The purpose of this project is to finally merge the two Zoning Codes together. At your May 11th meeting, we are asking the Planning Commission to discuss the attached staff-recommended changes and provide any direction for additional changes or information desired prior to your public hearing and possible action on May 25th.

BACKGROUND

The original BMC 18 was adopted by Ordinance 28 on February 22, 1993. This “Interim Zoning Code” was mostly based on the “new” King County Zoning Code—KCC Title 21A. The interim code was to be in effect until the City’s Comprehensive Plan was adopted. The new Comprehensive Plan would then form the basis for a new Burien-specific code. The Comprehensive Plan was adopted in November, 1997 and the first sections of the new Burien Zoning Code (BMC 19) were adopted in June, 1999.

Over the past 11 years, we have slowly moved sections from BMC 18 into BMC 19. Simply from an administrative perspective, staff would like to repeal the remaining portions of BMC 18 and bring those sections that are still applicable into BMC 19.

With one exception, we are not proposing substantive changes since the objective is to simply combine codes and eliminate unnecessary language. The exception is the repeal of language relating to school impact fees. This language has never been used in Burien and is not supported by the Comprehensive Plan. If and when there is a need and desire to charge school impact fees, we will need to adopt supportive policies and work with the Highline School District to fund the studies needed to support the program and establish fee amounts.

DECISION CRITERIA

BMC 19.65.100.4 contains the following criteria for amending the zoning code. Staff responses follow each one:

A. The amendment is consistent with the Comprehensive Plan.

Staff response: Comprehensive Plan Policy PI 1.2 states:

“The City’s development regulations should be consistent with other City plans and activities, including other development requirements. Development regulations shall be clearly written and absent duplicative, uncoordinated or unclear requirements.”

Merging the remaining applicable portions of BMC 18 into BMC 19 will eliminate two separate zoning codes, meeting the intent of Policy PI 1.2.

B. The amendment bears a substantial relation to the public health, safety and welfare.

C. The amendment is in the best interest of the community as a whole.

Staff response: The proposed merger of BMC 18 and BMC 19 is mostly administrative. The merged zoning code will make it easier for applicants to find and use the city’s zoning regulations, which is an overall benefit to the public and the community as a whole.

Chapter 18.15
DEFINITIONS—TECHNICAL TERMS

18.15.005 Scope of chapter. (NOT NEEDED IN BMC 19)

This chapter contains definitions of technical and procedural terms used throughout the code. See Chapter 18.20 BMC, Land Use Definitions, for definitions of land uses shown in Chapter 18.25 BMC. See Chapter 18.05 BMC, Authority, Purpose, Interpretation and Administration, for rules on interpretation of the code, including use of these definitions. Development standards are found in Chapters 18.30 through 18.95 BMC. [Ord. 28 § 1(39), 1993]

18.15.010 Definitions—Generally. (NOT NEEDED IN BMC 19)

For the purpose of interpreting the provisions of this title, certain terms or words used herein are defined in this chapter. [Ord. 28 § 1(40), 1993]

18.15.020 Agricultural products. (NOT USED)

“Agricultural products” means items resulting from the practice of agriculture, including crops such as fruits, vegetables, grains, seed, feed and plants, or animal products such as eggs, milk and meat. [Ord. 28 § 1(40), 1993]

18.15.025 Alley. (ALREADY IN BMC 19)

“Alley” means an improved thoroughfare or right-of-way, whether public or private, usually narrower than a street, that provides vehicular access to an interior boundary of one or more lots, and is not designed for general traffic circulation. [Ord. 28 § 1(40), 1993]

18.15.100 Building facade. (ALREADY IN BMC 19)

“Building facade” means that portion of any exterior elevation of a building extending from the grade of the building to the top of the parapet wall or eaves, for the entire width of the building elevation. [Ord. 28 § 1(40), 1993]

18.15.102 Building footprint. (ALREADY IN BMC 19)

“Building footprint” means the exterior outline of a structure where it meets the earth. [Ord. 103 § 1, 1994; Ord. 28 § 1(40), 1993]

18.15.110 Calculated LOS.

19.10.051.5 Calculated LOS—means a A quantitative measure of traffic congestion identified by a declining letter scale (A – F) as calculated by the methodology contained in the 1985 Highway Capacity Manual Special Report 209 or as calculated by another method approved by the department. LOS “A” indicates free flow of traffic with no delays while LOS “F” indicates jammed conditions or extensive delay. [Ord. 28 § 1(40), 1993]

18.15.115 Capacity. (NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)

~~“Capacity” means the number of students a school district’s facilities can accommodate district-wide, the volume a street or utility can adequately accommodate, based on the district’s, city’s or utility’s standard of service, as determined by the school district, city or utility. [Ord. 28 § 1(40), 1993]~~

18.15.120 Capital facilities plan.

19.10.053 Capital facilities plan-- means A district’s, city’s, or utility’s facilities plan adopted by the school board, city council or utility board consisting of:

- (1) A forecast of future needs for facilities based on adopted projections;
- (2) The long-range construction and capital improvements projects of the district, city or utility;
- (3) The schools, streets or utilities under construction or expansion;
- (4) The proposed locations and capacities of expanded or new facilities;
- (5) At least a six-year financing plan component, updated as necessary to maintain at least a six-year forecast period, for financing needed facilities within projected funding levels, and identifying sources of financing for such purposes, including bond issues authorized by the voters and projected bond issues not yet authorized by the voters;
- (6) Any other long-range projects planned by the district, city or utilities.
- (7) The current capacity of facilities based on the districts, city’s or utility’s adopted standard of service, and a plan to eliminate existing deficiencies, if any, without the use of impact fees; and
- (8) An inventory showing the location and capacity of existing facilities. [Ord. 28 § 1(40), 1993]

18.15.125 Classrooms. (NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)

~~“Classrooms” means educational facilities of the district required to house students for its basic educational program. The classrooms are those facilities the district determines are necessary to best serve its student population. Specialized facilities as identified by the district, including but not limited to gymnasiums, cafeterias, libraries, administrative offices and child care centers, shall not be counted as classrooms. [Ord. 28 § 1(40), 1993]~~

18.15.130 Clearing. (NOT USED)

~~“Clearing” means the limbing, pruning, trimming, topping, cutting or removal of vegetation or other organic plant matter by physical, mechanical, chemical or other means. [Ord. 28 § 1(40), 1993]~~

18.15.140 Cogeneration. (NOT NEEDED)

~~“Cogeneration” means the sequential generation of energy and useful heat from the same primary source or fuel for industrial, commercial or residential heating or cooling purposes. [Ord. 28 § 1(40), 1993]~~

18.15.145 Compensatory storage. (NOT NEEDED)

~~“Compensatory storage” means new, excavated storage volume equivalent to any flood storage which is eliminated by filling or grading within the floodplain. For the purpose of this definition, equivalent flood storage capacity is that which is replaced by equal volume between corresponding one-foot contour intervals which are hydraulically connected to the floodway through their entire depth. [Ord. 28 § 1(40), 1993]~~

~~**18.15.165 Construction cost per student.** (NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)~~

~~“Construction cost per student” means the estimated cost of construction of a permanent school facility in the district for the grade span of school to be provided, as a function of the district’s design standard per grade span and taking into account the requirements of students with special needs. [Ord. 28 § 1(40), 1993]~~

~~**18.15.190 Department.**~~

~~19.10.109 “Department” means the city of Burien department of community development. [Ord. 28 § 1(40), 1993]~~

~~**18.15.195 Facilities standard.** (NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)~~

~~“Facilities standard” means the space required, by grade span and taking into account the requirements of students with special needs, which is needed in order to fulfill the educational goals of the school district as identified in the district’s capital facilities plan. [Ord. 28 § 1(40), 1993]~~

~~**18.15.200 Developer.** (NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)~~

~~“Developer” means the person or entity who owns or holds purchase options or other development control over property for which development activity is proposed. [Ord. 28 § 1(40), 1993]~~

~~**18.15.205 Development activity.** (NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)~~

~~“Development activity” means any construction or expansion of a building, structure or use, any change in use of a building or structure, or any change in the use of land that creates additional demand for school, street, utility or other public facilities. [Ord. 28 § 1(40), 1993]~~

~~**18.15.215 Development proposal.**~~

~~19.10.109.3 Development proposal--Any activities requiring a permit or other approval from the city of Burien relative to the use or development of land. [Ord. 28 § 1(40), 1993]~~

~~**18.15.220 Development proposal site.**~~

~~19.10.109.5 Development proposal site--The legal boundaries of the parcel or parcels of land for which an applicant has or should have applied for authority from the city of Burien to carry out a development proposal. [Ord. 28 § 1(40), 1993]~~

~~**18.15.225 Development standards.**~~

~~19.10.109.7 Development standards—Until otherwise amended by the city council, development standards for streets, roads, parks, open space, trails, utilities or other public improvements shall be those of King County; including King County’s Shoreline Master Program. [Ord. 28 § 1(40), 1993]~~

~~18.15.230 Direct traffic impact.~~

~~19.10.109.8~~ Direct traffic impact--Any increase in vehicle traffic generated by a proposed development which equals or exceeds 10 peak hour, peak direction vehicle trips on any roadway or intersection. [Ord. 28 § 1(40), 1993]

~~18.15.240 Department.~~-(REDUNDANT WITH DEFINITION ABOVE)

~~The city of Burien department of community development. [Ord. 28 § 1(40), 1993]~~

~~18.15.255 Elderly.~~-(NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)

~~“Elderly” means a person aged 62 or older. [Ord. 28 § 1(40), 1993]~~

~~18.15.290 Factory built commercial building.~~-(NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)

~~“Factory built commercial building” means any structure that is either entirely or substantially prefabricated or assembled at a place other than a building site; and designed or used for nonresidential human occupancy. [Ord. 28 § 1(40), 1993]~~

~~18.15.375 Grade span.~~-(NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)

~~“Grade span” means the categories into which a district groups its grades of students; i.e., elementary, middle or junior high school, and high school. [Ord. 28 § 1(40), 1993]~~

~~18.15.415 Improved public roadways.~~

~~19.10.286~~ Improved public roadways--Public road rights-of-way that have been improved with at least two travel lanes and are maintained by either the city of Burien, King County or the state of Washington. [Ord. 28 § 1(40), 1993]

~~18.15.420 Landscaping.~~-(ALREADY IN BMC 19)

~~“Landscaping” means live vegetative materials required for a development. Said materials provided along the boundaries of a development site are referred to as perimeter landscaping. Landscaping provided on the remainder of the site is referred to as interior landscaping. [Ord. 28 § 1(40), 1993]~~

~~18.15.463 Lot, corner.~~

~~19.10.329~~ Lot, corner--A lot abutting upon two or more streets at their intersections, or upon two parts of the same street, such streets or parts of same street forming an interior angle of less than 135 degrees within the lines. Corner lots have two street frontages, primary and secondary. The primary street shall be the one that the building is primarily oriented to. [Ord. 103 § 1, 1994; Ord. 28 § 1(40), 1993]

~~18.15.465 Lot line, interior.~~-(ALREADY IN BMC 19)

~~“Interior lot line” means lot lines that delineate property boundaries along those portions of the property which do not abut a street. [Ord. 28 § 1(40), 1993]~~

~~18.15.525 Open-work fence.~~

~~19.10.387 _____ Open-work fence--A fence in which the solid portions are evenly distributed and constitute no more than 50 percent of the total surface area. [Ord. 28 § 1(40), 1993]~~

~~18.15.535 Park service area.~~-(NOT USED)

~~“Park service area” means established by the department, within which the dedications of land and fees received from new residential developments for the benefit of residents within such service area. [Ord. 28 § 1(40), 1993]~~

~~18.15.560 Party of record (POR).~~-(ALREADY DESCRIBED IN BMC 19.65)

~~“Party of record (POR)” means a person who has submitted written comments, testified, asked to be notified or is the sponsor of a petition entered as part of the official city record on a specific development proposal. [Ord. 28 § 1(40), 1993]~~

~~18.15.565 Peak hour.~~

~~19.10.395.3 _____ Peak hour--The hour during the morning or afternoon when the most critical level of service occurs for a particular roadway or intersection. [Ord. 28 § 1(40), 1993]~~

~~18.15.570 Permanent school facilities.~~-(NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)

~~“Permanent school facilities” means facilities of a school district with a fixed foundation which are not relocatable facilities. [Ord. 28 § 1(40), 1993]~~

~~18.15.575 Planning and community development director.~~-(ALREADY IN BMC 19)

~~“Planning and community development director” means the director of the city of Burien department of community development. [Ord. 28 § 1(40), 1993]~~

~~18.15.580 Plant associations of infrequent occurrence.~~-(NOT USED)

~~“Plant associations of infrequent occurrence” means one or more plant species of a landform type which does not often occur in King County because of the rarity of the habitat and/or the species involved or for other botanical or environmental reasons. [Ord. 28 § 1(40), 1993]~~

~~18.15.585 Private.~~

~~19.10.403 _____ Private--Solely or primarily for the use of residents or occupants of the premises; e.g., a noncommercial garage used solely by residents or their guests is a private garage. [Ord. 28 § 1(40), 1993]~~

~~18.15.605 Recreational vehicle (RV).~~-(NOT USED)

~~“Recreational vehicle (RV)” means a vehicle designed primarily for recreational camping, travel or seasonal use which has its own motive power or is mounted on or towed by another vehicle, including but not limited to:~~

- ~~(1) Travel trailer;~~

- (2) Folding camping trailer;
- (3) Park trailer;
- (4) Truck camper;
- (5) Park trailer;
- (6) Motor home; and
- (7) Multi-use vehicle. [Ord. 28 § 1(40), 1993]

18.15.610 Recyclable material.

19.10.443 Recyclable material--A nontoxic, recoverable substance that can be re-processed for the manufacture of new products. [Ord. 28 § 1(40), 1993]

18.15.625 Relocatable facility. (NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)

~~“Relocatable facility” means any factory-built structure, transportable in one or more sections that is designed to be used as an education space and is needed to prevent the overbuilding of school facilities, to meet the needs of service areas within a district or to cover the gap between the time that families move into new residential developments and the date that construction is completed on permanent school facilities. [Ord. 28 § 1(40), 1993]~~

18.15.630 Relocatable facilities cost per student. (NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)

~~“Relocatable facilities cost per student” means the estimated cost of purchasing and siting a relocatable facility in a school district for the grade span of school to be provided, as a function of the district’s design standard per grade span and taking into account the requirements of students with special needs. [Ord. 28 § 1(40), 1993]~~

18.15.635 Relocation facilities. (NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)

~~“Relocation facilities” means housing units within the city of Burien that provide housing to persons who have been involuntarily displaced from other housing units within the city of Burien as a result of conversion of their housing unit to other land uses. [Ord. 28 § 1(40), 1993]~~

18.15.660 School district. (NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)

~~“School district” means any school district in the city of Burien whose boundaries include incorporated areas of the city. [Ord. 28 § 1(40), 1993]~~

18.15.685 Shelters for temporary placement. (NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)

~~“Shelters for temporary placement” means housing units within the city of Burien that provide housing to persons on a temporary basis for a duration not to exceed four weeks. [Ord. 28 § 1(40), 1993]~~

~~18.15.775 Site cost per student.~~ (NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)

“Site cost per student” means the estimated cost of a site in the district for the grade span of school to be provided, as a function of the district’s design standard per grade span and taking into account the requirements of students with special needs. [Ord. 28 § 1(40), 1993]

~~18.15.785 Special use permit.~~ (NOT NEEDED IN BMC 19)

“Special use permit” means a permit granted by the city to locate a regional land use at a particular location, subject to conditions placed on the proposed use to ensure compatibility with adjacent land uses. [Ord. 28 § 1(40), 1993]

~~18.15.795 Standard of service.~~ (NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)

“Standard of service” means the standard adopted by each school district which identifies the program year, the class size by grade span and taking into account the requirements of students with special needs, the number of classrooms, the types of facilities the district believes will best serve its student population, and other factors as identified by the school district. The district’s standard of service shall not be adjusted for any portion of the classrooms housed in relocatable facilities which are used as transitional facilities or for any specialized facilities housed in relocatable facilities. Except as otherwise defined by the school board pursuant to a board resolution, transitional facilities shall mean those facilities that are used to cover the time required for the construction of permanent facilities; provided that, the “necessary financial commitments” as defined in Chapter [18.70](#) BMC are in place to complete the permanent facilities called for in the capital plan. [Ord. 28 § 1(40), 1993]

~~18.15.820 Street frontage.~~ (ALREADY IN BMC 19)

“Street frontage” means any portion of a lot or combination of lots which directly abut a public right-of-way. [Ord. 28 § 1(40), 1993]

~~18.15.830 Student factor.~~ (NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)

“Student factor” means the number derived by a school district to describe how many students of each grade span are expected to be generated by a dwelling unit. Student factors shall be based on district records of average actual student generated rates for new developments constructed over a period of not more than five years prior to the date of the fee calculation; if such information is not available in the district, data from adjacent districts, districts with similar demographics, or county wide averages must be used. Student factors must be separately determined for single family and multifamily dwelling units, and for grade spans. [Ord. 28 § 1(40), 1993]

~~18.15.845 Temporary use permit.~~ (NOT NEEDED)

“Temporary use permit” means permit to allow a use of limited duration and/or frequency, or to allow multiple related events over a specified timeframe. [Ord. 28 § 1(40), 1993]

~~18.15.850 Tightline to a sewer.~~ (NOT NEEDED NO LONGER USED IN CODE)

A sewer trunk line designed and intended specifically to serve only a particular facility or place, and whose pipe diameter should be sized appropriately to ensure service only to that facility or place. It may occur outside the local service area for sewers, but does not amend the local service area. [Ord. 28 § 1(40), 1993]

~~18.15.860 Transitional housing facilities.~~ (NOT NEEDED—RELATED TO SCHOOL CONCURRENCY)

~~“Transitional housing facilities” means housing units within the city of Burien owned by public housing authorities, nonprofit organizations or other public interest groups that provide housing to persons on a temporary basis for a duration not to exceed 24 months in conjunction with job training, self-sufficiency training, and human services counseling; the purpose of which is to help persons make the transition from homelessness to placement in permanent housing. [Ord. 28 § 1(40), 1993]~~

~~18.15.880 Transportation System Management (“TSM”).~~ (NOT USED)

~~“Transportation System Management (“TSM”)” means low-cost projects that can be implemented in a short time frame designed to increase the efficiency of existing transportation facilities. This also includes transit and/or ride sharing measures to decrease single occupancy vehicle trips. [Ord. 28 § 1(40), 1993]~~

~~18.15.885 Ultimate roadway section.~~

~~19.10.547 Ultimate roadway section--A designation by the city of Burien that the maximum roadway or intersection capacity has been reached and further right-of-way acquisition and/or improvements are not feasible to increase peak hour vehicle capacity. [Ord. 28 § 1(40), 1993]~~

~~18.15.905 Vegetation.~~

~~19.10.557 Vegetation--Any and all plant life growing at, below or above the soil surface. [Ord. 28 § 1(40), 1993]~~

~~18.15.930 Wetland, forested.~~ (NOT USED)

~~“Forested wetland” means a wetland which is characterized by woody vegetation at least 20 feet tall. [Ord. 28 § 1(40), 1993]~~

~~18.15.950 Wetpond.~~ (NOT USED)

~~“Wetpond” means an artificial water body constructed as a part of a surface water management system. [Ord. 28 § 1(40), 1993]~~

Chapter 18.20

LAND USE DEFINITIONS

~~18.20.005 Scope of chapter.~~ (NOT NEEDED)

~~This chapter contains definitions of land uses listed on the tables in Chapter 18.25 BMC, Permitted Uses. The definitions in this chapter supplement those in the Standards Industrial Classification Manual (“SIC”). See Chapter 18.05 BMC, Authority, Purpose, Interpretation and Administration for rules on interpretation of the code, including use of these definitions and the SIC. Other important words and phrases used in the code are defined in Chapter 18.15, Definitions—Technical Terms. [Ord. 28 § 1(227), 1993]~~

~~18.20.010 Definitions—Generally.~~ (NOT NEEDED)

The words or phrases in this chapter are provided as a supplement to definitions provided in the Standard Industrial Classification Manual. [Ord. 28 § 1(228), 1993]

~~18.20.020 Accessory use, commercial/industrial.~~ (NOT NEEDED—PART OF “ACCESSORY” DEFINITION IN BMC 19)

~~“Commercial/industrial accessory use” means:~~

~~(1) A use that is subordinate and incidental to a commercial or industrial use; including, but not limited to the following uses:~~

~~(a) Administrative offices;~~

~~(b) Employee exercise facilities;~~

~~(c) Employee food service facilities;~~

~~(d) Incidental storage of raw materials and finished products sold or manufactured on site;~~

~~(e) Business owner or caretaker residence;~~

~~(f) Cogeneration facilities; and~~

~~(g) Ground maintenance facilities.~~

~~(2) Some accessory uses within the scope of this section may be defined separately to enable the code to apply different conditions of approval. [Ord. 28 § 1(228), 1993]~~

~~18.20.025 Accessory use, residential.~~ (ALREADY IN BMC 19)

~~“Residential accessory use” means:~~

~~(1) A use, structure or activity which is subordinate and incidental to a residence including, but not limited to the following uses:~~

~~(a) Accessory living quarters and dwellings;~~

~~(b) Fallout/bomb shelters;~~

~~(c) Keeping household pets;~~

~~(d) On-site rental office;~~

~~(e) Pools, private docks, piers;~~

~~(f) Antennas for private telecommunication services;~~

~~(g) Storage of yard maintenance equipment; or~~

~~(h) Storage of private vehicles, e.g., motor vehicles, boats, trailers or planes.~~

~~(2) Some accessory uses within the scope of this section may be defined separately to enable the code to apply different conditions of approval. [Ord. 28 § 1(228), 1993]~~

~~**18.20.030 Accessory use, resource.** (NOT NEEDED—RESOURCE USES NOT ALLOWED)~~

~~“Resource accessory use” means:~~

~~(1) A use, structure, or part of a structure, which is customarily subordinate and incidental to a resource use including, but not limited to the following uses:~~

~~(a) Housing of agricultural workers; or~~

~~(b) Storage of agricultural products or equipment used on site.~~

~~(2) Some accessory uses within the scope of this section may be defined separately to enable the code to apply different conditions of approval. [Ord. 28 § 1(228), 1993]~~

~~**18.20.050 Airport/heliport.** (NOT USED)~~

~~“Airport/heliport” means any runway, landing area or other facility which is designed or used by both public carriers or private aircraft for the landing and taking off of aircraft, including:~~

~~(1) Taxiways;~~

~~(2) Aircraft storage and tie-down areas;~~

~~(3) Hangars;~~

~~(4) Servicing; and~~

~~(5) Passenger and air freight terminals. [Ord. 28 § 1(228), 1993]~~

~~**18.20.120 Conference center.** (NOT USED)~~

~~“Conference center” means an establishment developed primarily as a meeting facility, including facilities for recreation, overnight lodging and related activities provided for conference participants. [Ord. 28 § 1(228), 1993]~~

~~**18.20.180 Earth station.** (NOT USED)~~

~~“Earth station” means a communication facility which transmits and/or receives signals to and from an orbiting satellite using satellite dish antennas. [Ord. 28 § 1(228), 1993]~~

~~**18.20.240 Helistop.** (NOT USED)~~

“Helistop” means an area on a roof or on the ground used for the takeoff and landing of helicopters for the purpose of loading or unloading passengers or cargo, but not including fueling service, hangers, maintenance or overhaul facilities. [Ord. 28 § 1(228), 1993]

~~18.20.365 Private storm water management facility.~~ (NOT USED)

“Private storm water management facility” means a surface water control structure installed by a project proponent to retain, detain or otherwise limit runoff from an individual or group of developed sites specifically served by such a structure. [Ord. 28 § 1(228), 1993]

Chapter 18.25
PERMITTED USES

~~18.25.010~~ 19.05.065 Establishment of uses.

The use of a property is defined by the activity for which the building or lot is intended, designed, arranged, occupied or maintained. The use is considered permanently established when that use will or has been in continuous operation for a period exceeding 60 days. A use which will operate for less than 60 days is considered a temporary use, and subject to the requirements of ~~Chapter 18.80 BMC 19.75~~ of this title. All applicable requirements of this code, or other applicable state or federal requirements, shall govern a use located in the incorporated city of Burien. [Ord. 28 § 1(327), 1993]

Chapter 18.35
DEVELOPMENT STANDARDS—DESIGN REQUIREMENTS

~~18.35.010 Purpose.~~ (NOT NEEDED—CHAPTER SPLIT INTO MANY SECTIONS)

The purpose of this chapter is to improve the quality of urban development by providing building and site design standards that:

- ~~(1) Reduce the visual impact of large residential buildings from adjacent streets and properties;~~
- ~~(2) Enhance the aesthetic character of large residential buildings; and~~
- ~~(3) Contain sufficient flexibility of standards to encourage creative and innovative site and building design.~~ [Ord. 252 § 3, 1999; Ord. 28 § 1(358), 1993]

~~18.35.020 General layout standards.~~ (NOT NEEDED—USED PRIMARILY FOR LARGE SUBDIVISIONS—NOT AN ISSUE IN BURIEN)

~~For residential developments in the UR and R zones:~~

- ~~(1) The maximum length of blocks shall be 1,320 feet; and~~
- ~~(2) Except for corner lots, lots for single detached dwellings shall not have street frontage along two sides unless one of said streets is a neighborhood collector street or an arterial street.~~ [Ord. 28 § 1(359), 1993]

~~18.35.060 Attached dwellings and group residences—Applicability.~~ (NOT NEEDED—BMC 19 ADDRESSES ACCESS, PARKING AND DESIGN STANDARDS)

The standards of BMC 18.35.070 through 18.35.090 shall apply to all new apartment developments exceeding four dwelling units, new townhouse development and new group residences except Class I Community Residential Facilities (“CRF-I”). Expansions of existing development that involve four or more dwelling units shall be subject to compliance with BMC 18.35.070 through 18.35.090. [Ord. 28 § 1(363), 1993]

~~18.35.070 Attached dwellings and group residences—Vehicular access and parking location.~~ (NOT NEEDED—PARKING AND ACCESS COVERED BY BMC 19.20 AND CITY ROAD STANDARDS)

~~(1) On sites abutting an alley constructed to a width of at least 20 feet, apartment and townhouse development and all group residences except Class I Community Residential Facilities (“CRF-I”) shall have parking areas placed to the rear of buildings with primary vehicular access via the alley, except when waived by the board of adjustment due to physical site limitations.~~

~~(2) When alley access is provided, no additional driveway access from the public street shall be allowed except as necessary to access parking under the structure.~~

~~(3) When common parking facilities for attached dwellings and group residences exceed 30 spaces, no more than 50 percent of the required parking shall be permitted between the street property line and any building, except when authorized by the board of adjustment due to physical site limitations. [Ord. 28 § 1(364), 1993]~~

~~18.35.080 Attached dwellings and group residences—Building facade modulation.~~ (ALREADY IN BMC 19)

~~Apartment and townhouse developments and all group residences shall provide building facade modulation on facades exceeding 60 feet in length and facing abutting streets or properties zoned RS. The following standards shall apply:~~

~~(1) The maximum wall length without modulation shall be 30 feet;~~

~~(2) The minimum modulation depth shall be three feet; and~~

~~(3) The minimum modulation width shall be eight feet. [Ord. 269 § 2, 1999; Ord. 28 § 1(365), 1993]~~

~~18.35.090 Attached dwellings and group residences—Roofline variation.~~ (ALREADY IN BMC 19)

~~Apartments and townhouse developments and all group residences shall provide roofline variation on rooflines exceeding 60 feet according to the following standards:~~

~~(1) The maximum roof length without variation shall be 30 feet;~~

~~(2) The minimum horizontal or vertical offset shall be three feet;~~

~~(3) The minimum variation length shall be eight feet; and~~

~~(4) Roofline variation shall be achieved using one or more of the following methods:~~

~~(a) Vertical off set in ridge line;~~

~~(b) Horizontal off set in ridge line;~~

~~(c) Variations of roof pitch;~~

~~(d) Gables;~~

~~(e) False facades; or~~

~~(f) Any other technique approved by the director that achieves the intent of this section. [Ord. 28 § 1(366), 1993]~~

19.17.250 18.35.140 Mobile home parks – Standards for existing parks.

1. Mobile home parks established prior to February 28, 1993 ~~the effective date of this code~~ shall continue to be governed by all standards relating to density, setbacks, landscaping and off-street parking in effect at the time they were approved.

2. Placement of new accessory structures and replacement mobile homes, either standard or nonstandard, in these mobile home parks shall be governed by the dimensional standards in effect when the parks were approved, unless two or more replacement mobile homes are proposed to be installed adjacent to each other under the flexible setback option set forth in BMC 19.17.270 18.35.170. Where internal setbacks are not specified, the average of the prevailing setbacks on the pads to either side of the proposed new or replacement structure shall apply.

3. No spaces or pads in an existing mobile home park shall be used to accommodate recreational vehicles (RVs), except when the spaces or pads were specifically for RVs at the time the park was established.

4. An existing mobile home park may be enlarged, provided the proposed enlargement meets the standards set forth in BMC 19.17.270 and 19.17.280. 18.35.160 and 18.35.170.

5. Only mobile homes meeting either the standards of the Washington State Department of Labor and Industries or the U.S. Department of Housing and Urban Development may be placed in a mobile home park in the city of Burien. [Ord. 28 § 1(371), 1993]

19.17.260 18.35.150 Mobile home parks – Standards for new parks.

New mobile home parks shall be developed subject to the following standards:

1. A mobile home park shall be at least three acres in area;

2. Residential densities in a mobile home park shall be the base density of the zone in which the park is located;

3. Only mobile homes meeting either the standards of the Washington State Department of Labor and Industries or the U.S. Department of Housing and Urban Development may be placed in a mobile home park in the city of Burien;

4. A mobile home park shall be exempt from the building coverage and impervious surface limits set forth in Chapter 19.15 18.30 BMC;

5. At least one of the off-street parking spaces required for each mobile home shall be located on or adjacent to each mobile home pad;

6. Internal roads and sidewalks shall provide access to each mobile home space and shall be constructed in accordance with the adopted city of Burien road standards for residential minor access streets;
7. There shall be a minimum of 10 feet of separation maintained between all mobile homes on the site, unless the flexible setback option set forth in BMC 19.17.270 ~~48.35.160~~ is used. Accessory structures shall be located no closer than:
- A. Ten feet to mobile homes on adjacent spaces, unless constructed of noncombustible materials, in which case the minimum setback shall be five feet;
 - B. Five feet to accessory structures of mobile homes on adjacent spaces; and
 - C. Five feet to the mobile home or other accessory structures on the same space, except a carport or garage may be attached to the mobile home, and the separation may be waived when such structures are constructed of noncombustible materials;
8. All mobile homes and RVs supported by piers shall be fully skirted; and
9. A mobile home park may include a storage area for RVs owned by residents of the park, provided the storage area contains no utility hook-ups and no RV within the storage area shall be used as living quarters. [Ord. 269 § 3, 1999; Ord. 28 § 1(372), 1993]

19.17.270 ~~48.35.160~~ Mobile home parks – Alternative design standards.

As an alternative to the building separation and internal street standards of BMC 19.17.260 ~~48.35.150~~:

1. Building separation requirements or setbacks between mobile homes and accessory structures on adjacent spaces may be modified, provided:
- A. The common walls meet the fire protection standards set forth in the Uniform International Building Code and the standards set forth in the Uniform International Fire Code for duplexes, multifamily and condominium developments, as applicable; and
 - B. Rental agreement clauses, by-laws or other legal mechanisms stipulate maintenance responsibilities for structures, fences and yards;
2. Private streets may be used with a minimum driving surface of 22 feet in width, provided:
- A. The streets comply in all other respects with the road standards;
 - B. All required parking is located off-street and as specified in BMC Title 12 and BMC 19.20 ~~48.35.150(5)~~; and
 - C. Such streets shall not:
 - i. Directly connect two or more points of vehicular access to the park; or
 - ii. Serve over 100 dwelling units within the park. [Ord. 28 § 1(373), 1993]

19.17.013 ~~48.35.170~~ ~~On-site recreation~~ — ~~Space required.~~ Residential Recreation Space

1. Except when fees-in-lieu of commonly owned recreation space are provided pursuant to ~~BMC 18.35.200 through 18.35.230~~ this section, residential developments shall provide recreation space as follows:

A. Residential subdivision developed at a density of eight units or less per acre – 390 square feet per unit; and

B. Mobile home park – 260 square feet per unit.

2. Any recreation space located outdoors shall:

A. Be of a grade and surface suitable for recreation;

B. Be on the site of the proposed development;

C. Contain at least 5,000 square feet in area; provided, that when more than one recreation space is proposed, only one of the proposed recreation spaces is required to meet the area requirement;

D. Have no dimensions less than 30 feet (except trail segments);

E. In single detached or townhouse subdivision development, have a street roadway or parking area frontage along 10 to 50 percent of the recreation space perimeter (except trail segments);

F. Be centrally located and accessible and convenient to all residents within the development; and

G. Be connected by trail or walkway to any existing or planned community park, public open space or trail system, which may be located on adjoining property.

3. Indoor recreation areas may be credited towards the total recreation space requirement when the city determines that such areas are located, designed and improved in a manner which provides recreational opportunities functionally equivalent to those recreational opportunities available outdoors. [Ord. 269 § 4, 1999; Ord. 252 § 3, 1999; Ord. 28 § 1(374), 1993]

~~18.35.180 On-site recreation — Play areas required.~~

4. All single detached subdivisions, ~~apartment, townhouse, and mixed use development, excluding senior citizen apartments,~~ shall provide tot/children play areas within the recreation space on-site, except when facilities are available within one-fourth mile that are developed as public parks or playgrounds and are accessible without the crossing of arterial streets.

5. If any play apparatus is provided in the play area, the apparatus shall meet Consumer Product Safety Standards for equipment, soft surfacing and spacing, and shall be located in an area that is:

A. At least 400 square feet in size with no dimension less than 20 feet; and

B. Adjacent to main pedestrian paths or near building entrances. [Ord. 28 § 1(375), 1993]

~~18.35.190 On-site recreation — Maintenance of recreation space or dedication.~~

6. Unless the recreation space is dedicated to the city of Burien pursuant to subsection 7, maintenance of any recreation space retained in private ownership shall be the responsibility of the owner or other separate entity capable of long-term maintenance and operation in a manner acceptable to the city of Burien.

7. The city of Burien may accept dedication of required recreation space ~~as defined in BMC 18.35.170(2)~~ as a public park when the following criteria are met:

A. The dedicated area is at least 20 acres in size, except when adjacent to an existing or planned park; and

B. The dedicated land provides one or more of the following:

i. Shoreline access,

ii. Regional trail linkages,

iii. Habitat linkages,

iv. Recreation facilities, or

v. Heritage sites. [Ord. 28 § 1(376), 1993]

~~18.35.200 On-site recreation — Fee in lieu of recreation space.~~

8. If on-site recreation space is not provided, the applicant shall pay a fee in lieu of actual recreation space. [Ord. 28 § 1(377), 1993]

~~18.35.210 On-site recreation — Acceptance criteria for fee in lieu of recreation space.~~

The city of Burien acceptance of this payment is discretionary and may be permitted if:

A. The proposed on-site recreation space does not meet the criteria of BMC ~~18.35.170~~ ~~(2)~~19.17.013.2; or

B. The recreation space provided within a park in the vicinity will be of greater benefit to the prospective residents of the development. [Ord. 28 § 1(378), 1993]

~~18.35.220 On-site recreation — Determination of fee in lieu of space.~~

9. Fees provided in lieu of on-site recreation space shall be determined annually by the city of Burien on the basis of the typical market value of the recreation space prior to development.

10. Any recreational space provided by the applicant shall be credited towards the land area upon which the required fees are calculated. [Ord. 28 § 1(379), 1993]

~~18.35.230 On-site recreation — Collection and expenditure of fee in lieu of space.~~

11. The fee in lieu of recreation space shall be:

- A. Paid to the city of Burien at the time of:
 - i. Subdivision or short subdivision recording of single detached and townhouse developments, or
 - ii. Prior to issuance of building permits for all other residential or mixed use development;
- B. Used by the city of Burien for the acquisition and improvement of parks or public recreational facilities to serve the development; and
- C. Expended through council capital budget and program appropriations. [Ord. 28 § 1(380), 1993]

19.17.280 ~~18.35.240~~ Storage space and collection points for recyclables.

Developments shall provide storage space for the collection of recyclables as follows:

1. The storage space shall be provided at the rate of:
 - A. One and one-half square feet per dwelling unit in multiple-dwelling developments except where the development is participating in a city-sponsored or approved direct collection program in which individual recycling bins are used for curbside collection;
 - B. Two square feet per every 1,000 square feet of building gross floor area in office, educational and institutional developments;
 - C. Three square feet per every 1,000 square feet of building gross floor area in manufacturing and other nonresidential developments; and
 - D. Five square feet per every 1,000 square feet of building gross floor area in retail developments;
2. The storage space for residential developments shall be apportioned and located in collection points as follows:
 - A. The required storage area shall be dispersed in collection points throughout the site when a residential development comprises more than one building;
 - B. There shall be one collection point for every 30 dwelling units;
 - C. Collection points may be located within residential buildings, in separate buildings/structures without dwelling units, or outdoors;
 - D. Collection points located in separate buildings/structures or outdoors shall be no more than 200 feet from a common entrance of a residential building;
 - E. Collection points shall be located in a manner so that hauling trucks do not obstruct pedestrian or vehicle traffic on-site, or project into any public right-of-way;
3. The storage space for nonresidential development shall be apportioned and located in collection points as follows:

- A. Storage space may be allocated to a centralized collection point;
- B. Outdoor collection points shall not be located in any required setback areas;
- C. Collection points shall be located in a manner so that hauling trucks do not obstruct pedestrian or vehicle traffic on-site, or project into any public right-of-way; and
- D. Access to collection points may be limited, except during regular business hours and/or specified collection hours;

4. The collection points shall be designed as follows:

- A. Dimensions of the collection points shall be of sufficient width and depth to enclose containers for recyclables;
- B. Architectural design of any structure enclosing an outdoor collection point or any building primarily used to contain a collection point shall be consistent with the design of the primary structure(s) on the site;
- C. Collection points shall be identified by signs not exceeding two square feet;
- D. A six-foot wall or fence shall enclose any outdoor collection point, excluding collection points located in industrial developments that are greater than 100 feet from residentially zoned property;
- E. Enclosures for outdoor collection points and buildings used primarily to contain a collection point shall have gate openings at least 12 feet wide for haulers. In addition, the gate opening for any building or other roofed structure used primarily as a collection point shall have a vertical clearance of at least 12 feet; and
- F. Weather protection of recyclables shall be ensured by using weather-proof containers or by providing a roof over the storage area;

5. Only recyclable materials generated on-site shall be collected and stored at such collection points. Except for initial sorting of recyclables by users, all other processing of such materials shall be conducted off-site. [Ord. 28 § 1(381), 1993]

19.17.290 18.35.250 Fences.

Fences are permitted as follows:

- 1. Fences exceeding a height of six feet shall comply with the applicable street and interior setbacks of the zone in which the property is located;
- 2. The height of a fence located on a rockery, retaining wall, or berm shall be measured from the top of the fence to the ground on the low side of the rockery, retaining wall, or berm;
- 3. When a protective fence is located on top of a rockery within the required setback area, any portion of the fence above a height of six feet shall be an open-work fence;
- 4. Electric fences shall:

A. Be permitted in all zones, provided that when placed within RS or RM zones, additional fencing or other barriers shall be constructed to prevent inadvertent contact with the electric fence from abutting property;

B. Comply with the following requirements:

i. An electric fence using an interrupted flow of current at intervals of about one second on and two seconds off shall be limited to 2,000 volts at 17 milliamp;

ii. An electric fence using continuous current shall be limited to 1,500 volts at seven milliamp;

iii. All electric fences in RS or RM zones shall be posted with permanent signs a minimum of 36 square inches in area at 50-foot intervals stating that the fence is electrified; and

iv. Electric fences sold as a complete and assembled unit can be installed by an owner if the controlling elements of the installation are certified by an ANSI-approved testing agency; and

5. Except as specifically required for the necessary security related to a nonresidential use, no barbed or razor-wire fence shall be located in any RS or RM zone. [Ord. 269 § 5, 1999; Ord. 28 § 1(382), 1993]

~~19.17.300 18.35.260~~ Trail corridors—~~Applicability.~~

1. Trail easements shall be provided by any development, except for single detached residential permits, when such developments are located within any community or regional trail corridor identified by an adopted ~~King County~~ Burien functional plan or Burien comprehensive plan identifying community and/or regional trail systems. [Ord. 28 § 1(383), 1993]

~~18.35.270~~ Trail corridors—~~Design standards.~~

2. Trail design shall be reviewed by the city of Burien for consistency with adopted standards for:

A. Width of the trail corridor;

B. Location of the trail corridor on the site;

C. Surfacing improvements; and

D. Use(s) permitted within the corridor. [Ord. 28 § 1(384), 1993]

~~18.35.280~~ Trail corridors—~~Maintenance of trail corridors/improvements.~~

3. Maintenance of any trail corridor or improvements, retained in private ownership, shall be the responsibility of the owner or other separate entity capable of long-term maintenance and operation in a manner acceptable to the parks division. [Ord. 28 § 1(385), 1993]

Chapter ~~19.70 18-70~~

~~DEVELOPMENT STANDARDS— ADEQUACY OF PUBLIC FACILITIES AND SERVICES~~

1918.70.010 Purpose.

The purpose of this chapter is to ensure that public facilities and services necessary to support development are adequate or will be provided in a timely manner consistent with the public facilities and services planning goal of the Washington State Growth Management Act of 1990 by:

1. Specifying the on-site and off-site facilities and services that must be in place or otherwise assured of timely provision prior to development;
2. Allocating the cost of those facilities and services fairly; and
3. Providing a general framework for relating development standards and other requirements of this code to:
 - A. Adopted service level standards for public facilities and services;
 - B. Procedural requirements for phasing development projects to ensure that services are provided as development occurs; and
 - C. The review of development permit applications. [Ord. 28 § 1(510), 1993]

1918.70.020 General requirements.

1. All new development proposals including any use, activity, or structure allowed by Chapter 19.15 BMC that requires the city of Burien approval shall be adequately served by the following facilities and services prior to the time of occupancy, plat recording, or other land use approval, as further specified in this chapter:
 - A. Sewage disposal;
 - B. Water supply;
 - C. Surface water management;
 - D. Roads and access;
 - E. Fire protection service; and
 - F. Schools.

2. Regardless of the number of sequential permits required, the provisions of this chapter shall be applied only once to any single development proposal. If changes and modifications result in impacts not considered when the proposal was first approved, the city shall consider the revised proposal as a new development proposal. [Ord. 269 § 20, 1999; Ord. 28 § 1(511), 1993]

1918.70.030 Adequate sewage disposal.

All new development shall be served by an adequate public or private sewage disposal system, including both collection and treatment facilities as follows:

1. A public sewage disposal system is adequate for a development proposal provided that:

A. For the issuance of a building permit, preliminary plat approval or other land use approval the site of the proposed development is served by an existing disposal system consistent with the Sewerage General Plan, and the disposal system has been approved by the department as being consistent with applicable state and local design and operating guidelines;

B. For the issuance of a certificate of occupancy for a building or change of use permit, the approved public sewage disposal system as set forth in subsection (1)(a) of this section is installed to serve each building or lot;

C. For recording a final plat, final short plat or binding site plan the approved public sewage disposal system set forth in subsection 1.A of this section shall be installed to serve each lot respectively; or a bond or similar security shall be deposited with the city of Burien for the future installation of an adequate sewage disposal system. The bond may be assigned to a purveyor to assure the construction of such facilities within two years of recording; and

~~(d) For a zone reclassification or urban planned development permit, the timing of installation of required sewerage improvements shall be contained in the approving ordinance as specified in KCC 20.24.230; and~~

2. A private individual sewage system is adequate, if an on-site sewage disposal system for each individual building or lot is installed to meet the requirements and standards of the department of public health as to lot size, soils, and system design prior to issuance of a certificate of occupancy for a building or change of use permit. [Ord. 28 § 1(512), 1993]

1918.70.040 Adequate water supply.

All new development shall be served by an adequate public or private water supply system as follows:

1. A public water system is adequate for a development proposal provided that:

A. For the issuance of a building permit, preliminary plat approval or other land use approval, the applicant must demonstrate that the existing water supply system serving the site:

i. Complies with the applicable planning, operating and design requirements of Chapter 246-290 WAC; Chapters 14.42 and 14.44 KCC and KCC Title 17; Coordinated Water System Plans; KCC Title 12, KCC Title 13 and other applicable provisions of the rules and regulations of the King County board of health; and any limitation or condition imposed by the city-approved comprehensive plan of the water purveyor; and

ii. The proposed improvements to an existing water system have been reviewed by the department and determined to comply with the design standards and conditions specified in paragraph A of this subsection; or

iii. A proposed new water supply system has been reviewed by the department and determined to comply with the design standards and conditions specified in paragraph A of this subsection;

B. Prior to issuance of a certificate of occupancy for a building or change of use permit, the approved public water system and any system improvements set forth in subsection 1.A of this section shall be installed to serve each building or lot respectively; and

C. For recording a final plat, final short plat or binding site plan, either the approved public water supply system or system improvements set forth in subsection 1.A of this section shall be installed to serve each lot or a bond or similar security shall be deposited with the city of Burien and may be assigned to a purveyor to assure the construction of required water facilities in Group A systems as defined by board of health regulations, within two years of recording; and

~~(d) For a zone reclassification or urban planned development permit, the timing of installation of required water system improvements shall be included in the approving ordinance as specified in KCC 20.24.230.~~

2. An on-site, individual water system is adequate and the plat or short plat may receive preliminary and final approval, and a building or change of use permit may be issued if:

~~(a) In an urban area:~~

~~A. The buildings or lots to be served are located outside of a city approved water purveyor service area; or~~

~~B. The water purveyor has indicated that service cannot be provided in compliance with the purveyor's approved comprehensive plan; and~~

~~C. The Seattle-King County department of public health has approved the proposed method of water supply in accordance with the applicable King County board of health rules and regulations and this section. The applicant shall provide appropriate information to demonstrate to the department and the Seattle-King County department of public health that a private individual water system will be adequate. The Seattle-King County department of public health may require installation of private individual water systems prior to final approval of a plat or short plat where information is insufficient to show an adequate water supply can be made available.~~

~~(b) In a rural area if the Seattle-King County department of public health has approved the proposed method of water supply in accordance with the applicable King County board of health rules and regulations and this section. The applicant shall provide appropriate information to demonstrate to the department and the Seattle-King County department of public health that a private individual water system will be adequate. The Seattle-King County department of public health may require installation of private individual water systems prior to final approval of a plat or short plat where information is insufficient to show an adequate water supply can be made available. [Ord. 28 § 1(513), 1993]~~

1918.70.050 Surface water management.

All new development shall be served by an adequate surface water management system as follows:

1. The proposed system is adequate if the development proposal site is served by a surface water management system approved by the Public Works department as being consistent with the design, operating and procedural requirements of the Surface Water Design Manual and ~~KCC Title 9~~ BMC Title 13;

~~(2) For a subdivision, zone reclassification or urban planned development, the phased installation of required surface water management improvements shall be stated in the approving ordinance as specified in KCC 20.24.230. Such phasing may require that a bond or similar security be deposited with the city of Burien; and~~

~~2. (3) A variance request from the requirements of the Surface Water Design Manual and KCC Title 9 BMC Title 13 shall be reviewed as set forth in KCC 9.04.050 BMC Title 13 and does not require a variance from~~

this title ~~or BMC Title 19 unless relief is requested from a building height, setback, landscaping or other development standard set forth in Chapters 18.30 through 18.75 BMC or Chapter 19.15 BMC.~~ [Ord. 269 § 21, 1999; Ord. 28 § 1(514), 1993]

1918.70.060 Adequate roads.

1. All new development shall be served by adequate roads. Roads are adequate if the development's traffic impacts on surrounding public roads are acceptable under the level-of-service standards as stated in ~~BMC 18.70.060 this section~~ and the compliance procedures established in ~~BMC 18.70.070 and 18.70.080~~ 19.70.070 and 19.70.080.

2. The renewal of permits or the issuance of a new permit for existing uses constitutes a new development proposal only if it will generate additional traffic above that currently generated by the use.

3. A variance request from ~~the road cross-section or construction standards established by KCC Title 14, Roads and Bridges, BMC Title 12~~ shall be reviewed as set forth in ~~KCC 14.42.060 BMC Title 12~~ and does not require a variance from this title ~~or BMC Title 19 unless relief is requested from a building height, setback, landscaping or other development standard set forth in Chapters 18.30 through 18.75 BMC or Chapter 19.15 BMC.~~ [Ord. 269 § 22, 1999; Ord. 28 § 1(515), 1993]

1918.70.070 Adequate roads – Road capacity level of service (“LOS”) standard.

The following calculated level-of-service standards shall be considered adequate and shall apply to all public roads:

1. LOS standard E for First Avenue South;
2. LOS standard D within the urban center boundary, as shown in Figure 2LU-1.11 of the Comprehensive Plan;
3. LOS standard D for the intersection of SW 128th Street and Ambaum Boulevard SW;
4. As mandated by state law, the city of Burien adopts LOS “D” for SR-509 and SR-518 (highways of statewide significance) and an LOS of “E/mitigated” for the segment of SR-509 from First Avenue South to the Burien city limits (highway of regional significance), or whichever LOS is currently adopted by the Washington State Department of Transportation;
5. LOS standards C for all other roadway facilities and services. [Ord. 431 § 1, 2005; Ord. 28 § 1(516), 1993]

1918.70.080 Adequate roads – Applicability of capacity standard.

The road adequacy standards as stated in ~~BMC 18.70.070~~ 19.70.070 shall apply to all public county, city or state roads, other than freeways; provided, that no improvements to state roads shall be required unless the state requests such improvements and there is an agreement between the state, city and applicant. [Ord. 431 § 1, 2005; Ord. 28 § 1(517), 1993]

1918.70.090 Adequate roads – General conditions.

1. A development proposal which will have a direct traffic impact on a roadway or intersection which results in a calculated level of service worse than set forth in ~~BMC 18.70.070~~ 19.70.070 shall not be approved unless:

A. All transportation facilities are adequate at the time of development and transportation impacts will not negatively impact or reduce LOS elsewhere in the city; or

B. Funding is in place to complete the necessary improvements or strategies to accommodate transportation impacts within six years. Improvements are considered funded only when:

i. Incorporated into the adopted city budget, or

ii. Upon grant agreement, or

iii. The applicant agrees to fund needed improvements, or

iv. Upon a legally enforceable mechanism, such as a local improvement district, or

v. Some combination of the above; or

C. The applicant phases the project or uses transportation demand management ("TDM") techniques to reduce the number of peak hour trips generated by the project to attain the LOS required in BMC ~~48.70.070~~ 19.70.070 or better; or

D. The city of Burien has established a date for final approval of subdivisions ~~and urban plan developments~~ to become effective corresponding with the anticipated date of award of a construction contract for county, city, or state improvements needed to provide LOS D or better, or when the calculated nonproject LOS is E or F, to provide LOS E or better; provided such effective approval date may be established only when the anticipated date of award of construction contract is within 12 months of final approval; or

E. The roadway or intersection has already been improved to its ultimate roadway section and the applicant agrees to use TDM incentives and/or phase the development proposal as determined by the city of Burien.

2. Developments proposed which will have a direct impact on city traffic facilities or designated areas pursuant to BMC ~~48.70.080~~ 19.70.080 may attain the LOS specified in the adopted interlocal agreements rather than meeting BMC ~~48.70.070~~ 19.70.070. [Ord. 431 § 1, 2005; Ord. 28 § 1(518), 1993]

~~18.70.120~~ **19.70.100 Adequate vehicular access.**

All new development shall be served by adequate vehicular access as follows:

1. The property upon which the development proposed is to be located has direct access to:

A. A public or private street that meets city road standards or is formally declared acceptable by the city road engineer; or

B. The property has access to such a street over a private driveway approved by the city;

2. The proposed circulation system of a proposed subdivision, short subdivision or binding site plan shall intersect with existing and anticipated streets abutting the site at safe and convenient locations, as determined by the department and the city road engineer; and

3. Every lot upon which one or more buildings is proposed to be erected or traffic generating use is proposed to be established, shall establish safe access as follows:

A. Safe passage from the street right-of-way to building entrances for transit patrons and other pedestrians, in accordance with the design standards set forth in ~~Chapter 18.45~~ BMC 19.20;

B. Direct access from the street right-of-way, fire lane or a parking space to any part of the property as needed to provide public services in accordance with adopted standards (e.g., fire protection, emergency medical service, mail delivery or trash collection); and

C. Direct access from the street right-of-way, driveway, alley or other means of ingress/egress approved by the city of Burien, to all required off-street parking spaces on the premises. [Ord. 28 § 1(521), 1993]

~~18.70.130~~ 19.70.110 Adequate fire protection.

All new development shall be served by adequate fire protection as set forth below:

1. The site of the development proposed is served by a water supply system that provides at least minimum fire flow and a road system or fire lane system that provides life safety/rescue access, and other fire protection requirements for buildings as required by the fire code and ~~UBC~~ International Codes, building and construction standards;

~~(2) For a zone reclassification or urban planned development, the timing of installation of required fire protection improvements shall be stated in the approving ordinance as specified in the fire code, secured with a bond or similar security, and deposited with the city of Burien; and~~

2. A variance request from the requirements established by the fire code, shall be reviewed as set forth in ~~Article 2 of the currently adopted edition of the Uniform Fire Code~~ the fire code and does not require a variance from this title ~~unless relief is requested from a building height, setback, landscaping or other development standard set forth in Chapters 18.30 BMC through 18.75 BMC.~~ [Ord. 28 § 1(522), 1993]

~~18.70.140 School concurrency — Applicability and relationship with fees.~~

~~(1) The concurrency standard set out in BMC 18.70.160 shall apply to applications for preliminary plat or UPD approval which would result in the creation of new residential building lots or mobile home parks or the construction of new dwelling units, requests for multifamily zoning, and building permits for multifamily housing projects which have not been previously evaluated for compliance with the concurrency standard.~~

~~(2) The city's finding of concurrency shall be made at the time of preliminary plat or urban planned development approval, at the time that a request to actualize potential multifamily zoning is approved, or prior to building permit issuance for multifamily housing projects which have not been previously established for compliance with the concurrency standard. Once such a finding has been made, the development shall be considered as vested for purposes of the concurrency determination.~~

~~(3) Excluded from the application of the concurrency standard are building permits for individual single family dwellings, any form of housing exclusively for the elderly, including nursing homes and retirement centers. Also excluded from the application of the concurrency standard are shelters for temporary placement, relocation facilities and transitional housing facilities. Replacement reconstruction or remodeling of existing dwelling units is not subject to the provisions of this chapter.~~

~~(4) Also excluded from the application of the concurrency standard set out in this chapter are:~~

~~(a) Short subdivisions;~~

~~(b) Building permits for residential units in preliminary planned unit developments which were under consideration by the city of Burien or King County on January 22, 1991;~~

~~© Building permits for residential units in recorded planned unit developments approved pursuant to the zoning code that have not yet expired;~~

~~(d) Building permits applied for by December 31, 1993, related to rezone applications to actualize potential zoning which were under consideration by the city of Burien or King County on January 22, 1991;~~

~~(e) Building permits applied for by December 31, 1993, related to residential development proposals for site plan review to fulfill P-Suffix requirements of multifamily zoning which were under consideration by the city of Burien or King County on January 22, 1991; and~~

~~(f) Any residential building permit for any development proposal for which a concurrency determination has already been made pursuant to the terms of this chapter or the zoning code.~~

~~(5) All of the development activities which are excluded from the application of the concurrency standard are subject to school impact fees imposed pursuant to KCC Title 27.~~

~~(6) The assessment and payment of impact fees are governed by and shall be subject to the provisions in KCC Title 27 addressing school impact fees.~~

~~(7) A certification of concurrency for a school district shall not preclude the city from collecting impact fees for the district. Impact fees may be assessed and collected as long as the fees are used to fund capital and system improvements needed to serve the new development, and as long as the use of such fees is consistent with the requirements of Chapter 82.02 RCW and this chapter. Pursuant to Chapter 82.02 RCW, impact fees may also be used to recoup capital and system improvement costs previously incurred by a school district to the extent that new growth and development will be served by the previously constructed improvements or incurred costs. [Ord. 28 § 1(523), 1993]~~

18.70.150 Findings, recommendations, and decisions regarding school capacities.

(1) The director and/or the planning commission, in the course of reviewing proposals for residential development including applications for plats or UPDs, or multifamily zoning, and multifamily building permits, shall consider the school district's capital facilities plan.

(2) Documentation which the district is required to submit pursuant to KCC Title 20 shall be incorporated into the record in every case without requiring the district to offer such plans and data into the record. The school district is also authorized to present testimony and documents demonstrating a lack of concurrency in the district and the inability of the district to accommodate the students to be generated by a specific development.

(3) Based upon a finding that the impacts generated by the plat, the UPD or the multifamily development were generally not anticipated at the time of the last council review and approval of a school district capital plan and were not included in the district's long range forecast, the director may require or recommend phasing or provision of the needed facilities and/or sites as appropriate to address the deficiency or deny or

condition approval, consistent with the provisions of this chapter, the State Subdivision Act, and the State Environmental Policy Act.

~~(4) Determinations of the planning commission or director regarding concurrency can be appealed only pursuant to the provisions for appeal of the development permit process for which the determination has been made. Where no other administrative appeal process is available, an appeal may be taken to the board of adjustment using the appeal procedures for variances. Any errors in the formula identified as a result of an appeal should be referred to the council for possible modifications.~~

~~(5) Where the council has not adopted an impact fee ordinance for a particular school district, the language of this section shall not affect the authority or duties of the examiner or the director pursuant to the State Environmental Policy Act or the State Subdivision Act. [Ord. 28 § 1(524), 1993]~~

18.70.160 School concurrency standard.

~~(1) Schools shall be considered to have been provided concurrently with the development which will impact the schools if:~~

~~(a) The permanent and interim improvements necessary to serve the development are planned to be in place at the time the impacts of development are expected to occur; or~~

~~(b) The necessary financial commitments are in place to assure the completion of the needed improvements to meet the district's standard of service within three years of the time that the impacts of development are expected to occur. Necessary improvements are those facilities identified by the district in its capital facilities plan as reviewed and adopted by the city of Burien.~~

~~(2) Any combination of the following shall constitute the "necessary financial commitments" for the purposes of subsection (1):~~

~~(a) The district has received voter approval of and/or has bonding authority;~~

~~(b) The district has received approval for federal, state, or other funds;~~

~~© The district has received a secured commitment from a developer that the developer will construct the needed permanent school facility, and the school district has found such facility to be acceptable and consistent with its capital facilities plan; and/or~~

~~(d) The district has other assured funding, including but not limited to school impact fees which have been paid.~~

~~(3) Compliance with this concurrency requirement of this section shall be sufficient to satisfy the provisions of RCW 58.17.060 and 58.17.110. [Ord. 28 § 1(525), 1993]~~

18.70.170 Interim period.

~~(1) During the interim period prior to the school capacity technical review committee completing its review of a district's plans and the city incorporating the plan into the city comprehensive plan, districts shall submit the following materials to the hearing examiner and director:~~

(a) A copy of the Inventory of Permanent School Facilities prepared by the Superintendent of Public Instruction which identifies the number of classrooms at each of the schools by grade span and by type of student;

(b) Documentation of the number of other classrooms available in the district which the district believes will best serve its student population; and

© Based on the information in paragraphs (a) and (b) of this subsection, a resolution of the school board adopting an interim estimate of the district's overall capacity over the next six years, which shall be a function of the district's standard of service, by the number of students which can be housed in district facilities.

(2) Until such time as the committee is able to conduct the review required by KCC 21.61.065, the planning commission and the director shall be guided by the interim capacity submitted by the district and adopted by the school board in making finds of concurrency.

(3) In the event that the planning commission or the director finds that the district's interim capacity is unreasonable based on the standards identified in KCC 21.61.065 or Title 20, the planning commission or the director shall request the council to review the interim capacity consistent with the requirements of KCC 21.61.070 or Title 20.

(4) Determinations of the planning commission or director may be appealed to the council pursuant to the provisions for appeal of the underlying permit process. [Ord. 28 § 1(526), 1993]

18.70.180 Credit for improvements.

Whenever a development is granted approval subject to a condition that the development proponent actually provide a school facility acceptable to the district, the development proponent shall be entitled to a credit for the actual cost of providing the facility, against the fee that would be chargeable under the formula provided by KCC Title 27. The cost of construction shall be estimated at the time of approval, but must be documented and the documentation confirmed after the construction is completed to assure that an accurate credit amount is provided. If construction costs are less than the calculated fee amount, the difference remaining shall be chargeable as a school impact fee. [Ord. 28 § 1(527), 1993]

Chapter 18.80

~~GENERAL PROVISIONS—NONCONFORMANCE, TEMPORARY USES AND RE-USE OF FACILITIES~~ BMC 19.75 Temporary Use Permits

~~18.80.100~~ 19.75.010 Temporary use permits— Uses requiring temporary use permits.

Except as provided by BMC ~~18.80.070~~ 19.75.020, a temporary use permit shall be required for:

1. Uses not otherwise permitted in the zone that can be made compatible for periods of limited duration and/or frequency; or
2. Limited expansion of any use that is otherwise allowed in the zone but which exceeds the intended scope of the original land use approval. [Ord. 28 § 1(546), 1993]

~~18.80.110~~ Temporary use permits— 19.75.020 Exemptions to permit requirement.

1. The following uses shall be exempt from requirements for a temporary use permit when located in the CN, CI, CC, CR, DC-1, ~~DC-2~~, SPA-1, SPA-3, O, AI or I zones for the time period specified below:

A. Uses not to exceed a total of 30 days each calendar year:

- i. Christmas tree lots; and
- ii. Produce stands.

B. Uses not to exceed a total of 14 days each calendar year:

- i. Amusement rides, carnivals, or circuses;
- ii. Community festivals; and
- iii. Parking lot sales.

2. Any use not exceeding a cumulative total of two days each calendar year shall be exempt from requirements for a temporary use permit.

3. Any community event held in a public park and not exceeding a period of seven days shall be exempt from requirements for a temporary use permit.

4. The city may revoke or suspend a permit if circumstances under which the permit was issued are no longer present or the conditions of the permit are violated. Any appeal of such a revocation or suspension, or denial of the initial application, shall be to the city manager or a designee. [Ord. 269 § 23, 1999; Ord. 50 §§ 2, 3, 1993; Ord. 28 § 1(547), 1993]

~~18.80.120 Temporary use permits~~ — 19.75.030 Duration and frequency.

Temporary use permits shall be limited in duration and frequency as follows:

1. The temporary use permit shall be effective for 180 days from issuance;
2. The temporary use shall not exceed a total of 60 days, provided that this requirement applies only to the days that multiple or nonsuccessive event(s) actually take place;
3. The temporary use permit shall specify a date upon which the use shall be terminated and removed; and
4. A temporary use permit shall not be granted for the same temporary use on a property more than once per calendar year provided that a temporary use permit may be granted for multiple events over a maximum 180-day period. [Ord. 28 § 1(548), 1993]

~~18.80.130 Temporary use permits~~ — 19.75.040 Parking and traffic control.

1. Parking and access for proposed temporary uses shall be approved by the city. [Ord. 28 § 1(549), 1993]

~~18.80.140 Temporary use permits~~ — ~~Traffic control.~~

2. The applicant for a proposed temporary use shall provide any parking/traffic control attendants as specified by the ~~King County department of public safety~~ City. [Ord. 28 § 1(550), 1993]

~~18.80.150~~ 19.75.050 Temporary construction buildings.

Temporary structures for storage of tools and equipment, or for supervisory offices may be permitted for construction projects, provided that such structures are:

1. Allowed only during periods of active construction; and
2. Removed within 30 days of project completion or cessation of work. [Ord. 28 § 1(551), 1993]

~~18.80.160~~ 19.75.060 Temporary construction residence.

1. A mobile home may be permitted on a lot as a temporary dwelling for the property owner, provided a building permit for a permanent dwelling on the site has been obtained.
2. The temporary mobile home permit shall be effective for a period of 12 months. The permit may be extended for one additional period of 12 months if the permanent dwelling is constructed with a finished exterior by the end of the initial approval period.
3. The mobile home shall be removed within 90 days of:
 - A. The expiration of the temporary mobile home permit; or
 - B. The issuance of a certificate of occupancy for the permanent residence, whichever occurs first. [Ord. 28 § 1(552), 1993]

~~18.80.170~~ 19.75.070 Temporary mobile home for medical hardship.

1. A mobile home may be permitted as a temporary dwelling on the same lot as a permanent dwelling, provided:
 - A. The applicant demonstrates the temporary dwelling is necessary to provide daily care to an individual certified by a physician as needing such care;
 - B. The primary provider of daily care shall reside on-site; and
 - C. The mobile home together with the permanent residence shall meet the setback, height, building footprint, and lot coverage provisions of the applicable zone.
2. Temporary mobile home permits for medical hardships shall be effective for 12 months. Extensions of the temporary mobile home permit may be approved in 12-month increments subject to demonstration of continuing medical hardship.
3. The mobile home shall be removed within 90 days of:
 - A. The expiration of the temporary mobile home permit; or

B. The cessation of provision of daily care. [Ord. 28 § 1(553), 1993]

~~18.80.180~~ 19.75.080 Temporary real estate offices.

One temporary real estate office may be located on any new residential development, provided that activities are limited to the initial sale or rental of property or units within the development. The office use shall be discontinued within one year of recording of a subdivision or short subdivision or issuance of a final certificate of occupancy apartment development. [Ord. 28 § 1(554), 1993]

~~18.80.190~~ Re-use of facilities — General standards.

~~The interim or permanent re-use of surplus nonresidential facilities in residential zoned areas shall require that no more than 50 percent of the original floor area may be demolished for either permanent or interim re-use of facilities. [Ord. 28 § 1(555), 1993]~~

~~18.80.200~~ Re-use of facilities — Re-establishment of closed public school facilities.

~~The re-establishment or reconversion of an interim nonschool use of school facilities back to school uses shall require a site plan and the issuance of a change of use permit pursuant to Chapter 16.04 KCC. [Ord. 28 § 1(556), 1993]~~

~~18.80.210~~ Re-use of facilities — Standards for conversion of historic buildings.

~~In order to insure that significant features of the property are protected pursuant to Chapter 20.62 KCC, the following standards shall apply to conversion of historic buildings:~~

- ~~(1) Gross floor area of building additions or new buildings required for the conversion shall not exceed 20 percent of the gross floor area of the historic building, unless allowed by the zone;~~
- ~~(2) Conversions to apartments shall not exceed one dwelling unit for each 3,600 square feet of lot area, unless allowed by the zone; and~~
- ~~(3) Any construction required for the conversion shall require certification of appropriateness from the King County Landmark Commission. [Ord. 28 § 1(557), 1993]~~

~~18.105.030~~ 19.75.090 Temporary use permit.

A temporary use permit shall be granted by the city, only if the applicant demonstrates that:

1. The proposed temporary use will not be materially detrimental to the public welfare;
2. The proposed temporary use is compatible with existing land use in the immediate vicinity in terms of noise and hours of operation;
- ~~(3) The proposed temporary use, if located in a resource zone, will not be materially detrimental to the use of the land for resource purposes and will provide adequate off-site parking if necessary to protect against compacting soils;~~
3. Adequate public off-street parking and traffic control for the exclusive use of the proposed temporary use can be provided in a safe manner; and

4. The proposed temporary use is not otherwise permitted pursuant to BMC ~~18.80.100~~ 19.75.010 in the zone in which it is proposed. [Ord. 28 § 1(608), 1993]

Chapter ~~18.110~~ 19.80 ENFORCEMENT

~~18.110.010~~ 19.80.010 Purpose.

The purpose of this chapter is to promote compliance with this title by establishing enforcement authority, defining violations, and setting standards for initiating the procedures set forth in ~~KCC Title 23, Enforcement~~ BMC 8.45, when violations of this title occur. [Ord. 28 § 1(614), 1993]

~~18.110.020~~ 19.80.020 Authority and application.

The director is authorized to enforce the provisions of this code, ~~any implementing administrative rules adopted under Chapter 2.98 KCC, Administration~~, and approval conditions attached to any land use approval, through revocation or modification of permits, or through the enforcement, penalty and abatement provisions of ~~KCC Title 23, Enforcement~~ BMC 8.45. [Ord. 28 § 1(615), 1993]

~~18.110.030~~ 19.80.030 Violations defined.

No building permit or land use approval in conflict with the provisions of this title shall be issued. Structures or uses which do not conform to this title, except legal nonconformances specified in BMC ~~Chapter 18.80~~ 19.55 and approved variances, are violations subject to the enforcement, penalty and abatement provisions of ~~KCC Title 23~~ BMC 8.45, including but not limited to:

1. Establishing a use not permitted in the zone in which it is located;
2. Constructing, expanding or placing a structure in violation of setback, height and other dimensional standards in this title;
3. Establishing a permitted use without complying with applicable development standards set forth in other titles, ordinances, rules or other laws, including but not limited to, road construction, surface water management, the Fire Code, and rules of the department of public health;
4. Failing to carry out or observe conditions of land use or permit approval, including contract development standards;
5. Failing to secure required land use or permit approval prior to establishing a permitted use; and
6. Failing to maintain site improvements, such as landscaping, parking or drainage control facilities as required by this code or other city of Burien ordinances. [Ord. 28 § 1(616), 1993]

~~18.110.040~~ 19.80.040 Permit suspension, revocation or modification.

1. Permit suspension, revocation or modification shall be carried out through the procedures set forth by the city council of the city of Burien. Any permit, variance, or other land use approval issued by the city of Burien pursuant to this title may be suspended, revoked or modified on one or more of the following grounds:

- A. The approval was obtained by fraud;

- B. The approval was based on inadequate or inaccurate information;
- C. The approval, when given, conflicted with existing laws or regulations applicable thereto;
- D. An error of procedure occurred which prevented consideration of the interests of persons directly affected by the approval;
- E. The approval or permit granted is being exercised contrary to the terms or conditions of such approval or in violation of any statute, law or regulation;
- F. The use for which the approval was granted is being exercised in a manner detrimental to the public health or safety;
- G. The holder of the permit or approval interferes with the director or any authorized representative in the performance of his or her duties; or
- H. The holder of the permit or approval fails to comply with any notice and order issued by the city of Burien.

2. Authority to revoke or modify a permit or land use approval shall be exercised by the issuer, as follows:

- A. The council may, after a recommendation from the hearing examiner, revoke or modify any ~~residential density incentive approval, transfer of development credit, urban planned development, Type 3 land use approval or preliminary subdivision, zone reclassification or special use permit;~~
- B. The hearing examiner may revoke or modify any ~~variance or conditional use permit~~ Type 2 land use approval, provided that if it was reviewed through a public hearing, a new public hearing shall be held on its revocation or modification; and
- C. The director may revoke or modify any permit or other land use approval issued by the director. [Ord. 61, 1993; Ord. 28 § 1(617), 1993]

~~18.110.050~~ 19.80.050 Initiation of revocation or modification proceedings.

- 1. The city council of the city of Burien may suspend any permit, variance or land use approval issued by any city of Burien issuing agency and processed by the department of community development pending its revocation or modification, or pending a public hearing on its revocation or modification;
- 2. The issuing agency may initiate proceedings to revoke or modify any permit or land use approval it has issued; and
- 3. Persons who are aggrieved may petition the issuing agency to initiate revocation or modification proceedings, and may petition the director to suspend a permit, variance or land use approval pending a public hearing on its revocation or modification. [Ord. 28 § 1(618), 1993]

~~Chapter 18.120~~ BMC 19.85 HISTORIC PRESERVATION

~~18.120.010~~ 19.85.010 Purpose.

The purposes of this chapter are to:

1. Designate and protect those sites, buildings, districts, structures and objects which reflect significant elements of the city of Burien's, the county's, the state's, and the nation's cultural, aesthetic, social, economic, political, architectural, ethnic, archaeological, engineering, historic, and other heritage;
2. Foster civic pride in the beauty and accomplishments of the past;
3. Stabilize and improve the economic values and vitality of landmarks;
4. Protect and enhance the city of Burien's tourist industry by promoting heritage-related tourism;
5. Promote the continued use, exhibition and interpretation of significant sites, districts, buildings, structures, and objects for the education, inspiration, and welfare of the people of the city of Burien;
6. Promote and continue incentive for ownership and utilization of landmarks;
7. Assist, encourage and provide incentive to public and private owners for preservation, restoration, rehabilitation, and use of landmark buildings, sites, districts, structures, and objects;
8. Work cooperatively with other jurisdictions to identify, evaluate, and protect historic resources in furtherance of the purposes of this chapter. [Ord. 130 § 1, 1995]

~~18.120.020~~ 19.85.020 City of Burien landmarks.

The following is a list of currently identified significant sites, districts, buildings, structures, and objects within the city of Burien.

1. Highline High School, 251 SW 152nd Street ~~Southwest~~;
2. Sunnydale School, 15631 8th Avenue South;
3. Subdivision 44, 7th Avenue South, 128th Street to S. 132nd Street ~~South~~;
- ~~(4) Cedarhurst Elementary, 611 S. 132nd Street South;~~
4. Brick Commercial Structure, 658 S. 152nd Street ~~Avenue South~~;
5. Derion House, 505 S. 150th Street ~~South~~;
6. Dodd Homestead, 606 S. 140th Street ~~South~~;
7. Pacific Telephone Building, 14605 8th Avenue South;
8. Pollock House, 624 S. 152nd Street ~~South~~;
9. YMCA House, 17874 Des Moines Way South; and
10. Crosby House, 14628 8th Avenue South. [Ord. 130 § 1, 1995]

~~18.120.030~~ 19.85.020 Limit on noise impacts to significant sites, districts, buildings, structures, and objects.

Significant sites, districts, buildings, structures, and objects shall not be subject to adverse land uses which generate exterior noise exposure levels exceeding 55 dbA Ldn. [Ord. 130 § 1, 1995]

~~18.120.040~~ 19.85.030 Requirement for noise mitigation plan.

Proponents of projects which will increase exterior noise levels to which significant sites, districts, buildings, structures, and objects are exposed above an Ldn of 55 dbA must submit a noise mitigation plan to the city of Burien department of community development for review and approval before required permits are issued to allow the project to proceed. The city manager, with the assistance of the director of the department of community development, is authorized and directed to develop criteria for such review and approval. Such criteria shall be available in writing to applicants and shall, at minimum, require that the best available technology be employed to achieve no more than the maximum allowable noise standard set forth in this section. [Ord. 130 § 1, 1995]