



Burien
WASHINGTON

**CITY COUNCIL
SPECIAL MEETING AGENDA**

6:00 p.m.

&

REGULAR MEETING AGENDA

7:00 p.m.

June 21, 2010

Burien City Hall, Council Chambers
400 SW 152nd Street, 1st Floor
Burien, Washington 98166

SPECIAL MEETING AGENDA

6:00 p.m.

		PAGE #
1. CALL TO ORDER	2. PLEDGE OF ALLEGIANCE	3. ROLL CALL
4. CORRESPONDENCE FOR THE RECORD	a. Response from Jenn Rameriz Robson, Management Analyst, to Email Dated June 2, 2010, from Bernice E. Bellamy, Volunteers for King County Animals, Regarding Burien Animal Control and Sheltering.	3.
	b. Letter Dated June 7, 2010, from Robert and Robbie Howell Regarding Input into Critical Areas Ordinance and Shoreline Master Program.	5.
	c. Letter Dated June 7, 2010, from Ted and Helen Fosberg Regarding Concern About the Negative Impact of the Shoreline Management Program.	17.
	d. Letter Dated June 8, 2010, from G. Brice Martin, Martin Properties, Regarding Multi-Family Fire Alarm Requirements.	19.
	e. Email Dated June 10, 2010, from Andy Ryan Regarding Questions for SMP Public Forums.	21.
	f. Email Dated June 11, 2010, from Linda Hall, Legal Secretary, Transmitting Letter Dated June 11, 2010, from John M. Groen, Stephens & Klinge LLP, Regarding Shoreline Master Program Update.	27.
	g. Email Dated June 11, 2010, from William Halstead and JoEllen Kuwamoto Regarding Comments on Shoreline Master Program.	37.

COUNCILMEMBERS

Joan McGilton, Mayor
Jack Block, Jr.

Rose Clark, Deputy Mayor
Lucy Krakowiak

Brian Bennett
Gordon Shaw

CITY COUNCIL SPECIAL & REGULAR MEETING AGENDAS

June 21, 2010

Page 2

4. CORRESPONDENCE FOR THE RECORD (cont'd.)	h. Email Dated June 16, 2010, from Chestine Edgar Regarding Monday Night Presentation by the Science Experts-June 14, 2010.	39.
	i. Email Dated June 16, 2010, from Andy Ryan Regarding Burien SMP Conversation.	51.
5. CONSENT AGENDA	a. Approval of Vouchers: Numbers 25227 - 25363 in the Amounts of \$744,548.90.	53.
	b. Approval of Minutes: Council Special Meeting, June, 14, 2010; Council Meeting, June 7, 2010.	71.
	c. Motion to Approve Proposed Ordinance No. 538, Amending the Business License Code.	79.
	d. Motion to Approve Resolution No. 313, Adopting Programs and Policies to Curb Green House Gas Emissions.	105.
6. BUSINESS AGENDA	a. City Business.	109.
	b. Public Hearing and Consideration of Adopting Proposed Ordinance No. 542, Modifying the Boundaries and Functions of TBD No.1.	125.
	c. Motion to Approve Ordinance No. 543, Relating to Responsibilities for Animal Control Licensing and Enforcement.	133.
	d. Motion to Adopt Proposed Ordinance 541, Amending BMC Title 15, Buildings and Construction.	169.
REGULAR MEETING AGENDA 7:00 p.m.		
7. PUBLIC FORUM	a. Shoreline Master Program.	311.
8. ADJOURNMENT		

Lisa Clausen

From: Jenn Ramirez Robson
Sent: Wednesday, June 09, 2010 10:35 AM
To: BerniceBellamy@aol.com
Cc: Public Council Inbox
Subject: RE: Burien Animal Control and Sheltering

Dear Ms. Bellamy,

Thank you for contacting the Burien City Council for an update on animal control services in Burien. At the direction of the City Council, staff drafted a recommended plan for how animal control services will be provided in Burien after July 1, 2010. The Burien City Council will consider those recommendations at a Special Meeting on June 14, 2010 at 6:00 p.m. The meeting is open to the public and will be broadcast live on Comcast-Burien TV Channel 21. You can also watch the meeting online by going to our website, www.burienwa.gov and clicking on the "View meetings online" button. Thank you again for your interest in this issue.

Best regards,

Jenn Ramirez Robson
Management Analyst
City Manager's Office
City of Burien
400 SW 152nd St., Suite 300
Burien, WA 98166
desk: 206-439-3165
email: jenniferr@burienwa.gov
web: www.burienwa.gov

In Burien? Find us on Cable Channel 21 or 540 AM radio
Online? Follow us on Twitter @Burien

OUR VISION: We Are Innovative Stewards of Public Trust

From: BerniceBellamy@aol.com [mailto:BerniceBellamy@aol.com]
Sent: Wednesday, June 02, 2010 10:42 PM
To: Public Council Inbox
Subject: Burien Animal Control and Sheltering

Dear Burien Councilmembers,

I am contacting you today to ask for a status report on Burien's plan to provide animal control and sheltering services within your city. Since July 1st is only a few weeks away I am interested to know how your plan is coming together and how the animals of Burien will be rescued, housed, treated if injured or ill, assessed, and humanely cared for and who will be performing all those functions.

You may be interested to know that 27 cities in King County have decided to work in collaboration with King County on the new model for animal services. Federal Way and Burien were the only two cities to actually go entirely on their own.

As a very concerned and committed volunteer for the animals of King County I will look forward to each of you updating me on your understanding of how this important community service will be delivered in Burien in just over 4 weeks from now.

CC: City Manager office for response
CFTR: 06/21/10

Thank you very much.

Bernice E. Bellamy
Volunteers for King County Animals

Lisa Clausen

From: Public Council Inbox
To: BerniceBellamy@aol.com
Subject: RE: Burien Animal Control and Sheltering

Thank you for your message to the Burien City Council. It will be forwarded to appropriate City staff and included in the Correspondence for the Record for an upcoming Council meeting.

L. Clausen
City Manager's Office

From: BerniceBellamy@aol.com [mailto:BerniceBellamy@aol.com]
Sent: Wednesday, June 02, 2010 10:42 PM
To: Public Council Inbox
Subject: Burien Animal Control and Sheltering

Dear Burien Councilmembers,

I am contacting you today to ask for a status report on Burien's plan to provide animal control and sheltering services within your city. Since July 1st is only a few weeks away I am interested to know how your plan is coming together and how the animals of Burien will be rescued, housed, treated if injured or ill, assessed, and humanely cared for and who will be performing all those functions.

You may be interested to know that 27 cities in King County have decided to work in collaboration with King County on the new model for animal services. Federal Way and Burien were the only two cities to actually go entirely on their own.

As a very concerned and committed volunteer for the animals of King County I will look forward to each of you updating me on your understanding of how this important community service will be delivered in Burien in just over 4 weeks from now.

Thank you very much.

Bernice E. Bellamy
Volunteers for King County Animals

RECEIVED

JUN - 7 2010

CITY OF BURIEN

June 7, 2010

Honorable Mayor and Council Members

Our names are Robert and Robbie Howell
We live at 15240 20th Ave SW
Burien, WA. 98166

The Purpose For This Letter

As citizens we were not given an adequate opportunity for input to the adoption of the Critical Areas Ordinance. We do not want that to happen again in the adoption of the Shoreline Master Plan.

Critical Areas Ordinance Review

As I wanted to clarify in my own mind the events that led up to 2010 SMP I decided to research the city records pertaining to the Critical Areas Ordinance (CAO) and review what had taken place. I would like to share with you the results of my inquiry. Statements taken directly from the City records are shown in "quotes" our comments are shown in *(italics)*.

When the city staff was defining the Critical Areas Ordinance No 394 in 2003, they held 5 public hearings. *This appears very good in print, as the hearings are all listed on the first page of Ordinance No 394. Yet when I looked into the records, I discovered the public did not attend the hearings. This was probably because they didn't see the notice or understand the implication of the Ordinance being considered.*

Let us review the following events.

The first public notice was published in the Seattle Times on February 24, 2003 for a Planning Commission hearing March 11, 2003 at 7:00 p.m. at Burien City Hall.

It was intended "to receive public comments on" the proposed "Amendments to Burien Municipal Code Chapter 19:40-Critical Aquifer Recharge Areas."

"The goal of the amendments was to comply with the Growth Management Act by adopting regulations to protect critical aquifer recharge areas."

Note: Other than the general public notice, citizens living in the affected areas were not contacted. The notice was published in the Seattle Times. At that time Burien Residents were still expecting public notices in the Highline Times. Only recently were we told at a city council meeting that public notices are now being published in the Seattle Times

March 11, 2003, Burien Planning Commission Meeting

CFTR: 06/21/10

“A. PUBLIC HEARING: AMENDMENT TO THE CRITICAL AQUIFER RECHARGE AREA ORDINANCE”

Besides the Planning Commission members, Pat Smith, planner, Ann Root and Amy Dearborn of Adolfson Associates, Jon Sondergaard of Associated Earth Sciences along with Gerry Lindsay, recording secretary were present.

The Meeting Minutes State: “Mr. Smith noted that the proposed critical aquifer recharge areas ordinance had been revised in accordance with direction given by the Planing Commission, and to show which aquifers are recommended along with an explanation of why.” And “Mr. Smith said the ordinance was revised to make the hydrogeologic assessment report optional for applicants. The report would be required only where an applicant disagreed with the location of a critical aquifer recharge area, or if they have a use that is otherwise not permitted, that they believe can be planned for the site to be compatible with the recharge area. The ordinance also was revised with regard to radioactive substances used for minor medical purposes.”

(There was considerable discussion about aquifers.)

To which Mr. Sondergaard added; “when it comes to creating protective regulations, some of the unknown is removed by choosing to protect the areas that appear to be the most sensitive based on geology and hydrogeology.”

“Commissioner Robison asked if existing businesses within one of the critical areas would be required to do anything special. Mr. Smith said they would not unless seeking to expand or using lots of hazardous materials.”

They opened the public hearing and there were no comments. The Commission felt the prudent approach would be to continue the public hearing to the next meeting on March 25, 2003.

(There was another public hearing that night which was not covered by the hearing notice.)

B. PUBLIC HEARING: AMENDMENT TO THE WETLAND ORDINANCE

“Mr. Smith, planner, said it is important to protect both the wetlands themselves and the buffers surrounding them. The buffers are a crucial part of the wetlands systems by providing the initial filtering of sediments and other pollutants in run off water. He explained that the major changes to the existing ordinance are focused on the buffer widths.” More discussion about buffers followed.

When a question was posed concerning the Category of the area around a lake, Ms Root of Adolfson Associates said; “A lake shoreline could be a Category 1 wetland, and it might not be. Lakeshores are regulated under the Shoreline Management Act.”

There was some informative conversation about Category 3 wetlands having a 50' buffer. "Commissioner Robison asked if a buffer with minimal vegetative cover would indicate a less valuable wetland. Ms. Dearborn said that could be the case in certain instances. Ms. Root said increasing the buffer where there is minimal vegetative cover is necessary in order to increase the function of the wetland buffer."

Mr. Robinson voiced suspicions regarding Best Available Science. "He said that he would like to see a provision that would allow for some averaging of the buffer in Category 3 down to 25 feet, perhaps with a non-building exclusion for the other 25 feet."

***The public hearing was open and there were no public comments.
They extended the public hearing to March 25, 2003.***

March 25, 2003, Burien Planning Commission Meeting

PUBLIC HEARING NUMBER TWO: AMENDMENT TO THE CRITICAL AQUIFER RECHARGE AREA ORDINANCE

"Pat Smith, planner, noted that the changes to the ordinance previously recommended by the Commission had been made with the exception of the section referring to the use of radioactive substances in clinics and doctor's offices. He said with regard to the later that staff was still working on the language."

"Chair Pierce reopened the public hearing continued from March 11."

"There were no people present to offer testimony."

A motion to recommend approval of the proposed amendment was passed unanimously.

PUBLIC HEARING NUMBER TWO: AMENDMENT TO THE WETLAND ORDINANCE

"Chair Pierce declared the public hearing open."

"There were no people present to offer testimony."

"Chair Pierce continued the public hearing to the April 8 meeting of the Commission."

April 8, 2003, Burien Planning Commission Meeting

PUBLIC HEARING NUMBER THREE: AMENDMENT TO THE WETLANDS ORDINANCE

“Chair Pierce reopened the public hearing which had been continued from the March 25th meeting.”

Mr. Smith told the Commission about how the ordinance language had been revised since the last commission meeting. Among the revisions that had been made “the ordinance also was revised in the approach to wetlands associated with Lake Burien. The proposal is to treat them as type IV wetlands with a 30 foot buffer.”

(Note: Before Burien was Incorporated, King County had designated Lake Burien as a Category 2 wetland with a 50 foot buffer.)

“Mr. Smith noted that there is a sewer that rings Lake Burien that is 30’ from the lake, effectively prohibiting any type of development within that distance. In addition to the 30’ buffer a 15’ setback is recommended.”

“Mr. Smith said the rationale for classifying Lake Burien area as a Class IV wetland is based on the fact that the development around the lake has already degraded the wetland areas. Larger buffers are needed for more pristine wetlands in undeveloped areas.”

(Note: I could find no scientific evidence that development around the lake had already degraded the wetlands to a Class IV.)

After further conversation the hearing was closed and there were no public comments.

A public notice was published in the Seattle Times on April 28, 2003 for a Planning Commission hearing May 13, 2003 at 7:00 p.m. at Burien City Hall.

It was intended “to receive public comments on” the proposed “Amendments to Burien Municipal Code Chapter 19:40-Critical Streams and Wildlife Conservation Areas.”

“The goal of the amendments was to comply with the Growth Management Act by adopting regulations to protect critical wetland areas.”

Note: No hearing was found in the city records for May 13, 2003 and it was not mentioned in the 2003 Critical Areas Ordinance # 394 list of public hearings.

The second Public Notice was published in the Seattle Times on July 24, 2003 for the 4th hearing to be held August 12, 2003.

It was intended “to receive public comments on” the proposed “Amendments to Burien Municipal Code Chapter 19:40-Critical Areas.”

“The goal of the amendments was to comply with the Growth Management Act by adopting regulations to protect critical areas throughout the city.”

(Note: Again no invitations were sent to the residents that live in the critical areas. No invitations were sent to community clubs in the city. The notice was published in the Seattle Times instead of the Highline Times.)

August 12, 2003, Burien Planning Commission Meeting

There were three public hearings that night.

A. PUBLIC HEARING ON PROPOSED COMPREHENSIVE PLAN AND ZONING
Seventeen people commented at this hearing.

B. PUBLIC HEARING ON ZONING STANDARDS FOR NORTHEAST
REDEVELOPMENT AREA (SPA-4)

Only Ms Barbara Rudge, senior planner for the Port of Seattle commented. She wanted the hearing to be extended because she did not have ample time to review the Standards.

C. PUBLIC HEARING ON ALL CRITICAL AREA ZONING CODE AMENDMENTS
AND TREE RETENTION

There were no comments from the people who live around Lake Burien or along Puget Sound.

“Teresa Vanderburg of Adolfsen Associates provided the Commission with an introduction to the Fish and Wildlife Habitat conservation portion of the critical areas ordinance update. She noted that the codes of many jurisdictions in the past have not included fish and wildlife habitat conservation areas; the update is being made to bring Burien’s code into compliance with the Best Available Science.”

As there were no comments from the Public there was consensus to continue the public hearing to August 26, 2003.

August 26, 2003, Burien Planning Commission Meeting

DISCUSSION AND RECOMMENDATION ON ALL CRITICAL AREA ZONING
CODE AMENDMENTS

(Public Comment Item.)

“Mr. Gary Hoffman, South King County manager, Master Builders Associations, called attention to the section of the proposed critical areas ordinance that allows a 100 percent increase in the wetland buffer. He provided the commissioners with copies of a letter in which he outlines alternatives that have been implemented in Snohomish County.” (See attached letter.)

D. Discussion and Recommendation on all Critical Area Zoning Code Amendments

“Mr. Smith commented that over the past year the focus has been on moving some of the sensitive area sections of the ordinance from Chapter 18 to 19. That process has included the incorporation of the Best Available Science. Over the past year there have been five public hearings: three on wetlands, one on critical aquifer recharge areas, and one on the full package. Two planning firms have been retained by the City to ensure that the Best Available Science Principles are being incorporated.”

“Commissioner Williams asked what sources are being documented as being the basis for the Best Available Science used in revising the buffer widths. Mr. Sondergaard answered “that the literature does not give a single recommended buffer width; there is a range that varies widely depending on specific conditions and functions. All that must be balanced against other objectives, such as economics and growth management. The science is clear that the larger the buffer the more the protection, and that larger buffers are needed in more rural areas.”

The motion to recommend approval of the proposed critical areas zoning code ordinance, including the change to Section 19.40.220.2.H.ii.c, was carried unanimously.

The only public comment was from the Master Builders Assn..

The third Public Notice was published in the Seattle Times on September 1, 2003 for the City Council hearing to be held September 15, 2003.

It was intended “to receive public comments on” the proposed “Amendments to Burien Municipal Code Chapter 19:40-Critical Areas.”

“The goal of the amendments was to comply with the Growth Management Act by adopting regulations to protect critical areas throughout the city.”

(Note: No invitations were sent to the people who live in the critical areas on Lake Burien or along the sound. No invitations were sent to the Lake Burien Shore Club.)

Note: On September 8, 2003

Adolfson Associates, Inc provided the City of Burien with a CAO Update, Wetlands, Streams, and Fish and Wildlife Habitat Conservation Areas designating Lake Burien a Category 2 wetland.

September 15, 2003, City Council Meeting

“9. BUSINESS AGENDA”

“a. Public Hearing to Receive Citizens’ Comments on Motion to Adopt Ordinance No. 394 Amending BMC Titles 18 and 19 (Zoning Code) Relating to Critical Areas.”

“Planner Pat Smith said the current regulations governing critical areas are included in Chapter 18 of the zoning code. The current update includes moving the regulations to Chapter 19. **He said the Growth Management Act requires all cities to incorporate Best Available Science when revising their critical ordinances. To ensure the incorporation of Best Available Science as required, the City contracted with two consulting firms, Adolfson, Associates, and Associated Earth Sciences.**”

“Continuing, Mr. Smith said the state defines six critical areas.

- First is geological hazard areas for which the Council has already adopted regulations.
- Second is flood areas; that ordinance will be moving in its entirety from Chapter 18 to Chapter 19.

There are current regulations for the next three critical areas.

- Wetlands, streams, and fish and wildlife-but they are proposed to be changed somewhat.
- The critical area, critical aquifer recharge areas, will be addressed by a new chapter in the zoning code; **Best Available Science has been incorporated resulting in non-substantial changes.**”

“Mr. Smith said **The Council will need to adopt the critical areas map along with the ordinance.** He said the map has been drawn as accurately as possible, but due to budget limitations **the critical areas have not been field verified; the map information was drawn from King County sources.**”

Mr. Smith continues, “Following the public hearing the Council has two discussion meetings scheduled. Adoption of the ordinance is slated for October 20, 2003. **The Planning Commission has had eleven study session meetings and five public hearings over the last year on the critical areas ordinance. Very few public comments were received during the public hearings, even though notice of the proposed changes was widely disseminated.**”

(Comment: Invitations were not sent to the residents in critical areas. The Lake Burien Shore Club was not notified. The notice was published in the Seattle Times rather than the Highline Times..)

“The Planning Commission and staff are proposing a 100 percent increase in wetland buffer size and recommending that the stream buffers remain unchanged. A sliding scale for wetland mitigation is being proposed based on wetland quality. There is also a proposal to require an environmental review for uses with a significant amount of hazardous material near critical aquifer recharge areas.”

Mayor Woo opened the public Hearing

There were two comments.

Greg Anderson of 15451 11th Ave SW who voiced concerns over recording critical areas on title reports, *an excellent comment from this builder.*

Garrett Huffman, Master Builders Association of King and Snohomish Counties

Mr. Huffman voiced concern about the 100 percent wetland buffer area increase proposed. He said the Master Builders Association would prefer to see the buffer area requirements remain as they are currently. The Association would also like additional information for why the recommendation is to increase the wetland buffers to such a large degree. *(See attached letter dated Sept. 15, 2003 from Garrett Huffman to Mayor Woo.)*

There being no other comments, Mayor Woo closed the public hearing.

(Note: Except from Greg Anderson there were no comments from the people living around the lake or on the sound.)

The City Council then began a discussion on Ordinance No. 394 Amending BMC Titles 18 and 19 (Zoning Code) Relating to Critical Areas

Asked to respond to Public Comments Mr Smith explained to Greg Anderson about which title reports would have to record that the property was in a critical area.

Then he explained to Mr. Huffman that the 100 ft buffer is in keeping with Best Available Science. He said he would seek additional information from the consultant and have it available for the next study session.

There was considerable discussion about eagles and “Councilmember Lamphear said there are other endangered species that are not listed at all. **Mr. Greenberg noted that section 19.40.290 essentially designates any area with endangered, threatened or sensitive species listed by federal or state authorities as a fish and wildlife conservation area.** That even includes species for which there are not specific management recommendations.”

September 15, 2003

Garrett J. Huffman of the Master builders Association gave a letter to Mayor Wing Woo regarding the motion to Adopt Ordinance No. 394 Amending BMC Titles 18 and 19.

A partial excerpt is inserted here, “Specifically, the Washington State Court of Appeals has clearly held the “Best Available Science” rule in the Growth Management Act (GMA) does not require that critical area standards be based only on whatever science says may be the most protective standard.

While the City must consider 'Best Available Science,' it is required to also consider and implement the other goals of the GMA, including encouraging growth in urban areas, encouraging the availability of affordable housing, encouraging economic development and protecting private property rights. The proposed City ordinance proposes environmental protection as the primary goal of GMA, rather than one goal that must be considered and balanced against others. As a result the proposed 100% increase in wetland buffers is excessive and not necessary."

The MBA strongly urges the City Council to take a flexible approach to critical area approach to critical area zoning to help meet GMA housing targets and maintain Burien's ability to accommodate viable, quality design standards."

September 29, 2003 Two things happened

1. The City of Burien issued a "Determination of Nonsignificance (DNS), WAC 197-11-970" for the "Zoning Code Amendments: Critical Areas" which reads as follows:

"The lead agency for this proposal has determined that the proposal does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW43.21C.030(2)(c) **This decision was made after a review of a completed environmental checklist and other information on file with the lead agency.**"

"This Determination of Nonsignificance is specifically conditioned on compliance with the applicable regulations set forth in the Burien Municipal Code."

"All information relating to this proposal is available to the public on request."

"Responsible Official: Patrick Smith, AICP"

(Note: The environmental checklist prepared by Pat Smith, city planner, shows most of the information for the questions as N/A (not available) and mentions the consultants will take care of these things. They did not talk to any of the people who live on Lake Burien or contact the Lake Burien Shore Club regarding the fish and wildlife on the lake. They decreed that the lake was dead rather than validating the Fish and wildlife that are supported in its ecosystem. At the September 15th hearing there was no hearing or discussion about the Fish and Wildlife on Lake Burien. The residents had no clue what was happening to them or the lake.)

2. ***The City of Burien sent the following letter to the Department of Ecology.***

"Department of Ecology
Environmental Review
PO Box 47703

Olympia, WA 98504-7703

To Whom it may Concern:

The City of Burien has issued a Determination of Nonsignificance for the enclosed draft critical area ordinance. Enclosed is a copy of proposed Burien Zoning Code amendments, the DNS, the environmental checklist, memorandum from Adolfson detailing how they have used Best Available Science in this process, and finally the schedule of public review. Because this is not a mitigated DNS, **I do not think a public comment period is required. However, due to the importance of the critical area regulations on the environment, staff is distributing the DNS to all parties on our SEPA mailing list.** If you have any questions or comments, please contact me at (206) 439-3152

Sincerely

Patrick Smith, AICP”

See attached DNS mailing list.

(Note: Because Lake Burien, according to the planners, had no fish and wildlife, the city told the Department of Ecology that no mitigation was necessary. Patrick graciously let the Department of Ecology know that due to the importance of the critical area regulations on the environment that staff is distributing the DNS to all parties on their mailing list.)

When you look at the list you will see that SEPA included a list of 33 entities or citizens. The Seahurst Community Club, the Shorewood Community Club and the 3 Tree Point Community Association were included but the Lake Burien Shore Club was excluded. Only 4 citizens were mailed to and none of them lived on Lake Burien. All the rest of the mailings went to government agencies or businesses.

SUMMARY

At the August 12 hearing, “Teresa Vanderburg of Adolfson Associates provided the Commission with an introduction to the Fish and Wildlife Habitat conservation portion of the critical areas ordinance update. She noted that the update is being made to bring Burien’s code into compliance with the Best Available Science.”

It seems evident the City ignored the consultants advise and declined to investigate the fish and wildlife on Lake Burien however they did validate fish and wildlife on Puget Sound. The City declined to use Best Available Science for Lake Burien. Instead they chose to follow the advise of the Master Builders Association to encourage higher density in a critical area that supports Federal and State Listed and Candidate Species.

Also on **September 8, 2003 Adolfsen Associates, Inc** provided the City of Burien with a CAO Update, Wetlands, Streams, and Fish and Wildlife Habitat Conservation Areas **designating Lake Burien a Category 2 wetland.**

Amazingly when the Burien 2003 Critical Areas Ordinance No. 394 went into law, the city planners had covertly changed Lake Burien from a Category 2 to a Category 4 Wetlands, reduced the buffer from 50' to 30' supposedly under the auspices of using Best Available Science.

CONCLUSION, We do not want this repeated in the SMP

LAKE BURIEN WILD LIFE

During the September 15, 2003, City Council Meeting
“Mr. Greenberg noted that section 19.40.290 (of the zoning code) essentially designates any area with endangered, threatened or sensitive species listed by federal or state authorities as a fish and wildlife conservation area.”

Had the City investigated (or inquired) they would have found the lake is a hunting ground for the Eagle, Osprey and Great Blue Heron. It is also home to numerous migrating birds and year around residents.

In 2003 Lake Burien had, and still has in 2010, Eagles, Osprey, and Great Blue Heron. The lake also has lots of migrating birds including at least 10 species of local importance: Western Grebe, Great blue Heron, Barrow's Goldeneye, Common Goldeneye, Cinnamon Teal, Osprey, Banded-tailed pigeon, Belted kingfisher, Hairy Woodpecker and Purple Finch.

Recently some of the Bird lovers living on Lake Burien talked with the Audubon Society. We had just started collectively identifying birds and taking pictures of some of them, if they weren't to fast for us. Together we have identified 87 species of birds that we see on the lake and the list is growing.

The lake is also home to fish, turtles, frogs, crawfish and bats.

The lake is classified as Category 1 for Water Quality as defined in the Coastal Atlas and is free of Eurasian Milfoil. The shore club members and waterfront owners are careful to not use toxic chemicals in their yards or boats that have been in another lake. Gasoline powered outboards are not used on the lake. The residents are taught to keep it a really “GREEN” lake.

RECEIVED

JUN - 7 2010

CITY OF BURIEN

Ted and Helen Fosberg
2841 SW 172nd Street
Burien, WA 98166
206-242-2560
fosberg@msn.com

June 7, 2010

✓ Mayor Joan McGilton
City of Burien
400 SW 152nd Street, Suite 300
Burien, WA 98166

Dear Mayor McGilton,

We are writing to express our overwhelming concern about the negative impact of the Shoreline Management Program (SMP), as presently drafted, on the Citizens of the City of Burien.

This Shoreline Management Program represents de facto taking of property by eminent domain by the City of Burien.

Definition: Right of Eminent Domain – The power of the City of Burien to acquire private land without the consent of the owner. The City of Burien is required by law, however, to pay the land owner the fair market value.

Our observations relative to the present draft of the SMP are as follows:

1. The 65 foot setback from mean high tide along with associated provisions will effectively, over time, cause the removal of all structures within this area of the marine shoreline in the City of Burien.
2. This will result since the value of structures will be lost due to natural disasters (storms, earthquakes, etc.), normal wear and tear, decay and fire to a point where rebuilding is not feasible or prohibited.
3. In many instances, the structures will include the primary residence of the property owners.

CFTR: 06/21/10

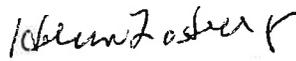
4. With their primary residence gone and without the ability to rebuild, the property will become vacant, worthless and title will revert to the City of Burien for non-payment of property taxes with no compensation to the land owner.
5. Consequently, the City of Burien will be acquiring private land without the consent of the owner.
6. It is recognized this process will be over a long period of time, perhaps 50 to 100 years, but the present SMP would set in motion an action which will be taking all affected properties, a little at a time, starting the very day the SMP is approved.
7. Since this is tantamount to the City of Burien exercising its Right of Eminent Domain, the City of Burien, by law, must begin compensating land owners at time of approval.

We are deeply concerned about the significant financial burden this will place on the citizens of our City. Consequently, we urge the City of Burien to craft the SMP in a way as to protect property rights of its Citizens by including provisions to recognize existing legal improvements and to make it feasible for all property owners to maintain, remodel, and rebuild their homes regardless of the value of the structure at the time of reconstruction.

Sincerely,



Ted Fosberg



Helen Fosberg

Cc: Mr. Michael Martin, City Manager

RECEIVED

JUN 09 2010

MARTIN PROPERTIES
1441 N. NORTHLAKE WAY, SUITE 208
SEATTLE, WA 98103
VOICE 206-632-2894 FAX 206-632-2895
MOBILE 206-669-6550
gbricemartin@comcast.net

June 8, 2010

Hon. City Council
City of Burien
400 SW 152nd
Burien, WA 98166

Re: Multi-family fire alarm requirements

Greetings:

Kindly consider the following in your attention to the new alarm requirements.

-The cost, at approximately \$5,000 per unit, is simply beyond the means of most owners. They don't have the cash and it is not possible to borrow the money due to the current credit market. Furthermore, nearly all multi-family financing prohibits the incurrence of secondary debt. The cost in new construction would be far less than retro-fitting.

-For the typical apartment building, the cost represents the net cash flow of the building for four to eight years. Many owners depend on this cash flow for their family needs or retirement income. I do not think it extreme to refer to such an imposition as confiscatory.

-The cost/benefit ratio is unjustified. The number of lives, if any, which might be saved is minute compared to the expense.

-My observation is that most apartment fire safety issues stem from tenant ignorance. For examples, I see furniture placed against baseboard heaters, batteries removed from smoke detectors, misuse of barbecues, illegal installation of locks on bedroom doors (by tenants), and misuse of extension cords.

-I would like to suggest that in lieu of these expensive alarm systems that a fund be established for the education of tenants. Please understand that many of our residents are immigrants who are unfamiliar with our building systems, and have not grown up with the training and education in fire safety that is ubiquitous in our communities. I think the

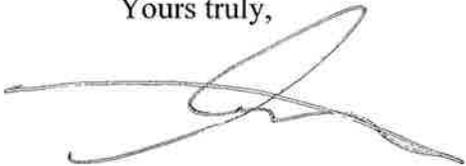
CC: Building Dept - FJZ
CFTR: 06/21/10

City of Burien
June 8, 2010

apartment operators and the Rental Housing Association would embrace a fee to pay the cost. We would certainly cooperate fully in assuring that tenants receive such materials. Such a program would prevent more fires and save more lives than the alarms proposed.

Thank you for your consideration.

Yours truly,

A handwritten signature in black ink, appearing to read 'G. Brice Martin'. The signature is fluid and cursive, with a large loop at the top and a long horizontal stroke extending to the left.

G. Brice Martin
Martin Properties

Lisa Clausen

From: Public Council Inbox
Sent: Thursday, June 10, 2010 9:58 AM
To: 'Ryan, Andrew F'
Subject: RE: Questions for SMP Public Forums.doc

Thank you for cc'ing the Burien City Council on your message. This will be included in the Correspondence for the Record for an upcoming Council meeting.

L. Clausen
City Manager's Office

-----Original Message-----

From: Ryan, Andrew F [mailto:andrew.f.ryan@boeing.com]
Sent: Thursday, June 10, 2010 9:42 AM
To: David Johanson
Cc: Public Council Inbox
Subject: Questions for SMP Public Forums.doc

David, please find attached some questions in response to the recent City correspondence mailed out regarding the upcoming public SMP forums and request for advanced questions.

Thank you
Andy Ryan

CPTC: 06/21/10

Questions for SMP Public Forums

What is the scientific support for making private residents non-conforming ?

What are the financial implications of:

- Making structures non-conforming
- Limiting use of 20 foot zone parallel to the shoreline (due to vegetation requirement)
- Requirement to remove waterward appurtenances due to exterior renovations (20.30.095)
- Elimination of lawns and non-native vegetation (resulting from modification to primary residence)
- Restitution for private property owners resulting from taking of property rights

What is the scientific support of requiring appurtenances that are located waterwards of the primary structure to be removed if modifications are made to the primary structure (20.30.095)

There seems to be a lot of conflicting data regarding vegetation buffer zones. Please discuss and substantiate req'ts as defined in proposed BMC 20. As part of the discussion, please address how level areas between bulkhead and the foot of sloped lots play into the erosion and runoff mitigation, benefits of shading in a salt water marine environment, shoreline residential runoff impacts vs upland surface drainage (i.e – storm drains), justification for req't for emphasis on vegetation requirements for 20' area parallel to the shoreline (which potentially removes ability of property owner to use area along shoreline)

Regarding Shoreline Vegetation Conservation (20.03.040) please discuss rationale for requiring city oversight of noxious weed removal, rationale for limitations on pruning w/o vegetation management plan (especially since Wa State DOE defines acceptable pruning methods), limitations of only native plants (which removes property owners ability to plant fruits, vegetables, or ornamentals)

Science regarding bulkheads to include:

Impact to Littoral drift (20.30.070 (2)f)- our beaches change elevation significantly during the year which would tend to indicate significant littoral drift occurs

Rationale for limit of bulkhead height to 4' over OHWM (20.30.070 (2)i) – especially since FEMA and City flood documentation (CITY OF BURIEN Technical Report entitled COASTAL FLOOD HAZARD ZONE DELINEATION dated June 29, 2007) identify storm surge w/ heights of 2 - 3 meters and freighter wakes regularly exceed 4 feet.

Rationale for bulkheads to be built to minimal standards (20.30.070 (2)h)

Bulkhead design that “blends in w/ natural surroundings” (20.30.070 (1)b)

Rationale for bulkheads replacement only being allowed to protect primary structures, but not for appurtenances, other (20.30.070 (2)c)

Impact to marine life (including discussion apparent discrepancy of stated neg bulkhead impacts vs, for example, loss of eel grass around Blake Island which has no bulkheads)

Conflicting scientific reports regarding bulkhead environmental impact (numerous referenced studies indicate possible negative bulkhead impacts to marine life, plus at least two studies indicating no negative correlation (Harm to Near Shore Development Almost Zero, by Donald F. Flora) and Dr. Peter Ruggiero, Dept. of Geosciences, Oregon State University (link attached)

<http://bainbridgeshorelinehomeowners.wordpress.com/2010/06/03/theres-no-proof-that-bulkheads-harm-beaches/>

Flood impact as outlined in City scientific study (Grette Associates Shoreline Analysis and Characterization report)

Appears to be conflicting information in the city’s scientific report regarding the impact of bulkheads on erosion. Erosion of feeder bluffs is identified as beneficial to the shoreline (which bulkheads eliminate) but at the same time vegetation buffers are identified as beneficial because they diminish erosion (as do bulkheads). Please clarify

Discussion regarding overwater structures (20.30.075):

Personal observation is that marine life tends to concentrate under piers and floats yet these structures are deemed non-desirable

Discussion regarding significant restrictions on vegetation type, pruning, etc and demonstrated environmental impact

Alternative fertilizers and weed killers that are environmentally friendly (if any)

Impact of > than 250M gallons per day (sum of data from on-line fact sheets for local King County Waste Water Treatment Facilities) of partially treated sewage dumped in Puget Sound in King County alone – discuss in relativity to surface runoff and shoreline private property runoffs, vegetation buffers, etc.

Legal issues associated w/ taking of property rights based on potential harm to the environment as opposed to demonstrated damage (ref **BIGGERS v. CITY OF BAINBRIDGE ISLAND No. 77150-2**)

Lisa Clausen

From: Public Council Inbox
Sent: Friday, June 11, 2010 11:49 AM
To: 'Linda Hall'
Subject: RE: Shoreline Master Program Update

Thank you for your correspondence to the Burien City Council. It will be included in the Correspondence for the Record for an upcoming Council meeting.

L. Clausen
City Manager's Office

-----Original Message-----

From: Linda Hall [mailto:lhall@gsklegal.pro]
Sent: Friday, June 11, 2010 10:41 AM
To: Public Council Inbox
Cc: groen@GSKlegal.pro
Subject: Shoreline Master Program Update

Members of the Burien City Council:

Please see attached letter from John Groen for property owners in the Three Tree Point area.

Linda Hall, Legal Secretary to
John M. Groen
Groen Stephens & Klinge LLP
11100 NE 8th Street, Suite 750
Bellevue, WA 98004
(425) 453-6206

CFTR: 06/21/10



GROEN
STEPHENS & KLINGE LLP
ATTORNEYS AT LAW

11100 N.E. 8TH STREET, SUITE 750
BELLEVUE, WASHINGTON 98004

JOHN M. GROEN
RICHARD M. STEPHENS
CHARLES A. KLINGE
SAMUEL A. RODABOUGH
BRIAN D. AMSBARY

TELEPHONE
(425) 453-6206
FACSIMILE
(425) 453-6224

June 11, 2010

Burien City Council
400 SW 152nd St, Suite 300
Burien, WA 98166

Re: Shoreline Master Program Update

Dear Council Members:

This letter is sent on behalf of property owners in the Three Tree Point area along SW 172nd Street. Those property owners have a number of concerns regarding the draft Shoreline Master Program, particularly with respect to public access and impact on private property rights.

This letter will first set forth the factual background and key principles of law that should provide sufficient context for the specific line by line suggested edits that will follow.

Factual and Legal Background

First, Burien should understand that the shorefront property owners along SW 172nd are the fee owners of the tidelands. While the State in many areas of Puget Sound decided to retain the ownership of the tidelands for the public, the State in this particular vicinity sold the tidelands to the waterfront owners. There is no dispute that the tidelands were sold by the State beginning in about 1902 and are now included within the legal title held by the adjacent waterfront owners. The deeds typically are stated with language such as "Together with all tidelands of second class to extreme low tide fronting said lot" If necessary, Burien can confirm this through a title company.

For purposes here, it is important for Burien to understand that the shoreline is not public property, it is private property. Accordingly, there is no public shoreline to which Burien can legally provide public access.

Second, Burien should understand the legal status of the unused portion of the right of way that is SW 172nd Street. The right of way was dedicated in the Sunkist Plat and was for an 80 foot wide right of way called Seacoma Boulevard (now SW 172nd Street). Of course, the "as built" road is far less than 80 feet wide. Some City staff or council members may believe that that the unused portion of the right of way can now be used for whatever purposes the City desires, including as a public park. That notion is not correct.

Washington has long recognized that a public road dedicated in a plat is merely an easement and the fee title to the land remains in the adjoining landowner.

When an easement is taken as a public highway, the soil and freehold remain in the owner of the land encumbered only with the right of passage in the public; ... in the case of streets and alleys, the proprietors of adjacent lots own the soil to the middle of the street, subject only to this right of passage in the public; and upon discontinuance of such street or alley, the adjacent owners of lots on each side take the soil to the middle of the street.

Burmeister v. Howard, 1 Wash. T. 207, 2111 (1867). *Accord Rainier Avenue Corporation v. City of Seattle*, 80 Wash.2d 362 (1972); *Finch v. Mathews*, 75 Wash.2d 161 (1968); *City of Seattle v. P.B. Investment*, 11 Wash. App. 653, 657 (1974). Thus, where there is a dedicated public right of way, the fee title remains with the adjacent owner. The fee title is merely subject to the purposes for which the right of way was established.

From this well established doctrine, Washington law recognizes two corollary principles of property law. First, the owner of the adjoining parcel may utilize the unused easement area in any manner that does not materially interfere with the easement purposes. Second, any attempt by the City to use the right of way for purposes other than as originally intended, *i.e.* as a road, will be a use beyond the scope of the intended easement and therefore constitute a taking for which compensation must be paid. The law in back of each of these principles is set forth below.

First, in *Nystrand v. O'Malley*, 60 Wash.2d 792 (1962), the Washington Supreme Court held as follows:

The law in this state is well settled that the fee to the street rests in the owner of the abutting property. *Northwest Supermarkets, Inc. v. Crabtree*, 54 Wash. 2d 181, 338 P.2d 733 (1959); *Simons v. Wilson*, 61 Wash. 574, 112 P. 653 (1911); *Gifford v. Horton*, 54 Wash. 595, 102 P. 988 (1909). **The owner of the abutting property may use the street area, to which he holds the fee, in any manner not inconsistent with the easement in the public for street purposes.** *James v. Burchett*, 15 Wash.2d 119, 120 P. 790 (1942). In the instant case, the road was unopened and unusable as a street for travel. The use by plaintiffs, in extending their garage onto the area, planting the trees and hedge and constructing the bulkhead, was not inconsistent with the public's easement since the right to open the street for the public's use had not been asserted by the city.

Nystrand, 60 Wash.2d at 795 (emphasis added). The Court likewise ruled in *Thompson v. Smith*, 59 Wash.2d 397 (1962) as follows:

As to the portion of the [concrete] slab lying within the ten feet 'reserved for road purposes,' our view is that Smith is entitled to make use of the property **until** it is used for the purpose reserved.

... [T]he owner of the property has the right to use his land for purposes not inconsistent with its ultimate use for the reserved purpose during the period of nonuse. The rule is that where a right of way is established by reservation, the land remains the property of the owner of the servient estate and he is **entitled to use it for any purpose that does not interfere with the proper enjoyment of the easement.**

59 Wash.2d at 407-08 (emphasis added). The Court continued:

There is no evidence that the south ten feet of Smith's property has ever been used for a road, and no evidence that it will be used as such in the immediate future. It would not be proper at this time to prevent Smith's use of a concrete slab for parking an automobile or other appropriate use, until such time as the ten-foot strip may be required for road purposes.

Id. at 409.

This law is directly applicable to the unopened portion of the right of way for SW 172nd Street. Specifically, there is no indication that Burien has any intention to use the unopened portion of the right of way for road purposes. Accordingly, the use by the abutting owners is lawful and may continue.

Regarding any attempt by Burien to convert the use of the right of way from road purposes to public park purposes, the Washington Supreme Court has established that compensation to the abutting landowners will be required. In platting this property in 1919, the owners dedicated Seacoma Boulevard (now SW 172nd Street) to the public "for public highway purposes." Plat of Sunkist Beach, Plats Vol. 23, page 12, May 19, 1919. For your convenience, a copy of the plat with the dedication language is attached. This limitation "for public highway purposes" is consistent with Washington law. *State ex rel. York v. Board of Commissioners of Walla Walla County*, 28 Wash.2d 891 (1947). In these situations, secondary uses of the right of way for such uses as water mains, gas pipes, and telephone lines are permissible "only when not inconsistent with the primary object of the highway." *Id.* at 898. In a right of way for a public highway, Washington will allow incidental uses "suitable to public thoroughfares" that include the transmission and conveyance of people, commodities and intelligence. *Id.* at 903. Of course, electric power lines, telephone lines, sewer and water pipes and similar uses are incidental secondary uses that do not interfere with the primary purpose as a highway. In contrast, use as a public park would not be a secondary or incidental use, but would be a new primary use of the land. As such, it is beyond the scope of the existing easement and would be a new burden on the abutting fee title owners and thus be a taking requiring payment of just compensation. *Id.* at 904.

The fact that a public park might be a desirable or convenient thing does not insulate Burien from having to pay compensation.

Numerous instances of conveniences immediately occur to any one considering the matter which the public might enjoy using upon the public streets, but the fact that they are convenient and might generally be used by the public gives no right to impress that use upon the fee owned by the abutting owner without compensation to him.

Motoramp Garage v. City of Tacoma, 136 Wash. 589, 593 (1925).

In *Lawson v. State*, 107 Wash.2d 444 (1986), the Court again recognized that where a public easement for a right of way is used differently than the original purpose of the easement, the new or changed use is actually an imposition of a new easement for which compensation must be paid. *Id.* at 450. In *Lawson*, an easement for a railroad right of way was converted for use as a public recreation trail. The Court found that this change in use was not encompassed within the original grant of the right of way easement for a railroad and compensation was therefore required. *Id.* at 451.

A third salient fact that must be understood with respect to SW 172nd Street is that even if the unopened portion of the street could be converted to a park (with payment of just compensation) such park still cannot provide legal public access to the shoreline. Although surveys have not been done, it is believed that in various locations there is a strip of upland located between Seacoma Blvd. and the ordinary high water mark. The result is that there can be no public access to Puget Sound. Accordingly, that strip of land would have to be purchased as well as the tidelands themselves. Of course, in a condemnation action to acquire these lands, Burien would also have to pay severance damages for the lost value to the remaining private property that was not taken.

Finally, Burien should ensure that its policies and regulations comply with constitutional limitations on attempts to exact public access from private property owners. In *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), the United States Supreme Court ruled that the coastal commission could not demand dedication of public access along the private beach where there was no showing that the landowners' project detracted or adversely impacted existing public access rights. *Id.* at 837-39. Lacking such a showing, the Court ruled the exaction was not mitigating an impact of the project, but was an "out and out plan of extortion." *Id.* at 837. Washington cases follow this precedent and also apply similar principles under RCW 82.02.020. *Sparks v. Douglas County*, 127 Wash.2d 901 (1995); *Isla Verde v. City of Camas*, 146 Wash.2d 740 (2002). Moreover, the law places the burden of proof on the government entity to show that the exaction mitigates a specific harm that would be caused by the proposed project. *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994).

Suggested Line by Line Edits to Draft SMP

In light of the above legal principles, and with a perspective that Burien seeks to avoid future litigation, the following suggested edits are provided as a way to meet the state guidelines for updating the SMP while also avoiding conflict with individual rights in real property.

Using the DRAFT SMP dated March 30, 2010, suggested edits are as follows:

1. Page II-2.

In section 20.20.015, edit the Goal PA by inserting the term “publicly owned” before the word “shoreline” so that the sentence reads: “Increase and enhance public access to publicly owned shoreline areas, consistent with ...”

In section 20.20.015, Pol PA 1, insert the term “existing” so that the sentence reads: “Developments, uses, and activities on or near the shoreline should not impair or detract from existing public access to water.”

In section 20.20.015, Pol. PA 3, edit the term “City’s” to remove the possessive, and insert the term “owned” so that the sentence reads as follows: “Public access to the City owned shorelines should be designed to ...”

2. Page II-3.

In section 20.20.015, Pol. PA 6, insert the phrase “except as provided for in RCW 35.79.035” so that the sentence reads: “The vacation or sale of street ends, other public right of ways and tax title properties that abut shoreline areas shall be prohibited except as provided for in RCW 35.79.035.”

In section 20.20.015, Pol. PA 7 and PA 8 should both be **deleted in their entirety**. The reason for deletion is because the City should not restrict its future decisions by adopting a broad policy to pursue waterfront street ends as public parks. The City should retain flexibility to pursue such objectives on a case-by-case basis, recognizing that policy considerations may vary between particular parcels and neighborhoods. One of those considerations will be whether a particular proposed conversion of right of way to park use would violate the constitutional protection against takings without just compensation. The next policy, PA 9, is sufficient to meet whatever future direction the City might want to take with respect to any particular waterfront street end, and to do so in conjunction with the affected neighborhood.

In section 20.20.015, Pol. PA 10, the word “the” should be deleted and the term “publicly owned” should be inserted before the term “shoreline” so that the sentence reads: “The City should disseminate information that identifies all locations for public access to publicly owned shorelines.”

3. Page II-4.

In section 20.20.015, Pol. PA 11 should be edited by inserting the phrase “on public property” at the end of the sentence, so that it reads: “The public’s visual access to the City’s shorelines from streets, paths, trails and designated viewing areas should be conserved and enhanced on public property.”

In section 20.20.015, Pol. PA 12 should be deleted in its entirety as it is repetitive of Pol. PA 11.

In section 20.20.015, Pol. PA 13 should be edited by inserting at the beginning of the sentence the phrase "Using publicly owned property," and by inserting the term "public," and by adding a new sentence so that the policy reads as follows: "Using publicly owned property, promote a coordinated system of connected pathways, sidewalks, passageways between buildings, beach walks, and public shoreline access points that increase the amount and diversity of opportunities for walking and chances for personal discovery. This policy recognizes that private property owners are not responsible for meeting this public objective."

4. Page II-6.

In section 20.20.020, Recreation Element, Pol. REC 4, the text provides "*Examples*" that include specifically identifying SW 172nd Street as a potential Special Use Park. The *Examples* should be **deleted entirely** because there has not been a public process where a specific proposal is made and then followed by due consideration of whether a special use park should be established at that specific location, particularly in light of neighborhood impacts, budget costs, and constitutionally required compensation where private property rights are impaired. By including "*Examples*" the implication is that Burien has already determined that the identified examples are in the public interest to pursue.

5. Page IV-8

In Chapter 4, section 20.30.035, subsection 2 c should be deleted in its entirety. This requirement that unused right of way shall be dedicated as open space/public access is illegal under Washington law and its implementation would constitute a taking without just compensation in violation of constitutional protections. The easement for a right of way is for highway purposes, not as open space and public parks.

Section 20.30.035, subsection 2 d should be edited by inserting the phrase "Subject to constitutional limitations" at the beginning of the sentence so that it reads: "Subject to constitutional limitations, public access shall be required for ..."

Section 20.30.035, subsection 2 e should be edited so that it reads: "Public access to shoreline areas shall only be required where it is demonstrated to be compatible with uses, safety, security and constitutional and other legal limitations that may be applicable." This edit is to reflect that the burden of proof to justify the imposition of a mitigating condition is upon the regulating agency, not the property owner.

There may be other specific suggested edits that will become apparent as the public process of review and deliberation continues. The property owners in the Three Tree Point area along SW 172nd Street appreciate your careful consideration of these comments and suggestions.

Sincerely,

GROEN STEPHENS & KLINGE LLP

John M. Groen
by CAK

John M. Groen
groen@GSKlegal.pro

JMG:lch
Attachment

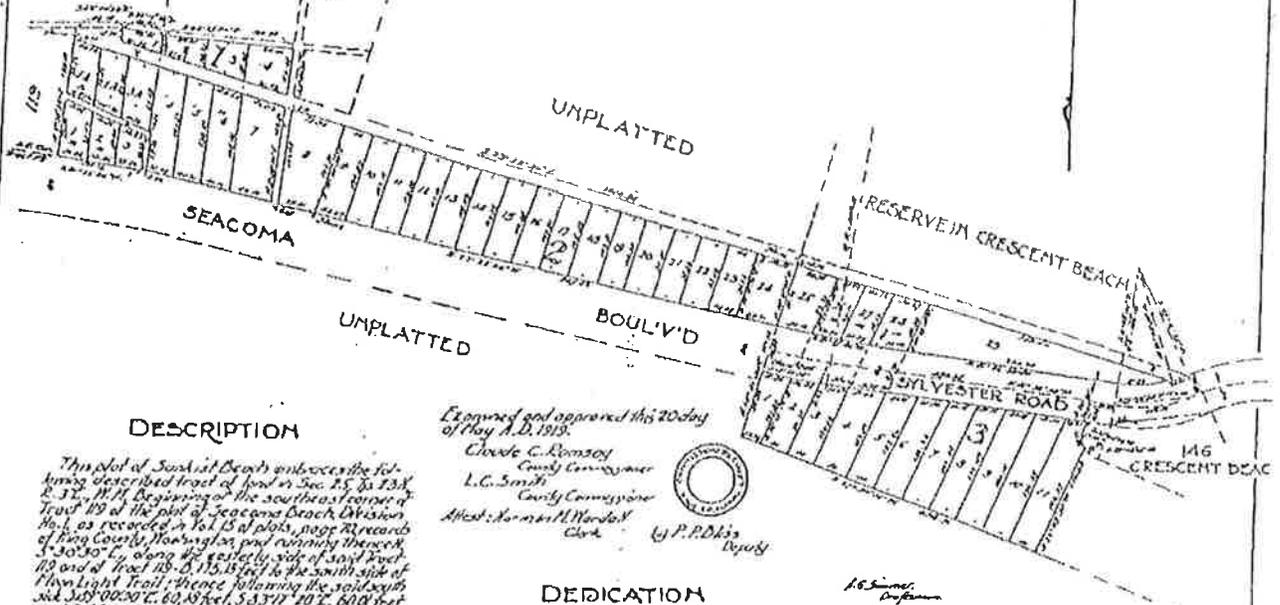
SUNKIST BEACH

Scale: 1"=100'

Gardner, Gardner & Fischer, Inc.
Engrs. - Seattle,

April 1919.

SEACOMA BEACH DIV. NO. 1. SEACOMA BEACH DIV. NO. 2.



DESCRIPTION

This plot of Sunkist Beach embraces the following described tract of land in Sec. 25, T. 23N., R. 3E., W. 1/4, Beginning at the southeast corner of Tract 119 of the plot of Seacoma Beach Division No. 1, as recorded in Vol. 13 of plats, page 72 records of King County, Washington, and running thence S. 30° 30' E., along the easterly side of said Tract 119 and of Tract 118, 0.115, 13 feet to the south side of Flanlight Trail; thence following the south side said 307' 00" x 207' 60" lot, 53.371' x 20' E., 600 feet and 3.08' x 25' 50" E., 100.03 feet to the northeast corner of Tract 118 in the receded portion of the plot of Seacoma Beach, Division No. 1, as recorded in Vol. 13 of plats, page 31, records of King County, Washington; thence S. 5° 20' 30" W., 44.83 feet along the easterly line of said Tract 118; thence S. 23° 25' 30" E., 136.36 feet to the northwesterly corner of Sylvester Road; thence S. 19° 16' 25" E., 20.00 feet to the center line of the said road; thence along a curve to the right having a radius of 100.89 feet, whose center of this point bears N. 19° 16' 25" W., a distance of 116.10 feet; thence N. 61° 40' 10" E., 25.33 feet thence S. 12° 03' 30" W., 44.04 feet to a point which bears N. 41° 58' 40" W., 29.40 feet from the center of the curve of radius 100.89 feet, as shown in Tract 118 of the plot of Crescent Beach, as recorded in Vol. 10 of plats, page 44, records of King County, Washington; thence along said curve to the left, a distance of 17.89 feet; thence S. 12° 03' 30" W., 44.83 feet; thence N. 61° 40' 10" E., 25.33 feet to a point on the southerly line of the westerly line of the reserved portion of said plot of Crescent Beach; thence along the said westerly line, N. 11° 00' 15" E., 14 feet to the north easterly corner of Seacoma Boulevard; thence along the said northwesterly margin N. 77° 11' 40" W., 905.81 feet and N. 22° 20' W., 110.13 feet to the place of beginning, excepting therefrom portions acquired by King County for Road purposes. Being a portion of the receded portions of the scripslots of Seacoma Beach, Division No. 1 and Division No. 2 and of the Reserve and of the receded portions of Seacoma Boulevard, in the said plot of Crescent Beach.

All distances are as shown on this plot in feet.

Examined and approved this 19th day of May A.D. 1919.
By C.P. Murray Deputy
By Samuel J. Thomas County Engineer

Examined and approved this 20th day of May A.D. 1919.

Cloude C. Ramsey
County Commissioner
L.C. Smith
County Commissioner
Attest: Norman H. Wardell
Clerk
By P.P. Davis Deputy



DEDICATION

Know all men by these presents that the Seacoma Beach Improvement Company, a corporation organized under the laws of the State of Washington, organized for profit, and C.J. Taylor, an officer of said corporation, do hereby dedicate this plot and appurtenances to the use of the public for ever, as shown by necessary boundaries and alleys, or whatever public property there is shown on this plot and the use thereof for city and all public purposes not inconsistent with the use thereof for public highway purposes, also the right to make of necessary changes for cuts or fills upon the lots blocks and tracts shown on the plot in the reasonable original grading of all the streets and avenues shown thereon.

In witness whereof C.J. Taylor has hereunto set his hand and seal and the said corporation has caused its corporate name to be hereunto subscribed by its President and Secretary and its corporate seal to be hereunto affixed this 20th day of May A. D. 1919.

Seacoma Beach Improvement Company
by A.H. Brooks
Its President
by L.I. Gregory
Its Secretary
C.J. Taylor



CERTIFICATE

We hereby certify that the plot of Sunkist Beach is based upon an actual survey and subdivision of Sec. 25, T. 23N., R. 3E., W. 1/4, that the distances and courses as shown thereon are correct, that monuments have been set and the lots and blocks have been staked on the ground.

Gardner, Gardner & Fischer, Inc.
by A.H. Fischer

16 Samuel
Deputy

ACKNOWLEDGMENT

State of Washington) s.s. This is to certify that on County of King
1919 before me the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared C.J. Taylor, and A.H. Brooks, President and L.I. Gregory, Secretary of the Seacoma Beach Improvement Company, persons known to be the individuals who executed the foregoing instrument and acknowledged to me that they signed and sealed the same of their free and voluntary act and deed, C.J. Taylor for himself, and A.H. Brooks and L.I. Gregory for the said corporation, for the uses and purposes herein mentioned, A.H. Brooks and L.I. Gregory on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of the said corporation.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year above written.



W.O. Macomber
Notary Public in and for the State of Washington, residing at Seattle.
1309045

Filed for record of the request of Gardner, Gardner & Fischer, Inc. May 20 A.D. 1919 of 48m, post 3 P.M. and recorded in Vol. 23 of plats, page 12, records of King County, Washington.
Norman H. Wardell
County Clerk
By P.P. Davis Deputy

Lisa Clausen

From: Public Council Inbox
Sent: Monday, June 14, 2010 9:38 AM
To: 'Tony Halstead'
Subject: RE: comments on Shoreline Master Program

Thank you for writing to the Burien City Council. Your message will be included in the Correspondence for the Record for an upcoming Council meeting.

L. Clausen
City Manager's Office

From: Tony Halstead [mailto:tonyhalstead@comcast.net]
Sent: Friday, June 11, 2010 5:01 PM
To: Public Council Inbox
Subject: comments on Shoreline Master Program

Dear City Council:

In Burien, most of the waterfront homes are several decades old; thus, over the next few decades houses would be torn down and rebuilt. However, under the SMP's current proposal, the normal course of upkeep and protecting property values will not happen because owners will not have an incentive to invest much into a flawed structure. This would result in our waterfront slowly becoming a shantytown whose residents would have little concern about that which we're trying to protect and be appealing for everyone's enjoyment. It would result in lowered property values and a shifting of property tax burden from waterfront owners to other Burien residents. So, who would benefit from this SMP proposal?

If the City proceeds with this extreme "down-zoning" would homeowners be compensated? The only fair option is to retain the allowance of existing homes to be rebuilt as long as it does not exceed their current footprint and height. We also urge Burien City Council to actively involve Burien Marine Homeowners Association to help ensure that all aspects of this problem are considered in order to optimize the long-term future of our waterfront.

Sincerely,

William Halstead and JoEllen Kuwamoto
12705 Standring Lane SW, Burien, 98146
206.935.6655

CFR: 06/21/10

Janet Stallman

From: Public Council Inbox
To: c_edgar2@yahoo.com
Cc: David Johanson; Scott Greenberg
Subject: FW: Monday Night Presentation by the Science Experts-June 14, 2010
Attachments: FW Science&Small Buffers Recom 10Mar[2].pdf

Ms. Edgar:

Your email and attachment will be included in the next Council agenda packet as Correspondence for the Record. It has also been forwarded to David Johanson for distribution to the Planning Commission.

Janet S.

From: Chestine Edgar [mailto:c_edgar2@yahoo.com]
Sent: Wednesday, June 16, 2010 2:33 PM
To: Monica Lusk
Subject: Monday Night Presentation by the Science Experts-June 14, 2010

To Monica Lusk-please forward this on to:

To the Burien City Council
To the Burien Planning Commission

This last Monday, I attended the City Council Shoreline Management Program Forum and was somewhat disappointed by the lack of scientific vigor that the scientists demonstrated on their topic areas. I was particularly concerned by the presentation by Carl Hadley. There were two concepts that Carl Hadley, Biologist, Cedarock Consultants left the audience with that are **clearly not correct or scientifically accurate**. Those concepts were about buffer/setbacks and developing land. His position was that buffers in urban setting have no value and that all pieces of land can be developed and mitigated anywhere a citizen wants them mitigated.

To correct the record on Hadley's presentation:

1. Current Science/Best Available Science shows that buffers and setbacks are of value even in greatly degraded areas, and
2. Contrary to Mr. Hadley's statement, all pieces of land cannot be developed and mitigation will not take care of any draw backs due to critical areas issues.

It appeared to me that the audience as well as the City Council were even more confused after the meeting than prior to the meeting about these concepts.

Therefore, I am attaching a very good and easily readable paper. This is written in pretty much common person language and should give the Council members a good background on how buffers work. It has good scientific citations about research, if a person wants to go into these topics in depth. I believe it could end some confusion on the topic of buffers for the general audience.

Please take the time to read it.

Sincerely,
Chestine Edgar

Note: this document will be updated with additional science citations in the future, please check our website for the current version

Introduction

In the course of reviewing Shoreline Master Programs (SMPs), Futurewise has seen several proposals for small buffers in areas of existing development. Some of these proposals seem to be based on the belief that, if a small buffer is established based on existing development patterns, unlimited new development (including redevelopment, expansion, and more intensified uses) outside that small buffer will have no additional impacts to shoreline ecological functions, and thus no mitigation is necessary. This paper shows that there is no scientific basis for such a strategy, and provides a recommended strategy for the acceptable use of small buffers in existing intensely developed areas which we believe allows for reasonable development while also having a reasonable chance of protecting the existing shoreline functions, as the Shoreline Management Act and the Shoreline Master Program Guidelines require.

Purpose of Regulatory Buffers – Avoiding & Minimizing Impacts

The Shoreline Management Act (SMA) policy statement in RCW 90.58.020 lists the primary policy objective of the act [with emphasis]: “This policy contemplates protecting against adverse effects to the public health, *the land and its vegetation and wildlife, and the waters of the state and their aquatic life*, while protecting generally public rights of navigation and corollary rights incidental thereto.” In addition, the SMA policy provides that “[p]ermitted uses in the shorelines of the state shall be designed and conducted in a manner to *minimize*, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public’s use of the water.”

To implement these policies to protect the ecology and to minimize damage, as well as other policies of the SMA, the SMP Guidelines require **no-net-loss of ecological functions**, stating specifically: “Local master programs shall include policies and regulations designed to achieve no net loss of those ecological functions.”¹

This is accomplished through **mitigation sequencing**,² whereby the first task of mitigation is avoidance of impacts, the second task is minimization of impacts, and the third is compensation for remaining impacts. Stated another way, allowing development to impact the shoreline is supposed to be the last option, not the first option. Impacts should only be allowed to the extent that it is not practical to avoid damage to the environment and the

¹ WAC 173-26-186(8)(b) under Governing Principles of the Guidelines relating to ecological functions; and implemented in WAC 173-26-201(2)(c) under Basic Concepts. Despite being called ‘Guidelines,’ the SMA, in RCW 90.58.080(1), requires that shoreline master programs shall be consistent with the SMP Guidelines.

² WAC 173-26-201(2)(c) under Basic Concepts and Protection of Ecological Functions; and implemented in WAC 173-26-201(2)(e) under Basic Concepts, Environmental Impact Mitigation.

public's use of the water, and then the development should minimize and compensate for those impacts.

Designing an SMP to achieve no-net-loss of ecological functions is largely a scientific exercise, and the SMA is specific in its requirements to use science in developing the SMP. It requires using "a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts."³ This science requirement is similar to the Growth Management Act's "Best Available Science" requirement. While each has its own terminology, these two science requirements are functionally the same in that they require the use of current up-to-date science.

The science literature on the impacts of development near water bodies provides the basis for jurisdictions to accomplish mitigation sequencing for shoreline waters (streams, lakes, wetlands, marine waters, etc.) and adjacent shorelands. One essential strategy for protecting the functions and values provided by intact riparian vegetation is using a regulatory buffer (or a setback and vegetation retention area) of a width supported by science. An adequate buffer can provide many important functions and help protect water quality and water resources. While an adequate buffer can accomplish much, it cannot mitigate everything, especially impacts from degraded upland areas and the broader watershed – for example stormwater, erosion, habitat loss, etc. Other regulations are needed to deal with such impacts, including those areas outside shoreline jurisdiction.⁴

An adequate regulatory buffer can do much to provide mitigation sequencing:

- (1) It helps accomplish the first task of mitigation sequencing – avoidance. *But this is only the case if the buffer is intact*. An adequate buffer will help protect a large percentage of the functions that riparian vegetation provides, and will encompass the most important riparian habitat areas.
- (2) While an adequate buffer can do much, it can't accomplish everything. Thus, an intact buffer can be a first step in minimizing the adverse impacts of development to functions that extend outside the buffer. It also reduces or helps minimize those repeating or ongoing impacts from adjacent development, such as water quality, glare, and noise impacts, by filtering pollutants, screening glare, and reducing noise transmission.
- (3) For both degraded and intact areas, a science-based regulatory buffer also identifies an area within which new development will cause impacts that need compensation. In addition, when buffers are degraded, they provide a location where any impacts of the development can be compensated for by enhancing the degraded functions.

Even when science-based buffers are degraded, they can still perform functions at a dampened level, depending on the amount of degradation. Even heavily degraded shorelines will perform

³ RCW 90.58.100, with emphasis added.

⁴ For example, to maintain the health of streams and salmon habitats, rivers basins should limit effective impervious surfaces to no more than ten percent and forest cover to no less than 65 percent. Derek B. Booth, *Forest Cover, Impervious-surface Area, and the Mitigation of Urbanization Impacts in King County, Washington* p. 16 (University of Washington, Seattle Washington: September 2000). Accessed on March 10, 2010 at: <http://depts.washington.edu/cuwrm/research/forest.pdf>

functions at a very low level. This is specifically stated in the SMP Guidelines,⁵ and documented in the science literature (including those footnoted below) that compares developed and undeveloped sites. For example, even lawns can provide better animal feeding, runoff treatment, and other functions than paved surfaces and structures. New impervious surfaces and more intensive use will degrade these even further. Thus, if the regulatory buffer is not of adequate width to avoid and mitigate impacts, as is the case when using small buffers, new development outside the small buffer will still cause new impacts.

Vegetative Buffer Areas Perform Many Functions

The peer-reviewed scientific evidence has been reviewed and synthesized in several documents that show that intact buffers of adequate width are needed to mitigate the impacts of adjacent development on lakes, rivers, streams, marine waters, and wetlands.⁶ An item of particular

⁵ WAC 173-26-201(2)(c) under Basic Concepts and Protection of Ecological Functions.

⁶ **Lakes:** Karen Capiella and Tom Schueler, *Crafting a Lake Protection Ordinance*, Urban Lake Management, Watershed Protection Techniques 3(4) (2001). Accessed on March 10, 2010 at: http://www.cwp.org/Resource_Library/Center_Docs/special/lakes/ulm_lakeprotectionord.pdf. Widths - p. 756; Functions - pp. 752-754.

Lakes: S. Engel and J. L. Pederson Jr., *The construction, aesthetics, and effects of lakeshore development: a literature review* (Research report 177, Wisconsin. Dept. of Natural Resources, 1998). Accessed on March 10, 2010 at: <http://digicoll.library.wisc.edu/cgi-bin/EcoNatRes/EcoNatRes-idx?id=EcoNatRes.DNRRep177>. Functions - pp. 9-24; widths not addressed.

Streams, Lakes, and Marine: National Marine Fisheries Service - Northwest Region, *Endangered Species Act Section 7 Consultation Final Biological Opinion for Implementation of the National Flood Insurance Program in the State of Washington, Phase One Document - Puget Sound Region* (Sept. 22, 2008). Accessed on March 10, 2010 at: [https://pcts.nmfs.noaa.gov/pls/pcts-pub/biop_results_detail?reg_incluse_in=\('NWR'\)&tidin=29082](https://pcts.nmfs.noaa.gov/pls/pcts-pub/biop_results_detail?reg_incluse_in=('NWR')&tidin=29082). Widths - pp. 222 - 223; Functions and development impacts: pp. 24 - 150.

Streams and Lakes: Spence, B. C., G. A. Lomnicky, R. M. Hughes, and R. P. Novitzki, *An Ecosystem Approach to Salmonid Conservation*. (ManTech Environmental Research Services Corp., Corvallis, OR, Doc.#: TR-4501-96-6057, available from the National Marine Fisheries Service, Portland, Oregon. 1996). Accessed on March 10, 2010 at: <http://www.nwr.noaa.gov/Publications/Reference-Documents/ManTech-Report.cfm>. Widths - pp. 215-230 (esp. p. 229); Functions - pp. 51-55.

Streams: K. L. Knutson & V. L. Naef, *Management Recommendations for Washington's Priority Habitats: Riparian* (Wash. Dept. Fish and Wildlife, Olympia WA, 1997). Accessed on March 10, 2010 at: <http://wdfw.wa.gov/hab/ripfinal.pdf>. Widths - p. 87; Functions - pp. 19-38.

Wetlands: D. Sheldon, T. Hruby, P. Johnson, K. Harper, A. McMillan, T. Granger, S. Stanley, and E. Stockdale, *Wetlands in Washington State - Volume 1: A Synthesis of the Science* (Washington State Department of Ecology Publication #05-06-006, 2005). Accessed on March 10, 2010 at: <http://www.ecy.wa.gov/biblio/0506006.html>. Widths - all of Chapter 5 & p. 5-55; Functions - All of Chapter 2 & parts of Chapter 3 and 4.

Marine: EnviroVision, Herrera Environmental, and the Aquatic Habitat Guidelines Working Group, *Protecting Nearshore Habitat and Functions in Puget Sound: An Interim Guide* (October 2007). Accessed on March 10, 2010 at: http://wdfw.wa.gov/hab/nearshore_guidelines/. Widths - pp III-38 to III-41; Functions - pp. II-38 to II-46.

Marine: J. S. Brennan, and H. Culverwell, *Marine Riparian: An Assessment of Riparian Functions in Marine Ecosystems* (Washington Sea Grant Program, University of Washington, Seattle, 2004). Accessed on March 10, 2010 at: <http://www.wsg.washington.edu/research/pdfs/brennan.pdf>. Widths - p. 16; Functions pp. ii-iii & 3-14.

NOTE: If some links do not operate, removing the last item on the link may provide an alternate access path. Otherwise perform a search on that website or the internet in general.

note is that some studies⁷ found that riparian vegetation performed similar functions for all types of water environments. Indeed, many of the science articles seeking numerical values for buffer widths are not based on any particular type of water feature (stream v. wetland, etc.). The buffer widths recommended to protect the wide variety of ecological functions in these synthesis studies are summarized in the following table. Specific functions are described in more detail below the table.

Science Review Source	Recommended Vegetated Buffer Width			
	Stream	Wetland	Lake	Marine
Cappiella and Schueler, <i>Crafting a Lake Protection Ordinance</i> (Review of Lake Ordinances)			Range from 50-150'; Septic 100'+	
Engel and Pederson, <i>The construction, aesthetics, and effects of lakeshore development</i>			Only functions listed	
National Marine Fisheries Service, <i>ESA Consultation Biological Opinion for NFIP in Wa. State</i>	Greater of: Lg. rivers - 150'; or CMZ +50'; or floodway		100'	100'
Spence et al., <i>An Ecosystem Approach to Salmonid Conservation</i> . (ManTech Report for NOAA)	1 site pot. tree height (up to 150')		1 site pot. tree height (up to 150')	
Knutson & Naef, <i>Management Recommendations for Washington's Priority Habitats: Riparian</i> (WDFW)	150-250' per str. type + floodplain			
Sheldon et al., <i>Wetlands in Washington State - Volume 1: A Synthesis of the Science</i> (Ecology)		150'-300' for most human uses		
EnviroVision et al., <i>Protecting Nearshore Habitat and Functions in Puget Sound: An Interim Guide</i> (Aquatic Habitat Guideline Working Group)				150-200'
Brennan and Culverwell, <i>Marine Riparian: An assessment of riparian functions</i> (SeaGrant)				>30m (>100')

NOTE: See footnote 6 for full citations and links to the studies.

These science reviews document that: (1) small buffers, even with intact vegetation, are incapable of fully mitigating development impacts; and (2) degraded buffers are unable to fully perform their buffering function.⁸ The science of intact buffer areas of adequate width shows that they perform many functions - some of which are provided below and grouped by similarity.

⁷ Sheldon, et al., *Wetlands in Washington State - Volume 1*, p. 5-25 to 5-26.
 Brennan and Culverwell, *Marine Riparian*, pp. 2 & 16.
 EnviroVision, et al., *Protecting Nearshore Habitat*, p. III-38.

⁸ See particularly: Spence et al., *An Ecosystem Approach to Salmonid Conservation*. (ManTech Report for NOAA) Chapter 6: Effects of Human Activities.

Water Quality and Infiltration

- Inhibiting surface erosion from surface runoff and flood flows.
- Filtering sediment from surface runoff and flood flows.
- Removing and transforming nutrients and harmful substances from surface runoff and flood flows.
- Infiltrating and storing surface runoff and flood flows into groundwater for later release to water bodies.
- Removing and transforming nutrients and harmful substances from groundwater passing through root zones.

Stabilization

- Providing stabilization to streambanks, lake shores, and marine waters against erosive water forces through root mats and root-strength.
- Contributing in-water woody debris which reduces and slows erosive water forces against streambanks and lake shores through barriers and increased roughness.
- Protects uplands from surface erosion caused by storms and rising sea levels.

In-Water Habitat Contributions

- Providing fish with over-water hanging cover from predators.
- Providing shade to help cool the water, especially for shallow margins.
- Contributing in-water woody debris needed for creation of fish habitat.
- Contributing in-water organic matter to support fish food species (insects and invertebrates), and other aquatic life.
- Screening or dampening noise, glare, and human activity from the water.

Land Habitat

- Providing refuge for fish from fast flows during floods, as well as access to new food sources.
- Contributing large woody debris needed for amphibian, small mammal, bird, and insect habitat.
- Providing wildlife habitat areas (for feeding, reproducing, resting, etc.) for riparian species, and for upland species that use riparian areas.
- Providing a wildlife dispersal and migration corridor along the water to other areas.
- Generating organic matter needed for foundation of food web.
- Providing natural processes and food web functions to support wildlife.
- Altering the microclimate near the water to be more suitable for aquatic and riparian species by sheltering from wind, holding humidity, etc.
- Screening or dampening noise, glare, and human activity.
- Providing separation from human activity for sensitive aquatic and upland species.

While full-sized, intact buffers perform or protect almost the full level of the functions above, degraded buffers still perform low levels of functions, and additional development continues to impact these. It is not the case that degraded buffers have no functions; thus mitigation is needed for new development outside any buffer area which is too small to fully perform or protect the full range of shoreline functions.

Small Degraded Buffers Cannot Protect Shoreline Functions

The currently available science shows that using the science-based buffer for avoidance and minimization in mitigation sequencing has several *policy implications* that bear on the use of small buffer regulations for existing development:

1. If the science-based buffers are intact, they can provide functions and protect the resource from many impacts from nearby development.
2. If the buffers are not intact, they cannot provide the functions nor protect the resource from adjacent development - even if it meets the science-based width - and there will be impacts.
3. If development takes place within the buffer area, there will be impacts.
4. In the case of existing development within the science-based buffer width, the vegetation is both degraded and there is not enough width. The presence of existing development does not mean that new development will not have impacts or even that existing development does not have ongoing impacts. Just as in #3 above, additional development in the science-based buffer area will increase the impacts. Simply making the regulatory buffer width smaller to match the existing development does not change the presence of impacts.
5. Using small regulatory buffer widths to accommodate existing development establishes built-in impacts in the SMP review system.
6. Since the normal path of development in urban areas over time is expansion and intensification, there will be a continual increase in impacts and degradation across shoreline jurisdiction in these areas. This creates additional impacts that must be addressed in both the Cumulative Impacts Analysis and the Restoration Plan.

This information shows that just because the science-based buffer area is degraded, it is not the case that unlimited additional development has no additional impacts as long as it meets a small regulatory buffer or setback. It also shows that small buffers cannot be applied to areas that may still have intact functions, especially if it is possible to maintain or establish a scientific buffer width, as those areas need to be protected from loss.

Some small buffer systems proposed in some SMPs seem to assume that the smaller degraded buffer works the same as an intact science-based buffer, i.e. adequately providing functions and buffering against impacts as long as development is outside the buffer line. But the peer-reviewed scientific literature shows that a smaller degraded buffer is incapable of performing functions adequately and incapable of protecting the resource it is intended to protect.

New Development and Existing Development Impact Shoreline Functions

Expansion of existing development, redevelopment, and new development on vacant land all adversely affect shoreline resources and functions. In fact, even existing development can continue to cause impacts to ecological functions. As described above, this is the case even for development outside a small regulatory setback. Consider the following adverse impacts of development on the shoreline resources.

- New structures and impervious surfaces increase runoff volumes, remove vegetation, remove native soils that absorb water, and reduce the area available to infiltrate those volumes. Note that these impacts are partially mitigated through stormwater ordinances. However, stormwater regulations generally only address increased peak runoff volumes, not the other impacts.⁹ In addition, small developments are only required to comply with some of the storm water requirements, thus reducing the ability of those regulations to address these impacts.¹⁰
 - a. The increased runoff is focused into smaller receiving areas, thus increasing the erosive power and sediment carrying ability of the surface runoff in those areas.
 - b. Where infiltration can still occur, the focused runoff drives infiltrated water to the groundwater table more rapidly with less opportunity for soil treatment.
 - c. Less vegetation area is available to filter sediment and nutrients from flood waters and the larger volumes of surface runoff passing over the site.
 - d. Less native soils and vegetation root structure is available to treat groundwater.
 - e. The trend of decreased infiltration in a drainage basin changes the hydrology of the basin by increasing winter flows and decreasing summer and fall flows adversely affecting water quality and aquatic habitats.

- Adding new structures, additions, or impervious surfaces, and removing or simplifying vegetation (cutting trees, replacing shrubs with lawn, paving, etc.) also adversely affect habitat:
 - a. Higher value habitat areas and migration pathways are eliminated or replaced with lower value areas, until the most simplified areas (open impervious surfaces) have only limited value for migration pathways and separation areas. More complex areas for nesting and refuge are most susceptible to loss.
 - b. Substituting native vegetation with non-native species, or their total removal, results in a loss of food sources for the entire food web. For example, many native insect species cannot effectively use non-native vegetation for food. The reductions in insect populations then affect the fish that feed on them.
 - c. Natural processes, insect food sources, and food web functions are reduced or eliminated with the progressive removal of complex vegetation elements.
 - d. Species (large and small) capable of using degraded areas are greatly reduced with greater degradation.
 - e. Microclimate is altered for species currently using site.
 - f. Reduces the organic matter input to the water from drifting and blowing wind that supports the aquatic food web and aquatic life.
 - g. Reduces the large woody debris input from trees and branches falling into the water that is needed to form and diversify fish and aquatic life habitat.

⁹ Washington State Department of Ecology, *Stormwater Management Manual for Western Washington Volume 1 – Minimum Technical Requirements* pp. 1-20 – 1-26 (February 2005). Accessed on March 10, 2010 at: <http://www.ecy.wa.gov/biblio/0510029.html>

¹⁰ *Id.* at p. 2-9.

- In addition removing or simplifying the vegetation near water also:
 - a. Reduces the root strength and root mats that provide bank stabilization.
 - b. Increases sun exposure on shallow water areas and heats them.

- Residential uses have additional impacts, not directly related to construction, that increase with enlargement or expansion of the use. Aside from lighting, very little can be done to mitigate these impacts – they are a function of the existence of the development. Non-residential uses can have impacts similar to residential uses that vary depending on the activities and the level of use.
 - a. Human presence and activity that impacts or drives off fish and wildlife. Bigger residences usually mean more people on the property, whether family members or guests.
 - b. Pets that prey on or drive off fish and wildlife. More family members increase the likelihood of having more pets.
 - c. Machinery and vehicular noise that impacts or drives off fish and wildlife. More people on the property increase the likelihood of having more machines and vehicles – including automobiles, watercraft, yard machinery, and recreational vehicles.
 - d. Use of chemicals and fertilizers for house and yard. Larger structures and grounds increase the use of chemicals.
 - e. Use of night lighting that impacts or drives off fish and wildlife. Larger structures and grounds typically increase the use of night lighting.

- Existing development that has inadequate buffers can also have ongoing impacts or impacts that increase over time. While shoreline master programs do not apply to most existing uses, these impacts show that allowing an expanded, redeveloped, or new use that continues to rely on existing, degraded buffers or non-existent buffers will result in an increased loss of shoreline functions, contrary to the requirements of the SMA. Further, shoreline master programs do apply to ongoing activities that require five year permit renewals. The SMP should require measures to protect shoreline functions when those permits are renewed.
 - a. Inadequate buffers allow larger pollutant loads to pass than intact buffers. Thus the receiving waters become more and more contaminated as pollutants build up in aquatic sediments and the water body year after year. Some pollutants are removed or transformed by flushing and biological processes, but others build up over time.
 - b. Inadequate buffers allow larger sediment loads to pass than intact buffers. Thus aquatic life and habitat areas continue to be smothered by sediment, and water turbidity continues to impact organisms.
 - c. Buffers degrade over time, so existing uses increase their pollution loads as the buffers degrade. The degraded buffers also provide fewer functions and mitigate fewer impacts.

Recommendations for Using Small Buffers, or Setbacks with Plantings

Based on the discussion above, regulatory systems that use small buffers alone are ineffective and fail to comply with the SMA. While a science-based regulatory buffer can provide a means of avoidance and minimization, small degraded regulatory buffers and setbacks do not, and result in a system with built-in adverse impacts to ecological functions.

Since a system that uses small buffers or setbacks alone cannot accomplish avoidance, or otherwise mitigate the impacts of a development, the only other acceptable strategy for their use is if the built-in impacts are offset by built-in mitigation measures, including mitigation for habitat impacts. This is best accomplished by an improvement of the existing degraded buffer or habitat conditions. While this approach can be used with validity, it must be only one part of a system that addresses the range of different shoreline conditions in a logical and systematic manner. Below is our recommended strategy for jurisdictions to use small buffers or setbacks for existing developed areas.

1. The shoreline area should be carefully mapped, and the existing level of development should be characterized. This should be part of the inventory and characterization step of the SMP update. When broad variations exist in setback and vegetation, the areas should be categorized based on the character so the protection measures can consider such variations.
2. Science-based regulatory buffer widths need to be adopted for areas with intact functions or with consistently large setbacks. These areas need to be protected from further degradation.
3. Small regulatory buffers widths or setbacks, along with built-in mitigation (as described below), can be used for areas of existing development, and should be based on the vegetation and setback categories identified during mapping. These areas need to be wide enough to function, and function over time. For example, the narrowest high quality buffer that can filter nutrients is 13 feet, and for filtering pollutants you need 33 to 52 feet.¹¹ And buffers degrade over time as they filter out nutrients and pollutants. The area needs to be at least 20 feet wide (enough for a fully grown tree) to provide minimum functions. Wider buffers are needed to protect other important shoreline functions.
4. Built-in mitigation requirements need to be included when an intact science-based buffer cannot be used to mitigate impacts of new development. This should include various means of enhancing the degraded shoreline areas where doing so is possible – such as planting native shoreline vegetation, removal or reduction of unnecessary shore armoring or other near-water structures, etc. Where native vegetation is planted, it needs to include native groundcover, shrub, and tree planting; and needs to extend across the shoreline with allowances for water access.
5. Even if a science-based buffer can be used in some places, it will be ineffective if it is degraded or non-vegetated. In such cases, the buffer or setback must be planted and maintained in order to buffer the impacts of the new development. This must include native understory, shrub, and tree planting and extend across the shoreline with allowances for water access.

¹¹ K. L. Knutson & V. L. Naef, *Management Recommendations for Washington's Priority Habitats: Riparian* p. XI, pp. 164 (Wash. Dept. Fish and Wildlife, Olympia WA: 1997).

In addition to built-in mitigation in the form of enhancement, the use of small buffers means other impacts need to be carefully controlled, which means the use of additional standards.

1. Only very limited uses should be allowed in the setback and no uses can be allowed within the planted areas if they are to function. Encroachments into a buffer or setback vegetation should be limited to those that are water-dependent and water-related. Water-enjoyment and non-water-oriented uses and facilities can function without being in the buffer area.
2. Low impact development (LID) techniques should be required to minimize storm water runoff and help maintain a more natural hydrologic system. This is needed to help reduce the polluted storm water that would otherwise overwhelm the narrow planting strip.
3. Major redevelopments and changes in use, which usually result in great intensification, must establish scientific based buffers to ensure no net loss of shoreline functions.
4. When permits for activities are renewed every five years, buffers or setbacks and vegetation plantings should be required.

While small buffers can be made acceptable for highly developed urban areas and rural areas, there needs to be policy support for not basing the buffer width on the available scientific information - of course science-based buffers should be used for intact areas. Such justification can be provided in the jurisdiction's policy that supports the use of shoreline buffers. We recommend a policy similar to the following:

BUFFER POLICY: While buffers widths based on science are necessary to protect ecological functions, using them is not possible in existing heavily developed areas, such as along some parts of [FILL IN THE BLANK]. In such areas, an alternative strategy is established using smaller buffers [OR setbacks] that are based on the existing development pattern, in combination with mitigation requirements for new development that provide enhancement of the smaller buffer and other degraded features to address impacts of the new development outside the small buffer areas.

For more information please contact:

Dean Patterson, Shoreline Planner, Futurewise. E-mail: dean@futurewise.org. Direct Cell 509-823-5481. Or the Futurewise main office at 206-343-0681. Web: www.futurewise.org.

Janet Stallman

From: Public Council Inbox
To: Ryan, Andrew F
Cc: David Johanson; Scott Greenberg
Subject: RE: Burien SMP conversation

Mr. Ryan:

Your email will be included in the next Council agenda packet as Correspondence for the Record.

Janet S.

-----Original Message-----

From: Ryan, Andrew F [mailto:andrew.f.ryan@boeing.com]
Sent: Wednesday, June 16, 2010 2:44 PM
To: ktay461@ecy.wa.gov
Cc: Public Council Inbox
Subject: Burien SMP conversation

Dr. Taylor, thank you for supporting the Burien City meeting last Monday.

I'm the fella that had the buffer question and spoke w/ you after the mtg. You mentioned during our conversation that there was a lot of literature regarding the benefits of woody debris, vegetative matter, etc that enters the marine environment in natural settings from native growth along the shoreline. If I understood you correctly, development precludes this from happening and thus one of the reasons for the desire to develop buffer zones along the shoreline. If one were to start w/ the assumption that we're not going to tear down all the residences along the shoreline (I hope this is a valid assumption), and therefore never regain the target buffer that the scientific community desires, are there alternative ways to create these same functions?

Currently, the majority of us dispose of grass clippings and woody yard debris through a variety of different ways (landfills, compost, mulch, burn, etc). Would a better alternative be to dispose a portion of that on the beach? I shred a large portion of my prunings and use it for mulch on the hillside, but that is "small woody debris". I cringe at that suggestion as I've always been rather anal about making sure none of my yardwork ends up on the beach and have had words with a few previous neighbors who did dispose of clippings on the beach. Would something like that make up for the loss of the natural process?

We briefly discussed shade, filtering of pollutants & runoff, and halting use of pesticides & herbicides, are there other alternatives to working through the other of the 7 buffer functions you mentioned? Another thing you, and the other panel members mentioned, (at least I interpreted it that way) is that the functions are site specific and a one size fits all regulation would not be appropriate.

It bothers me that we waterfront property owners are being put in an adversarial role w/ ecology, because the majority of us are highly supportive of ecological causes, but the current regulations Burien is proposing are hazardous not only to our financial well being, but also our abilities to use our properties for personal enjoyment and water related purposes. As an example, on my bulkhead area, which is the only level area on my whole property, under several scenarios, I would have to tear down

my boathouse, plant native vegetation in densities that mimic natural conditions, and essentially lose usage of that entire piece of my property. As such, I'm highly motivated to explore other solutions.

Wish we could have heard the rest of your presentation and had more dialogue. Thanks again

Sincerely
Andy Ryan

COMPUTER CHECK REGISTER

CHECK REGISTER APPROVAL

WE, THE MEMBERS OF THE CITY COUNCIL OF BURIEN, WASHINGTON, HAVING RECEIVED DEPARTMENT CERTIFICATION THAT MERCHANDISE AND/OR SERVICES HAVE BEEN RECEIVED OR RENDERED, DO HEREBY APPROVE FOR PAYMENT ON This 21st day of June, 2010 the FOLLOWING:

CHECK NOS. 25227-25363

IN THE AMOUNTS OF \$744,548.90

WITH VOIDED CHECK NOS. _____

Accounts Payable

Checks for Approval



User: liliac
 Printed: 06/17/2010 - 7:30 AM

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
25227	06/10/2010	Equipment Reserve Fund	Machinery And Equipment	City of SeaTac		22,995.00
					Check Total:	22,995.00
25228	06/10/2010	General Fund	Mis Plan Implementation	Sherpa Software		420.00
					Check Total:	420.00
25229	06/11/2010	Town Square CIP	Project development	Public Health		527.29
					Check Total:	527.29
25230	06/11/2010	General Fund	Quarterly Newsletter	U.S. POSTAL SERVICE		3,350.00
					Check Total:	3,350.00
25231	06/14/2010	General Fund	Miscellaneous	King County Recorder		64.00
					Check Total:	64.00
25232	06/14/2010	General Fund	Miscellaneous	King County Recorder		10.00
					Check Total:	10.00
25233	06/21/2010	General Fund	Miscellaneous	ABC Legal Messengers, Inc.		7.00
25233	06/21/2010	General Fund	Professional Services	ABC Legal Messengers, Inc.		64.00
					Check Total:	71.00
25234	06/21/2010	General Fund	Office And Operating Supplies	ACE Hardware		85.23

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	85.23
25235	06/21/2010	General Fund	Repairs And Maintenance	ADT Security Services		88.88
					Check Total:	88.88
25236	06/21/2010	General Fund	Registration - Trainng/workshp	Association of Energy Engineer		595.00
					Check Total:	595.00
25237	06/21/2010	General Fund	Subscriptions/publications	Attorney's Eagle Eye Service		56.94
					Check Total:	56.94
25238	06/21/2010	General Fund	Strawberry Festival	Kevin Alexander		328.47
25238	06/21/2010	General Fund	Office and Operating Supplies	Kevin Alexander		109.47
					Check Total:	437.94
25239	06/21/2010	Street Fund	Repairs And Maintenance	Alpine Products, Inc.		1,113.07
25239	06/21/2010	Street Fund	Repairs And Maintenance	Alpine Products, Inc.		-108.13
					Check Total:	1,004.94
25240	06/21/2010	General Fund	Publications	Administrative Professional To		79.00
					Check Total:	79.00
25241	06/21/2010	General Fund	Telephone	A T & T		35.63
					Check Total:	35.63
25242	06/21/2010	General Fund	Dues/memberships	Association of Washington Citi		162.92
					Check Total:	162.92
25243	06/21/2010	General Fund	Quarterly Newsletter	Kenneth Barger		123.52
					Check Total:	123.52
25244	06/21/2010	General Fund	Office And Operating Supplies	SAMIR BASMEH		39.35

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
25244	06/21/2010	General Fund	Repairs And Maintenance	SAMIR BASMEH		273.75
					Check Total:	313.10
25245	06/21/2010	General Fund	Professional Services	Stephen Botkin		1,961.12
					Check Total:	1,961.12
25246	06/21/2010	Street Fund	Street Maintenance-non-county	The Brickman Group, Ltd.		11,418.75
					Check Total:	11,418.75
25247	06/21/2010	General Fund	Prof. Svcs-instructors	Viola Brumbaugh		200.00
					Check Total:	200.00
25248	06/21/2010	General Fund	Office And Operating Supplies	Burien Trophy		13.36
					Check Total:	13.36
25249	06/21/2010	Parks & Gen Gov't CIP	Project Development	James Cary		622.77
					Check Total:	622.77
25250	06/21/2010	Equipment Reserve Fund	Machinery And Equipment	CDW-G		2,994.98
25250	06/21/2010	Equipment Reserve Fund	Machinery And Equipment	CDW-G		568.34
					Check Total:	3,563.32
25251	06/21/2010	General Fund	Channel 21 Video Production	COMCAST		57.27
25251	06/21/2010	General Fund	Utilities	COMCAST		59.95
					Check Total:	117.22
25252	06/21/2010	General Fund	Office/operating Supplies	Complete Office		409.47
25252	06/21/2010	General Fund	Office/operating Supplies	Complete Office		461.00
25252	06/21/2010	General Fund	Office And Operating Supplies	Complete Office		358.41
25252	06/21/2010	General Fund	Office And Operating Supplies	Complete Office		358.41
25252	06/21/2010	General Fund	Office And Operating Supplies	Complete Office		461.00
25252	06/21/2010	General Fund	Office And Operating Supplies	Complete Office		51.08
25252	06/21/2010	General Fund	Office/Operating Supplies	Complete Office		51.08
25252	06/21/2010	General Fund	Office And Operating Supplies	Complete Office		51.08
25252	06/21/2010	General Fund	Office And Operating Supplies	Complete Office		1,331.35

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	3,532.88
25253	06/21/2010	General Fund	Fuel/gas/gasoline Consumption	CONOCOPHILIPS		320.62
25253	06/21/2010	General Fund	Fuel/gas/gasoline Consumption	CONOCOPHILIPS		862.26
25253	06/21/2010	General Fund	Citizens Patrol/ Crime Prevent	CONOCOPHILIPS		14.75
25253	06/21/2010	General Fund	Fuel/gas/gasoline Consumption	CONOCOPHILIPS		51.28
25253	06/21/2010	General Fund	Fuel/gas/gasoline Consumption	CONOCOPHILIPS		33.32
25253	06/21/2010	General Fund	Fuel/Gas Consumption	CONOCOPHILIPS		45.64
25253	06/21/2010	General Fund	Gasoline/Senior Center	CONOCOPHILIPS		47.44
25253	06/21/2010	General Fund	Fuel/Gas Consumption	CONOCOPHILIPS		81.64
25253	06/21/2010	General Fund	Fuel/gas/gasoline Consumption	CONOCOPHILIPS		39.09
					Check Total:	1,496.04
25254	06/21/2010	Parks & Gen Gov't CIP	Construction	Correctional Industries		818.80
					Check Total:	818.80
25255	06/21/2010	General Fund	Prof. Svcs-instructors	Janet S. Crawley		412.80
25255	06/21/2010	General Fund	Instructors Prof Svcs	Janet S. Crawley		484.00
					Check Total:	896.80
25256	06/21/2010	General Fund	Office And Operating Supplies	Crystal and Sierra Springs		139.22
					Check Total:	139.22
25257	06/21/2010	General Fund	Professional Services	CTS Language Link		11.40
					Check Total:	11.40
25258	06/21/2010	Street Fund	Utilities - Traffic Signals	City of Seattle		901.62
25258	06/21/2010	Street Fund	Utilities-street Lighting	City of Seattle		3,906.96
25258	06/21/2010	General Fund	Utilities	City of Seattle		103.09
25258	06/21/2010	General Fund	Utilities	City of Seattle		36.43
25258	06/21/2010	Surface Water Management Fund	Util - Pump 28: Hermes Deprssn	City of Seattle		302.46
25258	06/21/2010	Street Fund	Utilities-street Lighting	City of Seattle		37.38
					Check Total:	5,287.94
25259	06/21/2010	General Fund	Utilities	City Of Seattle		325.63

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	325.63
25260	06/21/2010	General Fund	State Lobbying Services	Michael D. Doubleday		2,635.00
					Check Total:	2,635.00
25261	06/21/2010	Debt Service Fund	PWTFL debt svc principal	Department of Commerce		129,177.32
25261	06/21/2010	Debt Service Fund	interest on PWTFL	Department of Commerce		7,750.64
25261	06/21/2010	Debt Service Fund	PWTFL debt svc principal	Department of Commerce		52,777.78
25261	06/21/2010	Debt Service Fund	interest on PWTFL	Department of Commerce		3,430.56
25261	06/21/2010	Debt Service Fund	PWTFL debt svc princ 1st S0	Department of Commerce		120,269.61
25261	06/21/2010	Debt Service Fund	PWTFL interest 1st So	Department of Commerce		8,916.05
25261	06/21/2010	Surface Water Management Fund	PWTFL Pond LTD	Department of Commerce		83,030.85
25261	06/21/2010	Surface Water Management Fund	Interest on PWTFL Pond	Department of Commerce		6,977.05
					Check Total:	412,329.86
25262	06/21/2010	General Fund	Professional Services	Dorchester Consulting		274.50
					Check Total:	274.50
25263	06/21/2010	General Fund	Office and Operating Supplies	Dunn Lumber Co.		165.81
25263	06/21/2010	General Fund	Office And Operating Supplies	Dunn Lumber Co.		45.82
					Check Total:	211.63
25264	06/21/2010	General Fund	City Hall Bldg Maintenance	Eastside Glass & Sealants		438.00
					Check Total:	438.00
25265	06/21/2010	General Fund	Strawberry Festival	Einstein Signs		1,377.51
					Check Total:	1,377.51
25266	06/21/2010	General Fund	Office and Operating Supplies	PAM FREDBACK		45.76
					Check Total:	45.76
25267	06/21/2010	General Fund	Instructors Prof Svcs	Pam Fredback		168.00
					Check Total:	168.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
25268	06/21/2010	Transportation CIP	right of way acqusition	G. B. McCaughan & Associates		225.00
					Check Total:	225.00
25269	06/21/2010	General Fund	Miscellaneous	Gov't Finance Officers Assn.		435.00
					Check Total:	435.00
25270	06/21/2010	General Fund	Professional Services	Goodbye Graffiti		1,761.86
					Check Total:	1,761.86
25271	06/21/2010	General Fund	Office And Operating Supplies	Grainger		190.32
25271	06/21/2010	General Fund	Office And Operating Supplies	Grainger		22.15
					Check Total:	212.47
25272	06/21/2010	General Fund	Parks Building Security	Guardian Security		65.00
					Check Total:	65.00
25273	06/21/2010	General Fund	Instructors Prof Svcs	Victoria E. Hamilton		198.00
25273	06/21/2010	General Fund	Instructors Prof Svcs	Victoria E. Hamilton		184.50
					Check Total:	382.50
25274	06/21/2010	Surface Water Management Fund	Repairs And Maintenance	Hayes Feed & Country Store		222.45
					Check Total:	222.45
25275	06/21/2010	General Fund	Instructors Prof Svcs	Susanne Denise Henrikson		80.00
					Check Total:	80.00
25276	06/21/2010	General Fund	Jail Contract	Homebound Services, Inc.		372.00
					Check Total:	372.00
25277	06/21/2010	General Fund	Operating Rentals and Leases	Head-quarters		81.50
					Check Total:	81.50

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
25278	06/21/2010	Street Fund	Special Event Clean up	ICON Materials		410.75
					Check Total:	410.75
25279	06/21/2010	General Fund	Operating Rentals And Leases	IKON Office Solutions		455.54
25279	06/21/2010	General Fund	Operating Rentals And Leases	IKON Office Solutions		321.93
					Check Total:	777.47
25280	06/21/2010	General Fund	Operating Rentals And Leases	Ikon Office Solutions		658.30
					Check Total:	658.30
25281	06/21/2010	General Fund	Miscellaneous	Iron Mountain Rec. Management		518.56
25281	06/21/2010	General Fund	Miscellaneous	Iron Mountain Rec. Management		38.40
25281	06/21/2010	General Fund	Miscellaneous	Iron Mountain Rec. Management		365.18
					Check Total:	922.14
25282	06/21/2010	General Fund	Telephone	Integra Telecom		135.16
25282	06/21/2010	General Fund	Telephone	Integra Telecom		162.19
25282	06/21/2010	General Fund	Telephone	Integra Telecom		324.39
25282	06/21/2010	General Fund	Telephone	Integra Telecom		108.15
25282	06/21/2010	General Fund	Telephone	Integra Telecom		162.19
25282	06/21/2010	General Fund	Telephone	Integra Telecom		135.16
25282	06/21/2010	General Fund	Telephone	Integra Telecom		54.06
25282	06/21/2010	General Fund	Telephone	Integra Telecom		270.32
25282	06/21/2010	General Fund	Telephone	Integra Telecom		555.07
					Check Total:	1,906.69
25283	06/21/2010	General Fund	Misc. EOC	Imaging Products International		1,786.38
					Check Total:	1,786.38
25284	06/21/2010	General Fund	Misc. EOC	Internet Video & Imaging, Inc.		390.00
					Check Total:	390.00
25285	06/21/2010	General Fund	Jail Contract	KING COUNTY FINANCE		30,792.04
					Check Total:	30,792.04

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
25286	06/21/2010	General Fund	Drug seizure proceeds KCSO	King County Sheriff, Pcnt. #4		360.00
				Check Total:		360.00
25287	06/21/2010	General Fund	Prosecution - City Atty	Kenyon Disend, PLLC		14,431.50
25287	06/21/2010	General Fund	Attorney Svcs - Litigation	Kenyon Disend, PLLC		2,779.35
25287	06/21/2010	General Fund	Att Svcs - Litigation - 1st So	Kenyon Disend, PLLC		767.47
				Check Total:		17,978.32
25288	06/21/2010	General Fund	Public Defender	Kirshenbaum & Goss, Inc., P.S		5,000.00
				Check Total:		5,000.00
25289	06/21/2010	General Fund	Prof. Svcs-instructors	Kim Klose		153.00
				Check Total:		153.00
25290	06/21/2010	Transportation CIP	Design-engineering	KPG, Inc.		29,849.27
				Check Total:		29,849.27
25291	06/21/2010	General Fund	Registration - Trainng/workshp	Latitude Geographics Group Ltd		349.00
				Check Total:		349.00
25292	06/21/2010	General Fund	Instructors Prof Svcs	Lauren Laughlin		252.00
				Check Total:		252.00
25293	06/21/2010	General Fund	Prof. Svcs-instructors	Lori Leberer		90.00
				Check Total:		90.00
25294	06/21/2010	General Fund	Prof. Svcs-instructors	Alexander Lewis		500.00
				Check Total:		500.00
25295	06/21/2010	Street Fund	Special Event Clean up	Les Schwab		21.90
				Check Total:		21.90

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
25296	06/21/2010	General Fund	Prof. Svcs-instructors	Galina Malevannaya		180.00
					Check Total:	180.00
25297	06/21/2010	General Fund	Instructors Prof Svcs	Kelda J. Martensen		260.00
					Check Total:	260.00
25298	06/21/2010	General Fund	Auto Allowance	MIKE MARTIN		400.00
					Check Total:	400.00
25299	06/21/2010	General Fund	Prof. Svcs-instructors	Susy McAleer		67.50
					Check Total:	67.50
25300	06/21/2010	General Fund	Instructors Prof Svcs	Hunter McGee		210.00
					Check Total:	210.00
25301	06/21/2010	Parks & Gen Gov't CIP	Project Development	McKinstry Essention Inc.		45,817.30
25301	06/21/2010	Parks & Gen Gov't CIP	Project Development	McKinstry Essention Inc.		8,139.27
					Check Total:	53,956.57
25302	06/21/2010	General Fund	Drug seizure proceeds KCSO	McLendon Hardware, Inc.		85.82
25302	06/21/2010	General Fund	Small Tools & Minor Equipments	McLendon Hardware, Inc.		597.44
25302	06/21/2010	Surface Water Management Fund	Repairs And Maintenance	McLendon Hardware, Inc.		597.46
25302	06/21/2010	Street Fund	Small Tools & Minor Equipments	McLendon Hardware, Inc.		597.46
25302	06/21/2010	Street Fund	Repairs And Maintenance	McLendon Hardware, Inc.		597.46
					Check Total:	2,475.64
25303	06/21/2010	General Fund	B&O Tax collect & audit	Microflex, Inc.		7,537.68
25303	06/21/2010	General Fund	Sales Tax Auditing Costs	Microflex, Inc.		133.08
25303	06/21/2010	Street Fund	Dt Business License Svcs	Microflex, Inc.		2,175.81
25303	06/21/2010	General Fund	B&O Tax collect & audit	Microflex, Inc.		1,957.32
					Check Total:	11,803.89
25304	06/21/2010	Street Fund	Graffiti Kits-bus Lic Rev	Miller Paint Co.		22.95
25304	06/21/2010	Street Fund	Graffiti Kits-bus Lic Rev	Miller Paint Co.		10.01
25304	06/21/2010	Street Fund	Graffiti Kits-bus Lic Rev	Miller Paint Co.		22.95

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
25304	06/21/2010	Street Fund	Graffiti Kits-bus Lic Rev	Miller Paint Co.		22.95
					Check Total:	78.86
25305	06/21/2010	General Fund	Miscellaneous	ANTHONY MOODY		171.94
					Check Total:	171.94
25306	06/21/2010	General Fund	Professional Services	Wendy A. Morgan		2,475.00
					Check Total:	2,475.00
25307	06/21/2010	General Fund	Professional Services	Motion Picture Licensing Corp.		99.00
25307	06/21/2010	General Fund	Professional Services	Motion Picture Licensing Corp.		200.00
25307	06/21/2010	General Fund	Professional Services	Motion Picture Licensing Corp.		200.00
					Check Total:	499.00
25308	06/21/2010	General Fund	Instructors Prof Svcs	Shariana Mundi		506.00
					Check Total:	506.00
25309	06/21/2010	General Fund	Prof. Svcs-instructors	New City Dance Company		73.50
25309	06/21/2010	General Fund	Instructors Prof Svcs	New City Dance Company		756.00
					Check Total:	829.50
25310	06/21/2010	Equipment Reserve Fund	Machinery And Equipment	NC Machinery Co.		3,115.28
					Check Total:	3,115.28
25311	06/21/2010	General Fund	Recreation Guide	Northwest Publishing Center		10,387.55
					Check Total:	10,387.55
25312	06/21/2010	General Fund	Prof. Svcs-instructors	Pamela Odegard		135.00
					Check Total:	135.00
25313	06/21/2010	Equipment Reserve Fund	Machinery And Equipment	Pape' Machinery Exchange		526.81

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	526.81
25314	06/21/2010	General Fund	Instructors Prof Srvs	J. D. Paulson		400.00
					Check Total:	400.00
25315	06/21/2010	General Fund	Small Tools & Minor Equipments	Pacific Industrial Supply		2,671.83
					Check Total:	2,671.83
25316	06/21/2010	General Fund	Postage	Pitney Bowes Postage By Phone		5,000.00
					Check Total:	5,000.00
25317	06/21/2010	General Fund	Summer Youth	PARA LOS NINOS		4,250.00
					Check Total:	4,250.00
25318	06/21/2010	General Fund	Online Video Streaming	Puget Sound Access		5,200.00
25318	06/21/2010	General Fund	Channel 21 Video Production	Puget Sound Access		8,954.25
					Check Total:	14,154.25
25319	06/21/2010	Street Fund	Utilities-street Lighting	Puget Sound Energy		1,593.35
					Check Total:	1,593.35
25320	06/21/2010	Surface Water Management Fund	Surface Water Mgmt Inventory	Pipeline Video & Cleaning Nort		2,367.94
					Check Total:	2,367.94
25321	06/21/2010	General Fund	Telephone	QWEST		61.29
25321	06/21/2010	General Fund	Telephone	QWEST		61.11
					Check Total:	122.40
25322	06/21/2010	General Fund	Strawberry Festival	Trevor Rasmussen		175.00
					Check Total:	175.00
25323	06/21/2010	General Fund	Registration - Trainng/workshp	PAT REH		101.40

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	<u>101.40</u>
25324	06/21/2010	General Fund	Refund Clearing Account -Parks	Elisea Lohman		41.00
					Check Total:	<u>41.00</u>
25325	06/21/2010	General Fund	Refund Clearing Account -Parks	Elvira Lohman		82.00
					Check Total:	<u>82.00</u>
25326	06/21/2010	General Fund	Refund Clearing Account -Parks	Rosa Nicolas		100.00
					Check Total:	<u>100.00</u>
25327	06/21/2010	General Fund	Refund Clearing Account -Parks	Geneva Ross		100.00
					Check Total:	<u>100.00</u>
25328	06/21/2010	General Fund	Refund Clearing Account -Parks	Ngon Tran		20.00
					Check Total:	<u>20.00</u>
25329	06/21/2010	General Fund	Business & Occupation Tax	Superior Custom Cabinets, Inc.		120.27
					Check Total:	<u>120.27</u>
25330	06/21/2010	Transportation CIP	project development	Robinson Newspapers		156.00
					Check Total:	<u>156.00</u>
25331	06/21/2010	General Fund	Prof. Svcs-instructors	Elizabeth B. Rodgers		670.00
					Check Total:	<u>670.00</u>
25332	06/21/2010	General Fund	Att Svcs - Litigation - 1st So	Ryan, Swanson & Cleveland		2,130.00
					Check Total:	<u>2,130.00</u>
25333	06/21/2010	General Fund	Prof. Svcs-instructors	Sandra Schneider		240.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	240.00
25334	06/21/2010	General Fund	Registration - Trainng/workshp	Suburban Cities Association		86.00
25334	06/21/2010	General Fund	Registration - Trainng/workshp	Suburban Cities Association		43.00
					Check Total:	129.00
25335	06/21/2010	General Fund	Prof. Svcs-instructors	Alan Schmitz		600.00
					Check Total:	600.00
25336	06/21/2010	General Fund	Office and Operating Supplies	School Specialty, Inc.		255.54
25336	06/21/2010	General Fund	Office and Operating Supplies	School Specialty, Inc.		127.77
					Check Total:	383.31
25337	06/21/2010	General Fund	Advertising	Seattle Times		270.04
25337	06/21/2010	General Fund	Advertising	Seattle Times		853.11
					Check Total:	1,123.15
25338	06/21/2010	General Fund	Computer Consultant Prof Svcs	SEITEL Systems, LLC		2,642.60
25338	06/21/2010	Street Fund	Computer Consultant Pro Svc	SEITEL Systems, LLC		440.43
25338	06/21/2010	Surface Water Management Fund	Computer Consultant Pro Svc	SEITEL Systems, LLC		440.43
25338	06/21/2010	Town Square CIP	Project development	SEITEL Systems, LLC		870.01
					Check Total:	4,393.47
25339	06/21/2010	General Fund	Professional Services	Nancy Shattuck		1,460.00
					Check Total:	1,460.00
25340	06/21/2010	General Fund	Instructors Prof Srvs	Kevon Shea		1,054.40
					Check Total:	1,054.40
25341	06/21/2010	General Fund	Registration - Trainng/workshp	SkillPath Seminars		134.00
					Check Total:	134.00
25342	06/21/2010	Parks & Gen Gov't CIP	Project Development	Shiels Oblatz Johnsen		1,358.75

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	1,358.75
25343	06/21/2010	General Fund	Machinery And Equipment	Springbrook Software, Inc.		1,200.00
					Check Total:	1,200.00
25344	06/21/2010	General Fund	Office And Operating Supplies	STAPLES		109.46
25344	06/21/2010	General Fund	Office And Operating Supplies	STAPLES		261.97
					Check Total:	371.43
25345	06/21/2010	Equipment Reserve Fund	Machinery And Equipment	Sumner Tractor		154.08
25345	06/21/2010	Equipment Reserve Fund	Machinery And Equipment	Sumner Tractor		51.97
25345	06/21/2010	Equipment Reserve Fund	Machinery And Equipment	Sumner Tractor		161.60
25345	06/21/2010	Equipment Reserve Fund	Machinery And Equipment	Sumner Tractor		55.00
25345	06/21/2010	Equipment Reserve Fund	Machinery And Equipment	Sumner Tractor		14,614.36
25345	06/21/2010	Equipment Reserve Fund	Machinery And Equipment	Sumner Tractor		4,699.90
					Check Total:	19,736.91
25346	06/21/2010	General Fund	Neighborhood Fund Grant	Sustainable Burien		253.88
					Check Total:	253.88
25347	06/21/2010	General Fund	Utilities	Southwest Suburban Sewer Dist.		51.00
					Check Total:	51.00
25348	06/21/2010	General Fund	Prof. Svcs-instructors	Bonnie Taschler		187.50
					Check Total:	187.50
25349	06/21/2010	General Fund	Instructors Prof Svcs	John Taylor		175.00
					Check Total:	175.00
25350	06/21/2010	General Fund	Strawberry Festival	Titan Outdoor LLC		1,046.28
					Check Total:	1,046.28
25351	06/21/2010	General Fund	Office and Operating Supplies	The Lineup		98.37

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	98.37
25352	06/21/2010	General Fund	Parks Maintenance	Trugreen-landcare/NW Region		681.09
25352	06/21/2010	General Fund	Parks Maintenance	Trugreen-landcare/NW Region		401.87
25352	06/21/2010	General Fund	Parks Maintenance	Trugreen-landcare/NW Region		385.99
25352	06/21/2010	General Fund	Parks Maintenance	Trugreen-landcare/NW Region		396.94
					Check Total:	1,865.89
25353	06/21/2010	Street Fund	Traffic Signal/control.mainten	TSM Company		4,925.31
					Check Total:	4,925.31
25354	06/21/2010	General Fund	Instructors Prof Svcs	Ken Turner		936.00
					Check Total:	936.00
25355	06/21/2010	General Fund	Professional Services	Washington Audiology Services,		217.50
					Check Total:	217.50
25356	06/21/2010	General Fund	Utilities	Water District No. 20		432.55
					Check Total:	432.55
25357	06/21/2010	General Fund	Utilities	Water District No. 49		491.30
25357	06/21/2010	General Fund	Utilities	Water District No. 49		405.50
25357	06/21/2010	General Fund	Utilities	Water District No. 49		43.50
25357	06/21/2010	General Fund	Utilities	Water District No. 49		163.70
					Check Total:	1,104.00
25358	06/21/2010	General Fund	Probatn/public Defndr Screenng	Tammy Weigel		840.00
					Check Total:	840.00
25359	06/21/2010	Street Fund	Special Event Clean up	Waste Management Of Seattle		336.34
					Check Total:	336.34
25360	06/21/2010	General Fund	Office And Operating Supplies	Walter E. Nelson Co.		209.10
25360	06/21/2010	General Fund	Office and Operating Supplies	Walter E. Nelson Co.		32.98

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
25360	06/21/2010	General Fund	Office And Operating Supplies	Walter E. Nelson Co.		34.71
					Check Total:	276.79
25361	06/21/2010	General Fund	Professional Services	Washington State Patrol		150.00
					Check Total:	150.00
25362	06/21/2010	General Fund	Jail Contract	Yakima County Department		574.34
25362	06/21/2010	General Fund	Jail Contract	Yakima County Department		771.56
					Check Total:	1,345.90
25363	06/21/2010	Surface Water Management Fund	Storm Water Facility Maint	Yardsmen Company		1,447.25
					Check Total:	1,447.25
					Report Total:	744,548.90

DRAFT

Burien
WASHINGTON

CITY COUNCIL SPECIAL MEETING MINUTES

June 14, 2010

6:00 p.m.

Burien City Hall, Council Chambers
400 SW 152nd Street, 1st Floor
Burien, Washington 98166

To hear Council's full discussion of a specific topic or the complete meeting, the following resources are available:

- Watch the video-stream available on the City website, www.burienwa.gov
- Check out a DVD of the Council Meeting from the Burien Library

CALL TO ORDER

Mayor McGilton called the Special Meeting of the Burien City Council to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

Mayor McGilton led the Pledge of Allegiance.

ROLL CALL

Present: Mayor Joan McGilton, Deputy Mayor Rose Clark, Councilmembers Kathy Keene, Lucy Krakowiak, and Gordon Shaw. Councilmember Jack Block, Jr. was excused. Councilmember Brian Bennett arrived at 6:03 p.m.

Administrative staff present: Mike Martin, City Manager; Craig Knutson, City Attorney; Jenn Ramirez Robson, Management Analyst; Scott Greenberg, Community Development Director; David Johanson, Senior Planner; Susan Coles, Department Assistant; and Monica Lusk, City Clerk.

BUSINESS AGENDA

Discussion on Animal Control Plan for Burien

Direction/Action

Councilmembers requested placing both Ordinance No. 543 and the Animal Control Services contract on the June 21, 2010, Business Agenda for consideration.

Presentation on 4th of July Fireworks

Fire Chief Mike Marrs stated that fireworks are illegal in Burien. He spoke to the impacts of fireworks on pets, animals and the Fire Department's response abilities.

RECESS

Mayor McGilton called a recess at 6:45 p.m. for the purpose of preparing the Chambers for a forum on the Shoreline Master Program.

RECONVENE MEETING

The Council meeting was reconvened at 7:00 p.m.

PUBLIC FORUM

Shoreline Master Program

Mike Martin, City Manager, welcomed the public to the Shoreline Master Program (SMP) Public Forum on Shoreline Science and Biology. Scott Greenberg, Community Development Director, introduced the panelists: Dr. Kathy Taylor, Washington State Department of Ecology; Cassandra Moore, Biologist, Grette Associates; and Carl Hadley, Fisheries Biologist, Cedarock Consultants, Inc. The facilitator, Robin McClelland, was then introduced.

Ms. McClelland reviewed the ground rules and procedures for the forum.

Dr. Taylor reviewed the "Protection of Marine Riparian Functions in Puget Sound" document that summarizes recommendations to help protect marine riparian functions.

Ms. Moore reviewed the following tasks that were completed for the City's update to the Shoreline Master Program: inventory, characterization and restoration.

Mr. Hadley spoke to the science behind marine buffers. He noted that, given the SMP goal of achieving no net loss of ecological function of shorelines and the fact that the Burien marine shoreline is almost completely developed to Mean Higher High Water (MHHW), large buffers will do almost nothing to preserve shoreline functions on existing developed lots.

Ms. McClelland facilitated questions and/or comments from Councilmembers followed by questions and/or comments from the audience.

ADJOURNMENT

Direction/Action

MOTION was made by Deputy Mayor Clark, seconded by Councilmember Krakowiak and passed unanimously to adjourn the Special Meeting at 9:00 p.m.

Joan McGilton, Mayor

Monica Lusk, City Clerk



Burien
WASHINGTON

CITY COUNCIL MEETING MINUTES

June 7, 2010

SPECIAL MEETING, Miller Creek Conference Room, 3rd Floor

For the purpose of discussing a personnel matter

6:45 p.m.

and

Council Meeting

7:00 p.m.

Burien City Hall, Council Chambers

400 SW 152nd Street, 1st Floor

Burien, Washington 98166

To hear Council's full discussion of a specific topic or the complete meeting, the following resources are available:

- Watch the video-stream available on the City website, www.burienwa.gov
- Check out a DVD of the Council Meeting from the Burien Library

SPECIAL MEETING

Mayor McGilton called the Special Meeting of the Burien City Council to order at 6:45 p.m. for the purpose of holding an Executive Session to discuss a personnel matter per RCW 42.30.110(1g).

Present: Mayor Joan McGilton, Councilmembers Jack Block, Jr., Kathy Keene, Lucy Krakowiak and Gordon Shaw. Deputy Mayor Rose Clark and Councilmember Brian Bennett were excused.

Administrative staff present: Mike Martin, City Manager.

No action was taken.

ADJOURNMENT TO COUNCIL MEETING

The Special Meeting was adjourned at 6:58 p.m.

CALL TO ORDER

Mayor McGilton called the meeting of the Burien City Council to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Mayor McGilton led the Pledge of Allegiance.

ROLL CALL

Present: Mayor Joan McGilton, Councilmembers Jack Block, Jr., Kathy Keene, Lucy Krakowiak and Gordon Shaw. Deputy Mayor Rose Clark and Councilmember Brian Bennett were excused.

Administrative staff present: Mike Martin, City Manager; Craig Knutson, City Attorney; Richard Loman, Economic Development Manager; Lisa Clausen, Government Relations Specialist; Jim Bibby, Code Enforcement Officer; Jan Vogee, Building Official; Larry Blanchard, Public Works Director; and Monica Lusk, City Clerk.

AGENDA CONFIRMATION

Direction/Action

Motion was made by Councilmember Krakowiak, seconded by Councilmember Shaw, and passed unanimously to affirm the June 7, 2010, Agenda.

PUBLIC COMMENT

Michael Noakes, 16409 Maplewild Avenue SW, Burien
Mr. Spoke presented binders containing documents, which he reviewed, for the effort to finalize the update to the Shoreline Master Program.

Susan Hayes, 17200 4th Avenue SW, Normandy Park
Ms. Hayes stated the public was not warned, in a timely manner, of impending impounds and street closures at 5th Place SW where a market was held last Sunday resulting in her son's car being impounded with costs incurred.

Don Warren, 15702 13th Avenue SW, Burien
Mr. Warren encouraged all to support the foundations that advance and promote childhood and family safety nets.

Garrett Huffman, 335 116th Avenue SE, Bellevue
Mr. Huffman, Master Builders Association, voiced the Association's opposition to the adoption of the Building Code amendment relating to fire sprinklers.

Robert and Robbie Howell, 15240 20th Avenue SW, Burien
Mr. and Mrs. Howell distributed a letter stating that citizens were not given adequate opportunity for input to the adoption of the critical areas ordinance. They did not want that to happen with the Shoreline Master Plan.

Sarah Whitmyre, 1810 SW Shoreview Lane, Burien
Ms. Whitmyre urged the Council to consider a view preservation ordinance.

Greg Anderson, 15451 11th Avenue SW, Burien
Regarding the Public Works Trust Fund loan and the proposed resolution, Mr. Anderson asked what the cost and impact to the citizens would be and how much grant money would be received.

Regarding the proposed business license code amendment under Inspections and Right of Entry, he noted scheduling an appointment for the City to conduct inspections was not listed.

Regarding the sprinklers, he noted the capacity charge for sprinklers is \$2900 with a bimonthly fee of \$73 for the basic fee.

CORRESPONDENCE FOR THE RECORD

- a. Letter Dated May 13, 2010, from King County Executive Dow Constantine Requesting Support for Regional Jail Planning and Management Group.
- b. Letter Dated May 18, 2010, from John Hickman Regarding 1st Ave. S. Underground Fee.
- c. Response from Mayor McGilton to Email Dated May 21, 2010, from Abbey Norris, Annual Fund Specialist, Camp Fire USA, Regarding Proclamation Request.

- d. Letter Dated May 24, 2010, from Sandy Gledhill Regarding "Species and Habitats of Local Importance" Section E-487 to the Shoreline Master Plan.
- e. Letter Dated May 24, 2010, from Bob and Margie McLaughlin Regarding Surface Water Drainage to Shoreline
- f. Letter Dated May 24, 2010, from Bob Edgar Regarding Public Access from Public Lands.
- g. Letter Dated May 24, 2010, from Rachael Levine Regarding White Center and Boulevard Park Libraries.
- h. Letter Dated May 24, 2010, from Robert and Robbie Howell Regarding Lake Burien.
- i. Copy of Law from Greg Anderson Regarding Public Involvement in the Review of the Shoreline Master Program.
- j. Email Dated May 25, 2010, from Andy Ryan Regarding May 24 City Council Reconstruction.
- k. Letter Dated May 23, 2010, from Jim Sudduth Regarding Shoreline Master Program.
- l. Letter Received May 26, 2010, from King County Councilmember Peter von Reichbauer Transmitting Invitation to South King County's Annual Flag Day Celebration.
- m. Response from Michael Lafreniere, Parks, Recreation, & Cultural Services Director, to Email Dated May 26, 2010, from Kitty Kovacs Regarding Animal Control at Seahurst Park.
- n. Response from Lisa Clausen, City Manager's Office, to Letter Dated April 21, 2010, from Chestine Edgar Regarding Issues Related to Compliance with the Americans with Disabilities Act.

CONSENT AGENDA

- a. Approval of Vouchers: Numbers 25063 - 25226 in the Amounts of \$2,804,588.70.
- b. Approval of Minutes: Council Meeting, May 24, 2010.

Direction/Action

Motion was made by Councilmember Krakowiak, seconded by Councilmember Shaw, and passed unanimously to approve the June 7, 2010, Consent Agenda.

BUSINESS AGENDA

City Business

City Manager Mike Martin noted the following:

- Update on Shoreline Master Program (SMP)
- Chip Davis became Certified Planner
- Open House for New Community Center attracted hundreds
- Burien's first Community Garden now operational
- Seahurst Park Beach nationally recognized
- Burien Parks brought home two awards
- 4th of July fireworks are illegal except for public permitted displays

Presentation of Burien Library/City Hall LEED Gold Certification and Plaque by the Cascadia Region Green Building Council

Mark Frankel, member of Cascadia Regional Green Building Council's Board of Directors and former Chair, presented a LEED Gold Plaque for the Library/City Hall building to the Mayor and Council. He recognized Elizabeth Powers and Jodie Clarke from O'Brien and Company, who coordinated and submitted the LEED application.

Presentation by WSDOT on 518/DMMD Interchange Improvements Report

Richard Warren, Washington State Department of Transportation (WSDOT) Corridor Planning Manager, Urban Planning Office, reviewed the SR 518 and Des Moines Memorial Drive Full Access Interchange analysis that included three conceptual options. He noted that Option No. 2, SR 518 – Typical eastbound off ramp and westbound braided ramp, was the preferred option.

Follow-up

Staff will work to secure funding, in potential partnership with city of SeaTac and the Port of Seattle and incorporate Option No. 2 into the City's Comprehensive Plan.

Discussion on South Park Bridge Closure Impacts

Follow-up

Staff will utilize the methods of communicating to residents and businesses that are available to the City of the closure of the South Park Bridge and the potential, existing, and changing impacts. This includes the City Website, City Newsletter, 540 AM Radio Free Burien, and meetings that discuss transportation issues in the community.

Motion to Appoint Voting Delegate to the 2010 Association of Washington Cities (AWC) Annual Business Meeting

Direction/Action

Motion was made by Councilmember Krakowiak, seconded by Councilmember Shaw, and passed unanimously to name Councilmember Kathy Keene as the City's voting delegate to the AWC Annual Business Meeting on June 25, 2010.

Motion to Adopt Proposed Resolution No. 312, Setting a Public Hearing for the Modification of the Transportation Benefit District known as TBD No. 1 for Street Overlay Program

Direction/Action

Motion was made by Councilmember Krakowiak, seconded by Councilmember Shaw, and passed unanimously to adopt Resolution No. 312, setting a public hearing for the modification of the functions and boundaries of the Transportation Benefit District known as TBD No. 1, to support the Street Overlay Program with an annual vehicle license fee.

Discussion on and Possible Motion to Approve Resolution No. 313, Adopting Programs and Policies to Curb Green House Gas Emissions

Direction/Action

Councilmembers requested placing proposed Resolution No. 313 on the June 21, 2010, Consent Agenda for approval.

**Discussion on Proposed Ordinance #538, Modifying Burien Municipal Code Chapter 5.05
Relating to Business Licenses**

Direction/Action

Councilmembers requested placing Ordinance No. 538 on the June 21, 2010, Consent Agenda for approval.

Discussion on Proposed Ordinance 541, Amending BMC Title 15, Buildings and Construction

Direction/Action

Councilmembers requested placing proposed Ordinance No. 541 on June 21, 2010 Business Agenda for consideration.

COUNCIL REPORTS

No reports were given.

ADJOURNMENT

Direction/Action

MOTION was made by Councilmember Krakowiak, seconded by Councilmember Shaw, and passed unanimously to adjourn the meeting at 9:16 p.m.

Joan McGilton, Mayor

Monica Lusk, City Clerk

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 538

**AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON,
RELATING TO BUSINESS LICENSES AND REGULATIONS;
AMENDING CHAPTER 5.05 OF THE BURIEN MUNICIPAL CODE;
PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN
EFFECTIVE DATE**

WHEREAS, the City Council adopted Ordinance 281 on December 13, 1999, which established new business licenses fees and regulations; and

WHEREAS, the City Council adopted Ordinance 318 on November 27, 2000 to ratify and re-adopt Ordinance 281; and

WHEREAS, the City Council adopted Ordinance 360 on October 7, 2002 amending the Business License Regulations; and

WHEREAS, the City Council adopted Ordinance 433 on May 16, 2005 amending Title 5.05.110 regarding business license fees; and

WHEREAS, certain sections are no longer applicable or modification to the regulations will more fairly apply the code requirements and clarify code applicability;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Amendments to Burien Municipal Code Title 5, Chapter 5.05: The City Council of the City of Burien hereby amends Burien Municipal Code Title 5, Chapter 5.05 as shown on Exhibit A and incorporated by this reference as if fully set forth herein.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force August 1, 2010.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE ____ DAY OF _____, 2010, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS ____ DAY OF _____, 2010.

CITY OF BURIEN

Joan McGilton, Mayor

ATTEST/AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Craig D. Knutson, City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No. 538
Date of Publication:

Ordinance 538
Exhibit A

Formatted: Font: Bold

Formatted: Centered

Sections:

- 5.05.010 Exercise of revenue license power.
- 5.05.020 Dedicated revenue.
- 5.05.030 Licensing authority.
- 5.05.040 Licensing program – Adopted by reference.
- 5.05.050 Definitions.
- 5.05.060 Business license required.
- 5.05.070 Separate licenses required.
- 5.05.075 Notification of exemption or termination of business activities.
- 5.05.080 Change in nature or location of business.
- 5.05.090 Exemptions from license requirement.
- 5.05.091 Exemptions for nonprofit festivals.
- 5.05.092 Exemptions – Fee waiver.
- 5.05.100 License – Application.
- 5.05.110 Business license fee.
- 5.05.120 Fee – Prorating.
- 5.05.130 General qualifications of licensees.
- 5.05.140 License – Grounds for suspension or revocation.
- 5.05.150 Appeal of denial, suspension or revocation.
- 5.05.160 License – Term.
- 5.05.170 License – Renewal.
- 5.05.180 Penalty for late application.
- 5.05.190 Administrative rules and regulations.
- 5.05.200 Licenses – General provisions.
- 5.05.210 Independent contractors to be licensed.
- 5.05.220 Confidentiality of information.
- 5.05.230 Business license fee owed in 2000.
- 5.05.240 Required – Display.
- 5.05.250 Inspections – Right of entry.

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Normal, Indent: Left: 0.37",
Hanging: 0.97", Space Before: 0 pt, Font
Alignment: Baseline

Formatted: Font: (Default) Arial, Not Bold,
Font color: Black

Formatted: Font: Not Bold

Formatted: Indent: First line: 0.37"

Formatted: Font: Not Bold

Formatted: Font: (Default) Arial, Not Bold

Formatted: Font: Not Bold

5.05.010 Exercise of revenue license power.

The provisions of this chapter shall be deemed an exercise of the power of the city to license for revenue. The provisions of this chapter prescribing license fees shall be strictly construed in favor of the applicability of the license fee. [Ord. 318 § 1, 2000; Ord. 281 § 3, 1999]

5.05.020 Dedicated revenue.

The revenue generated from business license fees shall be dedicated to maintenance or capital improvements in commercial areas of the city of Burien, promotion of economic development, and costs associated with periodic auditing and collection to assure accurate business participation in the payment of the business license fee. [Ord. 318 § 1, 2000; Ord. 281 § 4, 1999]

5.05.030 Licensing authority.

Pursuant to interlocal agreements, King County and its manager of the general services division, King County department of executive administration, or their designee, are designated as the city's agent for processing, including any related license enforcement, and any of the various specialty licenses required pursuant to KCC Title 6. A copy of the interlocal agreements shall be available in the office of the city clerk for use and examination by the public. [Ord. 318 § 1, 2000; Ord. 281 § 5, 1999]

5.05.040 Licensing program – Adopted by reference.

(1) The following chapters of the King County Code, as now in effect and as may be subsequently amended, are adopted by reference in their entirety, including that, if the context requires, the word "county" and the words "King County" may refer to the city of Burien:

KCC

—6.01 General Licensing Provisions

(2) The various specialty license provisions adopted by reference in Chapters 5.10 through 5.55 BMC are expressly reserved, and this chapter is not intended, nor shall it be construed, to repeal any of the various specialty license provisions contained in Chapters 5.10 through 5.55 BMC. [Ord. 318 § 1, 2000; Ord. 281 § 6, 1999]

5.05.050 Definitions.

For purposes of this title and unless otherwise provided, the following definitions shall apply:

(1) "Engaging in business" has the same meaning as that term is defined in BMC 3.11.030 and, to the extent not included therein, also includes activities of the type subject to taxation under Chapter 3.12 BMC, nonprofit or public "persons," contractors engaged temporarily at a job location within the city, on-site apartment management personnel, and home occupations.

(2) "Person" means any person, firm, corporation, company, person acting in a fiduciary capacity, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, or nonprofit.

(3) "Home occupation" has the same meaning as that term is defined in the Burien Zoning Code but, for purposes of this chapter, includes businesses based in a dwelling unit or an accessory building outside as well as inside the city.

(4) "Employee" means an individual, whether employed full-time or part-time, located within the city, either permanently or temporarily, on the payroll of the business at the time of application for the business license.

(5) "New business" is defined as an individual, partnership, or corporation desiring to "engage in business," within the city as that term is defined in subsection (1) of this section, and to whom a business license has never before been issued by the city of Burien for the particular business enterprise contemplated. For purposes of this subsection, "new business" shall not include any individual, partnership, or corporation "engaging in business" without a valid business license or in violation of any provision of the Burien Municipal Code. [Ord. 433 § 2, 2005; Ord. 360 § 1, 2002; Ord. 322 § 13, 2001; Ord. 318 § 1, 2000; Ord. 281 § 7, 1999]

5.05.060 Business license required.

Unless otherwise exempted by this chapter, any person engaging in business within the city, whether any office or physical facility of such business shall be located within or outside the city, will first apply for and obtain a business license and pay the fees as prescribed in this chapter ~~herein.~~

~~;~~ provided, however, nonprofit and public "persons" shall be exempt from paying the fees, but not from filing the license application requirement established in this chapter. [Ord. 360 § 2, 2002; Ord. 322 § 14, 2001; Ord. 318 § 1, 2000; Ord. 281 § 8, 1999]

5.05.070 Separate licenses required.

A separate business license will be obtained for each separate location within the city at which the business is conducted. A separate business license will be obtained for each different and distinct business conducted by any person, whether at the same location, within the city, as another licensed business, or at a different location within the city. A business with no permanent place of business within the city shall be required to obtain only one business license even if such business delivers the same general type of goods or services to several locations within the city or performs the same general type of work at several locations within the city. [Ord. 360 § 3, 2002; Ord. 318 § 1, 2000; Ord. 281 § 9, 1999]

5.05.075 Notification of exemption or termination of business activities.

A. Every person who has obtained a business license required by this chapter and who thereafter ceases to engage in business within the city shall, prior to expiration of the current business license, notify the city clerk, in writing that the business activities that have ceased. Any business for which a license has been issued shall be presumed to continue in operation within the city unless notice of termination of business activities has been given and enforcement proceedings may be commenced on the basis of such presumption.

B. Every person who engages in business in the city, which is exempt or becomes exempt from the provisions of this chapter under federal, state, or local laws, shall notify the license officer/city clerk in writing of the exemption and the basis therefor.

5.05.080 Change in nature or location of business.

Each business license shall authorize a particular type of business at the designated location. Any change in the nature of the business will require a new ~~new application for a~~ business license. A change of location shall be reported to the city clerk, in writing, within 10 days of the change of location ~~and, if in compliance with zoning and business regulatory ordinances, the existing business license shall be transferred to the new location.~~ [Ord. 318 § 1, 2000; Ord. 281 § 10, 1999]

5.05.090 Exemptions from license requirement.

Notwithstanding the requirements of BMC 5.05.060, the following shall not be required to apply for and obtain a business license:

(1) Casual or isolated sales made by persons who are not engaged in the business of selling the type of property involved, providing that not more than four such sales-transactions are made during any tax year;

(2) Sales, delivery, or peddling of any fruits, vegetables, berries, eggs, or any farm produce or edibles raised, gathered, produced, or manufactured by any farmer, gardener, or other person; and

(3) Minors engaged in babysitting, delivery of newspapers, mowing lawns, washing cars, and similar activities; and-[Ord. 318 § 1, 2000; Ord. 281 § 11, 1999]

(4) Any instrumentality of the United States, the state of Washington, or political subdivisions thereof, including but not limited to any county, city, or special purpose district, with respect to exercise of governmental functions.

Formatted: Highlight

5.05.091 Exemptions for nonprofit festivals.

Formatted: Indent: First line: 0"

A. No license shall be required of any person who operates a business in conjunction with nonprofit community festivals, as approved by the city manager or designee; provided all of the following criteria are met:

Formatted: Font: Bold

1. The business does not operate within the city more than three consecutive days;

Formatted: Font: Bold

2. The business does not operate within the city more than 12 days in a calendar year; and

3. The business is authorized to participate in the community festival by the sponsor of the festival.

B. Any person claiming the exemption set forth in this section shall register with the city, on a form prescribed by the city manager or designee, each time he or she engages in business within the city to track the number of days said person does business within the city.

5.05.092 Exemptions – Fee waiver.

The licensing provisions of this chapter shall apply to the following persons and organizations; however, the business license fees shall be waived for:

A. Any person or organization engaged in a not-for-profit (i.e., nonprofit) enterprise, either regularly or temporarily, when it is without private profit, for a public, charitable, funding-raising, educational, literary, fraternal, or religious purpose when such persons sufficiently demonstrate their not-for-profit status through Internal Revenue Service documentation or other means acceptable to the city manager or designee; and

B. Any person whose gross business income is derived from service activity in the City generating gross income of less than \$1,000 per month and who does not maintain a permanent place of business within the City. Any Ssuch persons shall provide the city with an affidavit at the beginning of each license year, confirming the income for the prior license year. A copy of the person's Internal Revenue Service Schedule C, Profit or Loss from Business, or other applicable federal income tax forms may be requested and required as verification of gross income.

Formatted: Indent: First line: 0"

5.05.100 License – Application.

(1) No business license shall be issued except upon application made upon a form furnished by the city manager or designee, on which the applicant shall state the company name and address, the nature of the business activity or activities in which the applicant desires to engage, the place where the business will be conducted, the number of employees, and such other information pertaining to the business as shall be reasonably required by the city manager or designee.

(2) Each application shall be accompanied by the license fee as set forth in this chapter or subsequent resolutions. Such license fee shall be nonrefundable unless the city manager or designee determines, in the his or her city manager's sole discretion, that discretion that refunding a license fee is in the best interests of the city. Upon approval of the application, the business license shall be issued by the city. [Ord. 360 § 4, 2002; Ord. 318 § 1, 2000; Ord. 281 § 12, 1999]

5.05.110 Business license fee.

Fees will be established by separate resolution. See Resolution No. 214 and any subsequent amendments thereto. [Ord. 433 § 1, 2005]

5.05.120 Fee – Prorating.

The business license fee provided for in BMC 5.05.110 shall be for the license year, as set forth in BMC 5.05.160. If a business commences operations at any time on or after February 1st of a license year, the fee for such license year shall be equal to one-half the applicable fee set forth in BMC 5.05.110, irrespective of when during the period from February 1st to July 31st of such license year such business commences operations, and each applicant must pay the full or partial fee for the current license year or any portion thereof during which the applicant has engaged in business. [Ord. 360 § 6, 2002; Ord. 318 § 1, 2000; Ord. 281 § 14, 1999]

5.05.130 General qualifications of licensees.

No license shall be issued to any of the following applicants:

(1) Any applicant who has been convicted of a crime, which relates directly to the specific business for which the license is sought; provided, that the time elapsed between the conviction and the date of license application is less than five years for a felony conviction, and less than one year for a gross misdemeanor or misdemeanor conviction.

(2) Any applicant who has suffered a civil judgment based upon fraud, misrepresentation, violation of the Washington Consumer Protection Act, or similar state or federal statutes, or any other judgment or cease and desist order, or consent degree, relating to business activities; provided, that the time elapsed between the entry of judgment and the date of application is less than two years.

(3) Any applicant who does not possess a current and valid state license for operation of their business, if a state license is required. [Ord. 318 § 1, 2000; Ord. 281 § 15, 1999]

5.05.140 License – Grounds for suspension or revocation.

The city manager or designee may deny, suspend or revoke a business license, with cause. Cause for denial, suspension or revocation shall include, but not be limited to, the following:

- (1) The license was procured by fraud or misrepresentation of fact;
- (2) The licensee has failed to make timely payment of any amounts due to the City, or failed to comply with any of the provisions of this chapter, or any other city ordinance including but not limited to the zoning code and other development regulations;
- (3) The licensee, or licensee's management personnel, have been convicted of a crime, or suffered civil judgment or consent decree which bears a direct relationship to the conduct of the business licensed pursuant to this chapter;
- (4) The licensee, or licensee's employees or agents, have violated any law or ordinance relating to the regulation of the business licensed pursuant to this chapter, or any other ordinance;
- (5) The licensee has caused or permitted a public nuisance to exist;
- (6) The licensee, or licensee's employees or agents, have engaged in, have permitted or have acquiesced in unlawful activity on the business premises;
- (7) The licensee has failed to pay a civil penalty or to comply with any notice and order of the city clerk; or
- (8) The licensee's continued conduct of the business will, for any other reason, result in a substantial danger to the public health, safety or welfare. [Ord. 318 § 1, 2000; Ord. 281 § 16, 1999]

5.05.150 Appeal of denial, suspension or revocation.

(1) Any person, firm or corporation whose license has been denied, suspended or revoked may appeal to the hearing examiner from such finding by filing a written notice of appeal with the city manager or designee within 14 calendar days from the time such business was given notice of such denial, suspension or revocation.

(2) Appeals from the denial, suspension or revocation of a business license under this chapter will be governed by the provisions of Chapter 2.20 BMC. [Ord. 318 § 1, 2000; Ord. 312 § 7, 2000; Ord. 281 § 17, 1999]

5.05.160 License – Term.

All business licenses shall be effective for the license year of issuance. A license year shall be from August 1st through the following July 31st. Licenses issued shall be effective from the date of issue until the following July 31st, unless sooner suspended or revoked as provided in this chapter. [Ord. 318 § 1, 2000; Ord. 281 § 18, 1999]

5.05.170 License – Renewal.

Application for renewal of all business licenses shall be made on or before July 31st of the year following the year of issuance, and each succeeding year, if the business is to be continued. Application for renewal shall be made on forms prescribed by the city manager or designee. A business which has an existing business license, and which has applied for renewal of such license on or before July 31st of the license year, may remain in business under its existing license

until such time as the renewal license is either approved or denied. [Ord. 360 § 7, 2002; Ord. 318 § 1, 2000; Ord. 281 § 19, 1999]

5.05.180 Penalty for late application.

Any applicant or licensee who shall fail to make application or pay the fees for an original business license, or for renewal of an existing business license prior to July 31st of the applicable year, shall be subject to a penalty equal to ~~one-half~~ of the business license fee for the delinquent period, if the application or renewal business license fee is 30 or more days delinquent. [Ord. 360 § 8, 2002; Ord. 318 § 1, 2000; Ord. 281 § 20, 1999]

5.05.190 Administrative rules and regulations.

The city manager or designee is authorized but not required to adopt and enforce rules and regulations, not inconsistent with the provisions of this chapter, and any other business license or regulation ordinance, and it shall be unlawful for any person to violate or fail to comply with any of these rules and regulations. All such rules and regulations promulgated by the city manager or designee shall be reduced to writing, shall be provided to the licensee with each new or renewal business license upon request, or shall be mailed to each licensee for information of the licensee and the licensee's employees and agents. Such rules and regulations shall also be available for public inspection at the offices of the city manager or designee. [Ord. 318 § 1, 2000; Ord. 281 § 21, 1999]

5.05.200 Licenses – General provisions.

(1) Exemptions. The license fee provisions of this chapter shall not apply to any business, firm or corporation which the city is forbidden to tax by law.

(2) Renewal. The city manager or designee is authorized, but not required, to mail to businesses forms for application for licenses, but failure of the business to receive any such form shall not excuse the business from making application for and securing the license required and payment of the license fee when and as due hereunder.

(3) Penalties.

(a) Collection. Any license fee, penalty or tax due and unpaid and delinquent under this chapter, and all penalties thereon, may be collected by civil action, which remedy shall be in addition to any and all other existing remedies and penalties. (b) Nuisance. Any business failing to obtain or maintain a business license and yet conducting business within the city limits of the city is hereby declared to be a nuisance and is subject to applicable enforcement provisions for nuisances contained in the BMC or otherwise at law.

(c) Beginning with the 2002-2003 license period, if any person engaged in business fails or refuses to pay the license fee for any year as herein provided, he shall not be granted a license for the current year until such delinquent license fees as set forth in BMC 5.05.180 have been paid, in addition to the current year's required fee. Such fees may be collected by the city by proper legal action brought for that purpose if any person engaged in business fails or refuses to pay the license fee. This remedy is cumulative and not exclusive.

(d) Criminal Penalties. In addition to or as an alternative to any other penalty provided herein or by any other business license or regulation ordinance, any person who violates any provision of this chapter shall be guilty of a misdemeanor, and shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than \$1,000, or by both such imprisonment and fine.

(4) Appeal of Assessed Fee.

(a) Any business aggrieved by the amount of the fee found by the city manager or designee to be required under the provisions of this chapter may appeal to the hearing examiner from such assessment by filing a written notice of appeal with the city manager or designee within 15 days from the time such business was given notice of such amount.

(b) The city manager or designee shall, as soon as practicable, fix a time and place for the hearing of such appeal, which time shall be not more than 30 days after the filing of the notice of appeal. The city manager or designee shall cause a notice of the time and place thereof to be mailed to the appellant.

(c) At the hearing the business shall be entitled to be heard and to introduce evidence in its own behalf. The hearing examiner before which the appeal is to be heard may, by subpoena, require the attendance of any person and may also require them to produce any pertinent books and records. Any person served with such subpoena shall appear at the time and place therein stated and produce the books and records required, if any, and shall testify truthfully under oath administered by the hearing examiner as to any matter required of them pertinent to the appeal, and it shall be unlawful for them to fail or refuse so to do.

(d) The hearing examiner shall ascertain the correct amount of the fee and make a written finding, supported by the record. The written finding will be sent to the city and the business.

(e) Failure of any business to file an appeal in accordance with the provisions of this subsection shall constitute a waiver of the right to an administrative hearing to contest the amount of the assessed fee.

(f) Any business aggrieved by the decision of the hearing examiner may seek review of that decision in the superior court of the state of Washington for King County by application for writ of certiorari, or other judicial review, within 20 calendar days following the decision of the hearing examiner. If the aggrieved party fails to obtain such judicial review within 20 calendar days following the hearing examiner's decision, the city attorney may invoke the aid of the appropriate court to secure enforcement and compliance with the hearing examiner's decision.

(g) Enforcement of any fee assessment will be stayed during the pendency of any timely appeal therefrom.

(5) Statute of Limitations for Unlicensed Businesses. No penalties shall be imposed or remedies sought under subsection (3) of this section more than three years following the close of the license year in which there is noncompliance with the provisions of this chapter, commencing with the license year ending July 31, 2002. The previous sentence shall not apply if the city shows that the business's

operation without a business license resulted from such business's willful intent to operate its business without a new or renewal business license.

(6) Assignability and Transferability of Business License. A business license is not transferable or assignable except, in the case of continuation of an existing business:

(a) To the surviving corporation into which a licensed corporation is merged or consolidated;

(b) To one or more individual partners or to a new partnership consisting solely of a portion the partners of an existing partnership upon death of a partner or dissolution of the partnership;

(c) To a partnership or a corporation formed by a licensed sole proprietor who has at least a majority interest in such corporation or partnership;

(d) To a surviving spouse; or

(e) In circumstances similar to subsections (6)(a) through (d) of this section, as approved by the city manager. [Ord. 360 § 9, 2002; Ord. 318 § 1, 2000; Ord. 281 § 22, 1999]

5.05.210 Independent contractors to be licensed.

Any person, firm or corporation doing business in Burien will not employ any independent contractors who have not obtained a Burien business license under the provisions of this chapter. [Ord. 318 § 1, 2000; Ord. 281 § 23, 1999]

5.05.220 Confidentiality of information.

The current provisions of RCW 82.32.330 and subsequent amendments are hereby adopted by reference as if fully set forth herein. [Ord. 318 § 1, 2000; Ord. 281 § 24, 1999]

5.05.230 Business license fee owed in 2000.

For those businesses possessing a business license on or before December 22, 1999, there will be no additional business license fee owed until the time of renewal in the year 2000. [Ord. 318 § 1, 2000; Ord. 281 § 25, 1999]

5.05.240 Required – Display.

It is unlawful for any person to engage in or carry on any business activity in the city without first procuring a license as provided in this chapter. The license shall thereafter be prominently displayed in the place of business of the applicant. [Ord. 360 § 10, 2002]

5.05.250 Inspections – Right of entry.

The city manager, or designee, may make such inspections of licensed premises and take such action as may be necessary to enforce the provisions of any business license ordinance. The city manager may designate any appropriate city employees, including the code enforcement officer and commissioned police officers, to undertake such inspections. Inspections shall, to the extent possible, be in compliance with the following procedures:

Formatted: Font: (Default) Arial, Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

A. Whenever possible inspections will be conducted at a reasonable time and seek to minimize interference with lawfully conducted business in the licensed premise.

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

B. If the place of business is occupied, the inspector shall first present proper credentials and request entry and right to inspect.

C. If the place of business is unoccupied, the inspector shall first make a reasonable effort to locate the licensee or other person having charge or control of the premises, by at a minimum checking City and County records, and shall then present proper credentials and request entry and right to inspect.

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

D. No licensee, employee, or agent, shall fail or neglect, after proper request, to admit the inspector, acting within the scope of the inspector's employment, to any location licensed for business, or to interfere with the inspector while in the performance of the inspector's duty.

E. Nothing herein shall prevent or prohibit undercover investigations or inspections by appropriate officers in appropriate circumstances, provided such investigations or inspections are conducted consistent with constitutional and legal requirements.

Formatted: Highlight

Formatted: Font: (Default) Arial

CITY OF BURIEN, WASHINGTON

RESOLUTION NO. 313

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURIEN ADOPTING PROGRAMS AND POLICIES TO CURB GREEN HOUSE GAS EMISSIONS, AND ENCOURAGING CONTINING EFFORTS TO DEVELOP AND USE CLEAN TECHNOLOGY IN THE CITY OF BURIEN.

WHEREAS, the world's leading climate scientists have documented a clear trend toward climate change caused by greenhouse gasses which get trapped and build up in the atmosphere near the earth's surface; and

WHEREAS, climate change of the magnitude now predicted by many in the scientific community will cause extremely costly disruption of human and natural systems throughout the world; and

WHEREAS, the University of Washington's Joint Institute for the Study of Atmosphere and Oceans projects significant harm to the Pacific Northwest due to changes in weather patterns attributable to climate change global warming/cooling, including forest decline, deteriorating air quality, sea level rise, and most alarmingly, disruption of the water cycle on which the region's water, air, and agricultural systems depend; and

WHEREAS, achieving greenhouse gas emission reductions to protect the climate is important to the community of Burien, its water supply, air quality, and current and future quality of life; and

WHEREAS, greenhouse gas reduction activities contribute to the achievement of many of the City's environmental values, including promoting clean and efficient energy use, commuter trip reduction efforts, and clean construction technology among others, promoting a reliable and affordable water supply; protecting urban and rural forests and wetlands, and promoting low-impact development; and

WHEREAS, the mayors from more than 200 other cities in the United States have signed the U.S. Mayors Climate Protection Agreement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1: City Commitment to Green House Gas Reduction Goals: The City of Burien is committed to the long-range goal of stabilizing atmospheric concentrations of greenhouse gases and will contribute to the achievement of that goal by evaluating local energy use and carbon emissions, and by developing achievable targets for conservation.

Section 2: Adoption of Policies and Programs to Reduce Green House Gasses. The Community Development Department and the Public Works Department are directed to continue to implement, adopt, promote, and coordinate within their programs and authority, all appropriate measures to reduce greenhouse gas emissions, including but not limited to:

- Commute Trip Reduction Programs/Requirements.
- Construction of Green Buildings in accordance with LEED Certification.
- Purchase and Use of energy efficient/ hybrid vehicle fleet.
- Conversion of traffic light and other exterior public lighting to LED technology.
- Promote natural garden planting and yard care.
- Encourage the use of building construction materials made from recycled and recyclable materials.
- Encourage the recycling of construction demolition materials.
- Increase the overall coverage of tree canopies and other vegetation by encouraging new site development and retrofit plans to include provisions for the addition or preservation of trees and vegetation.
- Design and construct storm-water utility facilities with LID technology and measures, reduce the use of new impervious surfaces, and utilize pervious surfaces whenever practical, and promote natural flow and infiltration conditions.
- Consider the impacts of new development on air quality as part of the City's environmental review process and develop policies that outline mitigation measures as may be appropriate.
- Consider the impacts of new development on the quality of land, wildlife, and vegetative resources as a part of the City's environmental review process and required appropriate mitigation, which may include the retention of significant habitats.

- Maintain, protect and enhance greenbelts, riparian corridors, and wildlife habitat corridors to that the extent and intensity of the built environment is balanced by these natural features.
- Promote development of the City's Urban Center to be characterized by daytime and nighttime uses that are transit-supportive, non- motorized or pedestrian/bicycle-supportive, reflect superior urban design, promote the reduction of the use of single-occupancy vehicles, and promote public open space.

Section 3. Coordination with Governments. The City of Burien shall work closely with local, state, and federal governments, in addition to public and private sector leaders, to reduce Green House Gas emissions consistent with local, state, and federal reduction goals as they exist and evolve over time.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF BURIEN,
WASHINGTON, AT A REGULAR MEETING THEREOF THIS _____ DAY OF
JUNE, 2010.

CITY OF BURIEN

Joan McGilton, Mayor

ATTEST/AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Craig Knutson, City Attorney

Filed with the City Clerk: June 7, 2010
Passed by the City Council:
Resolution No. 313



Burien

Washington, USA

400 SW 152nd St., Suite 300, Burien, WA 98166

Phone: (206) 241-4647 • FAX (206) 248-5539

www.burienwa.gov

MEMORANDUM

TO: Honorable Mayor and Members of the City Council
FROM: Mike Martin, City Manager
DATE: June 21, 2010
SUBJECT: City Manager's Report

I. INTERNAL CITY INFORMATION

A. Annual Report Submittal Accepted as Complete

On June 1st the Public Works Department received a letter from the Department of Ecology (DOE) advising that the City of Burien's Annual Report Submittal for the Western Washington Phase II Municipal Stormwater Permit for Calendar Year 2009 was accepted by the DOE as complete. This is a major accomplishment and milestone in fulfilling our National Pollutant Discharge Elimination System (NPDES) requirements.

B. Public Works Department Has Full Crew Hired

The Public Works Department has now filled all positions for its first Street and Surface Water Management maintenance crews. They are: Leads--Loreli Taylor and Greg Rutkosky; Maintenance II Workers--Ray Helms and Jeff Heglund; and four temporary, full-time workers (who will be with us until December): Luis Mejia, Tony Moody, Ben Gummere and Damon Siquenza.

C. Angie Chaufy Appointed to Association of Washington Cities (AWC), Employee Benefits Advisory Committee (EBAC)

At the recent meeting of the AWC Employee Benefits Advisory Committee, Human Resources Manager Angie Chaufy was elected to serve as Vice-Chair of the Committee. As Vice-Chair, Angie will fill one of two non-elected positions on AWC's Board of Trustees. The current AWC President, Vice-President, and four regionally elected Trustees round out the Board. The Board of Trustees is the governing authority of the AWC Employee Benefit Trust and has a fiduciary obligation to administer the Fund on behalf of its 280+ municipalities and quasi-municipal entities.

D. On-site Health Screening Provided to Employees

As part of our continuing efforts to control health costs and to educate employees on their role in maintaining affordable health care, the City of Burien, in conjunction with AWC, hosted a free on-site health screening for employees and their spouses/domestic partners covered under the AWC medical insurance plan on May 12th. 23 Employees took advantage of this opportunity. Screenings included measurements for height, weight, blood pressure, glucose, cholesterol (HDL and LDL), and triglycerides. Screening

results were available immediately and reviewed privately and confidentially with participants by a healthcare professional. Participants were encouraged to seek follow up care for any elevated readings.

E. Burien's Recruitment Efforts Highlighted in Publication

Burien's recruitment efforts and successes were recently featured as a "fresh idea" in the Association of Washington Cities (AWC's) May/June 2010 edition of *Cityvision Magazine*. The article, "Inside Job," details the City's forgoing of the traditional headhunter recruitment model for in-house recruitment effort for executive level positions. This out-of-the-box practice has not only resulted in the successful hiring of three department directors within the last two years but also a significant savings to the City's budget.

F. Burien Park & Ride Parking Garage Update

The project manager for the Burien Park & Ride Parking Garage project recently contacted City staff to obtain a revised estimate for permit fees based on a decrease in the scope of work. The proposed project has been revised, reducing the overall number of parking stalls from 654 to 505. The overall budget has now decreased from \$18.3M to \$13.7M. They anticipate submitting for Administrative Design Review in June, demo/grading/utilities/excavation permit in July, and building permit in September.

G. Quarterly Burien Wellness CEO Breakfast

The first quarterly breakfast meeting of Chief Executives from Burien's major medical service providers took place on Friday, June 11th. Attending was Mark Benedum, CEO, Highline Medical Center; Richard St. Peter, COO, and Jerry O'Day, Director of Marketing, Schick Shadel Hospital; David Johnson, CEO, Navos; Jill Cooke, Regional Administrator, Group Health; and Lynda Baldwin, Executive Director, Burien Nursing & Rehabilitation Center. Schick Shadel Hospital hosted this first meeting.

H. Energy Code News

In response to a request by the Governor, the State Building Code Council took action to delay implementation of the 2009 edition of the State Energy Code which was scheduled to go into effect on July 1, 2010. Implementation is delayed until October 29, 2010 to accommodate public hearings to determine whether implementation should be further delayed until no later than April 1, 2011 as requested by the Governor. Until State adoption of the 2009 Energy Code, the 2006 Energy Code will remain in effect in Burien and throughout the State.

I. New Businesses

- B Town Burgers & Shakes located at 822 SW 152nd Street has been granted Temporary Occupancy.
- Infusion Tea & Coffee located at 15607 1st Ave. S., Suite 102 received a Certificate of Occupancy on June 10, 2010.

J. New Business Licenses Approved

The following new business licenses have been approved for Burien:

- T.Q. Computers located at 14243 Ambaum Blvd SW, Suite F, offering computers service and office/consulting.
- Lighthouse Consulting, Inc. located at 15111 8th Ave SW, Suite 300, offering IT consulting and computer support.

K. 4 Culture Increases Burien Sustained Support Funding

4 Culture announced that it has awarded the City of Burien \$11,000 in sustained support for the City's arts programs for 2010. 4 Culture continues to recognize the innovative and quality art programs the City provides. This is the largest award of any city in the Highline area, as well as Tukwila and Renton.

L. Strawberry Festival Moves Downtown and Goes Wild

Both the relocation to Town Square Park and significant increase of Festival activities has occupied the majority of Recreation Supervisors Casey Stanley and Gina Kallman's time over the last several months. The new site presented many challenges for staging an event of this size, and allowed staff to learn how Town Square Park and the downtown area can best function for special celebrations in the future. Collaborative ventures for the Festival were established with Sustainable Burien, Discover Burien, Burien Co-op Preschool, Burien Arts, Whitewater Aquatics, and other community organizations. In addition to scheduling the always-eclectic art performances, much effort has been spent working with the new B-Town Bike Fair, Parkour, Rat City Rummage urban crafts sales, Inflatable Village, and other activities.

M. New Tai Chi Class Commended

A Burien resident recently sent an appreciative e-mail to PaRCS thanking them for offering this new program that has eliminated much of her arthritic pain and significantly improved her sleeping and concentration.

N. Cedarhurst PTSA To Support City-Sponsored Program

PaRCS has partnered with Arts Corps for the past several years to bring art instruction to Cedarhurst School, whose students have traditionally been the highest percentage of free and reduced students of all of Burien's public schools. When City funding needed to be reduced last year, the City successfully obtained a grant to continue the program. Next year, the Cedarhurst PTSA announced that they had raised funds to continue the program. PaRCS staff are eager to concentrate efforts on the new North Burien schools of Southern Heights and Hilltop, whose low-income student numbers currently exceed Cedarhurst's.

O. Burien Teen Program Supports HHS Senior Project

Highline High School senior Calvin Smolich worked with the City's Teen Program staff to coordinate a Break Dance fundraiser for youth in Tijuana, Mexico. The dance attracted approximately 80 middle and high school youth, and was the first teen special event held at the new Community Center. Burien Citizen Award Winner and Recreation Leader Luke Cruise worked with Calvin on this special project.

P. PaRCS Staff Serve on HSD Advisory Committee

Cultural Arts Supervisor Gina Kallman recently completed service on the Highline School District's new Arts Advisory Committee, which provided recommendations to the Superintendent and School Board for visual arts, theater, music, and dance instruction for all K-12 students. The full report is available at <http://www.hsd401.org/ourdistrict/publications/eHighlights/060310/artsreport.pdf>

Q. Northeast Redevelopment Area Work Continues at Federal and State Levels

In recent weeks staff has been engaged in a variety of efforts related to the Northeast Redevelopment Area (NERA).

The Council recently received a presentation on a study by the Washington State Department of Transportation (WSDOT), on the feasibility of a full interchange at SR 518 and Des Moines Memorial Drive. The City is pursuing federal assistance to launch the design of that project, and staff has worked with the City's advocate in Washington, D.C., to arrange meetings for the City Manager to update Burien's Congressional delegation staff on the proposed interchange improvements.

Staff has also been working to help finalize "the Burien provision" of the bill to reauthorize the Federal Aviation Administration (FAA), which has been pending since 2007. This provision will create a pilot program to enable up to four airport operators around the country to join with local jurisdictions affected by their airport operations to conduct planning and other work needed to enable development of airport-compatible business in areas such as the NERA. The FAA bill is at the "conference" stage, where Senate and House negotiators reconcile differences between their two versions of the legislation.

At the state level, staff has assisted with coordinating meetings with other local jurisdictions and state legislators, to look at potential legislation to help the cities generate development in their airport-affected areas and address some of the financial impacts of the third runway.

R. Successful Relay for Life Event – June 12 & 13

Burien Good2Great, the City's Relay for Life Team, raised over \$3,800 for the American Cancer Society in connection with the Highline Relay for Life. The event took place at Highline Memorial Stadium, with Deputy Mayor Rose Clark and King County Prosecuting Attorney Dan Satterberg helping to kick-off the affair. To date, more than \$60,000 was raised at the local event. This was the third year that city staff has had a team participate in the Highline Relay.

II. COUNCIL UPDATES/REPORTS

A. May 2010 Citizen Action Report (Pg. 115)

Staff has provided Council with the May 2010 Citizen Action Report (attached).

B. Notices (Pg. 123)

The following notice has been published:

- Public Hearing Notice to receive public comments on Proposed Ordinance 542, Modifying the Transportation Benefit District known as TBD No. 1 for Street Overlay Program – June 21, 2010.



Burien

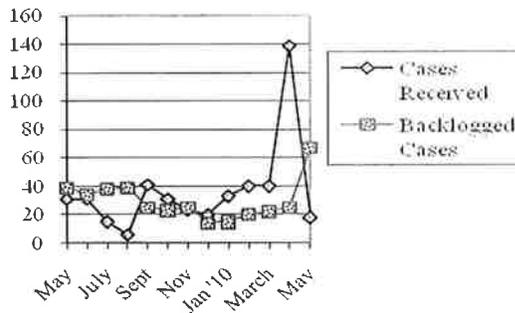
Washington, USA

CITY OF BURIEN MEMORANDUM

DATE: June 2, 2010
TO: Mike Martin, City Manager
FROM: Cynthia Schaff, Paralegal
RE: May 2010 Citizen Action Report

This report reflects the caseload for May and includes all backlog cases open as of May 31, 2010. As of that date, there were 75 open cases. 67 of the open cases are more than five weeks old and are considered backlog. There were 18 cases opened during the month of May; 9 cases initiated by staff/police, and 9 cases initiated by residents.

Citizen Action Case Status



	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan '10	Feb	March	April	May
Cases Received	31	31	15	6	41	31	23	20	33	40	40	139	18
Backlogged Cases	39	34	38	39	25	23	25	14	15	20	22	25	67
Total Open Cases	64	55	49	42	45	40	43	29	38	47	42	118	75
% of Backlog	61%	62%	78%	93%	56%	58%	58%	48%	39%	43%	52%	21%	89%

As usual, please let me know if you have any questions or suggestions for additional improvements to this report.

Cc: Scott Greenberg, Community Development Director
 Jim Bibby, Code Compliance Officer
 Henry McLauchlan, Administrative Sergeant
 Craig Knutson, City Attorney

Michael Lafreniere, Parks Director
 Jan Vogee, Building Official
 Larry Blanchard, Public Works Director



Monthly Report to the City Manager Citizen Action Request Case Status

Report Date: 06/02/2010

Days Old	Department	CAR #	Date Received	Nature of Request	Complaint Information	Last Action	Date	Status
870	City Attorney	CAR-08-0022	01/14/2008	Nuisance	14456 18TH AV SW Parking & nuisance	Other - See Notes	09/21/2009	Open
558	City Attorney	CAR-08-0409	11/21/2008	Parking	13430 1ST AV SW Vehicles / Weythman	Site Investigation	08/24/2009	Open
496	Code Enforcement	CAR-09-0031	01/22/2009	Nuisance	800 SW 135TH ST Nuisance / Russell	Site Investigation	12/17/2009	Open
364	City Attorney	CAR-09-0214	06/03/2009	Fire Department Issue	16042 1ST AV S Fire Department / Nissan	NOV Issued	01/28/2010	Open
243	City Attorney	CAR-09-0319	10/02/2009	Business License	14211 DES MOINES MEMORIAL DR S Rental Housing License-Sun Villa-Sandra Oellien	Other - See Notes	04/09/2010	Open
194	Code Enforcement	CAR-09-0356	11/20/2009	Housing Concerns	13261 AMBAUM BL SW Housing-Pelhan	Phone Call	04/26/2010	Open
190	Code Enforcement	CAR-09-0359	11/24/2009	Nuisance	1210 SW 152ND ST Nuisance-LeMay(Kauffman)	Phone Call	04/21/2010	Open
190	Building	CAR-09-0364	11/24/2009	Building	13803 DES MOINES MEMORIAL DR S Building-Lopez	Other - See Notes	04/02/2010	Open
155	Code Enforcement	CAR-09-0381	12/29/2009	Nuisance	14636 4TH PL S / Business LicenseNuisance - Illegal Dumping	Meeting	01/29/2010	Open
148	Planning	CAR-10-0005	01/05/2010	Critical Area Concerns	16617 25TH AV SW Planning- Cutting trees in critial area-Houk	Meeting	04/02/2010	Open
127	Planning	CAR-10-0029	01/26/2010	Sign Violation	120 SW 160TH ST Sign Violation-Seahurst Chiropractic	Phone Call	05/20/2010	Open
114	Planning	CAR-10-0043	02/08/2010	Sign Violation	15315 1ST AV S Sign Violation-Collision Center	Phone Call	05/19/2010	Open

Days Old	Department	CAR #	Date Received	Nature of Request	Complaint Information	Last Action	Date	Status
104	Planning	CAR-10-0061	02/18/2010	Planning / Zoning	638 S 159TH ST Zoning-Boteler	NOV Issued	04/23/2010	Open
103	Code Enforcement	CAR-10-0064	02/19/2010	Sign Violation	13601 AMBAUM BL SW Sign Violation-B/L- Boost Mobile	Phone Call	05/20/2010	Open
76	Code Enforcement	CAR-10-0098	03/18/2010	Sign Violation	921 SW 152ND ST Sign Violation-B Scoop	Enforcement Letter 1	03/19/2010	Open
75	Code Enforcement	CAR-10-0100	03/19/2010	Police Issue	204 SW 154TH ST Police Marijuana Raid-Cheng	Case Received	03/19/2010	Open
65	Code Enforcement	CAR-10-0110	03/29/2010	Nuisance	16647 8TH AV SW Nuisance, Trash, Vehicle- Moran-Foreclosure	Case Received	03/29/2010	Open
58	Code Enforcement	CAR-10-0119	04/05/2010	Housing Concerns	251 S 156TH ST Housing (Vagrant)-Kuykendall	Site Investigation	05/18/2010	Open
58	Code Enforcement	CAR-10-0120	04/05/2010	Nuisance	415 SW 136TH ST Nuisance, Flores	Phone Call	04/06/2010	Open
56	Code Enforcement	CAR-10-0124	04/07/2010	Nuisance	311 SW 126TH ST Nuisance- Vo	Case Received	04/07/2010	Open
56	Code Enforcement	CAR-10-0231	04/07/2010	Housing Concerns	814 SW 136TH ST Housing-Moore	Case Received	04/09/2010	Open
51	Code Enforcement	CAR-10-0126	04/12/2010	Housing Concerns	11445 DES MOINES MEMORIAL DR S Housing Concern-Illegal ADU-Soap Box Laundermat	Case Received	04/12/2010	Open
51	Code Enforcement	CAR-10-0127	04/12/2010	Nuisance	11672 DES MOINES MEMORIAL DR S Nuisance-Vacant Fire-Lyons Gate	Phone Call	05/19/2010	Open
51	Building	CAR-10-0132	04/12/2010	Building	10826 ROSEBERG AV S Building, Hernandez	Case Received	04/12/2010	Open
51	Code Enforcement	CAR-10-0134	04/12/2010	Nuisance	12411 DES MOINES MEMORIAL DR S Nuisance Trash, Vehicles, Rodents & Sub-standard dwelling-Souffront	Phone Call	05/28/2010	Open

Days Old	Department	CAR #	Date Received	Nature of Request	Complaint Information	Last Action	Date	Status
51	Planning	CAR-10-0136	04/12/2010	Planning / Zoning	11845 DES MOINES MEMORIAL DR S Zoning-B/L-Gill	Site Investigation	05/28/2010	Open
51	Code Enforcement	CAR-10-0139	04/12/2010	Nuisance	2106 S 124TH ST Nuisance, Vehicles and debris-Schmidt	Phone Call	05/27/2010	Open
51	Code Enforcement	CAR-10-0141	04/12/2010	Nuisance	12222 1ST AV S Nuisance-Nguyen	Case Received	04/12/2010	Open
51	Building	CAR-10-0142	04/12/2010	Building	11244 10TH AV S Building-Smith	Case Received	04/13/2010	Open
51	Code Enforcement	CAR-10-0144	04/12/2010	Housing Concerns	12006 10TH AV S Housing-Tang	Case Received	04/13/2010	Open
51	Building	CAR-10-0145	04/12/2010	Building	12444 10TH AV S Building,Gas Furnace permit- Tsai	Phone Call	05/28/2010	Open
51	Code Enforcement	CAR-10-0146	04/12/2010	Nuisance	11833 24TH AV S Nuisance, Vehicles, Auto Repair-Luster	Phone Call	05/27/2010	Open
51	Planning	CAR-10-0147	04/12/2010	Planning / Zoning	11841 24TH AV S Zoning, Vehicle Repair & Sales-LeGorreta	Case Received	04/13/2010	Open
51	Code Enforcement	CAR-10-0152	04/12/2010	Building	12252 22ND AV S Building- Lam	Case Received	04/14/2010	Open
51	Code Enforcement	CAR-10-0155	04/12/2010	Nuisance	11705 24TH AV S Nuisance-Dill	Case Received	04/12/2010	Open
51	Code Enforcement	CAR-10-0157	04/12/2010	Nuisance	11439 15TH AV SW Nuisance-Patterson	Meeting	06/01/2010	Open
51	Code Enforcement	CAR-10-0161	04/12/2010	Nuisance	12663 16TH AV S Nuisance-Johnson	Phone Call	05/06/2010	Open
51	Building	CAR-10-0219	04/12/2010	Building	11527 26TH AV SW Occupancy without a finaled permit-Bryce	Case Received	04/15/2010	Open
50	Code Enforcement	CAR-10-0149	04/13/2010	Nuisance	12234 20TH AV S Vehicle repair business-Gonzales	Phone Call	05/28/2010	Open

Days Old	Department	CAR #	Date Received	Nature of Request	Complaint Information	Last Action	Date	Status
48	Code Enforcement	AR-10-0171	04/15/2010	Nuisance	11711 8TH AV S Nuisance-Franco	Site Investigation	05/24/2010	Open
48	Building	CAR-10-0165	04/15/2010	Building	12024 1ST AV S Building-Alpine General Contracting	Phone Call	04/23/2010	Open
48	Planning	CAR-10-0166	04/15/2010	Planning / Zoning	12272 1ST AV S Planning-Klms Hair Design, signs	Case Received	04/15/2010	Open
48	Planning	CAR-10-0167	04/15/2010	Planning / Zoning	12414 1ST AV S Zoning-Hawaii Beauty Salon, sign	Case Received	04/15/2010	Open
48	Planning	CAR-10-0168	04/15/2010	Planning / Zoning	12430 1ST AV S Planning-Amy Salon Services	Case Received	04/15/2010	Open
48	Code Enforcement	CAR-10-0174	04/15/2010	Nuisance	1239 S 115TH ST Nuisance-Artiaga	Case Received	04/15/2010	Open
48	Code Enforcement	CAR-10-0176	04/15/2010	Nuisance	1211 S 116TH ST Nuisance-Moss	Case Received	04/15/2010	Open
47	Code Enforcement	CAR-10-0180	04/16/2010	Nuisance	1332 SW 114TH ST Nuisance Trash-Khuc	Case Received	04/16/2010	Open
44	Code Enforcement	CAR-10-0183	04/19/2010	Nuisance	833 S 142ND LN Nuisance, Junk Vehicles-Palermo	Site Investigation	04/22/2010	Open
44	Planning	CAR-10-0184	04/19/2010	Planning / Zoning	11622 6TH AV SW ADU Trailer-Burley	Other - See Notes	04/26/2010	Open
44	Code Enforcement	CAR-10-0189	04/19/2010	Nuisance	12004 3RD AV S Nuisance-Wetzel	Phone Call	05/13/2010	Open
44	Code Enforcement	CAR-10-0190	04/19/2010	Nuisance	1221 S 116TH ST Nuisance-Glen	Case Received	04/19/2010	Open
44	Code Enforcement	CAR-10-0192	04/19/2010	Nuisance	1021 S 116TH ST Nuisance-Cunningham	Case Received	04/19/2010	Open

Days Old	Department	CAR #	Date Received	Nature of Request	Complaint Information	Last Action	Date	Status
44	Building	CAR-10-0196	04/19/2010	Building	12230 14TH AV S Building-Johnson	Case Received	04/19/2010	Open
44	Building	CAR-10-0197	04/19/2010	Building	11800 14TH AV S Building-Abrego	Case Received	04/19/2010	Open
44	Code Enforcement	CAR-10-0198	04/19/2010	Nuisance	11718 12TH AV S nuisance-Vasquez	Other - See Notes	04/29/2010	Open
44	Code Enforcement	CAR-10-0225	04/19/2010	Housing Concerns	622 SW 158TH ST Housing-Vandenberg	Phone Call	05/12/2010	Open
43	Code Enforcement	CAR-10-0200	04/20/2010	Nuisance	441 S 126TH ST Nuisance-Cong Christian Church	Site Investigation	05/12/2010	Open
43	Code Enforcement	CAR-10-0202	04/20/2010	Nuisance	153 S 120TH ST Nuisance-Azpirtarte	Case Received	04/20/2010	Open
43	Code Enforcement	CAR-10-0203	04/20/2010	Nuisance	430 SW 122ND ST Nuisance/Business-Bacon	Site Investigation	04/30/2010	Open
43	Code Enforcement	CAR-10-0207	04/20/2010	Nuisance	1021 SW 117TH ST Nuisance-Davies	Site Investigation	05/26/2010	Open
43	Planning	CAR-10-0208	04/20/2010	Planning / Zoning	804 SW 122ND ST Zoning-Puloka	Other - See Notes	05/27/2010	Open
43	Planning	CAR-10-0210	04/20/2010	Planning / Zoning	11417 21ST AV SW Zoning-Hansen	Case Received	04/20/2010	Open
43	Building	CAR-10-0212	04/20/2010	Building	12418 1ST AV SW Building-Quiroz	Case Received	04/20/2010	Open
42	Planning	CAR-10-0218	04/21/2010	Planning / Zoning	12233 10TH AV S Zoning-Wood	Phone Call	05/28/2010	Open
41	Code Enforcement	CAR-10-0232	04/22/2010	Graffiti	800 S 152ND ST Graffiti-Clapshaw (New)	Case Received	04/22/2010	Open

Days Old	Department	CAR #	Date Received	Nature of Request	Complaint Information	Last Action	Date	Status
39	Planning	CAR-10-0238	04/24/2010	Planning / Zoning	1027 SW 124TH ST Zoning-Nguyen	Phone Call	06/01/2010	Open
37	Code Enforcement	CAR-10-0240	04/26/2010	Nuisance	12457 1ST AV SW Nuisance-Mocic	Case Received	04/26/2010	Open
36	Code Enforcement	CAR-10-0244	04/27/2010	Nuisance	619 SW 116TH ST Nuisance-Carey	Case Received	04/27/2010	Open
36	Code Enforcement	CAR-10-0246	04/27/2010	Nuisance	2312 S 126TH ST Nuisance- Speare	Enforcement Letter 1	05/18/2010	Open
35	Code Enforcement	CAR-10-0251	04/28/2010	Nuisance	12621 4TH AV SW Nuisance-Plumb	Case Received	04/28/2010	Open
23	Planning	CAR-10-0262	05/10/2010	Planning / Zoning	12816 12TH AV S Zoning-Dore	Enforcement Letter 1	05/13/2010	Open
21	Building	CAR-10-0263	05/12/2010	Building	12825 12TH AV S Building-Shateau Const.	Case Received	05/12/2010	Open
19	Code Enforcement	CAR-10-0265	05/14/2010	Nuisance	840 SW 154TH ST Nuisance Vegetation-Woodlands Apts	Case Received	05/14/2010	Open
16	Code Enforcement	CAR-10-0267	05/17/2010	Housing Concerns	12002 4TH AV SW Housing-Robertson	Case Received	05/18/2010	Open
14	Planning	CAR-10-0268	05/19/2010	Planning / Zoning	2423 SW 172ND ST Zoning-Denton	Case Received	05/19/2010	Open



Burien

Washington, USA

400 SW 152nd, Suite 300, Burien, WA 98166
Phone: (206) 241-4647 • FAX (206) 248-5539
www.burienwa.gov

DATE: June 8, 2010
FOR RELEASE: June 11 & 16, 2010
CONTACT: City Attorney's Office
Telephone: (206) 248-5531

CITY OF BURIEN PUBLIC HEARING NOTICE

The City of Burien will hold a public hearing on Monday, June 21, 2010, for the purpose of:

Receiving public comments on Proposed Ordinance No. 542, Modifying the Transportation Benefit District known as TBD No. 1 for Street Overlay Program.

The public is encouraged to participate by providing the Council with their comments on Ordinance No. 542 which modifies the functions and boundaries of the Transportation Benefit District known as TBD No. 1, to support the Street Overlay Program with an annual vehicle license fee.

The hearing will be in the Council Chambers at Burien City Hall, 400 SW 152nd Street, at approximately 6:00 p.m.

Sign language and communication in alternate format can be arranged given sufficient notice. Please contact the City Clerk's office at (206) 248-5517.

###

Published in The Seattle Times: June 11, 2010
The Highline Times: June 16, 2010

cc: Burien City Council
Burien Library
Burien Staff
Discover Burien

B-Town Blog
White Center Now
Web site: www.burienwa.gov

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Public hearing and consideration of adopting proposed Ordinance No. 542, modifying the boundaries and functions of TBD No.1		Meeting Date: June 21, 2010
Department: Legal	Attachments: 1. Proposed Ordinance No. 542	Fund Source: N/A Activity Cost: N/A Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Contact: Craig Knutson, City Attorney		
Telephone: (206) 248-5535		
Adopted Initiative: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Initiative Description: Street Overlay Program	
PURPOSE/REQUIRED ACTION: The purpose of this agenda item is for the City Council to conduct a public hearing and consider adopting proposed Ordinance No. 542, which amends Ordinance No. 516 by modifying the boundaries and functions of the Transportation Benefit District known as TBD No. 1, in order to assist in funding the Street Overlay Program.		
BACKGROUND (Include prior Council action & discussion): On April 26, 2010, the City Council approved a motion to advance the Street Overlay Program by imposing a \$ 10.00 car tab fee through a TBD to assist in supporting the program, along with approving issuance of 8.6 million in bonds to support the remainder of the program. The City Attorney and the City's bond counsel have determined that the most expedient and legally appropriate way to begin implementing the Council's direction is to modify the existing TBD No. 1. Pursuant to RCW 36.73.050, the legislative authority proposing to to modify the functions or boundaries of an existing transportation benefit district must conduct a public hearing and adopt an ordinance, which sets forth the modifications of the district's boundaries and functions. The proposed Ordinance No. 542 amends Ordinance No. 516 by modifying the boundaries of the District to comprise the corporate limits of the City, as they currently exist and as they may exist following future annexations, and by modifying the functions of the District, as they relate to funding the Street Overlay Program improvements described in the attached Exhibit A. Once Ordinance No. 542 has been published and become effective, staff will then present an interlocal agreement between the City and the TBD for the Council to consider. After the interlocal agreement is approved by the Council, the next step would be for the Council to convene as the TBD Board to approve the interlocal agreement on behalf of the TBD and to consider a resolution imposing the car tab fee. Since it will take several months for the car tab revenue to be collected, staff is recommending that the Council take action on Ordinance No. 542 as soon as possible, preferably at the June 21 st meeting. Then, the approval of the interlocal agreement and consideration of the resolution imposing the car tab fee could occur at the next available meeting, which is anticipated to be July 19 th .		
OPTIONS (including fiscal impacts): 1. Adopt Ordinance No. 542 as presented. 2. Do not adopt Ordinance No. 542 as presented.		
Administrative Recommendation: Adopt Ordinance No. 542 as presented.		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motion: Move to adopt Ordinance No. 542, which amends Ordinance No. 516 by modifying the functions and boundaries of the Transportation Benefit District known as TBD No. 1 in order to support the City's Street Overlay Program.		
Submitted by: Craig Knutson Administration 	Mike Martin City Manager 	
Today's Date: June 2, 2010	File Code: \\File01\records\CC\Agenda Bill 2010\060710ls-TBD PH.docx	

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 542

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON AMENDING ORDINANCE NO. 516 BY REVISING THE BOUNDARIES, FUNDING, AND AUTHORIZED TRANSPORTATION IMPROVEMENTS OF THE CITY'S TRANSPORTATION BENEFIT DISTRICT KNOWN AS TBD NO. 1; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Chapter 36.73 RCW provides for the establishment and modification of transportation benefit districts and for the levying of additional revenue sources for transportation improvements within the district that are consistent with existing state, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels, and

WHEREAS, pursuant to Ordinance No. 516 adopted by the City Council of the City of Burien (the "City") on July 20, 2009, the City established a citywide transportation benefit district known as TBD No. 1 (the "District") for the purpose of funding and implementing certain transportation improvements described therein, and

WHEREAS, the City now desires to modify the boundaries of the District and to revise the funding and the list of authorized transportation improvements described in Ordinance No. 516, and

WHEREAS, pursuant to RCW 36.73.050, prior to establishing or modifying a transportation benefit district, the City is required to conduct a public hearing after giving proper notice describing the transportation improvements and activities to be funded by the transportation benefit district, and

WHEREAS, after giving proper notice and conducting the required public hearing, the City Council of the City of Burien finds it to be in the best interests of the City to modify the boundaries of the District to comprise the corporate limits of the City, as they currently exist and as they may exist following future annexations, and to modify the functions of the District for the funding and implementation of the transportation improvements described in attached Exhibit A, to be funded in part through fees collected pursuant to RCW 36.73.065 on qualifying vehicles, and

WHEREAS, the City finds that the improvements listed in Exhibit A are "transportation improvements" within the meaning of Chapter 36.73 RCW and are projects described in the City's transportation plan,

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 1 of Ordinance 516 is hereby amended by amending the transportation improvements to be as described in the attached Exhibit "A", which exhibit is incorporated as though fully set forth herein.

Section 2. Section 2 of Ordinance 516 is hereby amended to read as follows:

Section 2. Formation of a Transportation Benefit District. The City of Burien, pursuant to RCW 35.21.225 and Chapter 36.73 RCW, hereby establishes and creates a Transportation Benefit District to be known and referred to as TBD No. 1, subject to the following:

(1) **Establishing Transportation Benefit District.** There is created TBD No. 1 with geographical boundaries comprised of the corporate limits of the City, as they exist upon the effective date of this ordinance. ~~Future annexations shall not affect the corporate boundaries of TBD No. 1 and as they may exist following future annexations.~~

(2) **Governing Board.**

(a) The governing board of the Transportation Benefit District shall be the Burien City Council acting in an *ex officio* and independent capacity, which shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW.

(b) The treasurer of the Transportation Benefit District shall be the City Finance Director.

(c) The Board shall develop material change policy to address major plan changes that affect project delivery or the ability to finance the plan, pursuant to the requirements set forth in RCW 36.73.160(1).

(d) The Board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2).

(e) Meetings of the Board shall be governed by the procedural rules applicable to meetings of the Burien City Council, as the same may be amended from time to time.

(f) The first action of the Board shall be to nominate and elect a chair who shall preside over all meetings of the Board.

(3) **Powers of the TBD No. 1:** TBD No.1 shall possess all of the powers of a transportation benefit district authorized pursuant to Ch. 36.73 RCW, including the authority to issue general obligation bonds and revenue bonds; provided that, the TBD No. 1 shall have no authority to impose taxes, fees, charges, or tolls except as provided herein.

(4) **Transportation Improvements Funded.** The funds generated by the Transportation Benefit District shall be used for transportation improvements that are described in Section 1 of this Ordinance or as may be otherwise expanded in accordance with Ch. 36.73 RCW.

(5) **Establishment of Vehicle Fee Revenue Source.** The Board shall, upon approval of the majority of the voters of the district voting on a proposition at a general or special election, have the authority to impose an annual vehicle license fee in the amount of ~~twenty-five~~ ten dollars (\$~~25~~10), consistent with RCW 36.73.065, to be collected by the Washington Department of Licensing on qualifying vehicles as set forth in RCW 82.80.140 and Chapters 36.73 and 46.16 RCW.

(6) **Dissolution of District.** TBD No. 1 shall be dissolved when all indebtedness of the district has been retired and when all of the district's anticipated responsibilities have been satisfied.

Section 3. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Burien Municipal Code, this ordinance is deemed to control.

Section 4. Effective Date. This ordinance shall take effect and be in full force five (5) days after approval and publication in accordance with law.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE ___ DAY OF _____, 2010, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS ___ DAY OF _____, 2010.

CITY OF BURIEN

Joan McGilton, Mayor

ATTEST/AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Craig Knutson, City Attorney

Filed with the City Clerk:

Passed by the City Council:

Ordinance No. 542

Date of Publication:

EXHIBIT A

(Description of Transportation Improvements)

Spend approximately \$8.6 million over the next two years, and \$600,000* per year for the next 18 years after that, to install asphalt overlays and other street related repairs up to 263 lane miles of streets in the City Street System, bringing the streets up to a Pavement Condition Index (PCI) of 80+.

* This amount does not include an inflation factor based on the Cost Price Index (CPI) of the greater Seattle-Tacoma Area that will be added to this figure each year.

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Motion to Approve Ordinance No. 543, Relating to Responsibilities for Animal Control Licensing and Enforcement.		Meeting Date: June 21, 2010
Department: City Manager	Attachments: 1. Ordinance 543 amending BMC Title 6 2. Draft Animal Control Services contract 3. Impound Fees and Related Penalties	Fund Source: N/A Activity Cost: N/A Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Contact: Jenn Ramirez Robson, Management Analyst		
Telephone: (206) 439-3165		
Adopted Initiative: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Initiative Description: Develop Animal Control Plan for Burien	
PURPOSE/REQUIRED ACTION: The purpose of this agenda item is for the City Council to consider: 1. Adopting proposed Ordinance No. 543, which amends BMC Title 6 related to animals. 2. Authorizing the City Manager to execute a contract providing for animal control services in Burien.		
BACKGROUND (Include prior Council action & discussion): Since the mid-1980's King County has been providing animal control, sheltering and licensing functions on behalf of cities on a regional basis, in exchange for keeping all pet licensing revenue. In April 2010 a Joint Cities-County Work Group released a new proposed regional animal control system that would have cost the City of Burien significantly more than the pet licensing revenue collected. On April 26, 2010 the Burien City Council chose not to participate in King County's proposed regional animal control system and directed staff to develop an alternative animal control program. The prior interlocal agreement will terminate on July 1, 2010. On June 14 staff presented their recommendations for providing animal controls services in Burien. The plan requires two Council actions: 1. Amending BMC Title 6 relating to animals. 2. Authorizing the City Manager to execute the animal control services contract between the City and Burien Animal Care and Control. After receiving comments from Council on the plan for providing animal control services in Burien, staff revised the animal control services contract. Per Council request a list of impound fees and related penalties has been included in this packet.		
OPTIONS (Including fiscal impacts): 1. Approve staff recommendations for providing animal control services by: a. Adopting proposed Ordinance No. 543 b. Authorizing the City Manager to execute the animal control services contract 2. Modify Proposed Ordinance No. 543 and/or modify the contract for animal control services and place on a future agenda for approval.		
Administrative Recommendation: 1. Adopt Ordinance No. 543 and 2. Authorize the City Manager to execute the Animal Control Services contract.		
Committee Recommendation: n/a		
Advisory Board Recommendation: n/a		
Suggested Motion: 1. Move to adopt Ordinance No. 543 amending Title 6 of the Burien Municipal Code relating to responsibilities for animal control licensing and enforcement and providing for severability and an effective date. 2. Move to authorize the City Manager to execute the animal control services contract between the City of Burien and Burien Animal Care and Control.		
Submitted by: Administration _____ City Manager _____		
Today's Date: June 16, 2010		File Code: R:\CC\Agenda Bill 2010\062110cm-1 animal control.docx

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 543

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, AMENDING TITLE 6 OF THE BURIEN MUNICIPAL CODE RELATING TO RESPONSIBILITIES FOR ANIMAL CONTROL LICENSING AND ENFORCEMENT AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, the City of Burien has had an interlocal agreement with King County to provide animal control services since 1993, and

WHEREAS, in accordance with the interlocal agreement, the City has adopted pertinent portions of the King County Animal Control Code found in Title 11 KCC, and these provisions have been implemented by County personnel, and

WHEREAS, the City has decided to terminate the interlocal agreement with King County and to implement the adopted portions of Title 11 KCC by utilizing persons or legal entities employed by or under contract with the city, and

WHEREAS, it is necessary to amend the City Code provisions adopting the pertinent portions of Title 11 KCC by designating the persons or legal entities who will be implementing the Animal Control Code for the City, and

WHEREAS, such amendments to the Burien Municipal Code are administrative in nature, as they revise the means of implementing animal control provisions already enacted;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Amendments to Title 6 BMC. Title 6 of the Burien Municipal Code is hereby amended to read as set forth in Exhibit A, which is attached hereto and incorporated herein by this reference.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This ordinance shall take effect on July 1, 2010.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 21st DAY OF JUNE, 2010, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS ____ DAY OF JUNE, 2010.

CITY OF BURIEN

Joan McGilton, Mayor

AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Craig D. Knutson, City Attorney

Filed with the City Clerk: June ____, 2010
Passed by the City Council: June 21, 2010
Ordinance No. ____
Date of Publication: December ____, 2010

EXHIBIT A

Title 6 ANIMALS

Chapters:

- 6.05 Administration
- 6.10 Dog Leash Law
- 6.15 Rabies Control
- 6.20 Fowl and Rabbits
- 6.25 Livestock
- 6.30 Exotic Animals
- 6.35 Guard Dogs
- 6.40 Feeding of Birds and Wildlife

Chapter 6.05 ADMINISTRATION

Sections:

- 6.05.100 Animal control authority appointment.
- 6.05.200 General provisions and licensing – Adopted by reference.
- 6.05.300 Enforcement and procedures – Adopted by reference.
- 6.05.400 Appeals.
- 6.05.500 Violation – Penalty.

6.05.100 Animal control authority appointment.

~~Pursuant to the referenced interlocal agreement, the King County animal control section, division of general services, is designated as the~~ The animal control authority of the city shall be the persons or legal entities employed by or under contract with the city to administer and enforce the provisions of this chapter. A copy of the interlocal agreement shall be available in the office of the city clerk for use and examination by the public. [Ord. 11 § 1, 1993]

6.05.200 General provisions and licensing – Adopted by reference.

(1) The following sections of Chapter 11.04 KCC, as now in effect, and as may be subsequently amended, are adopted by reference, except that, unless the context indicates otherwise, the word “county” and the words “King County” shall refer to the city, ~~and~~ references to violations of the county code or county ordinances shall be deemed to be references to violations of city ordinances, and references to “animal care and control authority or section” shall be deemed to be references to the city’s finance department for the purposes of the licensing responsibilities of Chapter 11.04 KCC and shall be deemed to be references to the city’s animal control entity and personnel for the purposes of the enforcement and inspection responsibilities of Chapter 11.04 KCC, and except that the pet license fees in KCC 11.04.035A.1, 2, and 3 shall be \$50 Unaltered, \$15 Altered, \$0 Juvenile, \$15 Senior citizen dog or cat:

KCC

- 11.04.010 Purpose.
- 11.04.020 Definitions.
- 11.04.030 Dog and cat licenses required.
- 11.04.033 Animal shelter, kennel, grooming service, cattery and pet shop – General licenses – Requirements.
- 11.04.035 Dog and cat license fees and penalties.
- 11.04.040 Animal shelter, kennel and pet shop license – Required.
- 11.04.050 Animal shelter and kennel license – Information required.
- 11.04.060 Hobby kennel license – Required.
- 11.04.070 Animal shelters, kennels and pet shops – Reporting required.
- 11.04.080 Animal shelters, kennels and pet shops – Inspections.
- 11.04.090 Animal shelters, kennels and pet shops – Conditions.
- 11.04.100 Animal shelters, kennels and pet shops – Conditions.

- 11.04.110 Animal shelters, kennels and pet shops – Outdoor facilities.
- 11.04.120 Grooming parlors – License required.
- 11.04.130 Grooming parlors – Conditions.
- 11.04.140 Animal shelters, hobby kennels, kennels, pet shops, grooming parlors, guard dog purveyors, guard dog trainers and guard dog owners – Additional conditions.
- 11.04.150 Licenses, registrations – Revocation, suspension or refusal to renew.
- 11.04.160 Licenses, registrations – Revocation or refusal waiting period.
- (2) Pet Shop License Exemption for Feed Stores for Seasonal Sales. Feed stores which sell live chickens, ducks, or rabbits on a seasonal or other temporary basis are exempt from obtaining a pet shop license under KCC 11.04.040. [Ord. 227 § 1, 1998; Ord. 11 § 2, 1993]

6.05.300 Enforcement and procedures – Adopted by reference.

The following sections of Chapter 11.04 KCC, as now in effect, and as may be subsequently amended, are adopted by reference, except that, unless the context indicates otherwise, the word “county” and the words “King County” shall refer to the city, ~~and~~ references to violations of the county code or county ordinances shall be deemed to be references to violations of city ordinances. references to “animal care and control authority or section” shall be deemed to be references to the city’s animal control agency and personnel, and references to the King County board of appeals shall be deemed to be references to the city’s hearing examiner:

KCC

- 11.04.170 Enforcement power.
- 11.04.180 Violations – Deemed nuisance – Abatement.
- 11.04.200 Violations – Civil penalty.
- 11.04.210 Impounding.
- 11.04.220 Additional enforcement.
- 11.04.230 Nuisances defined.
- 11.04.240A Unlawful acts against police department dogs.
- 11.04.250 Cruelty to animals – Unlawful acts designated.
- 11.04.260 Violations – Notice and order.
- 11.04.270 Appeals.
- 11.04.280 Redemption procedures.
- 11.04.290 Corrective action – Vicious animals.
- 11.04.300 Civil penalty and abatement costs – Liability of owner.
- 11.04.310 Costs of additional enforcement.
- 11.04.320 Miscellaneous service charges.
- 11.04.330 Additional rules and regulations.
- 11.04.335 Waiver of fees and penalties.
- 11.04.340 Severability.

A new subsection (B)(3) is to be added at the end of KCC 11.04.290, as adopted by reference pursuant to this section, with such new subsection to read as follows:

3. Any dog or other animal which inflicts severe injury on a human being without provocation on public or private property or kills a domestic animal without provocation while the dog or other animal is off the owner's property is declared to be a public nuisance and shall not be kept within the corporate limits of the City of Burien forty-eight hours following the owner's receipt of written notice from the ~~director or the City Manager or his or her designee~~city's animal control authority. Such animal or animals found in violation of this section are hereby declared to be a public nuisance and may be impounded and disposed of as an unredeemed animal, and the owner or keeper of such animal(s) has no right to redeem such dog or animal. For purposes of this subsection, the terms "Unprovoked," "Severe Injury" and "Injury" shall have the following meanings: "Unprovoked" means that an animal is not "provoked." An animal is "provoked" if the animal was being tormented, physically abused or hurt at the time of the incident. An animal also is "provoked" if a reasonable person would conclude that the animal was defending itself, its owner or an immediate family member of its owner, or another person within its immediate vicinity from an actual assault or was defending real property belonging to its owner or an immediate family member of its owner from a crime being committed on the owner's property at that time. An animal is not "provoked" if the victim is alleged to have provoked the animal and the victim is less than six (6) years old.

"Severe injury" means any injury that results in broken bones, disfiguring lacerations requiring multiple sutures (or according to a licensed physician would have required sutures) or cosmetic surgery, or causes a permanent impairment of the physical condition that limits one or more of the major life activities of such individual. It also means transmittal of an infectious or contagious disease by an animal.

"Injury" means any physical injury that causes physical pain or the impairment of the physical condition including, but not limited to, cuts, scrapes, bruises or punctures.

[Ord. 483 § 1, 2007; Ord. 11 § 3, 1993]

6.05.400 Appeals.

The ~~King County board of appeals~~city's hearing examiner is designated to hear appeals and to review determinations relating to licensing and to violations of city animal control ordinances, in accordance with KCC 11.04.270. [Ord. 11 § 4, 1993]

6.05.500 Violation – Penalty.

Any person who allows an animal to be maintained in violation of this title, or otherwise violates or fails to comply with any requirement of this title, shall be guilty of a violation of a city ordinance and shall be subject to punishment by fine of not more than \$5,000 or imprisonment for a term not in excess of one year, or both. [Ord. 11 § 11, 1993]

Chapter 6.10
DOG LEASH LAW

Sections:

6.10.100 Dog leash law – Adopted by reference.

6.10.100 Dog leash law – Adopted by reference.

The entire city is designated a dog control zone and the following sections of Chapter 11.08 KCC, as now in effect, and as may be subsequently amended, are adopted by reference, except that, unless the context indicates otherwise, the word “county” and the words “King County” shall refer to the city and references to violations of the county code or county ordinances shall be deemed to be references to violations of city ordinances:

KCC

11.08.010 Purpose.

11.08.020 Definitions.

11.08.030 Dogs at large prohibited in dog control zones.

11.08.060 Violations – Civil penalty.

11.08.070 Severability.

[Ord. 11 § 5, 1993]

Chapter 6.15
RABIES CONTROL

Sections:

6.15.100 Rabies control – Adopted by reference.

6.15.100 Rabies control – Adopted by reference.

The following sections of Chapter 11.12 KCC, as now in effect, and as may be subsequently amended, are adopted by reference, except that, unless the context indicates otherwise, the word “county” and the words “King County” shall refer to the city and references to violations of the county code or county ordinances shall be deemed to be references to violations of city ordinances:

KCC

11.12.010 Quarantine order.

11.12.020 Notice of rabies hazard – Quarantine period.

11.12.030 Violation of quarantine.

11.12.040 Destruction of infected animals.

11.12.050 Vaccination order.

11.12.060 Enforcement.

[Ord. 11 § 6, 1993]

Chapter 6.20
FOWL AND RABBITS

Sections:

6.20.100 Disposition of fowl and rabbits – Adopted by reference.

6.20.100 Disposition of fowl and rabbits – Adopted by reference.

The following sections of Chapter 11.20 KCC, as now in effect, and as may be subsequently amended, are adopted by reference except that, unless the context indicates otherwise, the word “county” and the words “King County” shall refer to the city and references to violations of the county code or county ordinances shall be deemed to be references to violations of city ordinances:

KCC

11.20.010 Age restriction for disposition or coloration.

11.20.202 Penalty for violations.

[Ord. 11 § 7, 1993]

|

Chapter 6.30 EXOTIC ANIMALS

Sections:

6.30.100 Exotic animals – Adopted by reference.

6.30.100 Exotic animals – Adopted by reference.

The following sections of Chapter 11.28 KCC, as now in effect, and as may be subsequently amended, are adopted by reference, except that, unless the context indicates otherwise, the word “county” and the words “King County” shall refer to the city, ~~and~~ references to violations of the county code or county ordinances shall be deemed to be references to violations of city ordinances, and references to “animal care and control authority or section” shall be deemed to be references to the city’s finance department for the purposes of the licensing responsibilities of Chapter 11.28 KCC and shall be deemed to be references to the city’s animal control entity and personnel for the purposes of the enforcement and inspection responsibilities of Chapter 11.28 KCC:

KCC

11.28.010 Chapter intent.

11.28.020 Definitions.

11.28.030 Possession unlawful – Exception – Rules and regulations compliance.

11.28.040 License – Issuance generally – Fees.

11.28.050 License – Application – Content.

11.28.070 Periodic inspection of premises.

11.28.080 License revocation – Notice – Hearing.

11.28.100 Euthanasia in exigent circumstances.

11.28.110 Chapter limitations.

11.28.120 Severability.

[Ord. 11 § 9, 1993]

Chapter 6.35 GUARD DOGS

Sections:

6.35.100 Guard dogs – Adopted by reference.

6.35.100 Guard dogs – Adopted by reference.

The following sections of Chapter 11.32 KCC, as now in effect, and as may be subsequently amended, are adopted by reference, except that, unless the context indicates otherwise, the word “county” and the words “King Count” shall refer to the city, ~~and~~ references to violations of the county code or county ordinances shall be deemed to be references to violations of city ordinances, and references to “animal care and control authority or section” shall be deemed to be references to the city’s finance department for the purposes of the licensing responsibilities of Chapter 11.32 KCC and shall be deemed to be references to the city’s animal control entity and personnel for the purposes of the enforcement and inspection responsibilities of Chapter 11.32 KCC:

KCC

11.32.010 Intent.

11.32.020 Definitions.

11.32.030 Guard dog purveyor – License – Fees.

11.32.040 Guard dog purveyor – License – Application.

11.32.050 Guard dog trainer – License – Fees.

11.32.060 Guard dog trainer – License – Application – Contents.

11.32.070 Guard dog – Registration.

11.32.080 Guard dog – Registration – Application – Contents.

11.32.090 Inspections.

11.32.110 Limitations.

11.32.120 Severability.

[Ord. 11 § 10, 1993]

Chapter 6.40
FEEDING OF BIRDS AND WILDLIFE

Sections:

6.40.100 Outdoor feeding.

6.40.200 Penalty.

6.40.100 Outdoor feeding.

It is unlawful for any person to feed or allow any domestic or wild animals or birds to feed outdoors at such times and in such numbers that:

(1) Such feeding creates an unreasonable disturbance, or accumulation of droppings on surrounding properties including public property, or

(2) Allows such feed or edible waste to remain uneaten for more than four hours. [Ord. 207 § 1, 1997]

6.40.200 Penalty.

Violation of this chapter shall constitute a civil infraction, punishable by a civil fine not to exceed \$2,000. [Ord. 207 § 2, 1997]

2010 – 2013 CONTRACT FOR ANIMAL CONTROL SERVICES

City of Burien and Companion Animal Medical Center,
dba Burien Animal Care and Control

This Agreement is entered into by and between the City of Burien, Washington, a noncharter optional municipal code city hereinafter referred to as "the City", and Companion Animal Medical Center, dba Burien Animal Care and Control, herein referred to as "the Contractor", whose principal office is located at 19655 1st Ave S., Suite 106, Normandy Park, WA 98148.

WHEREAS, the City has determined the need to have certain services performed for its citizens but does not have the resources to perform such services, and

WHEREAS, the City desires to have the Contractor perform such services pursuant to certain terms and conditions, now, therefore,

IN CONSIDERATION OF the mutual benefits and conditions set forth below, the parties hereto agree as follows:

1. Scope and Schedule of Services to be Performed by Contractor. The Contractor shall perform those services described on Exhibit A attached hereto and incorporated herein by this reference as if fully set forth. In performing such services, the Contractor shall at all times comply with all federal, state, and local statutes, rules and ordinances applicable to the performance of such services and the handling of any funds used in connection therewith. The Contractor shall request and obtain prior written approval from the City prior to the initiation of any specific task not included in the scope of services. If the scope or schedule is to be modified in any way, prior written approval is also required.
2. Compensation and Method of Payment. Payments shall be made by the City to the Contractor in monthly installments of \$10,000. The total amount to be paid shall not exceed \$120,000 annually. The Contractor shall complete and return Exhibit C, Taxpayer Identification Number, to the City on or before the execution of this Agreement.

With the monthly invoice, per the attached Billing Voucher (Exhibit B), shall be a monthly report of the past month's activities for which the invoice serves.

3. Duration of Agreement and Contract Review. This Agreement shall be in full force and effect for a period commencing July 1, 2010 and ending July 1, 2013 unless sooner terminated under the provisions hereinafter specified. Due to the new nature of this contract, the contract terms and services shall be reviewed by both parties no later than six months from the start date (by January 1, 2011) and periodically thereafter to determine if modifications to the scope of services and compensation are needed. Any changes shall be made in a written amendment to the contract.

4. Ownership and Use of Documents. All documents, drawings, specifications, computer files, photographs, calculations, models, maps, and other materials produced by the Contractor in connection with the services rendered under this Agreement shall be the property of the City whether the project for which they are made is executed or not.

5. Independent Contractor. The Contractor is and shall be at all times during the term of this Agreement an independent contractor, and not an employee of the City. Any and all employees of the Contractor or other persons while engaged in the performance of any work or services required of the Contractor under this Agreement shall be considered to be employees of the Contractor only, and not employees of the City. The Contractor and City agree to the following rights consistent with an independent contractor relationship:

A. Contractor has the sole right to control and direct the means, manner and method by which the services required by this Agreement will be performed.

B. Contractor will furnish all equipment and materials used to provide the services required by this Agreement.

C. The Contractor or Contractor's employees or contract personnel shall perform the services required by this Agreement; the City shall not hire or supervise any assistants to help Contractor.

D. Neither Contractor nor Contractor's employees or contract personnel shall receive any training from City in the skills necessary to perform the services required by this Agreement.

E. City shall not require Contractor or Contractor's employees or contract personnel to devote full time to performing the services required by this Agreement.

The Contractor acknowledges that it is responsible for the payment of all charges and taxes applicable to the services performed under this Agreement, and the Contractor agrees to comply with all applicable laws regarding the reporting of income, maintenance of insurance and records, and all other requirements and obligations imposed as a result of the Contractor's status as an independent contractor. If the City is assessed, liable or responsible in any manner for those charges or taxes, the Contractor agrees to hold the City harmless from those costs, including attorney's fees.

The Contractor shall provide at its sole expense all materials, office space, and other necessities to perform its duties under this Agreement, unless otherwise specified in writing.

The Contractor, at its expense, shall obtain and keep in force any and all necessary licenses and permits to perform the work provided for herein.

This Agreement shall be for the sole benefit of the parties hereto, and nothing contained herein shall create a contractual relationship with, or create a cause of action in favor of, a third party against either party hereto.

Contractor understands that neither Contractor nor Contractor's employees or contract personnel are eligible to participate in any employee pension, health, vacation pay, sick pay or other fringe benefit plan of the City. The City shall not obtain workers' compensation insurance on behalf of Contractor or Contractor's employees. City shall make no state or federal unemployment compensation payments on behalf of Contractor or Contractor's employees or contract personnel. Contractor will not be entitled to these benefits in connection with work performed under this Agreement. City shall not provide any insurance coverage of any kind for Contractor or Contractor's employees or contract personnel. Contractor agrees to maintain adequate insurance to cover any negligent acts committed by Contractor or Contractor's employees or agents while performing services under this Agreement.

6. Indemnification.

A. The Contractor agrees to indemnify the City from any claims, damages, losses, and costs, including, but not limited to, attorney's fees and litigation costs, arising out of claims by third parties for property damage and bodily injury, including death, caused either solely or in combination with the negligence or willful misconduct of third parties solely by the negligence or willful misconduct of the Contractor, the Contractor's employees, affiliated corporations, officers, and lower tier subcontractors in connection with this Contract.

B. The City agrees to indemnify Contractor from any claims, damages, losses, and costs, including, but not limited to, attorney's fees and litigation costs, arising out of claims by third parties for property damage and bodily injury, including death, caused either solely or in combination with the negligence or willful misconduct of third parties solely by the negligence or willful misconduct of the City, the Cities employees, or agents in connection with this Contract.

C. If negligence or willful misconduct of both the Contractor and the City (or a person identified above for whom each is liable) is a cause of such damage or injury, the loss, cost or expense shall be shared between the Contractor and the City in proportion to their relative degrees of negligence or willful misconduct and the right of indemnity shall apply for such proportion.

D. The Contractor hereby waives its immunity under Title 51 of the Revised Code of Washington for claims of any type brought by any Contractor agent or employee against the City. This waiver is specifically negotiated by the parties and a portion of the City's payment hereunder is expressly made the consideration for this waiver.

7. Insurance.

A. Commercial General Liability. The Contractor shall procure and maintain in full force throughout the duration of the Agreement commercial general liability insurance to cover liability, bodily injury, and property damage. The Commercial General Liability insurance shall be written on an occurrence basis and shall provide coverage for any and

all costs, including defense costs, and losses and damages resulting from personal injury, bodily injury and death, property damage, products liability and completed operations. Such insurance shall include blanket contractual coverage, including coverage for this agreement as now or hereafter amended and specific coverage for the indemnity provisions set forth herein. Coverage must be written with the following limits of liability:

Bodily and Personal Injury & Property Damage

\$ 1,000,000 per Occurrence

\$ 2,000,000 aggregate

- B. Professional Liability. In addition to the insurance provided for in Paragraph A above, the Contractor shall procure and maintain in full force professional liability insurance for those services delivered pursuant to this Agreement that, either directly through Contractor employees or indirectly through contractual or other arrangements with third parties, involve providing professional services. Such professional liability insurance shall be maintained in an amount not less than \$1,000,000.00 combined single limit per claim/aggregate. For the purposes of this Paragraph "professional services" shall include but not be limited to the provision of any services provided by any licensed professional.
- C. Comprehensive Auto Liability. In addition to the insurance provided for in Paragraph A and B above, the Contractor shall procure and maintain in full force Comprehensive Auto Liability insurance shall include owned, hired, and non-owned vehicles on an occurrence basis with coverage of at least \$1,000,000 per occurrence.

If the Contractor does not have the required insurance, the City may require it to stop operations until the insurance is obtained and approved.

Certificates of Insurance reflecting evidence of the required insurance and approved by the City's responsible Department Director or designee for the Comprehensive General Liability policies described above, shall be sent to the City. The certificates shall contain a provision that coverages afforded under these policies will not be canceled until at least 30 days' prior written notice has been given to the City. Contractor and its insurers, through policy endorsement, shall waive their rights of subrogation against the City for all claims and suits. The certificate of insurance must reflect this waiver of subrogation rights endorsement.

Each insurance policy required pursuant to this Agreement shall be primary and non-contributing as respects any coverage maintained by the City and shall include an endorsement reflecting the same. Any other coverage maintained by City shall be excess of this coverage herein defined as primary and shall not contribute with it. The certificate of insurance must reflect that the above wording is included in all such policies.

Each insurance policy obtained pursuant to this Agreement shall be issued by financially sound insurers who may lawfully do business in the State of Washington with a financial rating at all times during coverage of no less than rating of "A" and a class of "X" or

better in the latest edition of “Best’s Key Rating Guide” published by A.M. Best Company, or such other financial rating or rating guide approved in writing by the City’s risk manager. In the event that at any time during coverage, the insurer does not meet the foregoing standards, Contractor shall give prompt notice to the City and shall seek coverage from an insurer that meets the foregoing standards. The City reserves the right to change the rating or the rating guide depending upon the changed risks or availability of other suitable and reliable rating guides.

Commercial general liability insurance policies obtained pursuant to this Agreement by the Contractor or required by the Contractor from its vendors and subcontractors for events, shall name the City as an additional insured without limitation, pursuant to an endorsement approved of by the City’s responsible Department Director or designee.

Certificates of coverage as required by Paragraphs A, B and C above shall be delivered to the City on or before the execution of this Agreement.

8. Record Keeping and Reporting.

A. The Contractor shall maintain accounts and records, including personnel, property, financial and programmatic records which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed in the performance of this Agreement and other such records as may be deemed necessary by the City to ensure the performance of this Agreement.

B. These records shall be maintained for a period of seven (7) years after termination hereof unless permission to destroy them is granted by the office of the archivist in accordance with RCW Chapter 40.14 and by the City.

9. Reports - Printed Copies & Electronic Version: When reports are required to be submitted to the City pursuant to this agreement, Contractor will provide one printed copy to the City, and an electronic version. Said electronic version shall be submitted to the City in a computer format compatible with PC software programs in current use by the City (Microsoft Word, Microsoft Excel, Microsoft Access, Microsoft PowerPoint, Microsoft Publisher, Visio, AutoCAD, Adobe Acrobat).

10. Audits and Inspections. The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review or audit by law during the performance of this Agreement. The Contractor shall permit the City, State and Federal Agencies, from time to time as the City deems necessary or as required by state, local, or federal law or regulation, to inspect and audit, at any and all reasonable times, all pertinent books and records of the Contractor and any other person or entity which has performed work in connection with or related to the Contractor's services under this Agreement to verify the accuracy of accounting records, and shall supply the City with, or shall permit the City to make, a copy of any books and records and any portion thereof pertaining to work under this Agreement, upon the City's request. The Contractor shall ensure that such inspection, audit and copying right of the City is a condition of any contract, agreement or other arrangement under which any other

person or entity is permitted to perform work in connection with or related to the Contractor's services under this Agreement.

11. Termination

This Agreement in whole or in part may be terminated under the following conditions:

- A. By written mutual agreement of both parties. Termination under this provision may be immediate.
- B. Upon six (6) months written notice by either party to the other of intent to terminate.
- C. Failure to comply with the conditions of this contract may be grounds for termination. Contractor will be allowed reasonable time to correct conditions not in compliance with Agreement. However, the City may terminate this contract on 60 days notice for documented performance failures.
- D. Upon 30 days notice by the Contractor, in the event of property loss of the leased premises or natural disaster preventing performance under this Agreement.
- E. Upon 30 days notice by the City in the event of a conviction of a crime committed by the Contractor or one of its agents in the course of performing under this Agreement.

If this Agreement is terminated by either party, the City agrees to pay to the Contractor all costs and expenses associated with services provided to the effective day of termination. Monies due and payable will be pro-rated based on the number of service days performed through the date of termination.

Notwithstanding any termination hereunder, all requirements of this Agreement shall remain in full force and effect through the date of termination upon written notice from the City.

12. Discrimination Prohibited. The Contractor shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Contractor to be provided under this Agreement on the basis of race, creed, color, national origin, families with children, sex, sexual orientation, gender identity, marital status, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person.

13. Assignment and Subcontract. The Contractor may not assign or subcontract any portion of the services contemplated by this Agreement without the prior written consent of the City.

14. Conflict of Interest.

A. Governmental. No officer, employee or agent of the City who exercises any function or responsibilities in connection with the approval of, planning and carrying out of the program or services to which this Agreement pertains, nor any member of the immediate family of any such officer, employee or agent, shall have any personal financial interest, direct or indirect, in this Agreement, either in fact or in appearance, unless such interest is a remote interest as defined pursuant to RCW 42.23.040.

B. Contractor. The Contractor shall comply with all federal, state and City conflict of interest laws, statutes, regulations and policies as they shall apply to all parties and beneficiaries under this Agreement, as well as to officers, employees or agents of the City. The Contractor represents that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, in fact or in appearance, which would conflict in any manner or degree with the performance of the Contractor's services and obligations hereunder. The Contractor also agrees that its violation of the conflict of interest provisions of this agreement shall constitute a material breach of this contract subjecting the contract to termination. The Contractor has a continuing obligation to search and report any actual or potential conflicts of interest during the course of performing work under this Agreement.

C. Contractor Employees. The Contractor further covenants that, with respect to its performance of this Agreement, no person having any interest, direct or indirect, in fact or in appearance, which would conflict in any manner or degree with the performance of the Contractor's services and obligations hereunder, shall be employed to perform or provide services under this Agreement. The Contractor further covenants that it will implement and enforce requirements that its employees, with respect to this Agreement or the activities assisted by or through this Agreement, (a) will not use their position for personal gain, (b) will not engage in activities that directly or indirectly, in fact or in appearance, conflict with in any manner or degree, the performance of the Contractor's services and obligations hereunder, (c) will not have or obtain, directly or indirectly, a pecuniary interest, either for himself or herself or for those with whom he or she may have business ties or immediate family ties, or (e) will not benefit directly or indirectly, in fact or in appearance, either for himself or those with whom he or she may have business ties, and (f) will not accept or engage in outside employment that would conflict directly or indirectly, in fact or in appearance, with his or her responsibilities under this Agreement.

15. Standard of Services. Contractor agrees to perform services with that standard of skill and diligence normally provided by a professional organization in the performance of similar services. It is understood that the Contractor must perform the services based in part on information furnished by the City and that Contractor shall be entitled to rely on such information. However, Contractor is given notice that the City will be relying on the accuracy, competence and completeness of Contractor's services in utilizing the results of such services. To further this level of service, the contractor will develop, within 90 days of the beginning of this agreement, a set of written operational procedures relating to daily operations, and specifically euthanasia procedures. Such procedures shall be subject to the approval of the City and the contractor will be accountable for compliance.

Additional standards of service requirements shall include, but not be limited to, the following:

- Maintain good customer service skills;
- Respond to city/resident requests related to animal control services
- Maximize use of volunteers for animal control operations/adoption coordination;
- Maintain professional appearance; and
- Exercise professionalism with the public and public agencies.

Contractor warrants that the recommendations, guidance and performance of any person assigned under this Agreement are in accordance with generally accepted practices for handling and treatment of animals and professional standards and requirements of this Agreement.

16. Prohibited Use of Funds. None of the funds, material, property or services provided directly or indirectly in this Agreement shall be used in the performance of this Agreement for any partisan political activity or to further the election or defeat of any candidate for public office. None of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the Burien City council, the Washington State Legislature, the U.S. Congress, or any other legislative body.

17. Entire Agreement. This Agreement contains the entire Agreement between the parties hereto and no other Agreements, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or bind any of the parties hereto. Either party may request changes in the agreement. Proposed changes which are mutually agreed upon shall be incorporated by written amendments to this Agreement.

18. Notices. Administrative notices to the City of Burien shall be sent to the following address:

Jenn Ramirez Robson
City of Burien
400 SW 152nd St., Suite 300
Burien, Washington 98166
Telephone: (206) 439-3165
E-mail: JenniferR@burienwa.gov

Legal notices shall be sent to the Burien City Clerk at the above address.

Notices to the Contractor shall be sent to the following address:

Name: Dr. Leslie Kasper
Title: Owner, Companion Animal Medical Center
Address: 19655 1st Ave S, Suite106
Normandy Park, WA 98148
Telephone number: (206) 878-0405

The point of contact for the Contractor or the person responsible for the contract services is:

Name: Dr. Leslie Kasper
Telephone Number: (206) 878-0405
After Hours Emergency Number: xxx-xxx-xxxx
Fax Number:
E-mail: info@companionanimalmedical.com

19. City of Burien Business License. Contractor agrees to obtain a City of Burien business license prior to performing any work pursuant to this Agreement.

20. State of Washington Requirements. Contractor agrees to register and obtain any State of Washington business licenses, Department of Revenue account and/or unified business identifier number as required by RCW 50.04.140 and 51.08.195 prior to performing any work pursuant to this Agreement.

21. Applicable Law; Venue; Attorney's Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in King County, Washington. The prevailing party in any such action shall be entitled to its attorney's fees and costs of suit.

DATED this _____ day of _____, _____

CITY OF BURIEN, WASHINGTON

COMPANION ANIMAL MEDICAL CENTER

By: _____

By: _____

Title: City Manager

Title: _____

Date: _____

Date: _____

ATTACHMENT A

DUTIES AND RESPONSIBILITIES OF THE CONTRACTOR

A. Enforcement of Animal Regulatory Laws

The Contractor shall be fully responsible for taking animals into custody, transporting animals, investigating animal control complaints, and administering and enforcing animal control regulations, as set forth in the City's Municipal Code and the animal control provisions of the King County Code that have been adopted by the City. The responsibilities will include, but may not be limited to, the following:

1. Complaints and Referrals: The Contractor shall, within a minimum of one business day ~~investigate and follow up on~~ respond to all animal control complaints referred to it by the public, appropriate officers, health services or other entities where the complaints constitute violations of the Burien Municipal Code. Records shall be kept on each complaint, to include action(s) taken and disposition(s).

2. Apprehension: Apprehend and impound stray dogs. The Contractor shall follow the procedures in the City's animal control regulations and shall return the dog to the owner, if known, while the contractor is in the field and shall issue a written warning or notice of violation to the owner instead of impounding the animal for a first time offense. Subsequent offenses shall be impounded. Vicious animals at large must be impounded. Complete and accurate records of all apprehensions and impounds, including disposition of the animal, shall be maintained.

3. Secure evidence of suspected violators. Evidence shall be recorded, properly identified, and stored in a secure location until such time as the evidence is no longer required.

4. Distressed Animals: Animals in distress, including hardship cases, such as owner arrest or house fires, must be impounded. If a distressed animal cannot be safely impounded, it must be ~~destroyed~~ humanely euthanized immediately. The method of euthanization must be approved by the City.

7. Other Equipment: The Contractor shall have equipment available for hauling large animals and shall stock dog and cat traps, and cat carrying cases, for use by residents. A current and accurate inventory of all equipment shall be maintained.

Additionally, the Contractor shall have computer chip detection equipment to be able to detect and read computer chips in animals to assist in locating the owner.

8. Emergency Response: The Contractor for animal control services shall be available twenty-four (24) hours a day, seven (7) days a week, on an emergency response basis. Emergency response shall be for:

- a. Vicious animals, or animals wild or domestic that may reasonably constitute a hazard to persons or other animals or threaten public safety.
- b. Animals with life-threatening injuries.

c. Hardship cases or law enforcement assistance matters.

9. Court Appearances: The Contractor may, on occasion, be required to appear in court in support of enforcement action. The Contractor shall not receive additional compensation for these appearances.

10. Special Assistance: From time to time special assistance may be required to respond to unique circumstances and/or animal care needs. Such special assistance or care shall be the responsibility of the Contractor.

11. Enforcement Authority: In accordance with Section A. 14 below, the Contractor is authorized to impound animals, issue notices of violation and/or corrective action, determine animals to be vicious and prescribe compliance requirements therefore, and take other enforcement measures as set forth in the City's animal regulatory ordinances, provided that only City police officers are authorized to issue criminal citations.

12. Reporting: The Contractor shall provide complete and accurate reports to the City pertaining to the enforcement activities.

13. Telephone/Fax/Email: All inquiries via telephone, fax or email must be answered during regular business hours and there must be a number or rotating contact whereby the contractor may be contacted 24 hours a day, seven days a week on an emergency response basis. All calls for service shall be logged and a disposition recorded.

14. Enforcement Officers: All of the Contractor's enforcement officers shall have and maintain current knowledge of the City's animal control regulations and shall be authorized by the City Manager to enforce said regulations by such measures as impounding animals, issuing notices of violations and/or corrective action, determining animals to be vicious and prescribing compliance requirements therefore, and taking other enforcement measures as set forth in the City's animal regulatory ordinances.

The Contractor's enforcement officers shall not issue criminal citations. Whenever evidence of an animal control violation is discovered that the enforcement officer or the City police department believes warrants criminal investigation and/or prosecution, the enforcement officer shall coordinate with the police department as necessary and appropriate, including providing the department with a written report and assisting with further investigation.

All of the Contractor's enforcement officers shall provide due process to animal owners in accordance with the City's animal control regulations, including but not limited to providing notice to owners of enforcement actions and appeal rights.

All of the Contractor's enforcement officers shall be suitably uniformed to present a clean, respectable image to the public and shall utilize techniques for dealing with the public in a professional manner.

All of the Contractor's enforcement officers shall be trained and receive continuing education in investigation, reports preparation, and issuance of notices of violation and/or corrective action. All enforcement officers shall also be trained and receive continuing education in methods of animal control and handling procedures, in order to ensure officer safety, safety to the community, and the best possible handling of animals.

15. Cruelty Complaints: The Contractor shall respond to and provide resolution of complaints regarding animal cruelty. Whenever evidence of criminal animal cruelty is discovered, such complaints will be coordinated with the appropriate police agency for further investigation, along with a written report.

16. Activities Not Covered: The Contractor shall not generally be responsible for the following items:

- a. Removing dead animals from City roadways and rights-of-way.
- b. Responding to complaints or incidents involving wild animals, except where it is in the interest of public safety that the Contractor respond or to the extent of notifying the State Department of Fish and Wildlife.
- c. Rehabilitating and restoring to health animals that have been injured, neglected or abused [beyond basic care needed to stabilize an animal during the impound period.](#)

17. Records: The Contractor shall be required to develop its own record-keeping procedures and to maintain records of all animals it handles in the performance of the contract, which records shall at a minimum contain the following information:

- a. Description of the animal, including its breed, color, size, sex, disposition, where and how the animal was obtained, and the animal's owner if possible.
- b. Disposition of all complaints regarding animals.
- c. All dangerous or potentially dangerous animals and dog-bite incidents.
- d. All animals impounded, notices of violation issued, and the final disposition of such matters.
- e. Any additional information that may be required by the City through its regulatory ordinances.

The above-required information shall be available to the City on a monthly basis on approved forms as requested and shall be accessible to the City during normal business hours. Statistical information shall be provided monthly as required by the City.

18. Animal Transport Equipment: The Contractor shall be responsible for providing and maintaining sufficient patrol vehicles to carry out the enforcement activities of the contract. The patrol vehicles shall be equipped in such a manner as to provide humane treatment for the animals transported. Equipment obtained by the Contractor with the aid of City funding will become property of the City upon termination of this contract.

19. Random Patrol: In addition to providing the services indicated, the Contractor may be asked to provide random patrol as directed by the City.

B. Animal Shelter Facilities

The Contractor shall provide animal shelter services for all animals for which impounding or quarantine is authorized or ordered by the City or Public Health-Seattle & King County for animals subject to the City's jurisdiction. These facilities shall be operated and maintained on a 24-hour per-day basis, in a neat, clean and sanitary condition, in compliance with all applicable governmental statues, ordinances, rules and regulations and in conformity with established standards for humane animal care.

1. Shelter Hours: The Shelter or shelter representative shall be accessible for contact 24 hours a day, seven days a week on an emergency response basis. The animal shelter facility shall be opened to the public, with qualified staff on the premises, at least 40 hours each week, one day being Saturday, on a schedule approved by the City. The shelter will be closed on the following Holidays.

- a. Holiday Schedule
 - i. New Year's Day
 - ii. Memorial Day
 - iii. Independence Day
 - iv. Labor Day
 - v. Veterans Day
 - vi. Thanksgiving Day
 - vii. Christmas Day

2. Delivery of Animals: The Contractor shall provide a procedure whereby animals may be delivered to the shelter on a 24-hour basis.

3. Building: Contractor shall equip and organize the shelter to have an adequate number of dog kennels and cat cages, isolation facilities for sick dogs and cats, quarantine facilities for biters or injured animals, which are not necessarily sick, and access to large animal housing. The animal shelter shall be maintained in a clean and sanitary condition, and the Contractor will not permit any condition to exist that might constitute a public nuisance. The kennel shall comply with the ~~standards set forth in the Humane Society's Uniform Standards Guidelines (HSUS) for the operation of the animal shelter.~~ best practices and/or professional shelter standards promoted by national animal welfare organizations, such as, but not limited to, the Humane Society for the United States (HSUS), American Humane Association (AHA), ASPCA or Association of Shelter Veterinarians. The facility site shall be operated in conformance with the local zoning regulations and shall comply with all Federal, State and local regulations. Contractor shall be familiar and comply with all State and City ordinances and shall be responsible for obtaining all necessary approvals, permits and business licenses from the City.

4. Acceptance and Care of Animals: The Contractor shall provide care and treatment to all animals held in custody consistent with industry standards. Adequate housing ~~and~~, food and water shall be provided and the shelter shall not be overpopulated.

5. Reunification: The Contractor must make all reasonable efforts to reunite animals with owners before euthanasia or adoption, which efforts shall include accessing current licensing records,

using contact information on owner provided tags worn by the animal, and scanning all animals to detect implanted computer chips.

6. Adoption: The Contractor shall be responsible for making every reasonable effort to prepare and present animals suitable for adoption by the public and to facilitate the same. Unclaimed animals will be made available for claim by City approved adoption agencies. The adoption process shall take place as determined by the City in consultation with the Contractor, and the process may include completion of an application or questionnaire to help verify the potential new owner is acceptable and gather information to match the new owner with an appropriate pet.

7. Inspection of Premises: The City, through its authorized representatives, shall have the right to enter upon and inspect the premises during regular business hours for the purpose of inspecting the facilities for the above-mentioned conditions.

8. Disposal of Unclaimed Animals: The Contractor shall provide for the [adoption, transfer or humane disposal](#) of unclaimed animals after holding them for a minimum period as follows:

- Licensed dog or cat: at least 120 hours after telephone contact by the Contractor or for at least two weeks after posting of the notification of impoundment by regular mail.
- Unlicensed animal: 72 hours from the time of impoundment.

Under no circumstances shall animals not adopted be sold for purposes of medical research or other activities without the consent of the City. The Contractor shall be responsible for maintaining animals beyond the minimum time as may be required for the completion of any judicial process or to the extent required by law.

9. Euthanasia: Arrange and/or provide for the humane euthanasia and disposal of unwanted animals. This shall be accomplished in a manner approved by Federal or State regulations and shall not subject such animals to any unnecessary pain. Euthanasia will be performed in an area isolated from the kennel and out of sight of visitors to the kennel. Euthanasia will be performed by certified technicians only. The manner of euthanasia must be approved by the City.

10. Records: The Contractor shall be required to develop its own record-keeping procedure and to maintain records of all animals brought into the shelter, which shall include information on:

- a. description of animal;
- b. reason it was brought in;
- c. who brought in the animal;
- d. from what location the animal was brought in;
- e. time frame of when animal brought in, how long it stayed, and when it was released, redeemed, adopted, or euthanized;
- f. fees collected;
- g. record of all adoptions with names and addresses of new owner; and
- h. record of licenses sold with names and addresses.

The above-required information shall be available to the City on a monthly basis on approved forms as requested and shall be accessible to the City during normal business hours. Statistical

information shall be provided monthly as required by the City. The City shall also receive records of all dangerous or potentially dangerous dog-bite incidents.

11. Equipment: The Contractor shall furnish all equipment and supplies used in performing the Contractor's obligations arising under this agreement, except equipment and supplies that the City expressly promises to furnish.

12. Collect Fees: The Contractor shall be responsible for collecting appropriate impounding and boarding fees and submitting such to the City.

13. Licenses: The Contractor shall ensure that all animals released or adopted are properly licensed and vaccinated in accordance with City ordinances and shall remit license fees to the Cities.

14. Failure to Remit: Failure to remit records and/or fees on a monthly basis to the City can result in the City withholding service payment until resolved.

15. Audit Records and Reporting: The Contractor shall keep comprehensive records and submit regular reports to the City. All income and expenditures shall be recorded in accordance with generally accepted accounting principles. The financial records shall be subject to audit by the City at the time and place mutually convenient to the parties during the term and for a period of three (3) years thereafter. The Contractor understands that certain records may be subject to state mandated retention policies and public disclosure laws.

BILLING/PAYMENT INFORMATION:

The Contractor shall be paid a lump sum of \$10,000 each month for the services described above, for a total not to exceed \$120,000 annually. This compensation may change if services are adjusted after the contract review, to be done no later than six months from the start date of the contract (by January 1, 2011) and periodically thereafter.

EXHIBIT B

Billing Voucher

To: City of Burien
400 SW 152nd St., Suite 300
Burien, Washington 98166
Phone: (206) 241-4647
FAX: (206) 248-5539

Contractor: _____ Telephone: _____

Mailing Address: _____

Specific Program: _____

Contract period: _____ Reporting Period: _____

Amount requested this invoice: \$ _____

Invoice Number: _____ Date of Invoice _____

Authorized signature

BUDGET SUMMARY:

Total contract amount	\$ _____
Previous payments	\$ _____
Current request	\$ _____
Total requested this contract to date	\$ _____
Balance remaining	\$ _____

Note: If applicable, submit a separate voucher for each program which is funded by your City of Burien contract.

For Department Use Only

Approved for Payment:

_____ Date: _____

Burien Animal Care and Control: Impound Fees and Related Penalties

For unlicensed dogs/cats

Impound Fee:	\$45.00
Kenneling	\$12.00 per 24 hours
Animal-Related Violations (i.e. dog running at large)	
Dogs/Cats first offense	\$45
Second offense, within one year	\$85
Third offense, within one year	\$90
Unlicensed dog/cat	\$75

For licensed dogs/cats

Impound Fee:	\$45 Waived one time only
Kenneling:	\$12.00 per 24 hours
Animal-Related Violations (i.e. dog running at large)	
Dogs/Cats first offense	\$45 Waived one time only
Second offense, within one year	\$85
Third offense, within one year	\$90

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Motion to Adopt proposed Ordinance 541, Amending BMC Title 15, Buildings and Construction.		Meeting Date: June 21, 2010
Department: Community Development	Attachments: 1. Memorandum dated 6/16/10 2. Proposed Ord. 541 3. Exhibit A, BMC 15.05 4. Exhibit B, BMC 15.10 5. Exhibit C, BMC 15.12 6. Exhibit D, BMC15.20 7. Exhibit E, BMC 15.40 8. Edits to Exhibits 9. Memorandum dated 6/1/2010 10. Alternate to BMC 15.10.070	Fund Source: N/A Activity Cost: N/A Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Contact: Jan Vogee, Building Official		
Telephone: (206) 248-5523		
Adopted Work Plan Priority: Yes X No	Work Plan Item Description: Review Development Codes	
<p>PURPOSE/REQUIRED ACTION: The purpose of this agenda item is for the Council to discuss proposed Ordinance 541, amending BMC Title 15, Buildings and Construction.</p> <p>BACKGROUND (Include prior Council action & discussion): On June 7, Council held discussion on proposed Ordinance 541 to amend the Buildings and Construction Codes. Council requested additional information pertaining to residential fire sprinklers. The attached memorandum dated 6/16/2010 provides the information requested by council. On June 15, City and Fire department representatives met with the representative from Master Builders at which time it was agreed to include the adoption of fire sprinklers for buildings constructed under the International Residential Code in the adoption ordinance with an exception for one-family and two-family dwellings and their attached accessory structures (garages) less than 3600 square feet. On the afternoon of June 16th the representative from Master Builders sent an e-mail indicating he was not getting full support from the MBA board/membership for this agreement. Most residential areas within the City are not capable of providing adequate fire flow (the amount of water that should be available for providing fire protection at selected locations throughout a community) for residential structures that equal or exceed 3600 square feet. When the size of a home exceeds 3,599 square feet the fire flow requirement increases from a minimum of 1000 GPM to a minimum of 1,750 GPM or more. When a fire occurs at one of these larger structures, this requires additional fire suppression resources typically necessitating the need for mutual aid response from adjoining fire departments. For this reason, the 3600 square foot value was chosen. Also included is attachment 8 which includes a few pages showing where some minor edits were made to the attached exhibits because of typographical errors or omissions. Attachment 8 also shows the specific changes made to exhibit B in proposed BMC 15.10.070 related to Fire Sprinklers for residences constructed under the International Residential Code.</p> <p>OPTIONS (Including fiscal impacts):</p> <ol style="list-style-type: none"> 1. Adopt Proposed Ordinance No. 541 as presented. 2. Adopt Proposed Ordinance No. 541 with changes included in attachment 10, "Alternate to BMC 15.10.070" to exclude residential Fire Sprinklers in the International Residential Code. 3. Do not adopt Proposed Ordinance No. 541. 		
Administrative Recommendation: Hold discussion and adopt Proposed Ordinance No. 541 as presented.		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motion: Move to Adopt Ordinance No.541, Amending BMC Title 15, Buildings and Construction		
Submitted by: Jan Vogee, Building Official		
Administration _____	City Manager _____	
Today's Date: June 16, 2010	File Code: \\File01\records\CC\Agenda Bill 2010\062110cd-1 Amend BMC Title 15 Buildings and Construction.docx	

**CITY OF BURIEN, WASHINGTON
MEMORANDUM**

DATE: June 16, 2010

TO: Honorable Mayor and Members of the City Council

FROM: Jan Vogee, Building Official
Mike Marrs, Fire Chief
Bill Harm, Fire Marshall

SUBJECT: Information requested related to Fire Sprinklers discussion at June 7, 2010 council meeting.

1. Council asked how many of the home fires in Burien occurred in older homes vs. new homes.

The only data available to answer this question comes from the City's permitting system. The following table shows the number of single family residential structures for which permits were obtained from the City to repair Fire damage since January 1, 2006, sorted by the decade the home was constructed. While the homes constructed in the 1940's had the most number of fires followed by those constructed in the 1950's, the homes constructed in the last 10 years showed the highest percentage of fires.

Values for repair costs reflect only what the applicant or contractor provided to the City for the purpose of obtaining a permit. These amounts are typically undervalued as the permit fee is based on a percentage of the applicant's value. These amounts do not include any costs related to displacement of the occupants while repairs are made, electrical, plumbing, or mechanical equipment costs, or costs for replacement of contents.

Single Family Residence or Accessory Structure					
Decade Built	# built	# structures where a Permit was obtained for Fire Repair with last 5 years.	%	Applicant's Valuation of repair costs	Average Repair Value
2000 - Present	570	3	0.5%	\$ 119,500	\$ 39,833.33
1990 through 1999	496	0	0.0%	\$ -	
1980 through 1989	382	1	0.3%	\$ 19,642	\$ 19,642.00
1970 through 1979	615	1	0.2%	\$ 10,000	\$ 10,000.00
1960 through 1969	2,323	2	0.1%	\$ 75,000	\$ 37,500.00
1950 through 1959	4,796	4	0.1%	\$ 193,486	\$ 48,371.50
1940 through 1949	3,815	8	0.2%	\$ 268,631	\$ 33,578.88
1930 through 1939	1,003	1	0.1%	\$ 50,000	\$ 50,000.00
1920 through 1929	743	0	0.0%	\$ -	
1910 through 1919	326	0	0.0%	\$ -	
1900 through 1909	40	0	0.0%	\$ -	
Total	15,109	20	0.1%	\$ 736,259	\$ 36,812.95

2. Council asked for the real cost in Burien for Fire Sprinkler installations, including Water Meters.

The data available to answer this question comes from the City's permitting system and from the Water District representatives. The information provided in the June 7, 2010 presentation to council accurately reflects the all inclusive Water District Fees for increasing the water meter size from 5/8" or ¾" to 1" in order to accommodate the additional pressure needed in the line to accommodate fire sprinklers. In some cases, the sprinkler system can be designed without the increase, but it was included in this analysis to demonstrate a worst case scenario. No separate water meter is required in Burien. This was verified with each of the Water Districts.

<u>DISTRICT</u>		METER INSTALLATION DIFFERENCE	RATE DIFFERENCE MONTHLY / ANNUAL
Highline WD	(Per Gregg Wilson 684-5900)	\$2,886	\$7.75 / \$93
WD 20	(Per Dick Swab 243-3900)	\$500	- \$ 0. -
WD 125	(Per Shane Young 242-9547)	\$ 2,860	\$4.25 / \$51
WD 49	(Per Mary 242-8535)	\$2,900	- \$ 0. -
Seattle WD	(Per Ken 574-5900)	\$914	\$ 0.55 / \$6.60

Average cost to install Fire Sprinklers based on previous permits issued in Burien.

Single Family	Applicant Valuation for Sprinkler cost	Maximum Meter Cost Increase	Cost per Unit (Including Meter)	Gross Floor Area	Cost per SF Gross (Including Meter)	Cost per SF Sprinklers Only	Assessor's Value or Sales Price	Sprinkler & Meter Cost as a % of Sales Price or assessor value
Lowest Cost	\$ 3,500.00	\$ 2,900	\$6,550.96	5167	\$ 1.27	\$ 0.68	\$ 491,000	1.33%
Average Cost	\$ 5,547.70	\$ 2,900	\$ 8,653.46	3981	\$ 2.28	\$ 1.44	\$ 503,542	1.82%
Highest cost	\$ 4,339	\$ 2,900	\$7,413.06	1816	\$ 4.08	\$ 2.39	\$ 262,000	2.83%

3. Council asked what if any setbacks applied to single family residences.

The City's zoning code require all single family residences to be setback a minimum of 5 feet from side and rear property lines. If all residences were built to the minimum setback, there would be 10 feet between buildings. Attached homes require 2 hour fire walls between them. Where fire sprinklers are installed the fire wall construction can be reduced to 1-hour.

4. Council asked what the overall economic impact of Fire Sprinklers are to the community over time and how this relates to loss of life and property.

This is a tough question to answer or quantify. Staff has attempted to provide a list of some of the benefits to the community, as well as the estimated cost in construction increases per year to install sprinklers in new homes over 3600 square feet.

Over the last 5 years, 50 of the 225 new homes constructed in Burien exceeded 3600 square feet (based on City's permit System data). If all 50 were sprinklered, the estimated increase in construction costs at an average of \$8,600 per home (including the meter) would have been \$430,000. This equals \$86,000 per year. The loss of one home in one year can easily exceed a value of \$86,000.

Where homes are protected with fire sprinklers fires are extinguished by the sprinklers resulting in less property damage, lowering the value of insurance claims. Water damage from a fire sprinkler is much less than the water damage from a fire hose. Smaller fires mean fewer fire trucks reducing the possibility of need for mutual aide. Fire fighter safety is improved because the fire is either extinguished by the sprinklers or reduced in size making it more manageable for fire fighters.

With the advent of light weight construction materials now commonly used in new residential construction, the structural stability of these buildings when exposed to fire is compromised in a much shorter time than with traditional construction. This reduces that amount of time that building occupants can safely evacuate a burning residence. This also shortens the time frame that fire fighters can "safely" enter into on onto a burning structure without substantially increasing the chances for serious injury or death to our fire fighters. Sprinklers save lives. While smoke alarms notify occupants of a fire, the sprinklers help to prevent flashover allowing occupants time to exit the building.

5. Council asked how this would affect small zero lot line construction related to affordable housing.

Two-family dwellings (commonly known as duplexes) would only be affected if the gross floor area of the building exceeded 3600 square feet. This allows for two 1400 square foot residences with attached garages (400 SF each) to be constructed without requiring fire sprinklers.

6. Council asked how the 5,000 square foot threshold to require Fire Sprinklers was established for other jurisdictions.

In an attempt to achieve consistency between jurisdictions and an attempt to balance costs to those developing property with the impacts to the Fire Service, Kirkland, Mercer Island, Redmond, Sammamish, Shoreline, Steilacoom, and Woodinville set 5,000 SF as the threshold based on the fire fighting capabilities in their fire departments or fire districts. The combined effects of increased traffic congestion, traffic calming devices, increased density and limited ability to build new fire stations or increase the staffing levels at the existing stations all factored into this decision.

7. Council asked if Fire vehicle access can be reduced if fire sprinklers are installed.

Yes. Vehicle access road widths are allowed to be reduced when the homes are equipped with fire sprinklers. Fire hydrants spacing can also be increased, longer dead-end streets can be allowed, and the reduction in road widths can lead to an increase in the amount of land remaining to be used for housing lots, resulting in an increase in density.

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 541

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON AMENDING BURIEN MUNICIPAL CODE TITLE 15, (BUILDINGS AND CONSTRUCTION CODE) BY REPEALING CHAPTERS 15.05 (ADMINISTRATION), 15.10 (BUILDING CODE), 15.15 (MECHANICAL CODE), 15.20 (FIRE CODE); 15.30 (ELECTRICAL CODE); AMENDING CHAPTER 15.12 (AIRCRAFT NOISE REDUCTION), AND ADOPTING NEW CHAPTERS 15.05 (CONSTRUCTION ADMINISTRATIVE CODE), 15.10 (CONSTRUCTION CODES), 15.20 (FIRE CODE), AND 15.40 (BURIEN BUILDING AND PROPERTY MAINTENANCE CODE), PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Washington statute requires all jurisdictions in the state to adopt by reference and enforce the updated version of the State Building Code as set forth in RCW 19.27.031; and

WHEREAS, the updated version of the State Building Code will go into effect on July 1, 2010; and

WHEREAS, RCW 19.27.040 permits a city to amend the State Building Code as it applies within that city, so long as the minimum performance standards for the Code and the objectives enumerated in RCW 19.27.020 are not diminished; and

WHEREAS, the City Council of the City of Burien has adopted by reference the State Building Code and related construction codes for the health, safety and welfare of the citizens, as set forth in the Burien Municipal Code Title 15; and

WHEREAS, the City Council wishes to provide consistency in the administration of the construction codes; and

WHEREAS, the City Council wishes to provide standards for the maintenance of buildings and property within the City to protect the public health, safety and welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. BMC Chapter 15.05 Repealed. Chapter 15.05, Administration, of the Burien Municipal Code is hereby repealed.

Section 2. New BMC Chapter 15.05 Adopted. Title 15, Building and Construction, of the Burien Municipal Code is hereby amended by the adoption of a new Chapter 15.05, Construction Administrative Code which is attached hereto as Exhibit A and is incorporated herein by this reference.

Section 3. BMC Chapter 15.10 Repealed. Chapter 15.10, Building Code, of the Burien Municipal Code is hereby repealed.

Section 4. New BMC Chapter 15.10 Adopted. Title 15, Building and Construction, of the Burien Municipal Code is hereby amended by the adoption of a new Chapter 15.10, Construction Codes which is attached hereto as Exhibit B and is incorporated herein by this reference.

Section 5. BMC Chapter 15.12 Amended. Chapter 15.12 Aircraft Noise Reduction, of the Burien Municipal Code is hereby amended by revising BMC 15.12.080 which is attached hereto as Exhibit C and is incorporated hereto by this reference.

Section 6. BMC Chapter 15.15 Repealed. Mechanical Code, of the Burien Municipal Code is hereby repealed and relocated to BMC Chapter 15.10, Construction Codes.

Section 7. BMC Chapter 15.20 Repealed. Chapter 15.20, Fire Code, of the Burien Municipal Code is hereby repealed.

Section 8. New BMC Chapter 15.20 Adopted. Title 15, Building and Construction, of the Burien Municipal Code is hereby amended by the adoption of new Chapter 15.20, Fire Code which is attached hereto as Exhibit D and is incorporated herein by this reference.

Section 9. BMC Chapter 15.25 Repealed. Plumbing Code, of the Burien Municipal Code is hereby repealed and relocated to BMC Chapter 15.10, Construction Codes.

Section 10. BMC Chapter 15.30 Repealed. Electrical Code, of the Burien Municipal Code is hereby repealed and relocated to BMC Chapter 15.10, Construction Codes.

Section 11. New BMC Chapter 15.40 Adopted. Title 15, Building and Construction, of the Burien Municipal Code is hereby amended by the adoption of new Chapter 15.40, Burien Building and Property Maintenance Code, which is attached hereto as Exhibit E and is incorporated herein by this reference.

Section 12. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 13. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force beginning July 1, 2010.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE ____ DAY OF _____, 2010, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS ____ DAY OF _____, 2010.

CITY OF BURIEN

Joan McGilton, Mayor

ATTEST/AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Craig Knutson, City Attorney

Filed with the City Clerk:

Passed by the City Council:

Ordinance No.: 541

Date of Publication:

EXHIBIT A**Chapter 15.05 CONSTRUCTION ADMINISTRATIVE CODE**

Sections:

- 15.05.010 Short title.
- 15.05.015 Scope.
- 15.05.020 Definitions.
- 15.05.025 Appendices.
- 15.05.030 Intent.
- 15.05.035 Referenced codes.
- 15.05.040 International Building Code - Scope.
- 15.05.045 International Residential Code - Scope.
- 15.05.050 International Mechanical Code - Scope.
- 15.05.055 Liquid Propane Gas Codes - Scope.
- 15.05.060 International Fuel Gas Code - Scope.
- 15.05.065 International Fire Code – Scope.
- 15.05.070 Uniform Plumbing Code - Scope.
- 15.05.075 Burien Building and Property Maintenance Code – Scope.
- 15.05.080 Washington State Energy Code – Scope.
- 15.05.085 Burien Electrical Code- Scope.
- 15.05.090 Applicability.
- 15.05.095 Other laws.
- 15.05.100 Application of references.
- 15.05.105 Referenced codes and standards.
- 15.05.110 Partial invalidity.
- 15.05.115 Existing structures.
- 15.05.120 Maintenance.
- 15.05.125 Added electrical wiring.
- 15.05.130 Requirements not covered by code.
- 15.05.135 Moved buildings.
- 15.05.140 Moved buildings - electrical requirements.
- 15.05.145 Structures in areas of special flood hazard.
- 15.05.150 Building department – established.
- 15.05.155 Building Official designated.
- 15.05.160 Deputies.
- 15.05.165 Duties and power of building official.
- 15.05.170 Applications and permits.
- 15.05.175 Notices and orders.
- 15.05.180 Inspections.
- 15.05.185 Identification.
- 15.05.190 Right of entry.
- 15.05.195 Department records.
- 15.05.200 Liability.
- 15.05.205 Approved materials and equipment.
- 15.05.210 Used materials and equipment.

- 15.05.215 Modifications.
- 15.05.220 Alternative materials, design and methods of construction and equipment.
- 15.05.225 Research reports.
- 15.05.230 Tests.
- 15.05.235 Permits required.
- 15.05.240 Electrical permit required.
- 15.05.245 Work exempt from permit.
- 15.05.250 Emergency repairs.
- 15.05.255 Ordinary repairs.
- 15.05.260 Public service agencies.
- 15.05.265 Application for permit.
- 15.05.270 Areas of flood hazard.
- 15.05.275 Action on permit application.
- 15.05.280 Time limitation on permit application.
- 15.05.285 Validity of permit.
- 15.05.290 Permit expiration.
- 15.05.295 Permit extensions and renewals.
- 15.05.300 Permit suspension or revocation.
- 15.05.305 Placement of permit.
- 15.05.310 Floor and roof design loads.
- 15.05.315 Submittal documents.
- 15.05.320 Construction documents.
- 15.05.325 Examination of documents.
- 15.05.330 Use of consultants.
- 15.05.335 Expedited Plan Review.
- 15.05.340 Approval of construction documents.
- 15.05.345 Phased approval.
- 15.05.350 Design professional in responsible charge.
- 15.05.355 Deferred submittals.
- 15.05.360 Amended construction documents.
- 15.05.365 Retention of construction documents.
- 15.05.370 Temporary structures and uses.
- 15.05.375 Fees.
- 15.05.380 Inspections.
- 15.05.385 Traffic management systems.
- 15.05.390 Certificate of occupancy - Use and occupancy.
- 15.05.395 Service utilities.
- 15.05.400 Appeals.
- 15.05.405 Unlawful Acts.
- 15.05.410 Violations – Penalties.
- 15.05.415 Stop work order.
- 15.05.420 Unsafe structures and equipment.
- 15.05.425 Copies to be available.

15.05.010 Short Title

This chapter shall be known as the *Construction Administrative Code* of the city of Burien, hereinafter referred to as “this code.”

15.05.015 Scope.

The provisions of this code shall apply to the administration of the following construction codes,

- (1) International Building Code – Chapter 51-50 WAC;
- (2) International Residential Code – Chapter 51-51 WAC;
- (3) International Mechanical Code – Chapter 51-52 WAC;
- (4) National Fuel Gas Code (NFPA 54) – Chapter 51-52 WAC;
- (5) Liquefied Petroleum Gas Code (NFPA 58) – Chapter 51-52 WAC;
- (6) International Fuel Gas Code – Chapter 51-52 WAC;
- (7) Uniform Plumbing Code – Chapter 51 –56 and 51-57 WAC;
- (8) Washington State Energy Code – Chapter 51-11 WAC
- (9) International Existing Building Code – Chapter 51-50-4800000 except that Chapter 1 part 1 is retained.
- (10) Burien Electrical Code

15.05.020 Definitions.

For the purpose of this code, certain terms, phrases, words and their derivatives shall have the meanings set forth in this section. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster’s Third International Dictionary of the English Language, Unabridged latest edition, shall be considered as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

“Action” means a specific response complying fully with a specific request by the city.

“Amended construction documents” means changes or revisions to the approved plans which do not alter the size, shape, height, location or orientation on property, major components of the structural load path, or exiting requirements.

“BPMC” means the Burien Building and Property Maintenance Code as adopted by the city of Burien.

“Building official” means the officer or other authority designated by the city manager, or a duly authorized representative, charged with the administration and enforcement of the adopted administrative and construction codes.

“Building service equipment” means and refers to the plumbing, mechanical and electrical equipment including piping, wiring, fixtures, and other accessories which provide sanitation,

lighting, heating, ventilation, cooling, refrigeration, firefighting, and transportation facilities essential to the occupancy of the building or structure for its designated use.

“Complete response” means a written submittal responding to all requests from city staff in sufficient detail to allow the application to proceed or be processed

“Energy code” means the latest edition of the Washington State Energy Code promulgated by the Washington State Building Code Council as adopted by the city.

“IBC” means the latest edition of the International Building Code promulgated by the International Code Council as adopted by the city.

“IEBC” means the latest edition of the International Existing Building Code promulgated by the International Code Council as adopted by the city.

“IPMC” means the Burien Building and Property Maintenance code as adopted by the city of Burien.

“IMC” means the latest edition of the International Mechanical Code promulgated by the International Code Council as adopted by the city.

“IRC” means the latest edition of the International Residential Code for One- and Two-Family Dwellings promulgated by the International Code Council as adopted by the city.

“NEC” means the latest edition of the National Electrical Code promulgated by the National Fire Protection Association.

“Occupancy” means the purpose for which a building, or part thereof, is used or intended to be used.

“Public Service Agency” means those agencies providing non competitive services and rates to the public for the purpose of delivering electrical, water, sewer or gas utilities. The equipment installed by a public service agency shall be owned, operated and maintained by that agency.

“Shall” as used in this chapter, is mandatory.

“UPC” means the latest edition of the Uniform Plumbing Code promulgated by the International Association of Plumbing and Mechanical Officials as adopted by the city.

“Valuation” or “value” as applied to a building, structure, or building service equipment, shall mean the estimated cost to construct or replace the structure, building and its building service equipment in kind based on current construction or replacement costs. Current construction or replacement include fees for all architectural, engineering and construction management services, and includes all structural, electrical, plumbing, mechanical equipment and labor, including all contractors’ profits and all on-site preparation costs. The building official is authorized to utilize two (2) methodologies to determine valuation. The greater of the two methods (the square footage method vs. the total valuation method) shall be used to determine the construction valuation for the purpose of computing permit fees.

The valuation for a permit renewal or reinstatement shall be based upon the value of all work not completed prior to the permit expiration date, with a minimum valuation of \$4,000 for each required remaining inspection.

15.05.025 Appendices.

Provisions in the appendices shall not apply unless specifically adopted.

15.05.030 Intent.

The purpose of this code and the construction codes is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

15.05.035 Referenced codes.

The codes listed in Sections 15.05.040 through 15.05.85 BMC and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

15.05.040 International Building Code - Scope.

The provisions of the *International Building Code* (IBC) shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with separate means of egress and their accessory structures shall comply with the International Residential Code.

15.05.045 International Residential Code - Scope.

The provisions of the *International Residential Code for One- and Two-Family Dwellings* (IRC) shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with separate means of egress and their accessory structures.

Exception: Live/work units complying with the requirements of Section 419 of the *International Building Code* shall be permitted to be built as one- and two-family *dwellings* or townhouses. Fire suppression required by Section 419.5 of the *International Building Code* when constructed under the *International Residential Code for One- and Two-family Dwellings* shall conform to Section 903.3.1.3 of the *International Building Code*

15.05.050 International Mechanical Code - Scope.

The provisions of the *International Mechanical Code* (IMC) shall apply to the design, installation, maintenance, alteration and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings. This code shall also regulate those mechanical systems, system components, equipment, and appliances specifically addressed herein.

Exceptions:

1. The International Fuel Gas Code (IFGC) shall apply to all installations utilizing natural gas and gaseous hydrogen except those regulated by the IRC and those utilizing LPG
2. International Residential Code shall apply to all structures regulated by the IRC except LPG installations.
3. NFPA 54 (National Fuel Gas Code) and NFPA 58 (Liquid Petroleum Gas Code) shall apply to all LPG installations for liquefied petroleum gas (LPG) installations.

15.050.055 Liquid Propane Gas Codes - Scope.

The provisions of the *National Fuel Gas Code and Liquid Petroleum Gas Code (NFPA 54 and 58)* shall apply to the installation of all materials and equipment utilizing liquid propane gas.

15.05.060 International Fuel Gas Code – Scope.

The provisions of the *International Fuel Gas Code* (IFGC) shall apply to the installation of all materials and equipment utilizing natural gas except those regulated by the International Residential Code.

15.05.065 International Fire Code – Scope.

The provisions of the International Fire Code (IFC) shall apply to matters affecting or relating to the protection of structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.

15.05.070 Uniform Plumbing Code - Scope.

The provisions of the *Uniform Plumbing Code* shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, where connected to a water or sewage system and all aspects of a medical gas system.

15.05.075 Burien Building and Property Maintenance Code - Scope.

The provisions of the Burien Building and Property Maintenance Code shall apply to existing structure and premises; equipment and facilities; light, ventilation, space heating, sanitation, life and fire safety hazards; responsibilities of owners, operators and occupants; and occupancy of existing premises and structures.

15.05.080 Washington State Energy Code – Scope.

The provisions of the Washington State Energy Code shall apply to all matters governing the design and construction of buildings for energy efficiency.

15.05.085 Burien Electrical Code - Scope.

The provisions of the Burien Electrical Code apply to the installation of electric conductors, electric equipment and additions, alterations, modifications, or repairs to existing electrical installations for the following:

- (1) Electric conductors, electric equipment, and electrical raceways installed within or on public and private buildings, property or other structures.
- (2) Signaling and communications conductors and equipment, telecommunications conductors and equipment, fiber optic cables, and raceways installed within or on public and private buildings, property or other structures.
- (3) Yards, lots, parking lots, and industrial substations.
- (4) Temporary electrical installations for use during the construction of buildings.
- (5) Temporary electrical installations for carnivals, conventions, festivals, fairs, traveling shows, the holding of religious services, temporary lighting of streets, or other approved uses.
- (6) Installations of conductors and equipment that connect to a supply of electricity.
- (7) All other outside electrical conductors on the premises.
- (8) Optional standby systems derived from portable generators.

Exception: Installations under the exclusive control of electric utilities for the purpose of communication, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utilities or on public highways, streets, roads, etc., or outdoors by established rights on private property.

It is the intent of this section that the Burien Electrical Code covers all premises' wiring or wiring other than utility owned metering equipment, on the load side of the service point of buildings, structures, or any other premises not owned or leased by the utility. Also, it is the intent that the Burien Electrical Code covers installations in buildings used by the utility for purposes other than listed in above, such as offices buildings, warehouses, garages, machine shops, and recreational buildings which are not an integral part of a generating plant, substation, or control center.

15.05.090 Applicability.

(1) **General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern except that the hierarchy of the codes as specified in RCW 19.27.031 shall govern.

(2) **New Installations.** This code applies to new installations.

Exception: If an electrical, plumbing or mechanical permit application is received after this code has taken effect, but is identified with a building permit application received prior to the effective date of the ordinance codified in this chapter, all applicable codes adopted and in force at the time of a complete building permit application will apply.

(3) **Existing installations.** Lawfully installed existing installations that do not comply with the provisions of this chapter shall be permitted to be continued without change, except as is specifically covered in this chapter, the International Fire Code, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public. Where changes are required for correction of hazards, a reasonable amount of time shall be given for compliance, depending on the degree of the hazard.

(4) **Maintenance.** Building and structures, including their electrical, plumbing and mechanical systems, equipment, materials and appurtenances, both existing and new, and parts thereof shall be maintained in proper operating condition in accordance with the original design and in a safe, hazard-free condition. Devices or safeguards that are required by this chapter shall be maintained in compliance with the code edition under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of the systems and equipment. To determine compliance with this provision, the building official shall have the authority to require that the systems and equipment be re-inspected.

(5) **Additions, alterations, modifications or repairs.** Additions, alterations, modifications or repairs to a building or structure or to the electrical, plumbing or mechanical system(s) of any building, structure, or premises shall conform to the requirements of this code, without requiring those portions of the existing building or system not being altered or modified to comply with all the requirements of this code. Installations, additions, alterations, modifications, or repairs shall not cause an existing building to become unsafe or to adversely affect the performance of the building as determined by the building official or designated representative.

Electrical wiring added to an existing service, feeder, or branch circuit shall not result in an installation that violates the provisions of the code in force at the time the additions were made.

Minor additions, alterations, renovations and repairs to existing mechanical systems shall meet the provisions for new construction, unless such work is done in the same manner and arrangement as was in the existing system, is not hazardous, and is approved the building official.

Exceptions:

1. Additions constructed under the International Residential Code with less than 500 square feet of conditioned floor area are exempt from the requirements for Whole House Ventilation Systems, Section M1508.
2. Additions or alterations to existing buildings constructed under the International Residential Code, which do not require the construction of foundations, crawlspaces, slabs or basements, shall not be required to meet the requirements for radon protection in Section R327.1 and Appendix F.

15.05.095 Other laws.

The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

15.05.100 Application of references.

References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

15.05.105 Referenced codes and standards.

The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

15.05.110 Partial invalidity.

In the event that any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

15.05.115 Existing structures.

The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the Burien Building and Property Maintenance Code, the International Fire Code, or as is deemed necessary by the building official or fire marshal for the general safety and welfare of the occupants and the public. Alterations to existing structures shall be permitted to be performed in accordance with WAC 51-50-48000 (International Existing Building Code).

15.05.120 Maintenance.

Structures and installations, both existing and new, and parts thereof shall be maintained in proper operating condition in accordance with the original design and in a safe condition. Devices or safeguards shall be maintained in compliance with the code edition under which they were constructed or installed. The owner or the owner's designated agent shall be

responsible for maintenance of structures and installations. To determine compliance with this provision, the building official shall have the authority to require an installation to be re-inspected.

15.05.125 Added electrical wiring.

Electrical wiring added to an existing service, feeder, or branch circuit shall not result in an installation that violates the provisions of the code in force at the time the additions were made.

15.05.130 Requirements not covered by code.

Requirements necessary for the strength, stability or proper operation of an existing or proposed structure or installation, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the building official.

15.05.135 Moved buildings.

(1) Buildings or structures moved into or within the city shall comply with the provisions of the International Residential Code (WAC 51-51), the International Building Code (WAC 51-50), the International Mechanical Code (WAC 51-52), the International Fire Code (WAC 5154), the Uniform Plumbing Code and Standards (WAC 51-56 and 51-57), the Washington State Energy Code (WAC 51-11), and the Washington State Ventilation and Indoor Air Quality Code (WAC 51-13) for new buildings or structures.

Exceptions: Group R-3 buildings or structures are not required to comply with this section if:

1. The original occupancy classification is not changed; and
2. The original building is not substantially remodeled or rehabilitated. For the purposes of this section, a building shall be considered to be substantially remodeled when the costs of remodeling exceed 60 percent of the value of the building exclusive of the costs relating to preparation, construction, demolition, or renovation of foundations.

(2) Prior to relocation, a feasibility inspection shall be performed on the building or structure by a registered design professional to document any known structural deficiencies, examine existing plumbing and mechanical systems, inspect insulated areas of the structure and check for life safety deficiencies. A copy of the inspection reports shall be submitted along with a building permit application for relocation.

(3) Structures which do not conform to minimum requirements at the time of initial construction, or current life safety regulations, or are found substantially deficient in structural integrity, shall be subject to correction.

(4) See BMC 12.17.095 (Building Moving) for additional permit requirements.

15.05.140 Moved buildings - electrical requirements.

- (1) Nonresidential buildings or structures moved into or within the jurisdiction must be inspected to ensure compliance with current requirements of this chapter.
- (2) Residential buildings or structures wired in the U.S. to NEC requirements and moved into the jurisdiction must be inspected to ensure compliance with the NEC requirements in effect at the time and place the original wiring was made. The building or structure must be inspected to ensure compliance with all current requirements of Chapter 19.28 RCW and the rules developed by the building department if:
 - (a) The original occupancy classification of the building or structure is changed as a result of the move; or
 - (b) The building or structure has been substantially remodeled or rehabilitated as a result of the move.
- (3) Residential buildings or structures wired in Canada to Canadian Electrical Code (CEC) standards and moved into the jurisdiction must be inspected to ensure compliance with the following minimum safety requirements:
 - (a) Service, service grounding, and service bonding must comply with the Burien Electrical Code.
 - (b) Canadian Standards Association (CSA) listed Type NMD cable is allowed with the following qualifications:
 - (i.) CSA listed Type NMD cable, American Wire Gauge #10 and smaller installed after 1964, utilizing an equipment grounding conductor smaller than the phase conductors, must be:
 - A. Replaced with a cable utilizing a full-size equipment grounding conductor; or
 - B. Protected by a ground fault circuit interrupter protection device.
 - (ii.) CSA listed Type NMD cable, #8 AWG and larger, must:
 - A. Utilize an equipment grounding conductor sized according to the requirements of the NEC in effect at the time of the installation;
 - B. Be protected by a ground fault circuit interrupter protection device; or
 - C. Be replaced.
 - (c) Other types of wiring and cable must be:
 - (i.) Replaced with wiring listed or field evaluated in accordance with U.S. standards by a laboratory approved by the department; or
 - (ii.) Protected by a ground fault circuit interrupter protection device and arc fault circuit protection device.
 - (d) Equipment, other than wiring or panelboards, manufactured and installed prior to 1997, must be listed and identified by laboratory labels approved by the department or CSA labels.
 - (e) All panelboards must be listed and identified by testing laboratory labels approved by the department with the following qualifications:

- (i.) CSA listed panelboards labeled "Suitable for Use as Service Equipment" will be considered to be approved as "Suitable for Use only as Service Equipment."
 - (ii.) CSA listed panelboards must be limited to a maximum of 42 circuits.
 - (iii.) CSA listed panelboards used as lighting and appliance panelboards, as described in the NEC, must meet all current requirements of the NEC and this chapter.
- (f) Any wiring or panelboards replaced or changed as a result of the move must meet current requirements of Chapter 19.28 RCW and this chapter.
 - (g) The location, type, and ground fault circuit interrupter protection of receptacles and equipment in a bathroom, kitchen, basement, garage, or outdoor area must meet the Washington requirements in effect at the time the wiring was installed.
 - (h) 4, 15-ampere, kitchen small appliance circuits will be accepted in lieu of 2, 20-ampere, kitchen small appliance circuits. Receptacles will not be required to be added on kitchen peninsular or island counters.
 - (i) Spacing requirements for all other receptacles must meet the Washington requirements in effect at the time the wiring was installed.
 - (j) Receptacles installed above baseboard or fixed wall space heaters must be removed and the outlet box covered with a blank cover. The receptacle is required to be relocated as closely as possible to the existing location.
 - (k) Lighting outlet and switch locations must meet the Washington requirements in effect at the time the wiring was installed.
 - (l) Dedicated 20-ampere small appliance circuits are not required in dining rooms.
 - (m) Electric water heater branch circuits must be adequate for the load.
 - (n) The location, type, and circuit protection of feeders must meet the Washington State requirements in effect at the time the wiring was installed.

15.05.145 Structures in areas of special flood hazard.

Buildings located in Areas of Special Flood Hazard shall be regulated under the International Building Code, the International Residential Code and the Burien Municipal Code.

15.05.150 Building department – Established.

There is established for the city the "building department" which shall be under the supervision and control of the city manager or his/her authorized representative.

15.05.155 Building official designated.

The building official shall be appointed by the city manager.

15.05.160 Deputies.

In accordance with the prescribed procedures of the city of Burien and with the concurrence of the appointing authority, the building official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the building official.

15.05.165 Duties and power of the building official.

The building official is hereby authorized and directed to enforce the provisions of this code and Title 15 BMC. The building official shall have the authority to render interpretations of this code and Title 15 BMC and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code and Title 15 BMC. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code and Title 15 BMC.

15.05.170 Applications and permits.

The building official shall receive applications, review construction documents and issue permits for the erection, alteration, demolition and moving of buildings, structures and building service equipment, inspect the premises for which such permits have been issued, and enforce compliance with the provisions of this code and the construction codes.

15.05.175 Notices and orders.

- (1) The building official shall have the authority to issue all necessary notices or orders to ensure compliance with this code.
- (2) Following a city of Burien issued formal declaration of emergency, the building official shall be authorized to evaluate and provide building safety evaluations. Evaluations shall generally follow standards from the Applied Technology Council ATC 20, ATC 20-1, or ATC 45 manuals. The procedure shall allow for the tagging of buildings as "Inspected", "Limited Entry" or "Unsafe", along with a associated penalties per BMC 15.05.405 and BMC 15.05.410 of this code for removal of building tags. Notice of orders pertaining to dangerous buildings and appeal procedures established under adopted building codes shall not apply under official declarations of emergency.

15.05.180 Inspections.

The building official shall make all of the required inspections and shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, at the applicant's expense.

15.05.185 Identification.

Building department personnel shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

15.05.190 Right of entry.

Where it is necessary to make an inspection to enforce the provisions of this code, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

15.05.195 Department records.

The city shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

15.05.200 Liability.

This title shall not be construed to relieve or lessen the responsibility of any person, partnership, firm, association, or corporation owning, building, altering, constructing, or moving any building or structure as defined in this title; nor shall the city or any agent thereof be held as assuming such liability by reason of inspection authorized herein or a certificate of inspection issued by the city or any of its agencies.

The building official or employee charged with the enforcement of this code and Title 15 BMC, while acting for the city of Burien in good faith and without malice in the discharge of the duties required by this code and Title 15 BMC or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code and Title 15 BMC shall be defended by legal representative of the city of Burien until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code and Title 15 BMC.

15.05.205 Approved materials and equipment.

Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

15.05.210 Used materials and equipment.

The use of used materials and building service equipment which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the building official.

15.05.215 Modifications.

Wherever there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department. The building official is authorized to charge an additional fee to evaluate any proposed modification under the provisions of this section.

15.05.220 Alternative materials, design and methods of construction and equipment.

The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved the building official as provided herein. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. The building official is authorized to charge an additional fee to evaluate any proposed alternate material, design and or method of construction and equipment under the provisions of this section.

15.05.225 Research reports.

Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

15.05.230 Tests.

Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in

order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the city of Burien. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the city for the period required for retention of public records.

15.05.235 Permits required.

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the city and obtain the required permit. A separate permit is required for each building or structure.

Exceptions:

1. When deemed appropriate by the building official, accessory buildings and structures may be included under the permit of the main building or structure.
2. A single demolition permit may be issued for the demolition of multiple structures on a single tax parcel.

15.05.240 Electrical permit required.

In accordance with Chapter 19.28 RCW, an electrical permit is required for the following installations:

- (1) The installation, alteration, repair, replacement, modification or maintenance of all electrical systems, wire and electrical equipment regardless of voltage.
- (2) The installation and/or alteration of low voltage systems defined as:
 - (a) NEC, Class 1 power limited circuits at thirty volts maximum.
 - (b) NEC, Class 2 circuits powered by a Class 2 power supply as defined in NEC 725.41(A).
 - (c) NEC, Class 3 circuits powered by a Class 3 power supply as defined in NEC 725.41(A).
- (3) Telecommunications Systems.
 - (a) Installation of telecommunications systems on the customer side of the network demarcation point for projects greater than ten telecommunications outlets.
 - (b) All backbone installations, regardless of size, and all telecommunications cable or equipment installations involving penetrations of fire barriers or passing through hazardous locations.
 - (c) The installation of greater than ten outlets and the associated cables along any horizontal pathway from a telecommunications closet to work areas during any continuous ninety-day period requires a permit and inspection.

- (d) Backbone installations in multifamily residential dwellings which require penetration of fire barriers or installation of more than ten outlets in common areas.
- (e) Definitions of telecommunications technical terms shall be as set forth in Chapter 19.28 RCW, EIA/TIA standards, and the Burien Electrical Code.

15.05.245 Work exempt from permit.

Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of the city of Burien. Permits shall not be required for the following except when located in a special flood hazard area or other areas within the city requiring critical area review by the zoning code:

- (1) Building:
 - (a) One-story detached accessory structures which are accessory to residential buildings and constructed under the provisions of the IRC used as tool and storage sheds, tree supported play structures, playhouse and similar uses, provided the floor area does not exceed 200 square feet (18.58 m²) and the structure is located in accordance with all land use regulations.
 - (b) Fences 6 feet (1829 mm) or less in height
 - (c) Oil derricks.
 - (d) Retaining walls which are 4 feet (1219 mm) or less in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.
 - (e) Water tanks not utilized for fire protection water supplies which are supported directly on grade, if the capacity is 5,000 gallons (18 925 L) or less and the ratio of height to diameter or width does not exceed 2 to 1.
 - (f) Sidewalks and driveways that are not part of an accessible route.
 - (g) Decks, associated platforms and steps accessory to buildings, which are 30 inches (762 mm) or less above adjacent grade and which are not over any basement or story below and which are not part of an accessible route.
 - (h) Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work, provided that existing accessible features are not altered.
 - (i) Replacement of nonstructural siding on IRC structures, except for veneer, stucco or "Exterior Finish and Insulation Systems" (EFIS).
 - (j) In-kind re-roofing of one- and two-family dwellings provided the roof sheathing is not removed or replaced.
 - (k) Window replacement for IRC structures in Airport Noise Reduction Area 3, where no alteration of structural members is required, the window U-Values meet the prescriptive requirements of the Washington State Energy Code, the window

glazing is not required to be safety glass, and minimum dimensions and placement of any required egress window is not reduced.

- (l) Temporary motion picture, television, and theater stage sets and scenery.
 - (m) Prefabricated swimming pools accessory to a One- and Two-Family Dwelling or Group R-3 occupancy, which are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (18 925 L) and are installed entirely above ground.
 - (n) Shade cloth structures constructed for garden, nursery or agricultural purposes and not including service systems.
 - (o) Swings, slides and other similar playground equipment.
 - (p) Window awnings that are supported by an exterior wall of One- and Two-Family Dwellings, Group R-3 occupancies, or Group U occupancies and that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
 - (q) Non-fixed and movable cases, counters and partitions 5 feet 9 inches (1753 mm) or less in height.
 - (r) Satellite earth station antennas 6-1/2 feet (2 m) or less in diameter or diagonal dimensions in zones other than residential zones.
 - (s) Satellite earth station antennas 3-1/4 feet (1m) or less in diameter in residential zones.
 - (t) Video programming service antennas 3-1/4 feet (1 m) or less in diameter or diagonal dimension, regardless of zone.
 - (u) Job shacks that are placed at the job site during a construction project, for which a permit has been issued or applied, may be allowed on a temporary basis and shall be removed upon final approval of construction. A job shack is a portable structure, for which the primary purpose is to house equipment and supplies and which may serve as a temporary office during construction for the purposes of the construction project.
 - (v) Electrical transmission towers and telephone poles, hydraulic flood control structures, and other structures under the control of a public utility or public agency, which are located in a public right of way or public easement.
- (2) Electrical:
- (a) Portable motors or other portable appliances which are energized by means of a cord or cable having an attachment plug end to be connected to an approved receptacle, when that cord or cable is permitted by the National Electrical Code.
 - (b) Repair or replacement of fixed motors, transformers, or fixed approved appliances or devices rated fifty amps or less and which are like-in-kind and in the same location.
 - (c) Temporary decorative lighting; when used for a period not to exceed ninety days and removed at the conclusion of the ninety-day period.

- (d) Repair or replacement of current-carrying parts of any switch, conductor or control device, which are like-in-kind and in the same location.
 - (e) Repair or replacement of attachment plug(s) and associated receptacle(s) rated fifty amperes or less, which are like-in-kind in the same location.
 - (f) Repair or replacement of any over current device, which is like-in-kind and in the same location.
 - (g) Repair or replacement of electrodes or transformers of the same size and capacity for signs or gas tube systems.
 - (h) Removal of electrical wiring.
 - (i) Telecommunication outlet installations within individual dwelling units.
 - (j) Listed wireless security systems for which power is supplied by a listed Class 2 plug-in transformer and which are installed within dwelling units
 - (k) The installation, alteration or repair of electrical wiring, apparatus or equipment or the generation, transmission, distribution or metering of electrical energy or in the operation of signals or the transmission of intelligence, by a public or private utility in the exercise of its function as a serving utility.
 - (l) Portable generators serving only cord and plug connected loads supplied through receptacles on the generator.
 - (m) Travel trailers.
 - (n) Like-in-kind replacement of a: contactor, relay, timer, starter, circuit board, or similar control component; household appliance; circuit breaker; fuse; residential luminaire; lamp; snap switch; dimmer; receptacle outlet; thermostat; heating element; luminaire ballast with an exact same ballast; component(s) of electric signs, outline lighting, skeleton neon tubing, when replaced on-site by an appropriate electrical contractor and when the sign, outline lighting or skeleton neon tubing electrical system is not modified; ten horsepower or smaller motor; and induction detection loops that comply with WAC 296-46B-300(2) and are used to control gate access devices.
- (3) Gas:
- (a) Portable heating, cooking or clothes drying appliances.
 - (b) Replacement of any minor part that does not alter its approval or make it unsafe.
- (4) Mechanical:
- (a) Portable heating, cooking or clothes drying appliances.
 - (b) Portable ventilation equipment.
 - (c) Portable cooling units.
 - (d) Steam, hot or chilled water piping that is within any heating or cooling equipment regulated by this code.
 - (e) Replacement of any part which does not alter its approval or make it unsafe.
 - (f) Portable evaporative coolers.

- (g) Self-contained refrigeration systems containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.
 - (h) Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected.
- (5) Plumbing:
- (a) The stopping and/or repairing of leaks in drains, water, soil, waste or vent pipes, provided, however, that should any concealed trap, drain pipe, water, soil, waste or vent pipe become defective and it becomes necessary to remove and replace the same with new material, the same shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.
 - (b) The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require replacement or rearrangement of valves, pipes or fixtures.
 - (c) Reinstallation or replacement of approved pre-fabricated fixtures that do not involve or require the replacement or rearrangement of valves or pipes.
- (6) Grading:
- (a) Grading in an isolated, self-contained area, provided that there is no danger to the public and such grading will not adversely affect adjoining properties, as determined by the building official.
 - (b) Excavation for construction of a structure permitted under this code.
 - (c) Cemetery graves.
 - (d) Refuse disposal sites controlled by other regulations.
 - (e) Excavations for wells and trenches for utilities.
 - (f) Mining, quarrying, excavating, processing or stockpiling rock, sand, gravel, aggregate or clay controlled by other regulations, provided such operations do not affect the lateral support of, or significantly increase stresses in, soil on adjoining properties.
 - (g) Exploratory excavations performed under the direction of a registered design professional.
 - (h) An excavation below existing finished grade for basements and footings of an existing building, retaining wall or other structure, for which the structure is authorized by a valid building permit.
 - (i) An excavation of less than 50 cubic yards of material, which is less than 2 feet in depth and which does not create a cut slope of a ratio steeper than two horizontal to one vertical.
 - (j) A fill of less than 50 cubic yards of material, which is less than 1 foot in depth and placed on natural terrain with a slope flatter than five horizontal to one vertical.

15.05.250 Emergency repairs.

Where equipment replacements and equipment repairs must be performed in an emergency situation, the permit application shall be submitted to the city within the next working business day.

15.05.255 Ordinary repairs.

Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps, or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement, or relocation of, any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

15.05.260 Public service agencies.

A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering, or other related equipment, which is under the ownership and control of public service agencies..

15.05.265 Application for permit.

To obtain a permit the applicant shall first file a complete permit application in writing on a form furnished by the building department for that purpose. Such application shall include:

- (1) A description of the work to be covered by the permit for which application is made.
- (2) The legal description or tax parcel number, and the street address if available, which will readily identify and definitely locate the proposed building or work.
- (3) The property owner's name, address, and phone number.
- (4) The prime contractor's business name, address, phone number, and current state contractor registration number.
- (5) For building projects valued at over five thousand dollars, either:
 - (a) The name, address, and phone number of the office of the lender administering the interim construction financing, if any; or
 - (b) The name and address of the firm that has issued a payment bond, if any, on behalf of the prime contractor for the protection of the owner, if the bond is for an amount not less than fifty percent of the total amount of the construction project.
- (6) The use or occupancy for which the proposed work is intended.
- (7) Plans, diagrams, computations and specifications and other information as required in BMC 15.05.315, 15.05.320 and 15.05.350.

- (8) Valuation of the proposed work.
- (9) Signature of the applicant or the applicant's authorized agent.
- (10) Such other data and information as required by the city.

The information required on the building permit application by subsections (2) through (5) of this section shall be set forth on the building permit document, which is issued to the owner, and on the inspection record card, which shall be posted at the construction site.

If the information required by subsection (5) of this section is not available at the time the application is submitted, the applicant shall so state, and the application shall be processed and the permit issued as if the information had been supplied, and the lack of the information shall not cause the application to be deemed incomplete for the purposes of vesting. However, the applicant shall provide such information as soon as the applicant can reasonably obtain such information.

15.05.270 Areas of flood hazard.

Areas prone to flooding and designated in Areas of Flood Hazard shall provide application information per Burien Municipal Code Chapter 15.55

15.05.275 Action on permit application.

City staff shall examine or cause to be examined applications for permits and amendments thereto, prior to acceptance of the building, plumbing, mechanical, electrical, fire prevention or related permit application. If the application is incomplete or the construction documents or other submittal information lacks sufficient information to demonstrate compliance with applicable codes and standards, the application shall be returned to the applicant stating the reasons therefore. If city staff is satisfied that the application and construction documents are complete and provide sufficient information to proceed with review, the building official shall accept the permit application and collect the appropriate submittal fees.

Notwithstanding the language of this section or any other provision of this code, no building permit shall be issued, until all other project permits related to the project action for which the building permit is sought have been approved and issued and all related fees, bonds, and approval conditions have been paid and/or satisfied, including but not limited to: SEPA approvals, subdivisions, building site plans, variances, shoreline permits, and frontage improvement requirements.

- (2) Revisions to the submittal documents, not requested by the city, may be accepted by the city; however the revisions may result in additional fees being assessed. Substantial revisions may require a new permit application to be submitted, as determined by the building official.

15.05.280 Time limitation on permit application.

- (1) Permit applications that are received on or after July 1, 2010 for which no permit is issued within 18 months following the date of application shall expire by limitation, and plans

and other data submitted for review may thereafter be returned to the applicant or destroyed in accordance with state law.

(2) Permit applications that were received on or before June 30, 2010 for which no permit has been issued shall be permitted to remain active until December 31, 2011. If at that time the permit is not issued, the application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed in accordance with state law. Where the original permit application was received prior to July 1, 2007, the building official is authorized to require plans and other supporting information to be updated to current codes in order for the permit application to remain active in accordance with this section.

(3) Existing and new applications for which no permit has been issued may be canceled for inactivity, if an applicant fails to respond to the building official's written request for revisions, corrections, actions or additional information within 90 days of the date of request. The building official may extend the response period beyond 90 days, if within the original 90-day time period the applicant provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections or other information requested by the building official.

(4) The building official may extend the life of an application for an additional 180 days beyond the expiration period established in subsection (1) of this section, if any of the following conditions exist:

- (a) Compliance with the State Environmental Policy Act is in progress;
- (b) Any other city review is in progress, provided the applicant has submitted a complete response to city requests for information or corrections;
- (c) The building official determines that unique or unusual circumstances exist that warrant additional time for such response, and the building official determines that the review is proceeding in a timely manner toward the final city decision; or
- (d) Litigation against the city or applicant is in progress, the outcome of which may affect the validity or the provisions of any permit issued pursuant to such application.

(5) The building official may place a permit application on hold for up to one year, if requested to do so in writing by a permit applicant.

(6) Any balance owing for plan review or other review fees shall be paid prior to any approval for extension of the permit application.

15.05.285 Validity of permit.

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or the construction codes or of any other ordinance of the city. Permits presuming to give authority to violate or cancel the provisions of this code or the construction codes or other ordinances of the city shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction

documents and other data. The building official is also authorized to prevent occupancy or use of a structure when in violation of this code or of any other ordinances of the city. This section shall be applied, implemented and interpreted consistent with the statutes and court decisions of the State of Washington.

15.05.290 Permit Expiration.

- (1) Every issued permit shall expire 2-years from the date of issuance. The building official may approve a request for an extended expiration date, when construction work is performed in phases extending beyond the 2-year period due to the unique size and scope of project work and a construction schedule is provided by the applicant and approved prior to permit issuance.
- (2) Permits issued for applications submitted prior to July 1, 2010 shall be valid for 2 years from the date of adoption of this code, unless a written request for extension is approved by the building official prior to permit expiration or the permit is renewed in accordance with BMC 15.05.295. Where new codes have been adopted or required to be enforced per RCW 19.27 since the time of permit issuance, the building official is authorized to require construction documents to be updated to current codes and submitted as a permit revision for review and approval by city staff.
- (3) Mechanical, plumbing, electrical and other ancillary permits shall expire at the same time as the associated building permit, except that if no associated building permit is issued, the mechanical, plumbing, electrical, and/or other ancillary permit shall expire 2 years from the date of issuance.

15.05.295 Permit Extensions and Renewals

Permits may be extended, renewed or re-established by the building official in compliance with the terms and conditions of this section.

- (1) **Permit Extensions.** A permit expiration date may be extended in accordance with the following:
 - (a) The written request for extension is received prior to the date of permit expiration.
 - (b) Upon written request from the owner, the building official or authorized representative is authorized to extend the expiration date up to 90 days with no additional fee, when all inspections except final inspection have been performed and approved. If all work is not completed within the 90-day extension period, the permit shall expire unless renewed under the provisions of subsection (2) of this section.
- (2) **Permit Renewals.** A permit may be renewed for a period of no more than 1 year from the date of original expiration in accordance with the following:
 - (a) A written request for renewal shall be received prior to the date of permit expiration.
 - (b) A permit may be renewed one time subject to approval by the building official, as long as no unauthorized changes have been made to the originally approved plans and the applicant continues to make regular requests for inspections.

- (c) The applicant shall pay an additional fee based on the valuation of the work remaining to be inspected.
- (3) **Expired permit re-establishment.** A permit that has expired may be re-established one time in accordance with the following:
 - (a) A written request for re-establishment is received by the building official within 6 months after the date of permit expiration.
 - (b) No unauthorized changes have been made to the originally approved plans, and the applicant agrees to make regular requests for inspections.
 - (c) The applicant shall pay an additional fee based on the valuation of the work remaining to be inspected.
 - (d) The re-established permit shall expire 1 year from the date of reestablishment and may not be further renewed or extended.

15.05.300 Permit suspension or revocation.

The building official is authorized to suspend or revoke a permit issued under the provisions of this code, whenever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or when the permit is in violation of any ordinance or regulation or any of the provisions of this code. This section shall be applied, implemented and interpreted consistent with the statutes and court decisions of the State of Washington.

15.05.305 Placement of permit.

The building permit or copy shall be kept on the site of the work until the completion of the project.

15.05.310 Floor and roof design loads.

- (1) **Live Loads Posted.** Where the live load for which each floor or portion thereof of a commercial or industrial building is or has been designed to exceed 50 psf (2.40kN/m²), such design live load shall be conspicuously posted by the owner in that part of each story in which they apply, using durable signs. It shall be unlawful to remove or deface such notices.
- (2) **Issuance of certificate of occupancy.** A certificate of occupancy required by BMC 15.05.390 shall not be issued until the floor load signs required by this section have been installed.
- (3) **Restrictions on loading.** It shall be unlawful to place, cause or permit to be placed, on any floor or room of a building structure or portion thereof, a load greater than is permitted by this code.

15.05.315 Submittal documents.

Submittal documents, consisting of construction documents, statement of special inspection, geotechnical reports, and other data, shall be submitted with each permit application. The construction documents shall be prepared by a registered design professional

when required by the State of Washington. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional, if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

15.05.320 Construction documents.

(1) Building.

- (a) **Information on construction documents.** Construction documents shall be dimensioned and drawn upon material acceptable to the building official. Electronic media documents are permitted to be submitted when approved by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed in the proper orientation and layout as it is to be constructed and shall show in detail that the work will conform to the provisions of this code and relevant laws, ordinances, rules and regulations, as determined by the building official. The plans must include the relevant items listed in this section and any other information or documents as deemed necessary by the building official.
- (b) **Braced wall lines.** All braced wall lines shall be identified on the construction documents, and all pertinent information, including, but not limited to, bracing methods, location and length of braced wall panels, and foundation requirements of braced wall panels at top and bottom, shall be provided.
- (c) **Fire protection system shop drawings.** Shop drawings for the fire protection system(s) shall be submitted to indicate conformance with this code and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in Chapter 9 of the IBC. Shop drawings shall be prepared by a certified individual as required by the State of Washington.
- (d) **Means of egress.** The construction documents shall show in sufficient detail the location, construction, size and character of all portions of the means of egress in compliance with the provisions of this code. In occupancies within the scope of the International Building Code, the construction documents shall designate the number of occupants to be accommodated on every floor and in all rooms and spaces.
- (e) **Exterior wall envelope.** Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with this code. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane, and details around openings. The construction documents shall include manufacturer's installation instructions, which provides

supporting documentation that the proposed penetration and opening details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system which was tested, and where applicable, the test procedure used. In addition to these requirements, multi-unit structures as defined in RCW 64.55.010 shall comply with the submittal requirements listed in RCW 64.55.020.

Exception: Subject to the approval of the building official, R-3, One- and Two-Family Dwellings, and their accessory structures may be exempted from the detailing requirements of this subsection.

- (f) **Site plan.** The construction documents submitted with the permit application shall be accompanied by a site plan, showing to scale the size and location of new construction and existing structures on the site, distances from lot lines, the established street grades, and the proposed finished grades and, as applicable, flood hazard areas, floodways, and design flood elevations. The site plan shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The building official is authorized to waive or modify the requirement for a site plan, when the application for permit is for alteration or repair or when otherwise warranted.
- (g) **Design flood elevations.** Where design flood elevations are not specified, they shall be established in accordance with Section 1612.3.1 of the IBC and BMC 15.55.

(2) **Electrical.**

- (a) **Electrical plans.** Electrical plans for the following installations shall be prepared by, or under the direction of, an electrical engineer registered under Chapter 18.43 RCW and Chapters 180-29, 246B-320, and 388-97 WAC. All electrical plans must bear the engineer's stamp and signature:
 - (i.) All educational facilities, hospitals, and nursing homes;
 - (ii.) All services or feeders rated 1,600 amperes or larger;
 - (iii.) All installations identified in the National Electrical Code as requiring engineering supervision; and
 - (iv.) As required by the building official for installations which by their nature are complex, hazardous, or pose unique design problems.
- (b) **Construction documents.** Construction documents shall identify the name and classification of the facility and clearly show the electrical installation or alteration in floor plan view, include all switchboard and panelboard schedules, and, when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation, and interrupting rating of equipment.
- (c) **Penetrations.** Construction documents shall indicate where penetrations will be made for electrical systems and shall indicate the materials and methods for maintaining required structural safety, fire-resistance rating, and fireblocking.

- (d) **Load calculations.** Where an addition or alteration is made to an existing electrical system, an electrical load calculation shall be prepared to determine if the existing electrical service has the capacity to serve the added load.
- (e) **Site plan.** The construction documents submitted with the application for permit shall be accompanied by a site plan, showing to scale the size and location of new construction and existing structures on the site, distances from lot lines, the established street grades, and the proposed finished grades. The site plan shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The building official is permitted to waive or modify the requirement for a site plan, where the application for permit is for alteration or repair or where otherwise warranted.
- (f) **Plan review required.** Electrical plan review is required for all new or altered electrical projects in the following occupancies and/or installations including but not limited to:
- (i) Educational, institutional, or health care facilities/buildings as follows:
 - A. Hospitals.
 - B. Nursing home units or long-term care units.
 - C. Boarding homes.
 - D. Assisted living facilities.
 - E. Private alcoholism hospitals.
 - F. Alcoholism treatment facilities.
 - G. Private psychiatric hospitals.
 - H. Maternity homes.
 - I. Ambulatory surgery facilities
 - J. Renal hemodialysis clinics.
 - K. Residential treatment facilities for psychiatrically impaired children and youth.
 - L. Adult residential rehabilitation centers.
 - M. Educational facilities.
 - N. Institutional facilities.

Exceptions: Electrical Plan review is not required for the following types of installations in the above educational, institutional, or health care facilities buildings:

1. Lighting specific projects that result in an electrical load reduction on each feeder involved in the project.
2. Low voltage systems.

3. Modification to existing electrical installations when all of the following conditions are met:
 - 3.1. Service or distribution equipment involved is rated 100 amperes or greater and does not exceed 250 volts;
 - 3.2. Does not involve emergency systems other than listed unit equipment per NEC 700.12(F);
 - 3.3. Does not involve branch circuits or feeders of an essential electrical system as defined in NEC 517.2; and
 - 3.4. Service and feeder load calculations are increased by 5% or less.
 4. Stand-alone utility fed services that do not exceed 250 volts, 100 amperes, where the project's distribution system does not include:
 - 4.1. Emergency systems other than listed unit equipment per NEC 700.12(F);
 - 4.2. Critical branch circuits or feeders as defined in NEC 517.2, or
 - 4.3. A required fire pump system.
- (ii) Alterations in non-residential occupancies 2,500 square feet and greater.
 - (iii) Installations in occupancies except One and Two Family Dwellings where a service or feeder rated 100 amperes or greater is installed or altered or if more than 100 amperes is added to the service or feeder.
 - (iv) All work on electrical systems operating at/over 600 Volts.
 - (v) All commercial generator installations or alterations.
 - (vi) All work in areas classified as hazardous locations by the NEC.
 - (vii) If 60% or more of luminaires change.
 - (viii) Installations of switches or circuit breakers rated four hundred amperes or over except for one and two family dwellings.
 - (ix) Wind driven generators.
 - (x) Solar photovoltaic systems.
 - (xi) Any proposed installation which cannot be adequately described in the application form.

(3) **Plumbing.** Plans must be submitted for review and approval whenever the scope of the work is too complex for inspection alone as determined by the building official. Construction documents for buildings more than two stories in height shall indicate where penetrations will be made for plumbing systems and the materials and methods for maintaining required structural safety, fire-resistance rating and fireblocking.

(4) **Mechanical.** Plans must be submitted for review and approval whenever the scope of the work is too complex for inspection alone as determined by the building official. Construction documents for buildings more than two stories in height shall indicate where penetrations will be made for mechanical systems and the materials and methods for maintaining required structural safety, fire-resistance rating and fireblocking.

15.05.325 Examination of documents.

The building official shall examine or cause to be examined the accompanying submittal documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances.

15.05.330 Use of Consultants.

Whenever review of a building permit application requires retention by the city for professional consulting services, the applicant shall reimburse the city the full cost of such professional consulting services. This fee shall be in addition to the normal plan review and building permit fees. The city may require the applicant to deposit an amount with the city estimated in the discretion of the building official to be sufficient to cover anticipated costs for retaining professional consultant services and to ensure reimbursement of such costs.

15.05.335 Expedited Plan Review.

At the time of application, an applicant may request that plans be sent to city approved contract consultants, if the applicant believes that such review may expedite the plan review process. The request must be in writing and acknowledge that the applicant agrees to pay the full consultant fee, which is in addition to the normal plan review and building permit fees collected by the city. The city may require the applicant to deposit with the city an amount estimated by the city to be sufficient to cover anticipated costs for the expedited consultant review and to ensure reimbursement of such costs.

15.05.340 Approval of construction documents.

When the building official issues a permit, the construction documents shall be approved in writing or by stamp. One set of construction documents so reviewed shall be retained by the city. The other set shall be returned to the applicant, shall be kept at the site of work, and shall be open to inspection by the building official or a duly authorized representative.

15.05.345 Phased approval.

The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted. The city is authorized to require that a performance bond or other security acceptable to the city be posted with the city in an amount equal to 150 percent of the cost of demolition and removal of the work authorized under a phased approval. The security shall be rescindable or refundable upon issuance of a building permit for the complete building

or structure and a request in writing for the refund. It shall be the duty of the applicant to request a refund within 180 days of the permit issuance. Failure to request a refund within the specified time period may result in forfeiture of the full amount.

15.05.350 Design professional in responsible charge.

When it is required that documents be prepared by a registered design professional, the building official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional to act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional to perform the duties required of the original registered design professional. The building official shall be notified in writing by the owner, if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.

The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building. Where structural observation is required by Chapter 17 IBC, the statement of special inspections shall name the individual or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur (see also duties specified in Section 1704 of the IBC).

At least one set of documents prepared by a registered design professional shall bear the seal or stamp of the design professional and shall contain the original signature of the design professional.

Exceptions:

1. Supporting documents such as engineering calculations, geotechnical reports, and specifications need only bear an original stamp and signature on the cover sheet of the supporting documents.
2. With permission of the building official, a copy of the original stamp and original signature may be accepted on the documents.

15.05.355 Deferred submittals.

For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the building official within a specified period. Deferral of any submittal items shall have the prior approval of the building official.

The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the building official. Documents for deferred submittal items shall be submitted to the registered design professional in responsible charge, who shall review them and forward them to the building official with a notation indicating that the deferred submittal documents have been reviewed and found to be in general conformance to the design of the building. The deferred submittal items shall not be installed until the deferred submittal documents have been approved by the building official.

The city is authorized to charge an additional review fee to evaluate deferred submittals under the provisions of this section.

15.05.360 Amended construction documents.

Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents. The building official may authorize minor field changes subject to the approval of the field inspector. Where changes to the approved plans alter the size, shape, height, location or orientation on the property, major components of the structural load path, or exiting requirements, a new permit application shall be submitted and applicable fee paid.

15.05.365 Retention of construction documents.

One set of approved construction documents shall be retained by the city for a period of not less than 180 days from date of final inspection approval or permit expiration or as required by state law.

15.05.370 Temporary structures and uses.

(1) **General.** The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The building official is authorized to grant extensions for demonstrated cause.

Exception: The building official may authorize unheated tents and yurts less than 500 square feet accommodating an R-1 occupancy for recreational use as a temporary structure and allow them to be used indefinitely.

(2) **Electrical.** If the building official finds that the safety of life and property will not be jeopardized, permits may be issued for temporary electrical installations for use during the construction of buildings or for carnivals, conventions, festivals, fairs, the holding of religious services, temporary lighting of streets, or other approved uses. Permission to use such temporary installations shall not be granted for a length of time greater than ninety days, except that a permit for a temporary installation to be used for constructing a building may be issued for the period of construction. Where such temporary lighting is over the street area, the proper authorization for such use of the street must first be obtained.

All such temporary installations shall be made in accordance with the requirements of this code provided that the building official may permit deviations which will not permit hazards to life or property, and further provided that, whenever such hazards are deemed by the building official to exist, the building official may at once rescind or cancel the permit covering such installation and disconnect, or order the disconnection of, all energy to such equipment.

(3) **Conformance.** Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation, and sanitary requirements of this code, as necessary to ensure the public health, safety and welfare.

(4) **Termination of approval.** The building official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

15.05.375 Fees.

(1) **Payment of fees.** A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be issued until the additional fee, if any, has been paid.

(2) **Schedule of permit fees.** For buildings, gradings, demolitions and structures, and for electrical, gas, mechanical, fire protection, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required in accordance with this code and the fee schedule adopted by resolution of the city council, as now or hereafter amended. In no case shall the building permit fee be less than the city's hourly inspection fee multiplied by the number of inspections expected to be performed for work authorized by the permit. The city manager is authorized to establish fees for any permit activity not specifically set forth herein.

(3) **Plan Review Fees.** When submittal documents are required, a plan review fee shall be paid at the time of submitting the documents for plan review. The building official may have the option to charge a deposit in lieu of the full plan review fee, if the full amount is not known at the time. Any plan review deposit shall be applied toward the total plan review fee owed. The actual permit fees and related plan review fee shall be determined upon completion of the plan review, and the balance owing shall be paid at the time of permit issuance. The plan review fee shall be a separate fee from the permit fees specified in this section and shall be in addition to the permit fees. When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items, an additional plan review fee may be charged. Any balance owing for plan review shall be paid prior to any approval for extension of the permit application.

(4) **Building permit valuations.** The permit applicant shall provide an estimated permit value at time of application. Permit valuation or valuation shall be as defined in BMC 15.05.020. The final determination of value or valuation under any of the provisions of this code shall be made by the building official.

(5) **Work commencing before permit issuance.** Any person who commences any work on a building or structure or grading or on any gas, electrical, mechanical, fire protection or plumbing system before obtaining the necessary permits shall be subject to a stop work order and a special investigation fee in an amount equal to twice the permit fee. The special investigation fee shall be in addition to the required permit fees.

When it is determined that construction has taken place that required a permit and construction is at such a stage that structural conformance cannot be visually assured by the building official, the owner shall comply with the following:

- (a) As determined necessary by the building official the owner shall hire a licensed registered design professional to submit a certified report as to the structural integrity of the structure erected and the compliance of the structure with applicable construction codes and regulations along with the building permit application. This document (certification) must state any deficiencies and the acceptable (code) corrective action.
 - (b) As determined necessary by the building official the owner shall secure building, electrical, fire, plumbing and/or mechanical permits.
 - (c) As determined necessary by the building official the owner shall remove construction materials in order to validate the systems have been installed correctly.
 - (d) As determined necessary by the building official, the owner shall substantiate and/or show proof of compliance with all applicable local, state and federal laws pertaining to land use.
 - (e) As determined necessary by the building official, a site inspection and a life safety inspection shall be obtained, when temporary occupancy approval or use of the building or structure is needed prior to permit issuance and final inspection.
- (6) **Related fees.** The payment of the fee for the construction, alteration, removal or demolition of work done in connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.
- (7) **Refunds.** The building official may authorize refunding not more than 80 percent of the permit fee paid, when no work has been done under a permit issued in accordance with this chapter. The building official may authorize refunding not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid, is withdrawn or canceled before any plan review is done. The building official shall not authorize refunding any fee paid except on written application filed by the original permittee not later than 180 days after the date of fee payment.

15.05.380 Inspections.

Construction or work for which a permit is required shall be subject to inspection by the building official, and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the city. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the city shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the city shall be liable for expense entailed in the removal or replacement of any material as required to allow for inspection. Electrical systems and equipment regulated by the Burien Electrical Code shall not be connected to the energy source until authorized by the building official.

- (1) **Preliminary inspections.** Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites, for which an application has been filed.

- (2) **Manufacturer's installation instructions.** Manufacturer's installation instructions, as required by this code, shall be available on the job site at the time of inspection.
- (3) **Required inspections.** The building official, upon notification, shall make the following inspections:
- (a) **Temporary erosion and sediment control inspection.** Temporary erosion and sediment control inspections shall be made after all required silt fencing, construction fencing, straw bales, storm drain catch basin inserts (socks), entrance rocking, and other required elements are in place and prior to commencement of construction and/or clearing the site.
 - (b) **Footing and foundation inspection.** Footing and foundation inspections shall be made after poles or piers are set, trenches or basement areas are excavated, or excavations for footings are complete, any forms erected, and all required hold-down anchor bolts, hold-down straps, and any required reinforcing steel is in place and supported. The foundation inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, or equipment. Foundation inspections shall also include special requirements for wood foundations and for any setbacks required from a property line, building setback line, critical area buffer, and/or the ordinary high water mark on waterfront properties. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job except that where concrete is ready-mixed in accordance with ASTM C 94, the concrete need not be on the job.
 - (c) **Concrete slab and under-floor inspection.** Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, slab insulation, piping accessories, and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.
 - (d) **Electrical Underground.** Underground inspection shall be made after trenches or ditches are excavated and bedded and piping and conductors are installed and before backfill is put in place. Where excavated soil contains rocks, broken concrete, frozen chunks or other rubble that would damage or break the raceway, cable or conductors, or where corrosive action will occur, protection shall be provided in the form of granular or selected material, approved running boards, sleeves, or other means.
 - (e) **Lowest floor elevation.** In flood hazard areas, upon placement of the lowest floor, including the basement, and prior to further vertical construction, the elevation certification required in IBC Section 1612.5 or IRC Section R322 and BMC 15.55 shall be submitted to the building official. FEMA flood elevation certificates shall contain an original stamp and signature of the surveyor, licensed by the State of Washington, and shall document the elevation of the lowest floor, including basement, and other information required by the flood elevation certificate.

- (f) **Exterior wall sheathing inspection.** Exterior wall sheathing shall be inspected after all wall framing is complete and strapping and nailing is properly installed but prior to being covered.
- (g) **Roof sheathing inspection.** The roof sheathing shall be inspected after all roof framing is complete. No roof coverings shall be installed until inspections are made and approved and confirmation that the height of the structure is in conformance with the requirements of the city of Burien zoning code and/or shoreline master program.
- (h) **IMC/UPC/GAS/ rough- in inspection.** Rough in mechanical, gas piping, plumbing, and electrical shall be inspected when the rough in work is complete and, if required, under test. No connections to primary utilities shall be made until the rough in work is inspected and approved.
- (i) **Electrical rough-in inspection.** Rough-in inspection shall be made after the roof, framing, fireblocking and bracing are in place and all wiring and other components to be concealed are complete and prior to the installation of wall or ceiling membranes. All required equipment grounding conductors installed in concealed cable or flexible conduit systems must be completely installed and made up at the time of the rough-in cover inspection.
- (j) **Frame inspection.** Framing inspections shall be made after the roof deck, wall sheathing, all framing, fire blocking, and bracing are in place, pipes, chimneys and vents to be concealed are complete, the rough electrical, plumbing, fire suppression piping, heating wires, pipes, and ducts are approved, and the building is substantially dried in.
- (k) **Flashing and exterior weather barrier inspection.** Flashing and exterior weather barrier inspections shall be made after flashing and weather barrier materials have been installed but prior to any of the work being covered. Subject to the approval of the building official, an approved special inspection agency may be utilized for these inspections during the course of construction. In addition to these requirements, multi-unit structures as defined in RCW 64.55.010 shall comply with the special inspection and documentation requirements of RCW 64.55.020.
- Exception:** Groups R-3 and One- and Two-Family Dwellings are exempt from this inspection.
- (l) **Exterior Finish and Insulation Systems (EFIS), lath and gypsum board inspection.** EFIS, lath and gypsum board inspections shall be made after backing, lathing or gypsum board, interior and exterior, is in place, but before any plastering is applied or gypsum board joints and fasteners are taped and finished.
- Exception:** Interior gypsum board that is not part of a fire-resistance rated assembly or a shear assembly and is located in Aircraft Noise Reduction Zone 3 (Twenty-five dB).
- (m) **Fire and smoke resistant penetrations.** Protection of joints and penetrations in fire-resistance-rated assemblies, smoke barriers, and smoke partitions shall not be concealed from view until inspected and approved.

(n) **Energy efficiency inspection.** In addition to the inspections required in WAC 51-11, the following inspections are also required:

(i.) **Envelope**

1. Wall Insulation: To be made after all wall insulation and air vapor retarder sheet or film materials are in place, but before any wall covering is placed.
2. Glazing: To be made after glazing materials are installed in the building.
3. Exterior Roofing Insulation: To be made after the installation of the roof insulation, but before concealment.
4. Slab/Floor Insulation: To be made after the installation of the slab/floor insulation, but before concealment.

(ii.) **Mechanical**

1. Mechanical Equipment Efficiency and Economizer: To be made after all equipment and controls required by the construction codes are installed and prior to the concealment of such equipment or controls.
2. Mechanical Pipe and Duct Insulation: To be made after all pipe, fire suppression piping, and duct insulation is in place, but before concealment.

(iii.) **Lighting and Motors**

1. Lighting Equipment and Controls: To be made after the installation of all lighting equipment and controls required by the construction codes, but before concealment of the lighting equipment.
2. Motors: To be made after installation of all equipment covered by the construction codes, but before concealment.

(o) **Final inspection.** The final inspection shall be made after all work required by the permit is completed.

(4) **Reinspection.** The building official may require a structure or portions of work to be re-inspected. A reinspection fee shall be permitted to be assessed for each inspection or reinspection, when such portion of work for which inspection is called is not complete; or when required corrections have not been made; or when the approved plans and permit are not on site in a conspicuous or pre-approved location; or when the building is not accessible. This provision is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for inspection or reinspection. In instances where re-inspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

(5) **Other inspections.** In addition to the inspections specified above, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the building department.

(6) **Special inspections.** In addition to the inspections noted above, the building official is authorized to require special inspections for any type of work related to the construction codes by an inspection agency approved by the building official at no cost to the city.

The building official may require special inspection of equipment or wiring methods, when the installation requires special training, equipment, expertise, or knowledge. When such special inspection is required, it shall be performed by an independent third party acceptable to the building official. The special inspection person/agency shall be designated and approved prior to beginning the installation of wiring or equipment. A written report from the designated special inspection agency, indicating that the installation conforms to the appropriate codes and standards, shall be received by the building official prior to that installation being approved. All costs for such testing and reporting shall be the responsibility of the permit holder.

Multi-unit structures as defined in RCW 64.55.010 shall comply with the special inspection requirements as listed in RCW 64.55.030. Upon completion of an inspection required by RCW 64.55.030, the qualified inspector shall prepare and submit to the appropriate building department a signed letter certifying that the building enclosure has been inspected during the course of construction or rehabilitative construction and that it has been constructed or reconstructed in substantial compliance with the building enclosure design documents, as updated pursuant to RCW 64.55.020. The building department shall not issue a final certificate of occupancy or other equivalent final acceptance until the letter required by this section has been submitted. The building department is not charged with and has no responsibility for determining whether the building enclosure inspection is adequate or appropriate to satisfy the requirements of this chapter.

(7) **Inspection agencies.** The building official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the applicable requirements as to qualifications and reliability.

(8) **Inspection requests.** It shall be the duty of the holders of the permits or their duly authorized agent to notify the city when work is ready for inspection. It shall be the duty of the permit holders to provide access to and means for inspections of such work that are required by this code.

(9) **Approval required.** Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed or notify the permit holder or his or her agent that the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

15.05.385 Traffic management systems.

(1) The city building official will perform the electrical inspection and acceptance of traffic management systems within its jurisdiction. A traffic management system includes:

- (a) Traffic illumination systems;
- (b) Traffic signal systems;
- (c) Traffic monitoring systems;

- (d) The electrical service cabinet and all related components and equipment installed on the load side of the service cabinet supplying electrical power to the traffic management system; and
 - (e) Signalization system(s) necessary for the operation of a light rail system. A traffic management system can provide signalization for controlling vehicular traffic, pedestrian traffic, or rolling stock.
- (2) The city recognizes that traffic signal conductors, pole and bracket cables, signal displays, traffic signal controllers/cabinets, and associated components used in traffic management systems are acceptable for the purpose of meeting the requirements of chapter 19.28 RCW, provided they conform with the following standards or are listed on the Washington State Department of Transportation (WSDOT) qualified products list:
- (a) WSDOT/APWA Standard Specifications and Plans;
 - (b) WSDOT Design Manual;
 - (c) International Municipal Signal Association (IMSA);
 - (d) National Electrical Manufacturer's Association (NEMA);
 - (e) Federal Standards 170/Controller Cabinets;
 - (f) Manual for Uniform Road, Bridge, and Municipal Construction;
 - (g) Institute of Transportation Engineers (ITE); or
 - (h) Manual of Uniform Traffic Control Devices (MUTCD).
- (3) Associated induction detection loop or similar circuits will be accepted by the city without inspection.
- (4) For the licensing requirements of Chapter 19.28 RCW, jurisdictions will be considered owners of traffic management systems when doing electrical work for another jurisdiction(s) under a valid interlocal agreement, as permitted by Chapter 39.34 RCW. Interlocal agreements for traffic management systems must be filed with the city prior to work being performed for this provision to apply.
- (5) Jurisdictions with an established electrical inspection authority and WSDOT may perform electrical inspection on their rights of way for each other by interlocal agreement. They may not perform electrical inspection on other rights of way except as allowed in 19.28 or 39.34 RCW.
- (6) Underground installations.
- (a) In other than open trenching, raceways will be considered "fished" according to the NEC and do not require visual inspection.
 - (b) The city will conduct inspections in open trenching within its jurisdiction upon request.
- (7) Identification of traffic management system components. Local government jurisdictions or WSDOT may act as the certifying authority for the safety evaluation of all components.

- (a) An electrical service cabinet must contain only listed components. The electrical service cabinet enclosure is not required to be listed but will conform to the standards in subsection (8) of this section.
 - (b) The local government jurisdiction must identify, as acceptable, the controller cabinet or system component(s) with an identification plate. The identification plate must be located inside the cabinet and may be attached with adhesive.
- (8) Conductors of different circuits in same cable, enclosure, or raceway. All traffic management system circuits will be permitted to occupy the same cable, enclosure, or raceway without regard to voltage characteristics, provided all conductors are insulated for the maximum voltage of any conductor in the cable, enclosure, or raceway.

15.05.390 Certificate of occupancy.

(1) **Use and occupancy.** No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the city.

Exception: Work exempt from permits per BMC 15.05.245.

(2) **Certificate issued.** After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the building department, the building official shall issue a certificate of occupancy that contains the following information:

- (a) The permit number.
- (b) The address of the structure.
- (c) The name and address of the owner.
- (d) A description of that portion of the structure for which the certificate is issued.
- (e) A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
- (f) The name of the building official.
- (g) The edition of the code under which the permit was issued.
- (h) The use and occupancy.
- (i) The type of construction.
- (j) The design occupant load.
- (k) Whether an automatic sprinkler system is provided and whether the sprinkler system is required.
- (l) Any special stipulations and conditions of the building permit.

Exception: Single-family dwellings and their accessory structures approved under the International Residential Code and group U occupancies associated with Single Family

residences approved under the International Building Code may be issued a certificate of occupancy in the form of a signed off permit inspection card.

(3) **Temporary or phased occupancy.** The building official is authorized to issue a temporary or phased certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official is authorized to require in addition to the completion of life safety building components, the completion of any or all accessibility components prior to issuance of a temporary or phased certificate of occupancy. The building official shall set a time period during which the temporary or phased certificate of occupancy is valid. The city is authorized to require that a performance bond or other security acceptable to the city be provided with the city in an amount equal to 150% of the value of incomplete work as determined by the design professional. The security shall be rescindable or refundable upon issuance of a final certificate of occupancy for the complete building or structure and a request in writing for the refund. It shall be the duty of the applicant to request a refund within 180 days of the issuance of the certificate of occupancy. Failure to request a refund within the specified time period may result in forfeiture of the full amount.

(4) **Revocation.** The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied by the owner or owner's representatives, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code. This section shall be applied, implemented and interpreted consistent with the statutes and court decisions of the State of Washington.

15.05.395 Service utilities.

(1) **Connection of service utilities.** No person shall make connections from a utility or source of energy, fuel or power to any building or system that is regulated by this code for which a permit is required, until authorized by the building official.

(2) **Temporary connection.** The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power.

(3) **Authority to disconnect service utilities.** The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in this code in case of emergency, when necessary to eliminate an immediate hazard to life or property, or when such utility connection has been made without the required approval. The building official shall notify the serving utility, and whenever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

15.05.400 Appeals

- (1) **General.** Appeals of final orders, decisions, or determinations made by the building official relative to the application and interpretation of Title 15 and the adopted codes may be appealed by the permit applicant, property owner or his/her agent to the hearing examiner, pursuant to Chapters 2.15 and 2.20 BMC, within 30 days of the issuance of the final order, decision or determination.
- (2) **Limitations on authority.** An application for appeal shall be based on a claim that the true intent of this title or the rules adopted thereunder have been incorrectly interpreted, the provisions of this title do not fully apply or an equally good or better form of construction is proposed. The hearing examiner shall have no authority to waive requirements of this title.
- (3) **Participation in the appeal.** Only those parties who have appealed the building official's final order, decision or determination may participate in the appeal in either or both of the following ways:
 - (a) By submitting written comments or testimony to the hearing examiner prior to commencement of the hearing; or
 - (b) By appearing in person, or through a representative at the hearing. The hearing examiner may reasonably limit the extent of oral testimony or oral argument to facilitate the orderly and timely conduct of the hearing.
- (4) **Decision on the appeal.** The hearing examiner shall consider all information and material within the scope of the appeal submitted by persons entitled to participate in the appeal. Based on the hearing examiner's findings and conclusions, the hearing examiner may affirm, reverse or modify the order, decision or determination being appealed. The hearing examiner's decision on the appeal shall be issued within 90 days from the date the original appeal period closed, unless all parties to an appeal have agreed to an extended time period. Within four business days after it is issued, the hearing examiner's decision shall be mailed to the applicant and to each person who has requested notice of the decision. The hearing examiner's final decision shall be the final decision of the city on the appeal and shall be conclusive unless proceedings for review of the decision are properly commenced in superior court within the time period specified by state law.
- (5) **Judicial review.** Any judicial appeal of the hearing examiner's decision shall be reviewed in King County superior court pursuant to Chapter 36.70C RCW, the Land Use Petition Act ("LUPA"). The land use petition must be filed within twenty-one calendar days of the issuance of the hearing examiner's decision.

15.05.405 Unlawful Acts.

It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure, property or equipment regulated by this title, or cause the same to be done, in conflict with or in violation of any of the provisions of this title. Signs, tags or seals posted or affixed by the building official shall not be mutilated, destroyed or tampered with or removed without authorization from the building official.

15.05.410 Violations – Penalties

- (1) **Notice of violation.** The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.
- (2) **Enforcement of violation.** If the notice of violation is not complied with in the time prescribed by such notice, the building official is authorized to request the legal counsel of the city to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto. The city may enforce violations of this chapter and the codes referenced herein under Chapter 8.45 BMC.
- (3) **Penalties.** Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by this section.
- (a) **Civil Violation.** Except as otherwise provided in this title, any violation of any of the provisions of this title shall constitute a civil infraction for which a monetary penalty in an amount not to exceed \$5,000 may be imposed.
- (b) **Criminal Penalty.** In addition to or as an alternative to any other penalty provided herein or by any other regulation, any person, partnership, firm, association, or corporation who violates any provision of this chapter shall be guilty of a misdemeanor and shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than 90 days or by a fine in an amount fixed by the court of not more than \$1,000 or by both such imprisonment and fine.
- (c) **Separate Offense.** Each day or portion thereof upon which a violation occurs, continues, or is permitted shall constitute a separate offense for the purposes of subsections (a) and (b) of this section.
- (4) **Abatement of violation.** In addition to the imposition of the penalties herein described, the building official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.
- (5) **Remedies Not Exclusive.** Nothing herein shall prohibit nor prevent the city from utilizing any remedy at law or equity for the enforcement of violations herein.

15.05.415 Stop work order.

- (1) **Authority.** Whenever the building official finds any work being performed in a manner either contrary to the provisions of this code, the construction codes, or other pertinent laws or ordinances that are violated during the course of work authorized by the permit, the building official is authorized to issue a stop work order. Issuance of a notice of violation, infraction or notice and order is not a condition precedent to the issuance of the stop work order.
- (2) **Issuance.** The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work and posted in plain site on the premises, structure, fixture, or system as applicable. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work will be permitted to resume.
- (3) **Effect.**
 - (a) The building official is authorized to assess a special investigation fee for the issuance of a stop work order, when work has started without the issuance of a permit. The special investigation fee shall be determined in accordance with 15.05.375 (5) BMC, "Work commencing before permit issuance."
 - (b) A stop work order represents a determination that a code violation has occurred and that any work or activity that is causing or contributing to the violation on the property where the violation has occurred or is occurring must cease.
 - (c) A stop work order requires the immediate cessation of the specified work or activity on the named property. Work or activity may not resume unless specifically authorized by the building official or designee.
 - (d) A stop work order may be appealed to the city hearing examiner according to the procedures prescribed by 15.05.400 BMC, "Appeals."
 - (e) Failure to appeal the stop work order within the applicable time limits shall render the stop work order a final determination that a code violation occurred and that work was properly ordered to cease.
 - (f) Failure to comply with the terms of a stop work order subjects the person responsible for code compliance to penalties and costs.
- (4) **Remedy –penalties.** Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed in BMC 15.05.410.
 - (a) In addition to any other judicial or administrative remedy, the building official or designee may assess penalties for the violation of any stop work order as set forth in 15.05.410 (3) BMC, "Penalties."
 - (b) Penalties for the violation of any stop work order shall begin to accrue on the first day the stop work order is violated and shall cease on the day the work is actually stopped.
 - (c) Violation of a stop work order shall be a separate violation from any other code violation. Civil penalties assessed create joint and several personal obligations in all

persons responsible for the code violation. The city may collect the penalties assessed by any appropriate legal means.

- (d) In addition to all other remedies, a lien for the value of the penalties imposed may be filed against the real property that is subject to compliance with Title 15 of the Burien Municipal Code.

15.05.420 Unsafe structures and equipment.

(1) **General.** Structures or existing equipment which are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities or inadequate light and ventilation, which constitute a fire hazard, are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Additionally, a structure that is not secured against entry or which has been abandoned for more than one year or for which the applicant or owner fails to request the required inspection(s) prior to permit expiration or occupancy may be deemed unsafe by the building official.

(2) **Evacuation.** Where conditions exist that are deemed hazardous to life and property, the building official is authorized to abate summarily such hazardous conditions that are in violation of the codes. The building official shall be authorized to order the immediate evacuation of any unsafe occupied building when such building has hazardous conditions that present imminent danger to building occupants. Persons so notified shall immediately leave the structure or premises and shall not enter or re-enter until authorized to do so by the building official.

(3) **Abatement.** Where a structure has been deemed unsafe, the building official or designee shall first issue a notice of violation as prescribed in BMC 15.05.410. The notice of violation shall include a statement requiring the unsafe structure or equipment to be taken down and removed or made safe, as the building official deems necessary and as provided for in Chapter 15.40 BMC "Burien Building and Property Maintenance Code."

15.05.425 Copies to be available.

(1) A copy of each code adopted by reference in this title shall be authenticated and recorded by the city clerk.

(2) The codes, standards, rules, and regulations adopted by this title are adopted by reference thereto as though fully set forth in this title. Not less than one copy of each such code, standards, rules, and regulations, in the form in which it was adopted and suitably marked to indicate amendments, additions, deletions, and exceptions as provided in this title, shall be filed in the building official's office and be available for use and examination by the public.

EXHIBIT B
Chapter 15.10 CONSTRUCTION CODES

Sections:

- 15.10.010 Short title.
- 15.10.020 Purpose.
- 15.10.030 Sound and hours of construction.
- 15.10.040 Referenced codes.
- 15.10.050 Code conflicts resolution.
- 15.10.060 International Building Code adopted.
- 15.10.070 International Residential Code adopted.
- 15.10.080 International Mechanical code adopted.
- 15.10.090 National Fuel Gas Code (NFPA 54) adopted.
- 15.10.100 Liquefied Petroleum Gas Code (NFPA 58) adopted.
- 15.10.110 International Fuel Gas Code adopted.
- 15.10.120 Uniform Plumbing Code adopted.
- 15.10.130 Washington State Energy Code adopted.
- 15.10.140 Burien Electrical Code adopted.

15.10.010 Short title.

This chapter is known as and may be referred to as the “city of Burien Building and Construction Code” and may be cited as such.

15.10.020 Purpose.

The purpose of the codes and regulations adopted by this title is to promote the health, safety, and welfare of the occupants or users of buildings and structures and the general public, by the provision of construction codes throughout the city and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected by the terms of these codes and regulations. More specifically, this chapter is designed to effectuate the following purposes, objectives and standards:

- (1) To set forth minimum performance standards and requirements for construction and construction materials, consistent with nationally accepted standards of engineering and fire and life safety.
- (2) To permit the use of current technical methods, devices and improvements.
- (3) To eliminate restrictive, obsolete, conflicting, duplicative and unnecessary regulations and requirements which could unnecessarily increase construction costs or retard the use of new materials and methods of installation or provide unwarranted preferential treatment to types or classes of materials or products or methods of construction.

- (4) To provide standards and specifications for making buildings and facilities accessible to and usable by physically challenged persons.
- (5) To consolidate the administration and enforcement of building and construction codes.

15.10.030 Sound and hours of construction.

Sounds originating from construction sites, including but not limited to sound from construction equipment, power tools and hammering, are prohibited between the hours of 10:00 p.m. to 7:00 a.m. on weekdays and 10:00 p.m. to 9:00 a.m. on weekends, as regulated in BMC 9.105.400.

15.10.040 Referenced codes.

Specific codes referenced in the general codes adopted by this chapter shall be as follows:

- (1) Any and all reference to the International Plumbing Code shall be replaced with the Uniform Plumbing Code as adopted in BMC 15.10.120.
- (2) Any and all reference to the International Property Maintenance Code shall be replaced with the Burien Building and Property Maintenance Code as adopted in Chapter 15.40 BMC.
- (3) Any and all reference to the International Electrical Code, National Electrical Code or NFPA 70 shall be replaced with the Burien Electrical Code as adopted in BMC 15.10.140.

15.10.050 Code conflicts resolution.

- (1) The codes enumerated in Title 15 BMC are adopted by the State Building Code Council as provided in RCW 19.27.074 and amended by the State Building Code Council from time to time, and are enacted by the State Legislature.

The State Legislature mandates, as provided in RCW 19.27.050, that all counties and cities throughout the state shall enforce the codes and all amendments thereto. Therefore, the city of Burien automatically adopts by reference these codes and their respective amendments as they are adopted and amended by the State Legislature.

- (2) In case of conflict among the International Building Code, the International Residential Code, the International Mechanical Code, the International Fire Code and the Uniform Plumbing Code, the first named code shall govern over those following.
- (3) In case of conflict between other codes and provisions adopted by this chapter, the code or provision that is the most restrictive, as determined by the building official, shall apply.

15.10.060 International Building Code adopted.

The 2009 Edition of the International Building Code (IBC), as published by the International Code Council, Inc. and as adopted by the State Building Code Council in Chapter 51-50 WAC, and including Appendix Chapter E (Accessibility), ICC A117.1-2003 (Accessible Standards), Appendix Chapter H (signs), and Appendix Chapter J (Grading), excluding Chapter 1, Administration, is hereby adopted by reference, together with the amendments set forth in this

section. The Construction Administrative Code, as set forth in Chapter 15.05 BMC, shall be used in place of IBC Chapter 1, Administration.

(1) The 2009 International Existing Building Code (IEBC) is included in the adoption of this code in Section 3401.5 and amended in WAC 51-50-480000, excluding Chapter 1, Part 2 – Administration. The Construction Administrative Code as set forth in Chapter 15.05 BMC shall be used in place of IEBC Chapter 1, Part 2 – Administration.

(2) The provisions of this code do not apply to temporary growing structures used solely for the commercial production of horticultural plants including ornamental plants, flowers, vegetables, and fruits. "Temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention. A temporary growing structure is not considered a building for purposes of this code.

(3) The provisions of this code do not apply to the construction, alteration, or repair of temporary worker housing, except as provided by rule adopted under Chapter 70.114A RCW or Chapter 37, Laws of 1998 (SB 6168). "Temporary worker housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

(4) The provisions of this code do not apply to Vendor Carts. "Vendor cart" means a mobile, portable means of containing or transporting merchandise, vegetables, fruits, or other inventory for the purpose of retail sales. "Vendor cart" shall not mean a building or structure, as defined in this code. Unless otherwise exempted, separate plumbing, electrical and mechanical permits shall be required.

(5) Add new stand-alone section as follows:

Design Criteria shall be as follows:

GROUND AND ROOF SNOW LOAD: 25 PSF

SEISMIC DESIGN CATEGORY: D

WIND SPEED: 70 mph sustained with 85 mph 3 sec. gust

WIND EXPOSURE: Site Specific. See IBC Section 1609.4

SOIL BEARING: Site specific. See IBC Chapter 18

WEATHERING: Moderate

FROST LINE DEPTH: 12 inches

TERMITE: Slight to moderate

DECAY: Slight to moderate

WINTER DESIGN TEMPERATURE: 24°F

SUMMER DESIGN TEMPERATURE: 83°F

ICE SHIELD UNDERLAYMENT REQUIRED: No

FLOOD HAZARDS: See BMC 15.55

AIR FREEZING INDEX: 148°F- days

MEAN ANNUAL TEMPERATURE: 51.4 °F.

(6) Amend IBC Section 403.4.7, Standby power, as follows: Add the following sentence to the end of the first paragraph:

403.4.7 Standby power. A standby power system complying with Chapter 27 shall be provided for standby power loads specified in Section 403.4.7.2. Fuel-fired emergency generators sets and associated fuel storage, including optional generator sets, located more than 75 feet above the lowest level of Fire Department vehicle access require the approval of the Fire Code Official.

(7) Amend IBC Section 403.4.7.1 Special requirements for standby power systems to read as follows:

403.4.7.1 Special requirements for standby power systems. If the standby system is a generator set inside a building, the system shall be located in a separate room enclosed with 2-hour *fire barriers* constructed in accordance with Section 403.4.7.1.1 and Section 707 or *horizontal assemblies* constructed in accordance with Section 712, or both. System supervision with manual start and transfer features shall be provided at the fire command center.

(8) Add new IBC Section 403.4.7.1.1 Penetrations, to read as follows:

403.4.7.1.1 Penetrations. Penetrations into and openings through a room containing a standby power system are prohibited except for required exit doors, equipment and ductwork necessary for heating, cooling or ventilation, sprinkler branch line piping, or electrical raceway serving the standby power system or being served by the standby power system. Such penetrations shall be protected in accordance with Section 713.

Exception: Metallic piping with no joints or openings where it passes through the standby power system room.

(9) Amend IBC Section 403.4.7.2, Standby power loads to add a fourth item to read as follows:

403.4.7.2 Standby power loads. The following are classified as standby power loads:

1. Power and lighting for the fire command center required by Section 403.4.5;
2. Ventilation and automatic fire detection equipment for smokeproof enclosures;
3. Standby power shall be provided for elevators in accordance with Sections 1007.4, 3003, 3007 and 3008: and
4. Smoke control systems.

(10) Add new IBC Section 403.7, Smoke control, and amend to read as follows:

403.7 Smoke control. A smoke control system meeting the requirements of Section 909 shall be provided in buildings having floors more than 75 feet above the lowest level of fire department vehicle access.

- (11) Amend IBC Section 405.8, Standby power, as follows: Add the following sentence to the end of the paragraph:

405.8 Standby power. A standby power system complying with Chapter 27 shall be provided standby power loads specified in Section 405.8.1. Fuel-fired emergency generator sets and associated fuel storage, including optional generator sets, located more than 30 feet below the lowest level of exit discharge require the approval of the fire code official.

- (12) Amend IBC Table 508.4 Required Separation of Occupancies (Hours) as follows:

Add footnote reference superscript “g” to R and group I-1 Occupancy Classification row and column headings. Add footnote g. to read: See Section 419 for Live/Work Unit separations. See Section 420 for Dwelling Unit separation requirements.

- (13) Amend IBC Section 708.2, “Shaft enclosure required”, as follows: Revise Exception 2.1 the last sentence to read:

708.2 Shaft enclosure required. Openings through a floor/ceiling assembly shall be protected by a shaft enclosure complying with this section.

Exceptions:

2. A shaft enclosure is not required in a building equipped throughout with an *automatic sprinkler system* in accordance with Section 903.3.1.1 for an escalator opening or *stairway* that is not a portion of the *means of egress* protected according to Item 2.1 or 2.2.

- 2.1. Where the area of the floor opening between *stories* does not exceed twice the horizontal projected area of the escalator or *stairway* and the opening is protected by a draft curtain and closely spaced sprinklers in accordance with NFPA 13. ~~In other than Groups B and M, this application is limited to openings that do not connect more than four stories.~~ This application is limited to openings that do not connect more than four stories in buildings not required to have smoke control systems. In buildings that are required to have smoke control systems, escalators are limited to openings that do not atmospherically connect more than four stories, and non-egress stairs are limited to openings that do not atmospherically connect more than two stories.

- (14) Amend IBC Section 903.2 Automatic sprinkler systems to read as follows:

903.2 Where required. Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in Sections 903.2.1 through

903.2.12, WAC 51-50-903 and in all buildings with a gross area of 5,000 square feet or greater, regardless of type or use.

Exceptions: Spaces or areas in telecommunications buildings used exclusively for telecommunications equipment, associated electrical power distribution equipment, batteries and standby engines, provided those spaces or areas are equipped throughout with an automatic smoke detection system in accordance with Section 907.2 and are separated from the remainder of the building by not less than 1-hour *fire barriers* constructed in accordance with Section 707 or not less than 2-hour horizontal assemblies constructed in accordance with Section 712, or both.

For the purposes of this section, fire walls as specified in Section 706 of the International Building Code shall not be used to reduce the calculation of floor areas of this chapter.

(15) Amend IBC Section 906, Portable Fire Extinguishers subsection 906.1, where required by deleting the exception as follows:

906.1 Where required. Portable fire extinguishers shall be installed in the following locations.

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

~~**Exception:** In new and existing Group A, B and E occupancies equipped throughout with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in Items 2 through 6.~~

2. Within 30 feet (9144 mm) of commercial cooking equipment.
3. In areas where flammable or combustible liquids are stored, used or dispensed.
4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1 of the *International Fire Code*.
5. Where required by the *International Fire Code* sections indicated in Table 906.1.
6. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the fire code official.

(16) Amend IBC Section 907.1.3, Equipment, as follows: Add the following sentence to the end of the paragraph:

907.1.3 Equipment. Systems and their components shall be listed and approved for the purpose for which they are installed. All new alarm systems shall be addressable. Each device shall have its own address and shall annunciate individual addresses at the approved supervising station.

(17) Add new IBC Section 907.2.24, System Installation, to read as follows:

907.2.24 System installation. Fire alarm systems shall be installed and maintained in accordance with this code by persons under the direct supervision of individuals that have factory training and certification on the system being installed. Plans submitted for Fire Alarm System permits shall be prepared under the supervision of individuals possessing a NICET (National Institute for Certification in Engineering Technologies)

Level III certification in Fire Alarm Systems or shall be licensed by the State of Washington as a Professional Fire Protection or Electrical Engineer or certified by the State of Washington. Plans shall identify certification and/or licensing information.

- (18) Add new IBC Section 911.1.2.1, Penetrations, to read as follows:

911.1.2.1 Penetrations. Penetrations into and openings through a fire command center are prohibited except for required exit doors, equipment and ductwork necessary for heating, cooling or ventilation, sprinkler branch line piping, electrical raceway for fire department communication and control, and electrical raceways serving the fire command center or being controlled from the fire command center. Such penetrations shall be protected in accordance with Section 713.

Exception: Metallic piping with no joints or openings.

- (19) Amend IBC Section 1503.4 roof drainage to revise reference to the Uniform Plumbing code and add new section 1503.4.4, Discharge and Disposal to read as follows:

[P] 1503.4 Roof drainage. Design and installation of roof drainage systems shall comply with Section 1503 and ~~the International Plumbing Code~~ Chapter 11 of the Uniform Plumbing Code.

1503.4.4 Discharge and Disposal. Roof top drainage shall be disposed of by one of the following methods:

1. Tight line to a storm water system (private or public).
2. Tight line to a roof-runoff infiltration system.
3. Concrete splash blocks.

1503.4.4.1 Tight line. A tight line with direct discharge to an abutting property or the right-of-way is prohibited unless specifically approved by the building official on the construction plans/permit.

1503.4.4.2 Review Required. In all cases the method selected shall be subject to review and approval by the building official and/or the city Public Works Department, with consideration given to site, soil types, slope condition and the nature of the development.

1503.4.4.3 Standards. All drainage systems both public and private shall be designed in accordance with storm water standards adopted by the city of Burien.

1503.4.4.4 "Green Roof technology". "Green roof" technology may be approved by the building official provided that any drainage coming off of the roof is collected and disposed of pursuant to Sec 1503.4.4.1.

- (20) Amend IBC Section 1608.1, General, to read as follows:

1608.1 General. Design snow loads shall be ~~determined in accordance with Chapter 7 of ASCE 7, but the design roof load shall~~ not less than 25 PSF uniform roof snow load, nor less than that determined by IBC Section 1607.

- (21) Amend IBC Section 1612.3, Establishment of flood hazard areas.1612.3, to read as follows:

1612.3 Establishment of flood hazard areas. To establish flood hazard areas, the applicable governing authority shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled “The Flood Insurance Study for ~~[INSERT NAME OF JURISDICTION], King County~~” dated ~~[INSERT DATE OF ISSUANCE], September 2007,~~ as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section.

- (22) Amend IBC Section 1704.14, Exterior insulation and finish systems (EIFS), to read as follows:

1704.14 Exterior insulation and finish systems (EIFS). Special inspections shall be required for all EIFS applications. All exterior insulation finish systems (EIFS) shall be certified by the manufacturer as having been installed per the manufacturer’s installation recommendations or other agency approved by the building official. The manufacturer’s certification shall serve as the special inspection requirement when approved by the building official.

~~Exceptions~~ Exception:

~~1. Special inspections shall not be required for EIFS applications installed over a water-resistive barrier with a means of draining moisture to the exterior.~~

Special inspections shall not be required for EIFS applications installed over masonry or concrete walls.

1704.14.1 Water-resistive barrier coating. A water-resistive barrier coating complying with ASTM E 2570 requires special inspection of the water-resistive barrier coating when installed over a sheathing substrate.

- (23) Amend IBC Section 2701.1, Scope, to read as follows:

2701.1 Scope. This chapter governs the electrical components, equipment and systems used in buildings and structures covered by this code. Electrical components, equipment and systems shall be designed and constructed in accordance with the provisions of ~~NEPA 70~~ the Burien Electrical Code as adopted in BMC 15.10.140.

- (24) Add new IBC section 2702.1.1, Location, to read as follows:

2702.1.2 Location. Location of stationary generators, fuel piping, and storage tanks are subject to the approval of the building official and/or fire code official.

- (25) Amend IBC Section 3002.4, Elevator car to accommodate ambulance stretcher, to read as follows:

3002.4 Elevator car to accommodate ambulance stretcher. In buildings four stories ~~in height or more above grade plane or four or more stories below grade plane and in buildings which are required to have an elevator and contain Group R-1, R-2 or I Occupancies on a level other than the exit discharge level, or in any R1, R2 or I occupancy building provided with an elevator regardless of the number of stories,~~ at least one elevator shall be provided for fire department emergency access to all floors. Such elevator car shall be of such a size and arrangement to accommodate a 24-inch by 84-inch (610 mm by 2134 mm) ambulance stretcher with not less than 5-inch (127 mm) radius corners, in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall not be less than 3 inches (76 mm) high and shall be placed inside on both sides of the hoistway door frame.

- (26) Amend IBC Section 3303, Demolition standards, is amended to read as follows:

3303.1 Purpose. The purpose of this section is to establish standards by which demolition of existing structures is to be conducted. The proposed standards are intended to ensure that the public health, safety and welfare are protected when structures are removed. If demolition is proposed along with an application for a construction permit or reuse of a property, ~~subsections (5) 3303.5 and (9) 3303.11~~ do not apply. Following demolition of any structure the property shall be altered to a condition that will not create an attractive nuisance or be unsightly to neighboring properties, public streets and pedestrian facilities. This purpose statement shall be preminent.

~~**3303.1**~~ **3303.2 Construction Documents.** Construction documents and a schedule for demolition must be submitted when required by the Building Official. Where such information is required, no work shall be done until such construction documents or schedule, or both, are approved.

3303.3 Permit Required. A demolition permit is required for any structure to be removed. The demolition permit may be conditioned as necessary to mitigate adverse impacts associated with demolition activities and the aesthetic condition of the vacant site following demolition. All demolition work shall be completed within 30 days from commencement of demolition activity provided that site restoration work shall be completed as provided in section 3303.11.

3303.4 Nuisances. The activity shall not create or exacerbate a nuisance as defined by BMC 8.45.020.

3303.5 Foundation Removal and Surface Restoration. All foundations and/or related materials shall be removed from the site. Unless otherwise approved by the city, all man-made or processed surfaces including but not limited to driveways, asphalt, patios or sidewalks shall be removed, except in the public right-of-way.

~~3303.2~~ **3303.6 Pedestrian protection.** The work of demolishing any building shall not be commenced until pedestrian protection is in place as required by this chapter.

~~3303.3~~ **3303.7 Means of egress.** A party wall balcony or horizontal exit shall not be destroyed unless and until a substitute means of egress has been provided and approved

~~3303.4~~ **3303.8 Vacant Lot.** Where a structure has been demolished or removed, the vacant lot shall be filled and maintained to the existing grade or in accordance with the ordinances of the jurisdiction having authority. This requirement may be waived if grading would require the alteration of a critical area and/or its buffer. It may also be waived if grading activity could result in soil instability.

3303.9 Erosion Control. All areas that have been disturbed by demolition activity shall be stabilized to prevent erosion. Erosion control measures shall comply with adopted best management practices and shall be in place prior to and during any demolition activity.

~~3303.5~~ **3303.10 Water Accumulation.** Provisions shall be made to prevent the accumulation of water or damage to any foundations on the premises or the adjoining property.

3303.11 Site Restoration Required. Restoration of properties shall be completed within 4 months of the issuance of a demolition permit. The city may require a financial guarantee to ensure proper installation, establishment and maintenance of a restoration plan. Areas of a site that have been disturbed shall be re-vegetated with an approved hydro-seed mixture.

~~3303.6~~ **3303.12 Utility Connections.** ~~Service utility connections shall be discontinued and capped in accordance with the approved rules and the requirements of the applicable governing authority.~~ All service utilities shall be properly capped or terminated at property lines or at the service connection in the right-of-way unless otherwise approved by the Building Official. Utilities Removal and/or decommissioning of utilities shall be completed in accordance with all applicable laws and procedures including but not limited to the IFC, IBC, WAC and RCW.

(27) Amend IBC Section 3412.2, Applicability as follows: Insert applicable date:

3412.2 Applicability Structures existing prior to ~~[DATE TO BE INSERTED BY THE JURISDICTION. NOTE: IT IS RECOMMENDED THAT THIS DATE COINCIDE WITH THE EFFECTIVE DATE OF BUILDING CODES WITHIN THE JURISDICTION]~~ July 1, 2010, in which there is work involving additions, alterations or changes of occupancy shall be made to comply with the requirements of this section or the provisions of Sections 3403 through 3409. The provisions in Sections 3412.2.1 through 3412.2.5 shall apply to existing

occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, S and U. These provisions shall not apply to buildings with occupancies in Group H or I.

(28) IBC Section H104, Identification, is deleted as follows:

~~**H104.1 Identification.** Every outdoor advertising display sign hereafter erected, constructed or maintained, for which a permit is required shall be plainly marked with the name of the person, firm or corporation erecting and maintaining such sign and shall have affixed on the front thereof the permit number issued for said sign or other method of identification approved by the building official.~~

15.10.070 International Residential Code adopted.

The 2009 Edition of the International Residential Code, as published by the International Code Council Inc. and as adopted by the State Building Code Council in Chapter 51-51 WAC, including Appendix Chapter G, Swimming Pools, Spas and Hot Tubs, WAC 51-51-60105 - Appendix Chapter R, Dwelling Unit Fire Sprinkler Systems, WAC 51-51-60107 – Appendix S, Fire Sprinklers, and excluding Chapters 1, 11, 25-43, is hereby adopted by reference, together with the amendments set forth in this section. The Construction Administrative Code, as set forth in Chapter 15.05 BMC, shall be used in place of IRC Chapter 1, Administration.

(1) Energy Code requirements are regulated by Chapter 51-11 WAC (WSEC) as adopted and amended in BMC 15.10.130.

(2) Plumbing Code requirements are regulated by Chapter 51-56 WAC (UPC) as adopted and amended in BMC 15.10.120.

(3) Electrical Code requirements are regulated by Burien Electrical Code (WCEC) as adopted in BMC 15.10.140.

(4) Except where required by the International Fire Code for access or fire flow, an automatic residential fire sprinkler system shall not be required for additions or alterations to existing buildings that are not already provided with an automatic residential sprinkler system.

(5) Amend IRC Table R301.2, Climatic and geographic design criteria, to include local design values as follows:

R301.2 Climatic and Geographic design criteria. Buildings shall be constructed in accordance with the provisions of this code as limited by the provisions of this section. Additional criteria shall be established by the local jurisdiction and set forth in Table R301.2 (1). Design values for Table R-301.2(1) shall be as follows:

GROUND AND ROOF SNOW LOAD: 25 PSF

WIND SPEED: 70 mph sustained with 85 mph 3 sec. gust

TOPOGRAPHIC EFFECTS: Not Applicable

SEISMIC DESIGN CATEGORY: D2

WEATHERING: Moderate

FROST LINE DEPTH: 12 inches
TERMITE: Slight to moderate
DECAY: Slight to moderate
WINTER DESIGN TEMPERATURE: 24°F.
SUMMER DESIGN TEMPERATURE: 83°F.
ICE SHIELD UNDERLAYMENT REQUIRED: No
FLOOD HAZARDS: See BMC 15.55
AIR FREEZING INDEX: 148°F.- days
MEAN ANNUAL TEMPERATURE: 51.4 °F.
SOIL BEARING (Assumed): 1500 PSF

(6) Amend IRC Appendix S, Fire Sprinklers, to read as follows:

AS107.1 Fire sprinklers. An approved automatic fire sprinkler system shall be installed in new one-family and two-family dwellings and townhouses in accordance with Appendix R.

EXCEPTION: One -family and two-family dwellings and their attached accessory structures with a gross floor area less than 3600 square feet.

15.10.080 International Mechanical code adopted.

The 2009 Edition of the International Mechanical Code (IMC), as published by the International Code Council, Inc. and as adopted by the State Building Code Council in Chapter 51-52 WAC, excluding Chapter 1, Administration, is hereby adopted by reference together with the amendments set forth in this section. The Construction Administrative Code, as set forth in Chapter 15.05 BMC, shall be used in place of IMC Chapter 1, Administration.

(1) Amend IMC Section 501.2, Exhaust discharge to read as follows:

501.2 Exhaust discharge. The air removed by every mechanical exhaust system shall be discharged outdoors at a point where it will not cause a nuisance and not less than the distances specified in Section 501.2.1. The air shall be discharged to a location from which it cannot again be readily drawn in by a ventilating system. Air shall not be exhausted into an attic or crawlspace.

EXCEPTIONS:

1. Whole-house ~~ventilation-type attic fans~~ cooling fans shall be permitted to discharge into the attic space of dwelling units having private attics.
2. Commercial cooking recirculating systems.

501.2.1 Location of exhaust outlets. The termination point of exhaust outlets and ducts discharging to the outdoors shall be located with the following minimum distances:

1. For ducts conveying explosive or flammable vapors, fumes or dusts: 30 feet (9144 mm) from the property line; 10 feet (3048 mm) from operable openings

into the building; 6 feet (1829 mm) from exterior walls and roofs; 30 feet (9144 mm) from combustible walls and operable openings into the building which are in the direction of the exhaust discharge; 10 feet (3048 mm) above adjoining grade.

2. For other product-conveying outlets: 10 feet (3048 mm) from property lines; 3 feet (914 mm) from exterior walls and roofs; 10 feet (3048 mm) from operable openings into the building; 10 feet (3048 mm) above adjoining grade.

3. For environmental air exhaust other than enclosed parking garage and transformer vault exhaust: 3 feet (914 mm) from property lines, 3 feet (914 mm) from operable openings into buildings for all occupancies other than Group U, and 10 feet (3048 mm) from mechanical air intakes. Such exhaust shall not be considered hazardous or noxious.

Exceptions:

1. The separation between an air intake and exhaust outlet on a single listed package HVAC unit.
2. Exhaust from environmental air systems other than garages may be discharged into an open parking garage.
3. Except for Group I occupancies, where ventilation system design circumstances require building HVAC air to be relieved, such as during economizer operation, such air may be relieved into an open or enclosed parking garage within the same building.

4. Exhaust outlets serving structures in flood hazard areas shall be installed at or above the design flood level.

5. For enclosed parking garage exhaust system outlets and transformer vault exhaust system outlets: 10 feet (3048 mm) from property lines which separate one lot from another; 10 feet (3048 mm) from operable openings into buildings and 10 feet (3048 mm) above adjoining grade.

Exception: Parking garage and transformer vault exhaust outlets may terminate less than 10' above grade at the discretion of the building official.

6. For elevator machinery rooms in enclosed or open parking garages: Exhaust outlets may discharge air directly into the parking garage.

~~5-7.~~ 7. For specific systems see the following sections:

~~5-7.1~~ 1. Clothes dryer exhaust, Section 504.4.

~~5-7.2~~ 2. Kitchen hoods and other kitchen exhaust equipment, Sections 506.3, 506.4 and 506.5.

~~5-7.3~~ 3. Dust stock and refuse conveying systems, Section 511.

~~5-7.4~~ 4. Subslab soil exhaust systems, Section 512.4.

- 5. 7.5. Smoke control systems, Section 513.10.3
- 5. 7.6 Refrigerant discharge, Section 1105.7
- 5. 7.7 Machinery room discharge, Section 1105.6.1

- (2) Amend IMC Section 504.4, Exhaust Installation to read as follows:

504.4 Exhaust installation. Dryer exhaust ducts for clothes dryers shall terminate on the outside of the building and shall be equipped with a back-draft damper. Dryer exhaust ducts may terminate at approved exterior louvers with not less than 1" openings in any direction. Screens shall not be installed at the duct termination. Ducts shall not be connected or installed with sheet metal screws or other fasteners that will obstruct the exhaust flow. Clothes dryer exhaust ducts shall not be connected to a vent connector, vent or chimney. Clothes dryer exhaust ducts shall not extend into or through ducts or plenums.

15.10.090 National Fuel Gas Code (NFPA 54) adopted.

The 2009 Edition of ANSI Z223.1/NFPA 54, National Fuel Gas Code (NFGC), as published by National Fire Protection Association (NFPA) and as adopted by the State Building Code Council in Chapter 51-52 WAC, is hereby adopted by reference. The Construction Administrative Code, as set forth in Chapter 15.05 BMC, shall be used for the administration of the National Fuel Gas Code.

15.10.100 Liquefied Petroleum Gas Code (NFPA 58) adopted.

The 2008 Edition of NFPA 58, Liquefied Petroleum Gas Code (LPGC), as published by National Fire Protection Association (NFPA) and as adopted by the State Building Code Council in Chapter 51-52 WAC, is hereby adopted by reference. The Construction Administrative Code, as set forth in Chapter 15.05 BMC, shall be used for the administration of the Liquefied Petroleum Gas Code.

15.10.110 International Fuel Gas Code adopted.

The 2009 Edition of the International Fuel Gas Code (IFGC), as published by the International Code Council, Inc. and as adopted by the State Building Code Council in Chapter 51-52 WAC, excluding Chapter 1 "Administration", is hereby adopted by reference together with the amendments set forth in this section. The Construction Administrative Code, as set forth in Chapter 15.05 BMC, shall be used in place of IFGC Chapter 1, Administration.

- (1) Amend IFGC Section 614.4, Exhaust installation to read as follows:

614.4 Exhaust installation. Exhaust ducts for clothes dryers shall terminate on the outside of the building and shall be equipped with a back-draft damper. Dryer exhaust ducts may terminate at approved exterior louvers with not less than 1" openings in any direction. Screens shall not be installed at the duct termination. Ducts shall not be

connected or installed with sheet metal screws or other fasteners that will obstruct the flow. Clothes dryer exhaust ducts shall not be connected to a vent connector, vent or chimney. Clothes dryer exhaust ducts shall not extend into or through ducts or plenums.

15.10.120 Uniform Plumbing Code adopted.

The 2009 Edition of the Uniform Plumbing Code (UPC), as published by the International Association of Plumbing and Mechanical Officials and as adopted and amended by the State Building Code Council in Chapters 51-56 and 51-57 WAC, including Appendix A – Recommended Rules for Sizing the Water Supply System; Appendix B – Explanatory Notes on Combination Waste and Vent Systems; Appendix I – Installation Standards. In addition, and Appendix L – Alternate Plumbing Systems, excluding Sections L5 through L7 is hereby adopted by reference together with the additions, deletions, exceptions, and amendments set forth in this section. The Construction Administrative Code, as set forth in Chapter 15.05 BMC, shall be used in place of UPC Chapter 1, Administration; Chapters 12 and 15 of the Uniform Plumbing Code are not adopted; and, Those requirements of the Uniform Plumbing Code relating to venting and combustion air of fuel-fired appliances as found in Chapter 5 and those portions of the code addressing building sewers as identified in WAC 51-56 are not adopted.

- (1) Amend UPC Section 312.0 Independent Systems as follows:

312.0 Independent Systems. The drainage system of each new building and of new work installed in any existing building shall be separate and independent from that of any other building, and, when available, every building shall have an independent connection with a public or private sewer.

Exception: Where one (1) building stands in the rear of another building on an interior lot, and no private sewer is available or can be constructed to the rear building through an adjoining court, yard, or driveway, the building drain from the front building shall be permitted to be extended to the rear building.

Swimming pools shall be provided with a separate and independent drainage system, which shall connect with a public or private sewer. The drainage pipe for the pool, floor drain, and similar fixtures shall be connected either to the side sewer downstream of the main building or structure, or to the building sewer downstream of the last plumbing fixture. The main building drain shall be equipped with an accessible backwater valve outside of the building or structure and upstream of the pool drain connection.

- (2) Amend UPC chapter 6, table 6-5, Water Supply Fixture Units (WSFU) and Minimum Fixture Branch Pipe Sizes, as follows:

Delete “Lawn Sprinkler, each head” “for “Private Use” from the table.

- (3) Amend UPC section 708.0 Grade of Horizontal Drainage Piping to read as follows:

708.0 Grade of Horizontal Drainage Piping. Horizontal drainage piping shall be run in practical alignment and a uniform slope of not less than one fourth (1/4) inch per foot (20.9 mm/m) or two (2) percent toward the point of disposal provided that, where it is impractical due to the depth of the street sewer or to the structural features or to the arrangement of any building or structure to obtain a slope of one-fourth (1/4) of an inch per foot (20.9 mm/m) or two (2) percent. Any such pipe or piping four (4) inches (100 mm) or larger in diameter may have a slope of not less than one-eighth (1/8) of an inch per foot (10.5 mm/m) or one (1) percent, only when first approved by the building official. Horizontal drainage piping connected to any dual flush gravity tank water closet shall slope a minimum of one -fourth (1/4) inch per foot.

- (4) Amend UPC Section 1101.11.2.2.2, Combined System, to read as follows:

1101.11.2.2.2 Combined System. The secondary roof drains shall connect to the vertical piping of the primary storm drainage system conductor downstream of any horizontal offset below the roof. The primary storm drainage system shall connect to the building storm water that connects to an underground public storm sewer. The combined secondary and primary roof drain systems shall be sized in accordance with Section 1106.0 based on double the rainfall for the local area. A relief drain shall be connected to the vertical drain piping, within 20 feet of grade, using a wye-type fitting piped to daylight on the exterior of the building. The piping shall be sized as required for a secondary drain with a 4 inch maximum.

15.10.130 Washington State Energy Code adopted.

The Washington State Energy Code (WSEC), as adopted by the State Building Code Council in Chapter 51-11 WAC, is hereby adopted by reference. The Construction Administrative Code, as set forth in Chapter 15.05 BMC, shall be used for the administration of the Washington State Energy Code.

15.10.140 Washington Cities Electrical Code adopted

- (1) The November 12, 2009 edition of the Washington Cities Electrical Code (WCEC), Parts one and three, as published by the Washington Association of Building Officials is hereby adopted by reference and shall be known as the Burien Electrical Code.
- (2) The "Construction Administrative Code" as set forth in BMC 15.05 shall be used for the administration of the Burien Electrical Code.
- (3) Conflicts.
 - (a) The requirements of this chapter will be observed where there is any conflict between this chapter and the National Electrical Code (NFPA 70), Centrifugal Fire Pumps (NFPA 20), the Emergency and Standby Power Systems (NFPA 110), ANSI/TIA/EIA 568-B, ANSI/TIA/EIA 569-A, ANSI/TIA/EIA 607, or ANSI/TIA/EIA 570.
 - (b) The National Electrical Code will be followed when there is any conflict between standard for Installation of Stationary Pumps for Fire Protection (NFPA 20), standard for

Emergency and Standby Power Systems (NFPA 110), ANSI/TIA/EIA 568-B, ANSI/TIA/EIA 569-A, ANSI/TIA/EIA 607, ANSI/TIA/EIA 570-B, and the National Electrical Code (NFPA 70).

- (c) In accordance with RCW 19.28.010(3), when the State of Washington, Department of Labor and Industries adopts a more current edition of the National Electrical Code (NFPA 70), the building official may supplement use of the Burien Electrical Code with newly adopted editions of the National Electrical Code. Provisions in the annex chapters of the National Electrical Code shall not apply unless specifically referenced in the adopting ordinance.

EXHIBIT C**15.12.080 Seattle-Tacoma International Airport noise reduction areas.**

Noise determined construction requirements detailed in this chapter shall be applied to new construction and additions of all structures, except for not normally inhabited portions of warehouses, storage buildings, public and private garages, and similar structures as determined by the building official, within the following areas:

- (1) Thirty-Five dB Reduction Area. Those portions of the city, east of First Avenue South extended from the northern to the southern city limits and to the eastern city limits. All living and working areas must comply with BMC ~~15.12.100~~ 15.12.090 which is designed to achieve a noise reduction level of ~~30-35~~ 35 dB.

- (2) Thirty dB Reduction Area. Those portions of the city, between First Avenue South and 12th Avenue S.W. extending from the northern to the southern city limits are a 30 dB Reduction Area. All living and working areas must comply with 15.12.100 BMC which is designed to achieve a noise reduction level of 30 dB.

- (~~2~~ 3) Twenty-Five dB Reduction Area. All remaining areas of the city. All living and working areas must comply with BMC 15.12.110 that is designed to achieve a noise reduction level of 25 dB.

Exhibit D**Chapter 15.20****FIRE CODE**

Sections:

- 15.20.010 Short title.
- 15.20.020 Adoption of International Fire Code.
- 15.20.030 Section 104 - Amended - General authority and responsibility.
- 15.20.040 Section 105 amended - Permits.
- 15.20.050 Section 108 amended - Board of appeals.
- 15.20.060 Section 109 amended - Violations.
- 15.20.070 Section 111 amended - Stop work order.
- 15.20.080 Section 113 amended - Fees.
- 15.20.090 Section 308.3 amended - Group A occupancies - Exceptions.
- 15.20.100 Section 314.4 amended - Indoor displays - Vehicles.
- 15.20.110 Section 503 amended - Fire apparatus access roads.
- 15.20.120 Section 506 amended - Key boxes - Where required.
- 15.20.130 Section 507 amended - Fire protection water supplies.
- 15.20.140 Section 508.1 amended - Fire command center - Penetrations.
- 15.20.150 Section 602 amended - Building services and systems - Definitions.
- 15.20.160 Section 604 - Emergency and standby power systems - High rise buildings.
- 15.20.170 Section 901 amended - Fire protection systems.
- 15.20.180 Section 903.2 amended - Automatic sprinkler systems - Where required.
- 15.20.190 Section 907 amended - Fire alarm and detection systems.
- 15.20.200 Section 3404.2.9.6.1 amended - Flammable and combustible liquids - Storage.
- 15.20.210 Section 3406.2.4.4 amended – Special operations – Storage and dispensing of flammable and combustible liquids on farms and construction sites - Locations where above-ground tanks are prohibited.
- 15.20.220 Section 3506.2 amended – Flammable Cryogenic Fluids – Limitations.
- 15.20.230 Section 3804.2 amended - Location of LP-Gas Containers - Maximum capacity within established limits.
- 15.20.240 Section 4603.7.1 amended – Single- and multiple- station smoke alarms – Where required.

15.20.010 Short title.

This chapter shall be known as and may be referred to as the “city of Burien Fire Code.”

15.20.020 Adoption of International Fire Code.

The 2009 Edition of the International Fire Code (IFC) as published by the International Code Council, Inc. and as adopted by the State Building Code Council in Chapter 51-54 WAC, and including Appendix B (Fire-Flow Requirements for Buildings), Appendix C (Fire Hydrant Locations and Distribution), Appendix D (Fire Apparatus Access Roads, Appendix H (Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS) Instructions and Appendix J (Emergency Responder Radio Coverage), is hereby adopted by reference, together with the amendments, additions, deletions, and exception as set forth in this chapter.

15.20.030 Section 104 amended – General authority and responsibility.

- (1) IFC Section 104.10.1, Assistance from other agencies, is amended to read as follows:

104.10.1 Assistance from other agencies. Police and other enforcement agencies shall have authority to render necessary assistance in the investigation of fires or the enforcement of this code when requested to do so by the fire code official.

- (2) IFC Section 104.11.2, Obstructing operations, is amended to read as follows:

104.11.2 Obstructing operations. No person shall obstruct the operations of the fire department in connection with extinguishment, control, or investigation of any fire, or actions relative to other emergencies, or disobey any lawful command of the fire chief or officer of the fire department in charge of the emergency, or any part thereof, or any lawful order of a police officer assisting the fire department.

15.20.040 Section 105 amended – Permits

- (1) IFC Section 105.2.3, Time limitation of application, is amended to read as follows:

105.2.3 Time limitation of application. An application for a any operational permit ~~for any proposed work or operation~~ shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that the fire code official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

An application for any fire protection systems construction permit shall be subject to the time limitations as prescribed in BMC 15.05.280.

- (2) IFC Section 105.3.1, Expiration, is amended to read as follows:

105.3.1 Expiration. An operational permit shall remain in effect until reissued, renewed, or revoked or for such a period of time as specified in the permit. Fire protection

~~systems~~ ~~Construction permits expiration shall be as prescribed in BMC 15.05.290. shall automatically become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Before such work recommences, a new permit shall be first obtained and the fee to recommence work, if any, shall be one half the amount required for a new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year.~~ Permits are not transferable and any change in occupancy, operation, tenancy or ownership shall require that a new permit be issued.

- (3) IFC Section 105.3.2, Extensions, is amended to read as follows:

105.3.2 Extensions. A permittee holding an unexpired operational permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to be commenced within the time required by this section for good and satisfactory reasons. The fire code official is authorized to grant, in writing, one or more extensions of the time period of a permit for periods of not more than 180 days each. Such extensions shall be requested by the permit holder in writing and justifiable cause demonstrated.

Fire protection systems construction permits may be extended or renewed in accordance with BMC 15.05.295.

15.20.050 Section 108 amended – Board of appeals.

- (1) IFC Section 108, Board of Appeals, is not adopted and is replaced as follows:

Section 108 – Means of appeal

108.1 General. Appeals shall be heard by the Hearing Examiner pursuant to BMC 15.05.400.

15.20.060 Section 109 amended – Violations.

- (1) IFC Section 109.1, Unlawful acts, is amended to read as follows:

Section 109.1 Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or utilize a any building, occupancy, premises, structure, property, equipment, or system regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code. Signs, tags or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with or removed without authorization from the code official.

- (2) IFC Section 109.2, Notice of violation, is amended to read as follows:

Section 109.2 Violation enforcement. Violations shall be enforced as prescribed in BMC 15.05.410.

- (3) IFC Section 109.3, Violation penalties, is amended to read as follows:

Section 109.3 Violation penalties. Violation penalties shall be as prescribed in BMC 15.05.410.

15.20.070 Section 111 amended – Stop work order.

(1) IFC Section 111.4, Failure to comply, is amended to read as follows:

111.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be ~~liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars~~ subject to the effects and penalties in BMC 15.05.415 (3) and (4).

15.20.080 Section 113 amended - Fees.

(1) IFC Section 113.2, Schedule of permit fees, is amended to read as follows:

113.2 Schedule of permit fees. A fee for each permit shall be paid as required in accordance with ~~the schedule as established by the applicable govern authority the city's contract with King County Fire District #2 and BMC 15.05.375 (2).~~ Plan Review fees shall be in accordance with BMC 15.05.375 (3). Permit Valuations shall be determined in accordance with BMC 15.05.375 (4).

(2) IFC Section 113.3, Work commencing before permit issuance, is amended to read as follows:

113.3 Work commencing before permit issuance. Any person who commences any work, activity or operation regulated by this code before obtaining the necessary permits shall be subject to ~~an additional fee established by the applicable governing authority, which shall be in addition to the required permit fees~~ the penalties and requirements of BMC 15.05.375 (5).

(3) IFC Section 113.5, Refunds, is amended to read as follows:

113.5 Refunds. ~~The applicable governing authority is authorized to establish a refund policy.~~ Refunds may be authorized by the building official in accordance with BMC 15.05.375 (7).

15.20.090 Section 308.3 amended – Group A occupancies – Exceptions.

(1) IFC Section 308.3, Group A occupancies – Exceptions is amended by addition of a fourth exception to read as follows:

4. Where approved by the fire code official (see also Section 308.1.8).

15.20.100 Section 314.4 amended – Indoor displays – Vehicles.

(1) IFC Section 314.4, Vehicles, is amended as follows:

314.4 Vehicles. Liquid- or gas-fueled vehicles, fueled equipment, boats or other motorcraft shall not be located indoors except as follows:

1. Batteries are disconnected.

2. Fuel in fuel tanks does not exceed one-quarter tank or 5 gallons (19L) (whichever is least).
3. Fuel tanks and fill openings are closed and sealed to prevent tampering.
4. Vehicles, boats or other motorcraft equipment are not fueled or defueled within the building.

15.20.110 Section 503 amended – Fire apparatus access roads.

The city of Burien does not adopt WAC 51-54-0500 and does adopt the following sections and their subsections of the International Fire Code, as adopted by this chapter:

(1) IFC Section 503.1, Where required, as written in the IFC is adopted without amendments.

(2) IFC Section 503.2, Specifications, as written in the IFC is adopted without amendment, except IFC section 503.2.2, Authority, is amended as follows:

503.2.2 Authority. The fire code official shall have the authority to allow a decrease in minimum access widths or require an increase in minimum access widths where they are inadequate for fire or rescue operations.

(3) IFC Section 503.3, Marking, is amended to read as follows:

503.3 Marking. Where required by the fire code official, approved signs or ~~markings that include the words NO PARKING - FIRE LANE~~ other approved notices shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. ~~The means by which fire lanes are designated shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.~~

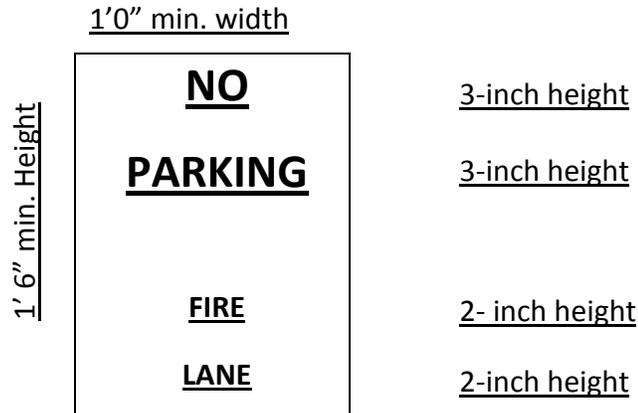
Signs or notices shall be maintained in a clean and legible condition at all times and shall be replaced or repaired when necessary to provide adequate visibility. Marked fire apparatus access roads, or “fire lanes” as defined above may be established or relocated at the time of plan review, pre-construction site inspection, and/or post construction site inspection as well as any time during the life of the occupancy as needed to provide and maintain fire department access. The fire code official or his/her designee may require that areas specified for use as driveways or private thoroughfares shall be designated as fire lanes and be marked or identified as required by this Section. All designated fire lanes shall be clearly marked in the following manner:

(a) Vertical curbs (6 inch) shall be painted yellow on the top and side, extending the length of the designated fire lane. The pavement adjacent to the painted curbs shall be marked with minimum 18 inch in height block lettering with a minimum 3 inch brush stroke reading: “NO PARKING - FIRE LANE.” Lettering shall be yellow and spaced at 50 foot intervals or portions thereof, or

(b) Rolled curbs or surfaces without curbs shall have a yellow 6 inch wide stripe painted extending the length of the designated fire lane. The surface adjacent to the stripe shall be marked with minimum 18 inch in height block lettering with a

minimum 3 inch brush stroke reading: “NO PARKING – FIRE LANE.” Lettering shall be in yellow and spaced at 50 foot intervals or portions thereof, or

(c) Curbs shall be painted and/or surfaces striped as noted above and fire lane signs shall be installed as follows:



- (i) Reflective in nature.
- (ii) Red letters on white background.
- (iii) Signs shall be spaced at 50 foot intervals or portions thereof apart and posted on or immediately next to the curb.
- (iv) Top of signs shall be not less than 4 feet or more than 6 feet from the ground.
- (v) Signs may be placed on a building when approved by the fire code official.
- (vi) When posts are required they shall be a minimum of 2 inch galvanized steel or 4 inch x 4 inch pressure treated wood. Signs shall be placed so they face the direction of the vehicular travel.

(d) Diagonal yellow striping across the width of the Fire Lane shall be used when required by the fire code official. They shall be used in conjunction with a 6 inch yellow stripe and lettering indicated in item #2-“b”. They shall run at a 30 to 60 degree angle and shall be parallel with each other. The stripes shall be a minimum of 6 inches in width and a minimum of 24 inches apart.

(4) IFC Section 503.4, Obstruction of fire apparatus roads, is amended to read as follows:

503.4 Obstruction of fire apparatus roads/fire lanes. Fire apparatus access roads/fire lanes shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in Section 503.2.1 shall be maintained at all times.

(a) The obstruction of a designated fire lane by a parked vehicle or any other object is prohibited and shall constitute a traffic and fire hazard and be deemed an immediate hazard to life and property.

(b) No person shall stop, stand, or park a vehicle whether occupied or not within a designated Fire Lane, except; momentarily to pick up or discharge a passenger or passengers provided the driver does not leave the vehicle.

(c) No person shall allow continued violations of this section on private property which they own or manage.

(d) Any vehicle or object obstructing a designated fire lane is hereby declared a traffic and fire hazard and may be immediately impounded pursuant to applicable state law, without prior notification to its owner. Pursuant to state law, the owner may be held responsible for all impound fees.

(e) The owner, manager, or person in charge of any property upon which designated fire lanes have been established shall provide marking as required above and, shall prevent the parking of vehicles or placement of other obstructions in such fire lanes.

(f) Fire lane markings shall be maintained at the expense of the property owner(s) as often as needed to clearly identify the designated area as being a fire lane.

(g) Parking control officers, as defined in BMC 10.15.120, are authorized to issue notices of traffic infraction for violations of this section in accordance with BMC 10.15.120. Such notices also may be issued by any police officer.

(h) Penalties for infractions of this section shall be in accordance with BMC 10.15.140.

(i) Each day or part of a day during which the unlawful act or violation occurs shall constitute a separate offense.

15.20.120 Section 506 amended – Key boxes – Where required.

(1) IFC Section 506.1, Where required, is amended by the addition of a second paragraph and exception as follows:

506.1 Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require a key box to be installed in an approved location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the fire code official.

All occupancies equipped with an automatic sprinkler system or fire alarm system shall have a key box mounted in a location approved by the fire code official.

Exception: One and two family dwelling.

15.20.130 Section 507 amended – Fire protection water supplies.

(1) IFC Section 507.1, Required water supply, is amended by the addition of the following paragraph:

507.1 Required water supply. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction.

The type of hydrants shall be approved by the building official, fire chief, and the water purveyor. Existing substandard water supply mains and/or hydrant installations, which serve new constructions, shall be upgraded. Fire hydrants and their supplying mains shall be installed to the standard of the water purveyor and shall be dedicated along with repair easements, where needed, to the purveyor. This section shall not apply to conditions existing prior to the effective date of this chapter.

- (2) IFC Section 507.3, Fire Flow, is amended to read as follows:

507.3 Fire flow. Fire flow requirements for buildings or portions of buildings and facilities shall be determined by ~~an approved method~~ use of Appendix B.

Exception: Fire flow is not required for structure under 500 square feet with a B, U or R-1 occupancy where structures are at least 30 feet from any other structure and are used only for recreation

- (3) IFC Section 507.5.1, Where required, is amended to read as follows:

507.5.1 Where required. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than ~~400~~ 150 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official. Fire hydrant locations and distribution shall be in accordance with Appendix C.

Exceptions:

1. For Group R-3 and Group U occupancies, the distance requirement shall be ~~600~~ 350 feet.
2. For Group R-3 and Group U occupancies equipped throughout with an approved automatic sprinkler system the distance requirement may be modified by the fire code official.

[Ord. 408 § 1, 2004]

15.20.140 Section 508.1 amended - Fire command center – Penetrations.

- (1) IFC Section 508.1, General, is amended by the addition of a new subsection 508.1.6, Penetrations, to read as follows:

508.1.6 Penetrations. Penetrations into and openings through a fire command center are prohibited except for required exit doors, equipment and ductwork necessary for heating, cooling or ventilation, sprinkler branch line piping, electrical raceway for fire department communication and control and electrical raceway serving the fire command center or being controlled from the fire command center. Such penetrations shall be protected in accordance with Section 713 of the International Building Code.

Exception: Metallic piping with no joints or openings.

15.20.150 Section 602 amended – Building services and systems – Definitions.

(1) IFC Section 602.1, Definitions, is amended by addition of the following:

POWER TAP. A listed device for indoor use consisting of an attachment plug on one end of a flexible cord and two or more receptacles on the opposite end, and has overcurrent protection.

15.20.160 Section 604.2.14 amended - Emergency and standby power systems – High rise buildings.

(1) IFC Section 604.2.14, High-rise buildings, is amended to include new subsection 602.14.1.4, Penetrations as follows:

604.2.14 High-rise buildings. Standby power, light and emergency systems in high-rise buildings shall comply with the requirements of Sections 604.2.14.1 through 604.2.14.34.

604.2.14.1.4 Penetrations. Penetrations into and openings through a room containing a standby power system are prohibited except for required exit doors, equipment and ductwork necessary for heating, cooling or ventilation, sprinkler branch line piping, or electrical raceway serving the standby power system or being controlled by the standby power system. Such penetrations shall be protected in accordance with Section 713 of the International Building Code.

Exception: Metallic piping with no joints or openings where it passes through the standby power system room.

15.20.170 Section 901 amended – Fire protection systems.

(1) IFC Section 901.4, Installation, is amended by the addition of a new subsection 901.4.5 Additions, change of use, alterations and repairs to buildings, to read as follows:

901.4.5 Additions, change of use, alterations and repairs to buildings. Additions, change of use, alterations and repairs to buildings shall comply with Chapter 34 of the International Building Code.

(2) IFC Section 901.7, Systems out of service is amended to read as follows:

901.7 Systems out of service. Where a ~~required~~ fire protection system is out of service, the fire department and the fire code official shall be notified immediately and, where required by the fire code official, the building shall either be evacuated or an approved fire watch shall be provided for all occupants left unprotected by the shut down until the fire protection system has been returned to service.

Where utilized, fire watches shall be provided with at least one approved means for notification of the fire department and their only duty shall be to perform constant patrols of the protected premises and keep watch for fires.

15.20.180 Section 903.2 amended – Automatic sprinkler systems – Where required.

- (1) IFC Section 903.2, Where required, is amended to read as follows:

903.2 Where required. Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in Sections 903.2.1 through 903.2.12, WAC 51-50-903, and in all buildings with a gross area of 5,000 square feet or greater, regardless of type or use.

Exceptions: Spaces or areas in telecommunications buildings used exclusively for telecommunications equipment, associated electrical power distribution equipment, batteries and standby engines, provided those spaces or areas are equipped throughout with an automatic smoke detection system in accordance with Section 907.2 and are separated from the remainder of the building by not less than 1-hour fire barriers constructed in accordance with Section 707 or not less than 2-hour horizontal assemblies constructed in accordance with Section 712, or both.

For the purposes of this section, fire walls as specified in Section 706 of the International Building Code shall not be used to reduce the calculation of floor areas of this chapter.

15.20.190 Section 907 amended – Fire alarm and detection systems.

- (1) IFC Section 907.1.3, Equipment, is amended to read as follows:

907.1.3 Equipment. Systems and their components shall be listed and approved for the purpose for which they are installed. All new alarm systems shall be addressable. Each device shall have its own address and shall annunciate individual addresses at the approved supervising station.

- (2) IFC Section 907.2, System installation, is amended by addition of the following section:

907.2.24 System installation. Fire alarm systems shall be installed and maintained in accordance with this code by persons under the direct supervision of individuals that have factory training and certification on the system being installed. Plans submitted for Fire Alarm System permits shall be prepared under the supervision of individuals possessing a NICET (National Institute for Certification in Engineering Technologies) Level III certification in Fire Alarm Systems; or shall be licensed by the State of Washington as a Professional Fire Protection or Electrical Engineer or certified by the State of Washington. Plans shall identify certification and/or licensing information.

- (3) IFC Section 907.9.5, Maintenance, inspection and testing, is amended by addition of ~~the following section~~ a second paragraph to read as follows:

907.9.5 Maintenance, inspection and testing. The building owner shall be responsible to maintain the fire and life safety systems in an operable condition at all times. Service personnel shall meet the qualification requirements of NFPA 72 for maintaining, inspecting and testing such systems. A written record shall be maintained and shall be made available to the fire code official.

It shall be the responsibility of an owner of the apartment building, upon every change in tenancy of a dwelling unit, to inspect the fire warning system within such dwelling unit to determine if the same is in operating condition. If the same is not in operating condition, the owner shall repair or replace the same and shall not allow occupancy of such dwelling unit until the fire warning system therein is operating properly. During the term of any tenancy of a dwelling unit in an apartment building, it shall be the responsibility of the tenant, and not the owner, to maintain the fire warning system therein in operating condition.

15.20.200 Section 3404.2 amended - Flammable and combustible liquids – Storage.

(1) IFC Section 3404.2.9.3.1, Locations where above-ground tanks are prohibited, is amended to read as follows:

3404.2.9.6.1 Locations where above-ground tanks are ~~prohibited~~ regulated. Storage of Class I and II liquids in above-ground tanks outside of buildings is ~~prohibited within the limits established by law as the limits of districts in which such storage is prohibited (see Section 3 of the Sample Ordinance for Adoption of the International Fire Code on page v)~~ subject to the requirements of Chapter 19.40 BMC – “Critical Areas.”

(2) IFC Section 3404.11.2, Locations, is amended to read as follows:

3404.2.11.2 Location. Flammable and combustible liquid storage tanks located underground, either outside or under buildings, shall be in accordance with all of the following:

1. Tanks shall be located with respect to existing foundations and supports such that the loads carried by the latter cannot be transmitted to the tank.
2. The distance from any part of a tank storing liquids to the nearest wall of a basement, pit, cellar, or lot line shall not be less than 3 feet (914 mm).
3. A minimum distance of 1 foot (305 mm), shell to shell, shall be maintained between underground tanks.
4. Tank location shall be in accordance with the limitations of Chapter 19.40 BMC - “Critical areas”.

15.20.210 Section 3406.2.4.4 amended – Special operations – Storage and dispensing of flammable and combustible liquids on farms and construction sites - Locations where above-ground tanks are prohibited.

(1) IFC Section 3406.2.4.4, Locations where above ground tanks are prohibited, is amended to read as follows:

3406.2.4.4 Locations where above-ground tanks are ~~prohibited~~ regulated. The storage of Class I and II liquids in above-ground tanks is ~~prohibited within the limits established by law as the limits of districts in which such storage is prohibited (see Section 3 of the Sample Ordinance for Adoption of the International Fire Code on page v)~~ subject to the requirements of Chapter 19.40 BMC – “Critical Areas.”

15.20.220 Section 3506.2 amended – Flammable Cryogenic Fluids – Limitations.

(1) IFC Section 3506.2, Limitations, is amended to read as follows:

3506.2 Limitations. Storage of flammable cryogenic fluids in stationary containers outside of buildings is ~~prohibited within the limits established by law as the limits of districts in which such storage is prohibited (see Section 3 of the Sample Ordinance for Adoption of the International Fire Code on page xiii)~~ subject to the requirements of Chapter 19.40 BMC – “Critical Areas.”

15.20.230 Section 3804.2 amended - Location of LP-Gas Containers - Maximum capacity within established limits.

(1) IFC Section 3804.2, Maximum capacity within established limits, is amended to read as follows:

3804.2 Maximum capacity within established limits. ~~Within the limits established by law restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested areas, the aggregate capacity of any one installation shall not exceed a water capacity of 2,000 gallons (7570 L) (see Section 3 of the Sample Ordinance for Adoption of the International Fire Code on page xiii).~~ The aggregate capacity for the storage of Liquid Petroleum Gas (LPG) of any one installation shall not exceed 2,000 gallons water capacity, except that in particular installations this capacity limit may be altered at the discretion of the fire code official after consideration of special features such as topographical conditions, nature of the occupancy and proximity to buildings, capacity of proposed tanks, degree of private fire protection to be provided, and facilities of the fire department.

15.20.240 Section 4603.7.1 amended – Single- and multiple- station smoke alarms – Where required.

(1) IFC Section 4603.7.1, Where required, is amended to read as follows:

4603.7.1 Where required. Existing Group R occupancies and *dwelling*s not classified as Group R occupancies ~~not already provided with single-station smoke alarms~~ shall be provided with single-station smoke alarms. ~~Installation shall be in accordance with Section 907.2.11, except as provided in Sections 4603.7.2 and 4603.7.3.~~

Exceptions:

1. Where the code that was in effect at the time of construction required smoke alarms and smoke alarms complying with those requirements are already provided.
2. Where smoke alarms have been installed in occupancies and dwellings that were not required to have them at the time of construction, additional smoke alarms shall not be required provided that the existing smoke alarms comply with requirements that were in effect at the time of installation.
3. Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms.

Exhibit E**Chapter 15.40****Burien Building and Property Maintenance Code**

Sections:

15.40.010	Short title.
15.40.015	Scope.
15.40.020	Intent.
15.40.025	Severability.
15.40.030	Applicability.
15.40.035	Maintenance.
15.40.040	Application of other codes.
15.40.045	Existing remedies.
15.40.050	Workmanship.
15.40.055	Historic buildings.
15.40.060	Referenced codes and standards.
15.40.065	Requirements not covered by this code.
15.40.070	Application of references.
15.40.075	Other laws.
15.40.080	Duties and powers of the code official.
15.40.085	Fees.
15.40.090	Approvals.
15.40.095	Violations and penalties.
15.40.100	Voluntary correction.
15.40.105	Notices and orders.
15.40.110	Unsafe Structures and equipment.
15.40.115	Closing of vacant structures.
15.40.120	Standards for securing buildings.
15.40.125	Authority to disconnect service utilities.
15.40.130	Notice.
15.40.135	Placarding.
15.40.140	Placard removal.
15.40.145	Prohibited occupancy.
15.40.150	Abatement methods.
15.40.155	Record.
15.40.160	Emergency measures.
15.40.165	Demolition.
15.40.170	Means of appeal.
15.40.175	City performance of work of demolition or repair, and recovery of costs.
15.40.180	Stop work order.
15.40.185	Definitions.
15.40.190	General requirements.
15.40.195	Exterior property areas.
15.40.200	Motor vehicles.
15.40.205	Recreational Vehicles or other vehicles.

- 15.40.210 Swimming pools, spas, and hot tubs.
- 15.40.215 Cargo containers and semi trailers.
- 15.40.220 Exterior structure.
- 15.40.225 Interior structure.
- 15.40.230 Component serviceability.
- 15.40.235 Handrails and guardrails.
- 15.40.240 Rubbish and garbage.
- 15.40.245 Pest Elimination.
- 15.40.250 Light and ventilation.
- 15.40.255 Occupancy limitations.
- 15.40.260 Plumbing facilities and fixture requirements.
- 15.40.265 Plumbing systems and fixtures.
- 15.40.270 Water system.
- 15.40.275 Sanitary drainage system.
- 15.40.280 Storm drainage.
- 15.40.285 Mechanical and electrical requirements.
- 15.40.290 Elevator, escalators and dumbwaiters.
- 15.40.295 Fire safety requirements.
- 15.40.300 Referenced standards.

15.40.010 Short title.

These regulations shall be known as the Burien Building & Property Maintenance Code, hereinafter referred to as “this code.”

15.40.015 Scope.

The provisions of this code shall be construed and shall be applied to be consistent with the authority and provisions of Chapter 35.80 RCW and shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for the safe and sanitary maintenance of such structures, premises, equipment, and facilities; for the responsibility of owners, operators and occupants; for the occupancy of existing structures and premises; and for administration, enforcement and penalties.

15.40.020 Intent.

This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

15.40.025 Severability.

If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

15.40.030 Applicability.

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

15.40.035 Maintenance.

Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

15.40.040 Application of other codes.

Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Burien Municipal Code. Nothing in this code shall be construed to cancel, modify or set aside any other provisions of the Burien Municipal Code.

15.40.045 Existing remedies.

The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

15.40.050 Workmanship.

Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

15.40.055 Historic buildings.

The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings as defined in the International Existing Building Code when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.

15.40.060 Referenced codes and standards.

The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

15.40.065 Requirements not covered by code.

Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official.

15.40.070 Application of references.

References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

15.40.075 Other laws.

The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

15.40.080 Duties and power of the code official.

(1) **General.** The code official is hereby authorized and directed to enforce the provisions of this code. The code official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

(2) **Appointment.** The code official shall be appointed by the chief appointing authority of the jurisdiction.

(3) **Deputies.** In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the code official shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the code official.

(4) **Liability.** The code official, hearing examiner, or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings.

The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

(5) **Inspections.** The code official is authorized to make all of the required inspections, or accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

(6) **Initial Inspection and Enforcement.** An initial enforcement determination shall be undertaken against buildings or properties whenever the code official has reason to believe that a violation of this code exists; or a complaint is filed with the department by any person, provided that where complaints have been filed by tenants, the tenant first shall exhaust all remedies provided through the Washington State Landlord Tenant Act, unless circumstances exist that give evidence of an immediate life safety or health condition that warrants an immediate response by the department.

(7) **Right of entry.** Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the code official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.

(8) **Identification.** The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

(9) **Notices and orders.** The code official is authorized to issue all necessary notices or orders to ensure compliance with this code.

(10) **Department records.** The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

15.40.085 Fees.

The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as adopted by the Burien city council.

15.40.090 Approvals.

(1) **Modifications.** Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases upon application of the owner or owner's representative, provided the code official shall first find that special individual reason makes the strict letter of this code

impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

(2) **Alternative materials, methods and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved and complies with all other codes adopted by the city of Burien. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

(3) **Required testing.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

(4) **Test methods.** Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures performed by an approved agency.

(5) **Test reports.** Reports of tests shall be retained by the code official for the period required for retention of public records.

(6) **Used material and equipment.** The use of used materials which meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved by the code official.

(7) **Approved materials and equipment.** Materials, equipment and devices approved by the code official shall be constructed and installed in accordance with such approval.

(8) **Research reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

15.40.095 Violations and penalties.

(1) **Unlawful acts.** It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code. Signs, tags or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with or removed without authorization from the code official.

(2) **Notice of violation.** The code official is authorized to serve a notice of violation or order in accordance with BMC 8.45.035.

(3) **Enforcement of violation.** If the notice of violation is not complied with in the time prescribed by such notice, the code official is authorized to request the legal counsel of the city

to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. The code official is authorized to enforce violations of this chapter and the codes referenced herein under Chapter 8.45 BMC.

- (4) **Penalties.** Any person who violates a provision of this code or fails to comply with any of the requirements thereof shall be subject to penalties as prescribed by this section.
- (a) **Civil Violation.** Except as otherwise provided in this title, any violation of any of the provisions of this title shall constitute a civil infraction for which a monetary penalty in an amount not to exceed \$5,000 may be imposed.
 - (b) **Criminal Penalty.** In addition to or as an alternative to any other penalty provided herein or by any other regulation, any person, partnership, firm, association, or corporation who violates any provision of this chapter shall be guilty of a misdemeanor and shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than 90 days or by a fine in an amount fixed by the court of not more than \$1,000 or by both such imprisonment and fine.
 - (c) **Separate Offense.** Each day or portion thereof upon which a violation occurs, continues, or is permitted shall constitute a separate offense for the purposes of subsections (a) and (b) of this section.

Failure to correct a civil violation in a manner and within the time frame specified by the administrative notice of violation subjects the person(s) responsible for code compliance to additional civil penalties as set forth in BMC 8.45.040(5), (6), and (7).

- (5) **Abatement of violation.** The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.
- (6) **Remedies – Cost Recovery.** In addition to other remedies, the cost of pursuing code compliance and abatement incurred to correct a code violation shall be in accordance with BMC 8.45.35 (12).

15.40.100 Voluntary correction.

- (1) **Applicability.** While it is the city's desire to obtain voluntary correction pursuant to this section, compliance herewith is not a prerequisite for pursuing any of the other remedies for correction in this chapter, or any remedies available in law or equity. This section may apply whenever the applicable department director determines that a nuisance has occurred or is occurring.
- (2) **General.** The applicable department director may attempt to secure voluntary correction by contacting the person responsible for the nuisance and, where possible, explaining the violation and requesting correction.

(3) **Issuance of Voluntary Correction Agreement.** A voluntary correction agreement may be entered into between the person responsible for the violation and the city, acting through the applicable department director.

- (a) **Content.** The voluntary correction agreement is a contract between the city and the person responsible for the violation under which such person agrees to abate the violation within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:
- (i.) The name and address of the person responsible for the violation; and
 - (ii.) The street address or other description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
 - (iii.) A description of the violation and a reference to the regulation which has been violated; and
 - (iv.) The necessary corrective action to be taken, and a date or time by which correction must be completed; and
 - (v.) An agreement by the person responsible for the violation that the city may inspect the premises as may be necessary to determine compliance with the voluntary correction agreement; and
 - (vi.) An agreement by the person responsible for the violation that the city may abate the violation and recover its costs and expenses (including attorney fees, expert witness fees, and court costs) and/or a monetary penalty pursuant to this chapter from the person responsible for the violation if the terms of the voluntary correction agreement are not satisfied; and
 - (vii.) An agreement that by entering into the voluntary correction agreement, the person responsible for the violation waives the right to a hearing before the district court under this chapter or otherwise, regarding the matter of the violation and/or the required corrective action.
- (b) **Right to a Hearing Waived.** Upon entering into a voluntary correction agreement, the person responsible for the violation shall have no right to a hearing before the district court under this chapter or otherwise, regarding the matter of the violation and/or the required corrective action.
- (c) **Extension and Modification.** An extension of the time limit for correction or a modification of the required corrective action may be granted by the applicable department director if the person responsible for the violation has shown due diligence and/or substantial progress in correcting the violation, but unforeseen circumstances delay correction under the original conditions.
- (d) **Abatement by the city.** The city may abate the violation in accordance with BMC 8.45.060 if the terms of the voluntary correction agreement are not met.

- (e) **Collection of Costs.** If the terms of the voluntary correction agreement are not met the person responsible for the violation shall be assessed a monetary penalty commencing on the date set for correction and thereafter, in accordance with BMC 8.45.040(5), plus all costs and expenses of abatement, as set forth in BMC 8.45.060(4).

15.40.105 Notices and orders.

(1) **Notice to person responsible.** Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in BMC 8.45.035(2) to the person responsible for the violation as specified in this code.

A copy of such notice shall also be filed with the County auditor, and such filing of the notice or order shall have the same force and effect as other lis pendens notices provided by law.

(2) **Method of service.** A notice of violation shall be served in accordance with BMC 8.45.035(3). Such notice shall be deemed to be properly served if a copy thereof is:

- (a) Delivered personally;
- (b) Sent by certified or first-class mail with return receipt requested, addressed to the last known address; or
- (c) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

(3) **Unauthorized tampering.** Signs, tags or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with, or removed without authorization from the code official.

(4) **Penalties.** Penalties for noncompliance with orders and notices shall be as set forth in BMC 15.40.095 (4).

(5) **Transfer of ownership.** It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

15.40.110 Unsafe structures and equipment.

(1) **General.** When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, the code official is authorized to condemn the structure pursuant to the provisions of this code.

(2) **Unsafe structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

(3) **Unsafe equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

(4) **Structure unfit for human occupancy.** A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

(5) **Unlawful structure.** An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

(6) **Dangerous structure or premises.** For the purpose of this code, any structure or premise that has any or all of the conditions or defects described below shall be considered dangerous:

- (a) Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
- (b) The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
- (c) Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
- (d) Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored,

attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.

- (e) The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
- (f) The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
- (g) The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
- (h) Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
- (i) A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
- (j) Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.
- (k) Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

(7) **Drug Properties and Structures.** It is hereby declared that any building, structure and/or associated property wherein or upon which the manufacture, distribution, production or storage of illegal drugs or the precursors to create illegal drugs has taken place in a manner which could endanger the public, such building, structure and/or associated property is not only a dangerous property but is also of a classification of property calling for the special procedures set forth in this section. The building official is authorized to abate such dangerous

buildings, structures and/or associated properties in accordance with the dangerous building procedures set forth in such code, with the following modifications:

- (a) Due to public safety hazard in drug-production facilities, the utilities shall be disconnected;
- (b) Building(s) and structures will be inspected to determine compliance with all city ordinances and codes;
- (c) Building(s) and any entry gates to the property will be secured against entry.
- (d) No reconnection of utilities or re-occupancy of the building(s), structures or property shall be allowed until all violations have been remedied, and all dangerous conditions abated to the satisfaction of the building official and a notice of release for re-occupancy has been received from the health department.

15.40.115 Closing of vacant structures.

If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official is authorized to cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and such costs will be recoverable pursuant to BMC 8.45.060.

15.40.120 Standards for securing buildings.

To secure a building, all doors, window openings, or other openings on floors accessible from grade shall be closed and locked, or shuttered to prevent third party entry. If openings are damaged so they cannot be secured using normal building amenities, they shall be secured by covering with 7/16 inch minimum thickness structural panel cut to fit over the building opening and secured with #10 wood screws with fender washers. The screws shall penetrate the wood framing by a minimum of 1-1/4 inches and the screws shall be spaced around the perimeter of the opening at no less than 12 inches on center.

15.40.125 Authority to disconnect service utilities.

The code official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in BMC 15.40.060 in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The code official shall notify the serving utility and, whenever possible, the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner or occupant of the building structure or service system shall be notified in writing as soon as practical thereafter.

15.40.130 Notice.

Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice, and served on the owner or the person or persons responsible for the structure or equipment in accordance with BMC 15.40.105. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in BMC 15.40.125.

15.40.135 Placarding.

Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official is authorized to post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

15.40.140 Placard removal.

The code official is authorized to remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

15.40.145 Prohibited occupancy.

Any occupied structure condemned and placarded by the code official is authorized to be vacated as ordered by the code official. Any person who shall occupy a placarded premise or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premise or operate placarded equipment shall be liable for the penalties provided by this code.

15.40.150 Abatement methods.

The owner, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action as determined by the code official.

15.40.155 Record.

The code official shall have the authority to cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

15.40.160 Emergency Measures.

(1) **Imminent danger.** When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is

hereby authorized and empowered to order and require the occupants to vacate the premises forthwith.

The code official is authorized to cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

(2) **Temporary safeguards.** Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official is authorized to order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and is authorized to cause such other action to be taken as the code official deems necessary to meet such emergency.

(3) **Closing streets.** When necessary for public safety, the code official is authorized to temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

(4) **Emergency repairs.** For the purposes of this section, the code official is authorized to employ the necessary labor and materials to perform the required work as expeditiously as possible.

(5) **Costs of emergency repairs.** Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction is authorized to institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

(6) **Hearing.** Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Hearings Examiner, be afforded a hearing as described in this code

15.40.165 Demolition.

(1) **General.** The code official shall have the authority to order the owner of any premises upon which is located any structure, which in the code official judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the code official is authorized to order the owner to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the building official.

- (2) **Notices and orders.** All notices and orders shall comply with BMC 15.40.105.
- (3) **Failure to comply.** If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall have the authority to cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.
- (4) **Salvage materials.** When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

15.40.170 Means of appeal.

- (1) **General.** Appeals of final orders, decisions, or determinations made by the code official relative to the application and interpretation of the city of Burien Building and Property maintenance code may be appealed by the property owner or his/her agent to the hearing examiner, pursuant to Chapters 2.15 and 2.20 BMC, within 30 days of the issuance of the final order, decision or determination.
- (2) **Limitations on authority.** An application for appeal shall be based on a claim that the true intent of this title or the rules adopted thereunder has been incorrectly interpreted, the provisions of this title do not fully apply, or an equally good or better form of construction is proposed. The hearing examiner shall have no authority to waive requirements of this code.
- (3) **Participation in the appeal.** Only those parties who have appealed the code official's final order, decision or determination may participate in the appeal either or both of the following ways:
- (a) By submitting written comments or testimony to the hearing examiner prior to commencement of the hearing; or
 - (b) By appearing in person, or through a representative at the hearing. The hearing examiner may reasonably limit the extent of oral testimony or oral argument to facilitate the orderly and timely conduct of the hearing.
- (4) **Decision on the appeal.** The hearing examiner shall consider all information and material within the scope of the appeal submitted by persons entitled to participate in the appeal. Based on the hearing's examiner's findings and conclusions, the hearing examiner may affirm, reverse or modify the order, decision or determination being appealed. The hearing examiner's decision on the appeal shall be issued within 90 days from the date the original appeal period closed, unless all parties to an appeal have agreed to an extended time period. Within four business days after it is issued, the hearing examiner's decision shall be mailed to

the applicant and to each person who has requested notice of the decision. The hearing examiner's final decision shall be the final decision of the city on the appeal and shall be conclusive unless proceedings for review of the decision are properly commenced in superior court within the time period specified by state law.

(5) **Judicial review.** Any judicial appeal of the hearing examiner's decision shall be reviewed in King County superior court pursuant to Chapter 36.70C RCW, the Land Use Petition Act ("LUPA"). The land use petition must be filed within twenty-one calendar days of the issuance of the hearing examiner's decision.

(6) **Records and copies.** The decision of the Hearings Examiner shall be recorded. Copies shall be furnished to the appellant and to the code official.

(7) **Court review.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

(8) **Stays of enforcement.** Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Hearings Examiner.

15.40.175 City performance of work of demolition or repair, and recovery of costs.

If the owner or party in interest following exhaustion of the rights to appeal, fails to comply with the final order to repair, alter, improve, vacate, close, remove, or demolish the dwelling, building, structure, or premises, the code official may direct or cause such dwelling, building, structure, or premises to be repaired, altered, improved, vacated, and closed, removed, or demolished.

The amount of the cost of such repairs, alterations or improvements; or vacating and closing; or removal or demolition by the building official, is authorized to be assessed against the real property upon which such cost was incurred unless such amount is previously paid. Upon certification by the city of the city of the assessment amount being due and owing, the county treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates and in such manner as provided for in Revised Code of Washington 84.56.020, as now or hereafter amended, for delinquent taxes, and when collected to be deposited to the credit of the general fund of the city. If the dwelling, building, structure, or premises is removed or demolished by the city, the city is authorized to, if possible, sell the materials of such dwelling, building, structure, [or] premises, and shall credit the proceeds of such sale against the cost of the removal or demolition and if there be any balance remaining, it shall be paid to the parties entitled thereto, as determined by the city, after deducting the costs incident thereto.

The assessment shall constitute a lien against the property which shall be of equal rank with state, county and municipal taxes.

15.40.180 Stop work order.

- (1) **Authority.** Whenever the code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the code official is authorized to issue a stop work order. Issuance of a notice of violation, infraction or notice and order is not a condition precedent to the issuance of the stop work order.
- (2) **Issuance.** A stop work order shall be in writing and shall be given to the owner of the property, to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.
- (3) **Emergencies.** Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.
- (4) **Effect.**
 - (a) The code official is authorized to assess a special investigation fee for the issuance of a stop work order when work has started without the issuance of a permit. The special investigation fee shall be determined in accordance with BMC 15.05.375 (5), work commencing before permit issuance .
 - (b) A stop work order represents a determination that a civil code violation has occurred and that any work or activity that is causing or contributing to the violation on the property where the violation has occurred or is occurring must cease.
 - (c) A stop work order requires the immediate cessation of the specified work or activity on the named property. Work or activity may not resume unless specifically authorized by the building official or designee.
 - (d) A stop work order may be appealed to the city of Burien hearings examiner according to the procedures prescribed by BMC 15.40.170, Appeals.
 - (e) Failure to appeal the stop work order within the applicable time limits renders the stop work order a final determination that the civil code violation occurred and that work was properly ordered to cease.
 - (f) Failure to comply with the terms of a stop work order subjects the person responsible for code compliance to civil penalties and costs.
- (5) **Remedy – Civil penalties.** Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.
 - (a) In addition to any other judicial or administrative remedy, the code official or designee may assess penalties for the violation of any stop work order as set forth in BMC 15.40.095(4), Penalties.

- (b) Penalties for the violation of any stop work order shall begin to accrue on the first day the stop work order is violated and shall cease on the day the work is actually stopped.
- (c) Violation of a stop work order shall be a separate violation from any other civil code violation. Civil penalties assessed create a joint and several personal obligations in all persons responsible for code violation. The city of Burien may collect the civil penalties assessed by any appropriate legal means.
- (d) In addition to all other remedies, a lien for the value of the civil penalties imposed may be filed against the real property that is subject to compliance with Title 15 of the Burien Municipal Code.

15.40.185 Definitions.

- (1) **Scope.** Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown herein.
- (2) **Interchangeability.** Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.
- (3) **Terms defined in other codes.** Where terms are not defined in this code and are defined in the International Building Code, International Residential Code, International Fire Code, International Zoning Code, Uniform Plumbing Code, International Mechanical Code or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.
- (4) **Terms not defined.** Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.
- (5) **Parts.** Whenever the words “dwelling unit,” “dwelling,” “premises,” “building,” “rooming house,” “rooming unit,” “housekeeping unit” or “story” are stated in this code, they shall be construed as though they were followed by the words “or any part thereof.”
- (6) **General Definitions.**

ANCHORED. Secured in a manner that provides positive connection.

APPROVED. Approved by the code official.

ATTRACTIVE NUISANCE. Any attractive nuisance which may prove detrimental to children whether in or on a building, on the premises of a building, or upon an unoccupied lot, which is left in any place exposed or accessible to children. This includes unused or abandoned refrigerators, freezers, or other large appliances or equipment or any parts thereof; abandoned motor vehicles; any structurally unsound or unsafe fence or edifice; any unsecured or abandoned excavation, pit, well, cistern, storage tank or shaft; and any lumber, trash, debris or vegetation which may prove a hazard for minors

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for occupancy.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

HISTORIC BUILDING. Any building or structure that is listed in the State or National Register of Historic Places; designated as a historic property under local or state designation law or survey; certified as a contributing resource within a National Register listed or locally designated historic district; or with an opinion or certification that the property is eligible to be listed on the National or State Register of Historic Places either individually or as a contributing building

to a historic district by the State Historic Preservation Officer or the Keeper of the National Register of Historic

HOUSEKEEPING UNIT. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY OR LET. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

NEGLECT. The lack of proper maintenance for a building or structure.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

POTENTIAL VERMIN HABITAT OR FIRE HAZARD. Any accumulation of material on a property including, but not limited to, animal matter, ashes, bottles, boxes, broken stone, building materials which are not properly stored or neatly piled, cans, cement, crates, empty barrels, dead animals or animal waste, glass, litter, mattresses or bedding, old appliances or equipment or any parts thereof, furniture, iron or other scrap metal, packing cases, packing material, plaster, plastic, rags, wire, yard waste or debris or other objects which endanger property or public safety, or constitute a fire hazard or vermin habitat; provided, that nothing herein shall prevent the temporary retention of waste in approved, covered receptacles.

PREMISES. A lot, plot or parcel of land, easement or public way, including any structures thereon.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

RECREATIONAL VEHICLE. A portable structure such as a motor home, travel trailer, park model trailer, or equivalent facilities in or on an automotive vehicle, tent, or other short-term recreational shelter designed as a temporary dwelling for travel, recreation and vacation uses.

REFUSE. Garbage, trash or any other item that is disregarded or thrown away, and shall also include recyclable materials and solid wastes.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

TRASH COVERED PREMISES. Any premises containing trash or abandoned materials, except that kept in garbage cans or containers with lids maintained for regular collection/removal.

ULTIMATE DEFORMATION. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a structure.

15.40.190 General requirements.

(1) **Responsibility.** The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this code. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

(2) **Vacant structures and land.** All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

15.40.195 Exterior property areas.

(1) **Sanitation.** All exterior property and premises shall be maintained in a clean, safe and sanitary condition in accordance with this code and the provision of Chapter 8.45 BMC. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

(2) **Grading and drainage.** All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: Approved retention areas and reservoirs.

- (3) **Sidewalks and driveways.** All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.
- (4) **Vegetation.** Vegetation as defined in BMC 8.45.020 is regulated under Chapter 8.45 BMC.
- (5) **Potential Vermin Habitat.** All structures and exterior property shall be kept free from potential vermin habitat and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.
- (6) **Exhaust vents.** Clearances to property lines and openings into a building prescribed in the adopted codes and standards applicable to the installation of pipes, ducts, conductors, fans or blowers shall be maintained.
- (7) **Accessory structures.** All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.
- (8) **Defacement of property.** No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair. Graffiti removal shall be in accordance with Chapter 8.55 BMC.

15.40.200 Motor vehicles. The following city codes shall be applicable to motor vehicles on private property. Enforcement shall be in accordance with Chapter 8.45 BMC.

- (1) Nuisance, Junk Vehicle(s): BMC 8.45.020(9)(c)(iv).
- (2) Parking on Residential Property: Chapter 10.11 BMC.
- (3) Off Street Parking Design Standards: BMC 19.20.100(10)(B).
- (4) Critical Area Aquifer Recharge Areas-Performance Standards Vehicle Repair and Servicing: BMC 19.40.430(6)(G).

15.40.205 Recreational vehicles or other vehicles.

No recreational vehicle or other vehicles shall be used for the purpose of living, sleeping, cooking or any similar use while parked on public or private property except where permitted by the land use and zoning codes in an approved Recreational Vehicle Park.

15.40.210 Cargo containers and semi trailers.

- (1) Except as permitted by city of Burien land use and zoning codes, cargo containers shall not be permitted to be used as storage buildings. Cargo containers which are permitted by the

land use and zoning code to be used as storage buildings shall be provided with a foundation system that provides adequate clearance from the ground to prevent deterioration and shall be provided with an anchorage system to prevent sliding or overturning by wind or seismic forces prescribed by the building code.

(2) Semi trailers shall not be used as storage buildings.

15.40.210 Swimming pools, spas, and hot tubs.

(1) **Swimming pools.** Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

(2) **Enclosures.** Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

15.40.220 Exterior structure.

(1) **General.** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

(2) **Unsafe conditions.** The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

- (a) The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
- (b) The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
- (c) Structures or components thereof that have reached their limit state;
- (d) Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
- (e) Structural members that have evidence of deterioration or that are not capable of safely supporting all nominal loads and load effects;

- (f) Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
- (g) Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
- (h) Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
- (i) Flooring and flooring components with defects that affect serviceability or flooring components that show signs of deterioration or fatigue, are not properly anchored or are incapable of supporting all nominal loads and resisting all load effects;
- (j) Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
- (k) Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
- (l) Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects; or
- (m) Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly anchored, or are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted when approved by the code official.

(3) **Protective treatment.** All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.

(4) **Premises identification.** Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm)

Exception: Buildings constructed under the International Residential Code, prior to July 1, 2010 are permitted to have an existing address number size be a minimum of 3" high.

(5) **Structural members.** All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

(6) **Foundation walls.** All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

(7) **Exterior walls.** All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

(8) **Roofs and drainage.** The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be intentionally discharged directly onto any other private property,, public right of way or in a manner that creates a public nuisance.

(9) **Decorative features.** All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(10) **Overhang extensions.** All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(11) **Stairways, decks, porches and balconies.** Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

(12) **Chimneys and towers.** All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(13) **Handrails and guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

- (14) **Window, skylight and door frames.** Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.
- (15) **Glazing.** All glazing materials shall be maintained free from cracks and holes.
- (16) **Openable windows.** Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.
- (17) **Doors.** All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.
- (18) **Building security.** Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

15.40.225 Interior structure.

- (1) **General.** The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.
- (2) **Unsafe conditions.** The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code, the International Residential Code or the International Existing Building Code as required for existing buildings:
- (a) The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
 - (b) The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
 - (c) Structures or components thereof that have reached their limit state;
 - (d) Structural members are incapable of supporting nominal loads and load effects;
 - (e) Stairs, landings, balconies and all similar walking surfaces, including guards and handrails, are not structurally sound, not properly anchored or are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
 - (f) Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an approved method.

2. Demolition of unsafe conditions shall be permitted when approved by the code official.
- (3) **Structural members.** All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.
- (4) **Interior surfaces.** All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood, mold and other defective surface conditions shall be corrected.
- (5) **Stairs and walking surfaces.** Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.
- (6) **Handrails and guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- (7) **Interior doors.** Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

15.40.230 Component serviceability.

- (1) **General.** The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.
- (2) **Unsafe conditions.** Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code as required for existing buildings:
 - (a) Soils that have been subjected to any of the following conditions:
 - (i.) Collapse of footing or foundation system;
 - (ii.) Damage to footing, foundation, concrete or other structural element due to soil expansion;
 - (iii.) Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
 - (iv.) Inadequate soil as determined by a geotechnical investigation;
 - (v.) Where the allowable bearing capacity of the soil is in doubt; or
 - (vi.) Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
 - (b) Concrete that has been subjected to any of the following conditions:
 - (i.) Deterioration;
 - (ii.) Ultimate deformation;

- (iii.) Fractures;
 - (iv.) Fissures;
 - (v.) Spalling;
 - (vi.) Exposed reinforcement; or
 - (vii.) Detached, dislodged or failing connections.
- (c) Aluminum that has been subjected to any of the following conditions:
- (i.) Deterioration;
 - (ii.) Corrosion;
 - (iii.) Elastic deformation;
 - (iv.) Ultimate deformation;
 - (v.) Stress or strain cracks;
 - (vi.) Joint fatigue; or
 - (vii.) Detached, dislodged or failing connections.
- (d) Masonry that has been subjected to any of the following conditions:
- (i.) Deterioration;
 - (ii.) Ultimate deformation;
 - (iii.) Fractures in masonry or mortar joints;
 - (iv.) Fissures in masonry or mortar joints;
 - (v.) Spalling;
 - (vi.) Exposed reinforcement; or
 - (vii.) Detached, dislodged or failing connections.
- (e) Steel that has been subjected to any of the following conditions:
- (i.) Deterioration;
 - (ii.) Elastic deformation;
 - (iii.) Ultimate deformation;
 - (iv.) Metal fatigue; or
 - (v.) Detached, dislodged or failing connections.
- (f) Wood that has been subjected to any of the following conditions:
- (i.) Ultimate deformation;
 - (ii.) Deterioration;
 - (iii.) Damage from insects, rodents and other vermin;

- (iv.) Fire damage beyond charring;
- (v.) Significant splits and checks;
- (vi.) Horizontal shear cracks;
- (vii.) Vertical shear cracks;
- (viii.) Inadequate support;
- (ix.) Detached, dislodged or failing connections; or
- (x.) Excessive cutting and notching.

Exceptions:

1. When substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted when approved by the code official.

15.40.235 Handrails and guardrails.

Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than thirty-four inches high or more than thirty-eight inches high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces

Guards shall not be less than thirty-six inches high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface for one or two family residences and town homes, and forty-two inches high for all other occupancies.

Exception: Guards shall not be required where exempted by the adopted building code.

15.40.240 Rubbish and garbage

(1) **Accumulation of rubbish or garbage.** All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

(2) **Disposal of refuse and recyclable materials.** Every occupant of a structure shall dispose of refuse and recyclable materials in a clean and sanitary manner by placing such materials in an approved disposal facility or approved containers maintained for regular collection.

(3) **Containers.** Containers for the purpose of collecting refuse shall provide adequate storage capacity to assure that all refuse is totally contained. All refuse shall be contained at all times. The number of refuse containers and the collection frequency of these containers shall be determined by the property owner, landlord or the individual/s who are in control of the use of the property. The code official may require additional containers, larger containers or more frequent collection of all refuse, and if all refuse is not kept within the containers.

Any refuse that is not contained shall constitute a nuisance and the code official is authorized to abate the nuisance in accordance with the Chapter 8.45 BMC.

The city is authorized to recover all costs and expenses from the property owner in accordance with BMC 8.45.060.

(4) **Recyclable materials and solid waste storage.** Space required by WAC 51-50-009 for the storage of recycled materials and solid waste shall be maintained to meet the needs of the occupancy, efficiency of pickup, and shall be available to occupants and haulers.

(5) **Refrigerators.** Refrigerators, freezers and similar equipment not in operation shall not be discarded, abandoned or stored on premises and are defined as an attractive nuisance as set forth in BMC 8.45.020.

15.40.245 Pest Elimination.

(1) **Infestation.** All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

(2) **Owner.** The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

(3) **Single occupant.** The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.

(4) **Multiple occupancy.** The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for extermination.

(5) **Occupant.** The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

15.40.250 Light and ventilation.

(1) **Responsibility.** The owner of the structure shall provide and maintain light, ventilation in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.

(2) **Alternative devices.** In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the Burien Construction Codes shall be permitted.

(3) **Light**

- (a) **Habitable spaces.** Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exceptions:

1. Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The exterior glazing area shall be based on the total floor area being served.
 2. The glazed areas need not be installed in rooms where an emergency rescue and escape opening is not required and artificial light is provided capable of producing an average illumination of 6 foot-candles (65 lux) over the area of the room at a height of 30 inches (762 mm) above the floor level.
- (b) **Common halls and stairways.** Every common hall and stairway in residential occupancies, other than in one- and two family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 foot candle (11 lux) at floors, landings and treads.
- (c) **Other spaces.** All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

(4) **Ventilation.**

- (a) **Habitable spaces.** Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in BMC 15.40.250 (3).

Exceptions:

1. Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

2. The glazed areas need not be openable where an emergency rescue and escape opening is not required and an approved mechanical ventilation system capable of producing 0.35 air change per hour in the room is installed or a whole-house mechanical ventilation system is installed capable of supplying outdoor ventilation air of 15 cubic feet per minute (cfm) (78 L/s) per occupant computed on the basis of two occupants for the first bedroom and one occupant for each additional bedroom.
- (b) **Bathrooms and toilet rooms.** Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by BMC 15.40.250(4)(a), except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.
 - (c) **Cooking facilities.** Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the rooming unit or dormitory unit.

Exceptions:

 1. Where specifically approved in writing by the code official.
 2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.
 - (d) **Process ventilation.** Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.
 - (e) **Clothes dryer exhaust.** Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions.

Exception: Listed and labeled condensing (ductless) clothes dryers.

15.40.255 Occupancy limitations.

- (1) **Responsibility.** The owner of the structure shall provide and maintain space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.
- (2) **Privacy.** Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.
- (3) **Minimum room widths.** A habitable room, other than a kitchen, shall not be less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counter fronts and appliances or counter fronts and walls.

(4) **Minimum ceiling heights.** Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than 7 feet (2134 mm).

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not more than 6 inches (152 mm) below the required are ceiling height.
2. Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than 6 feet 8 inches (2033 mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet (2134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet (1524 mm) or more shall be included.

(5) **Bedroom and living room requirements.** Every bedroom and living room shall comply with the following requirements:

- (a) **Room area.** Every living room shall contain at least 120 square feet (11.2m²) and every bedroom shall contain at least 70 square feet (6.5 m²).
- (b) **Access from bedrooms.** Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

Exception: Units that contain fewer than two bedrooms.

- (c) **Water closet accessibility.** Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.
- (d) **Prohibited occupancy.** Kitchens and non-habitable spaces shall not be used for sleeping purposes.
- (e) **Other requirements.** Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of BMC 15.40.260 and 15.40.265; the heating facilities and electrical receptacle requirements of BMC 15.40.285; and the smoke alarm and emergency escape requirements of BMC 15.40.295.

(6) **Overcrowding.** The number of persons occupying a dwelling unit shall be in conformance with occupancy limits established in the adopted construction codes and land

use/zoning codes and shall not create conditions that, in the opinion of the code official, endanger the life, health, safety or welfare of the occupants.

(7) **Efficiency unit.** Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

- (a) A unit occupied by not more than two occupants shall have a clear floor area of not less than 220 square feet (20.4 m²). A unit occupied by three occupants shall have a clear floor area of not less than 320 square feet (29.7 m²). These required areas shall be exclusive of the areas required by Items 2 and 3.
- (b) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.
- (c) The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.
- (d) The maximum number of occupants shall be three.

(8) **Food preparation.** All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

15.40.260 Plumbing facilities and fixture requirements.

(1) **Scope.** The provisions of this section shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided in existing structures.

(2) **Responsibility.** The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this section.

(3) **Number and Type of Fixtures.** Plumbing fixtures shall be provided and maintained in the quantity and location as required under the building and plumbing codes in existence at the time the occupancy was first approved by the jurisdiction unless subsequently approved to be relocated or removed under an approved permit.

(4) **Dwelling units.** Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

(5) **Rooming houses.** At least one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

- (6) **Hotels.** Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten occupants.
- (7) **Employees' facilities.** A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.
- (8) **Drinking facilities.** Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.
- (9) **Public toilet facilities.** Public toilet facilities shall be maintained in a safe sanitary and working condition in accordance with the Uniform Plumbing Code as adopted in BMC 15.10.120. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during occupancy of the premises.
- (10) **Toilet Rooms.** Toilet rooms shall comply with the following requirements:
- (a) **Privacy.** Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.
 - (b) **Location.** Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.
 - (c) **Location of employee toilet facilities.** Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.
Exception: Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.
 - (d) **Floor surface.** In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

15.40.265 Plumbing systems and fixtures.

- (1) **General.** All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

- (2) **Fixture clearances.** Plumbing fixtures shall have adequate clearances for usage and cleaning.
- (3) **Plumbing system hazards.** Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, back-siphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

15.40.270 Water system.

- (1) **General.** Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the Chapter 15.10 BMC.
- (2) **Contamination.** The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.
- (3) **Supply.** The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.
- (4) **Water heating facilities.** Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, except where allowed in Chapter 15.10 BMC. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

15.40.275 Sanitary drainage system.

- (1) **General.** All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.
- (2) **Maintenance.** Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.
- (3) **Grease interceptors.** Where it has been determined that a grease interceptor is not being maintained and serviced as intended by this code and the manufacturer's instructions, an approved interceptor monitoring system shall be provided or a maintenance program shall be established with documentation submitted to the code official.

15.40.280 Storm drainage.

- (1) **General.** Drainage of roofs, paved areas, yards, courts, and other open areas on the premises shall be discharged in a manner consistent with the requirements of the Burien Municipal Code and shall not be discharged in a manner that creates a public nuisance.
- (2) **Private Property Drainage.** Drainage from roof, paved areas, yards, or courts shall not be intentionally discharged directly onto any other private property or public Right of Way.

16.40.285 Mechanical and electrical requirements.

- (1) **Scope.** The provisions of this section shall govern the minimum mechanical and electrical facilities and equipment to be provided.
- (2) **Responsibility.** The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements of this chapter.
- (3) **Heating facilities.** Heating facilities shall be provided in structures as required by this section.
- (a) **Residential occupancies.** Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.
- (b) **Heat supply.** Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms.
- (c) **Occupiable work spaces.** Indoor occupiable work spaces shall be supplied with heat to maintain a temperature of not less than 68°F (20°C) during the period the spaces are occupied.
- Exceptions:**
1. Processing, storage and operation areas that require cooling or special temperature conditions.
 2. Areas in which persons are primarily engaged in vigorous physical activities.
- (d) **Room temperature measurement.** The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

- (4) **Mechanical equipment and appliances.** All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed

and maintained in a safe working condition, and shall be capable of performing the intended function.

- (a) **Removal of combustion products.** All fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

Exception: Fuel-burning equipment and appliances which are labeled for unvented operation.

- (b) **Clearances.** All required clearances to combustible materials shall be maintained.
- (c) **Safety controls.** All safety controls for fuel-burning equipment shall be maintained in effective operation.
- (d) **Combustion air.** A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.
- (e) **Energy conservation devices.** Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping there from, shall not be installed unless labeled for such purpose and the installation is specifically approved by the city of Burien under an approved permit.

(5) **Duct systems.** Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

(6) **Electrical facilities required.** Every occupied building shall be provided with an electrical system in compliance with the requirements of this section.

- (a) **Service.** The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with Chapter 15.10 BMC. Existing dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating as required by the Electrical Code in effect at the time of construction but in no case shall the service rating be less than 60 amperes
- (b) **Electrical system hazards.** Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.
- (c) **Abatement of electrical hazards associated with water exposure.** The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water. Electrical equipment and wiring that have been submerged or exposed to water shall comply with the provisions of Title 15 of the Burien Municipal Code.
- (d) **Abatement of electrical hazards associated with fire exposure.** The provisions of this section shall govern the repair and replacement of electrical systems and

equipment that have been exposed to fire. Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire shall be replaced in accordance with the provisions of Chapter 15.10 BMC.

Exception: Electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

- (e) **Installation.** All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner
- (f) **Receptacles.** Every habitable space in a dwelling shall contain receptacle outlets as required by the Electrical Code in effect at the time of installation or construction. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.
- (g) **Luminaires.** Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric luminaire.
- (h) **Extension Cords.** Extension cords shall not be used for permanent wiring. Extension cords shall not extend from one room to another; be placed across a doorway; extend through a wall or partition; or be used in any area where such cord may be subject to physical damage.

15.40.290 Elevators, escalators and dumbwaiters.

(1) **General.** Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building operator or be posted in a publicly conspicuous location approved by the code official. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the Washington State Department of Labor and Industries.

(2) **Elevators.** In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

15.40.295 Fire safety requirements.

(1) **Scope.** The provisions of this section shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

- (2) **Responsibility.** The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this chapter.
- (3) **Means of egress.**
- (a) **General.** A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the International Fire Code as adopted in Chapter 15.20 BMC.
 - (b) **Aisles.** The required width of aisles in accordance with the International Fire Code as adopted in Chapter 15.20 BMC shall be unobstructed.
 - (c) **Locked doors.** All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the International Building Code as adopted in Chapter 15.10 BMC or has been maintained in accordance with the code in effect at the time of construction, alteration, or change in use.
 - (d) **Emergency escape openings.** Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.
- (4) **Fire-resistance ratings.**
- (a) **Fire-resistance-rated assemblies.** The required fire-resistance-rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.
 - (b) **Opening protectives.** Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.
- (5) **Fire protection systems.**
- (a) **General.** All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the International Fire Code as adopted in Chapter 15.20 BMC.

- (b) **Automatic sprinkler systems.** Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.
- (c) **Smoke Alarms.** Single- or multiple- station smoke alarms shall be installed and maintained in accordance with the International Fire Code as adopted in Chapter 15.20 BMC.

15.40.300 Referenced standards.

This section lists the standards that are referenced in Chapter 15.40 BMC. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in BMC 15.40.060.

ASME

American Society of Mechanical Engineers
Three Park Avenue
New York, NY 10016-5990
Standard reference number: A17.1/CSA B44—2007
Title: Safety Code for Elevators and Escalators
Referenced in BMC 15.40.290

ASTM

ASTM International
100 Barr Harbor Drive
West Conshohocken, PA 19428-2959
Standard reference number: F1346—91 (2003)
Title: Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs
Referenced in BMC 15.40.210

NFPA

National Fire Protection Association
1 Batterymarch Park
Quincy, MA 02269
Standard reference number: 25—08 Inspection
Title: Testing and Maintenance of Water-based Fire Protection Systems
Referenced in BMC 15.40.295

CHANGE TO EXHIBIT A

documents and other data. The building official is also authorized to prevent occupancy or use of a structure when in violation of this code or of any other ordinances of the city. This section shall be applied, implemented and interpreted consistent with the statutes and court decisions of the State of Washington.

15.05.290 Permit Expiration.

- (1) Every issued permit shall expire 2-years from the date of issuance. The building official may approve a request for an extended expiration date, when construction work is performed in phases extending beyond the 2-year period due to the unique size and scope of project work and a construction schedule is provided by the applicant and approved prior to permit issuance.
- (2) Permits issued for applications submitted prior to July 1, 2010 shall be valid for 2 years from the date of adoption of this code, unless a written request for extension is approved by the building official prior to permit expiration or the permit is renewed in accordance with BMC 15.05.295. Where new codes have been adopted or required to be enforced per RCW 19.27 since the time of permit issuance, the building official is authorized to require construction documents to be updated to current codes and submitted as a permit revision for review and approval by city staff.
- (3) Mechanical, plumbing, electrical and other ancillary permits shall expire at the same time as the associated building permit, except that if no associated building permit is issued, the mechanical, ~~and or plumbing,~~ electrical, and/or other ancillary permit shall expire 2 years from the date of issuance.

*Corrects
omission
to
Reflect
intent*

15.05.295 Permit Extensions and Renewals

Permits may be extended, renewed or re-established by the building official in compliance with the terms and conditions of this section.

- (1) **Permit Extensions.** A permit expiration date may be extended in accordance with the following:
- (a) The written request for extension is received prior to the date of permit expiration.
 - (b) Upon written request from the owner, the building official or authorized representative is authorized to extend the expiration date up to 90 days with no additional fee, when all inspections except final inspection have been performed and approved. If all work is not completed within the 90-day extension period, the permit shall expire unless renewed under the provisions of subsection (2) of this section.
- (2) **Permit Renewals.** A permit may be renewed for a period of no more than 1 year from the date of original expiration in accordance with the following:
- (a) A written request for renewal shall be received prior to the date of permit expiration.
 - (b) A permit may be renewed one time subject to approval by the building official, as long as no unauthorized changes have been made to the originally approved plans and the applicant continues to make regular requests for inspections.

CHANGES TO EXHIBIT B

- (4) Amend UPC Section 1101.11.2.2.2, Combined System, to read as follows:

1101.11.2.2.2 Combined System. The secondary roof drains shall connect to the vertical piping of the primary storm drainage system conductor downstream of any horizontal offset below the roof. The primary storm drainage system shall connect to the building storm water that connects to an underground public storm sewer. The combined secondary and primary roof drain systems shall be sized in accordance with Section 1106.0 based on double the rainfall for the local area. A relief drain shall be connected to the vertical drain piping, within 20 feet of grade, using a wye-type fitting piped to daylight on the exterior of the building. The piping shall be sized as required for a secondary drain with a 4 inch maximum.

Delete year
→ | **15.10.130 Washington State Energy Code adopted.**

The ~~2009~~ Washington State Energy Code (WSEC), as adopted by the State Building Code Council in Chapter 51-11 WAC, is hereby adopted by reference. The Construction Administrative Code, as set forth in Chapter 15.05 BMC, shall be used for the administration of the Washington State Energy Code.

SBCC is delaying 2009 version
15.10.140 Washington Cities Electrical Code adopted

- (1) The November 12, 2009 edition of the Washington Cities Electrical Code (WCEC), Parts one and three, as published by the Washington Association of Building Officials is hereby adopted by reference and shall be known as the Burien Electrical Code.
- (2) The "Construction Administrative Code" as set forth in BMC 15.05 shall be used for the administration of the Burien Electrical Code.
- (3) Conflicts.
- (a) The requirements of this chapter will be observed where there is any conflict between this chapter and the National Electrical Code (NFPA 70), Centrifugal Fire Pumps (NFPA 20), the Emergency and Standby Power Systems (NFPA 110), ANSI/TIA/EIA 568-B, ANSI/TIA/EIA 569-A, ANSI/TIA/EIA 607, or ANSI/TIA/EIA 570.
- (b) The National Electrical Code will be followed when there is any conflict between standard for Installation of Stationary Pumps for Fire Protection (NFPA 20), standard for Emergency and Standby Power Systems (NFPA 110), ANSI/TIA/EIA 568-B, ANSI/TIA/EIA 569-A, ANSI/TIA/EIA 607, ANSI/TIA/EIA 570-B, and the National Electrical Code (NFPA 70).
- (c) In accordance with RCW 19.28.010(3), when the State of Washington, Department of Labor and Industries adopts a more current edition of the National Electrical Code (NFPA 70), the building official may supplement use of the Burien Electrical Code with newly adopted editions of the National Electrical Code. Provisions in the annex chapters of the National Electrical Code shall not apply unless specifically referenced in the adopting ordinance.

occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, S and U. These provisions shall not apply to buildings with occupancies in Group H or I.

(28) IBC Section H104, Identification, is deleted as follows:

~~H104.1 Identification. Every outdoor advertising display sign hereafter erected, constructed or maintained, for which a permit is required shall be plainly marked with the name of the person, firm or corporation erecting and maintaining such sign and shall have affixed on the front thereof the permit number issued for said sign or other method of identification approved by the building official.~~

Adopts Fire Sprinklers

15.10.070 International Residential Code adopted.

The 2009 Edition of the International Residential Code, as published by the International Code Council Inc. and as adopted by the State Building Code Council in Chapter 51-51 WAC, including Appendix Chapter G, Swimming Pools, Spas and Hot Tubs, WAC 51-51-60105, Appendix Chapter R, Dwelling Unit Fire Sprinkler Systems, WAC 51-51-60107, Appendix S, Fire Sprinklers, and excluding Chapters 1, 11, 25-43, is hereby adopted by reference, together with the amendments set forth in this section. The Construction Administrative Code, as set forth in Chapter 15.05 BMC, shall be used in place of IRC Chapter 1, Administration.

- (1) Energy Code requirements are regulated by Chapter 51-11 WAC (WSEC) as adopted and amended in BMC 15.10.130.
- (2) Plumbing Code requirements are regulated by Chapter 51-56 WAC (UPC) as adopted and amended in BMC 15.10.120.
- (3) Electrical Code requirements are regulated by Burien Electrical Code (WCEC) as adopted in BMC 15.10.140.

Changes sprinkler Not Required on Existing

(4) Except where required by the International Fire Code for access or fire flow, an automatic residential fire sprinkler system shall not be required for additions or alterations to existing buildings that are not already provided with an automatic residential sprinkler system.

(5) Amend IRC Table R301.2, Climatic and geographic design criteria, to include local design values as follows:

R301.2 Climatic and Geographic design criteria. Buildings shall be constructed in accordance with the provisions of this code as limited by the provisions of this section. Additional criteria shall be established by the local jurisdiction and set forth in Table R301.2 (1). Design values for Table R-301.2(1) shall be as follows:

- GROUND AND ROOF SNOW LOAD: 25 PSF
- WIND SPEED: 70 mph sustained with 85 mph 3 sec. gust
- TOPOGRAPHIC EFFECTS: Not Applicable
- SEISMIC DESIGN CATEGORY: D2
- WEATHERING: Moderate

- FROST LINE DEPTH: 12 inches
- TERMITE: Slight to moderate
- DECAY: Slight to moderate
- WINTER DESIGN TEMPERATURE: 24°F.
- SUMMER DESIGN TEMPERATURE: 83°F.
- ICE SHIELD UNDERLAYMENT REQUIRED: No
- FLOOD HAZARDS: See BMC 15.55
- AIR FREEZING INDEX: 148°F.- days
- MEAN ANNUAL TEMPERATURE: 51.4 °F.
- SOIL BEARING (Assumed): 1500 PSF

Amend Fire Sprinkler Reg. as agreed.

(6) Amend IRC Appendix S, Fire Sprinklers, to read as follows:

AS107.1 Fire sprinklers. An approved automatic fire sprinkler system shall be installed in new one-family and two-family dwellings and townhouses in accordance with Appendix R.
Exception: One-family and two-family dwellings and their attached accessory structures with a gross floor area less than 3600 square feet.

15.10.080 International Mechanical code adopted.

The 2009 Edition of the International Mechanical Code (IMC), as published by the International Code Council, Inc. and as adopted by the State Building Code Council in Chapter 51-52 WAC, excluding Chapter 1, Administration, is hereby adopted by reference together with the amendments set forth in this section. The Construction Administrative Code, as set forth in Chapter 15.05 BMC, shall be used in place of IMC Chapter 1, Administration.

(1) Amend IMC Section 501.2, Exhaust discharge to read as follows:

501.2 Exhaust discharge. The air removed by every mechanical exhaust system shall be discharged outdoors at a point where it will not cause a nuisance and not less than the distances specified in Section 501.2.1. The air shall be discharged to a location from which it cannot again be readily drawn in by a ventilating system. Air shall not be exhausted into an attic or crawlspace.

EXCEPTIONS:

1. Whole-house ~~ventilation-type attic fans~~ cooling fans shall be permitted to discharge into the attic space of dwelling units having private attics.
2. Commercial cooking recirculating systems.

501.2.1 Location of exhaust outlets. The termination point of exhaust outlets and ducts discharging to the outdoors shall be located with the following minimum distances:

1. For ducts conveying explosive or flammable vapors, fumes or dusts: 30 feet (9144 mm) from the property line; 10 feet (3048 mm) from operable openings

CHANGES TO EXHIBIT E

- (3) **Sidewalks and driveways.** All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.
- (4) **Vegetation.** Vegetation as defined in BMC 8.45.020 is regulated under Chapter 8.45 BMC.
- (5) **Potential Vermin Habitat.** All structures and exterior property shall be kept free from potential vermin habitat and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.
- (6) **Exhaust vents.** Clearances to property lines and openings into a building prescribed in the adopted codes and standards applicable to the installation of pipes, ducts, conductors, fans or blowers shall be maintained.
- (7) **Accessory structures.** All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.
- (8) **Defacement of property.** No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair. Graffiti removal shall be in accordance with Chapter 8.55 BMC.

Correct numbers → **15.40.200 Motor vehicles.** The following city codes shall be applicable to motor vehicles on private property. Enforcement shall be in accordance with Chapter 8.45 BMC.

- (1) Nuisance, Junk Vehicle(s): BMC 8.45.020(9)(c)(iv).
- (2) Parking on Residential Property: Chapter 10.11 BMC.
- (3) Off Street Parking Design Standards: BMC 19.20.100(10)(B).
- (4) Critical Area Aquifer Recharge Areas-Performance Standards Vehicle Repair and Servicing: BMC 19.40.430(6)(G).

15.40.205 Recreational vehicles or other vehicles.

No recreational vehicle or other vehicles shall be used for the purpose of living, sleeping, cooking or any similar use while parked on public or private property except where permitted by the land use and zoning codes in an approved Recreational Vehicle Park.

15.40.210 Cargo containers and semi trailers.

- (1) Except as permitted by city of Burien land use and zoning codes, cargo containers shall not be permitted to be used as storage buildings. Cargo containers which are permitted by the

CHANGES TO EXHIBIT E

- (iv.) Fire damage beyond charring;
- (v.) Significant splits and checks;
- (vi.) Horizontal shear cracks;
- (vii.) Vertical shear cracks;
- (viii.) Inadequate support;
- (ix.) Detached, dislodged or failing connections; or
- (x.) Excessive cutting and notching.

Exceptions:

1. When substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted when approved by the code official.

15.40.235 Handrails and guardrails.

Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than thirty-four inches high or more than thirty-eight inches high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces

Guards shall not be less than thirty-six inches high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface for one or two family residences and town homes, and forty-two inches high for all other occupancies.

Exception: Guards shall not be required where exempted by the adopted building code.

→ **15.40.240** *Correct #* **Rubbish and garbage**

- (1) **Accumulation of rubbish or garbage.** All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.
- (2) **Disposal of refuse and recyclable materials.** Every occupant of a structure shall dispose of refuse and recyclable materials in a clean and sanitary manner by placing such materials in an approved disposal facility or approved containers maintained for regular collection.
- (3) **Containers.** Containers for the purpose of collecting refuse shall provide adequate storage capacity to assure that all refuse is totally contained. All refuse shall be contained at all times. The number of refuse containers and the collection frequency of these containers shall be determined by the property owner, landlord or the individual/s who are in control of the use of the property. The code official may require additional containers, larger containers or more frequent collection of all refuse, and if all refuse is not kept within the containers.

**CITY OF BURIEN, WASHINGTON
MEMORANDUM**

DATE: June 1, 2010
TO: Honorable Mayor and Members of the City Council
FROM: Jan Vogee, Building Official
SUBJECT: Background for Agenda Bill to Ordinance 541, Amending BMC Title 15, Buildings and Construction.

BACKGROUND (Include prior Council action & discussion):

Washington construction codes are updated every three year by the State Building Code Council and adopted by the State Legislature. In the past, the council has adopted the codes and amendments by local ordinance on a regular basis.

The Washington State Building Code Act (RCW 19.27) requires all jurisdictions in Washington State begin administering the new 2009 State Building codes effective July 1, 2010. Adoption of this proposed ordinance will update BMC Title 15, Buildings and Construction, as mandated by the State. By adoption of these codes, we are permitted to amend the codes within certain parameters. The amendments to the codes, as presented in this ordinance, fall within those parameters.

In 2004 the building officials for Cities participating in MyBuildingPermit.com formed a committee to review the changes in the 2003 construction codes and administrative provisions. This process was repeated in 2007 to review changes in the 2006 codes and again this year for review of changes in the 2009 codes. As part of the review, the committee looked at the technical provisions and the administrative provisions of each of the codes required to be adopted. In some cases they found significant differences between the various codes including some of the codes do not include any administrative provisions. For this reason, a common administrative chapter was created utilizing the most common provisions of the administrative chapters which could be used for all of the construction codes. This provides for consistent administration regardless of what type of permit is being processed and more consistency among the participating jurisdictions, which is essential in a shared on-line permitting system. MyBuildingPermit.com participants currently include the jurisdictions of Bellevue, Bothell, Burien, Duvall, Issaquah, Kenmore, Kirkland, Mercer Island, Mill Creek, Renton, Sammamish, SeaTac, Snohomish County, Snoqualmie, and Woodinville.

Section 1 of the proposed ordinance repeals the current Chapter 15.05 BMC "Administration". Section 2 replaces it with a new Chapter 15.05 BMC "Construction Administrative Code" which is included as Exhibit A. This chapter now includes all of the administrative provisions related to scope, application, administration, and enforcement of the adopted construction codes. It replaces the administrative provisions in the various construction codes for those that have administrative provisions and provides administrative provisions for those that don't. This proposed ordinance includes minor alterations to the

administrative provisions within the existing BMC, such as what is exempt from permits, enabling the Burien Construction Administrative Code to become consistent with the regional model for Cities participating within MyBuildingPermit.com.

Section 3 of the proposed ordinance repeals the current Chapter 15.05 “BMC Building Code.” Section 4 replaces it with a new Chapter 15.10 BMC “Construction Codes” which is included as Exhibit B. This chapter adopts by reference the 2009 Construction codes required to be enforced beginning July 1, 2010 together with local amendments. The amendments are consistent with State law which allows local jurisdictions to amend the codes provided the amendment is equal to or better than the state code and they are also consistent with the regional model for Cities participating within MyBuildingPermit.com.

Section 5 of the proposed ordinance amends Chapter 15.12 BMC “Aircraft Noise Reduction,” which is included as Exhibit C, to correct an error that occurred in the Adoption ordinance 250 and was carried over in ordinance 408. The language underlined in Exhibit C replaces the language that was inadvertently omitted during previous adoptions and reflects the manner in which the Aircraft Noise Reduction requirements have been consistently applied.

Section 6 of the proposed ordinance repeals Chapter 15.15 BMC “Mechanical Code.” The adoption of the Mechanical code is now located with other construction codes and amendments in proposed BMC 15.10.080 as included in Exhibit B.

Section 7 of the proposed ordinance repeals the existing BMC 15.20 “Fire Code.” Section 8 replaces it with a new Chapter 15.20 “Fire Code” which is included as Exhibit D. Previous amendments have been retained where appropriate, removed where the current Fire Code has been revised such that the amendment is no longer needed, and updated to reflect administrative provisions that are consistent with the administrative provisions of the proposed Chapter 15.05 BMC. Where applicable, amendments are also consistent with the regional model for Cities participating within MyBuildingPermit.com.

Section 9 of the proposed ordinance repeals Chapter 15.25 BMC “Plumbing Code.” The adoption of the Uniform Plumbing code is now located with other construction codes and amendments in proposed BMC 15.10.120 as included in Exhibit B.

Section 10 of the proposed ordinance repeals Chapter 15.30 BMC “Electrical Code.” The adoption of the Burien Electrical code is now located with other construction codes and amendments in proposed BMC 15.10.140 as included in Exhibit B.

Section 11 of the proposed ordinance adopts a new Chapter 15.40 BMC, “Burien Building and Property Maintenance Code, which is included as Exhibit E. Previously, the City adopted by reference the *1997 Uniform Housing Code* and *1997 Uniform Code, for the Abatement of Dangerous Buildings* published by the International Council of Building Officials. These Codes are no longer published or updated. The *International Property Maintenance Code*, published by the International Code Council is referenced throughout the International Codes. Staff reviewed the International Property Maintenance Code and revised it by deleting items which are truly un-enforceable (like clean window, window screens, and maximum grass height), deleting other sections which are covered by other provisions of the BMC in the Nuisance Chapter 8.45 BMC, and referencing existing enforcement provisions of the BMC. Because of the large number of edits, it would be impractical and confusing for both the city

staff and the citizens to view only amendments to the International Property Maintenance Code in the city code. For this reason, the new chapter 15.40 titled "Building and Property Maintenance Code" includes a customized version of the International Property Maintenance code designed to fit the needs of Burien.

Options:

The 2009, after years of study and debate, the International Residential Code was modified to mandate the installation of residential fire sprinkler systems in all newly constructed townhouses and one and two family dwellings. The 2009 edition of the International Residential Code has an effective date of July 1, 2010 for townhouses, and January 1, 2011 for one and two family dwellings. During the code adoption process in the State of Washington, this requirement was moved from the main body of the code to the Appendix section of the International Residential code (included as exhibit F1) with the stipulation that local jurisdictions may adopt these appendix chapters without obtaining approval from the State Building Code Council. This is the first year that the State Building Code Council has made this allowance. The fire department strongly recommends adopting Appendix chapters "S" and "R" of the 2009 International Residential Code to provide the benefit of this life saving technology to our residents.

Background:

Nearly 400,000 home fires occur every year in this country. Over the last six years an average of approximately 2,800 people died in home fires¹. However, when fires break out in homes with sprinklers, residents are protected and the fire is kept under control until firefighters arrive on the scene. Home fire sprinklers are a proven technology that saves lives and protects property. Model safety codes now require the use of fire sprinklers in new one- and two-family homes. Several communities have started the process of adopting sprinkler ordinances and many jurisdictions already mandate this life-saving system in new homes. These requirements offer the highest level of safety to protect our citizens. Home fire sprinkler systems respond quickly to reduce the heat, flames, and smoke from a fire—offering residents valuable time to get to safety and protection to firefighters from major structural failures like collapsing beams and floorboards.

Cost:

Estimated cost impact is approximately \$1.50 to \$2.00 per square foot. This estimate is based upon evaluation of approximately 45 residential sprinkler installations over the last three years in the City of Burien² and research conducted by the National Fire Protection Association³.

¹ National Fire Protection Association news release dated May 25, 2010.

² City of Burien – City View permitting system \$1.44 per square foot average cost.

³ National Fire Protection Association news release dated September 11, 2008 shows an average cost per square foot of \$1.61.

Significant Changes

Included in Exhibit G is a list of some the most significant changes, which are mandated by the State. The most controversial change in this code cycle is the Washington State Energy code requirements for residential structures. News reports have indicated the Building Industry Association of Washington is suing a state agency over new energy efficiency standards, saying they exceed federal requirements and would add as much as \$15,000 to the price of a single-family home. The State Building Code Council adopted the new standards after much deliberation last fall. According to the Council's managing director they're based on similar codes already in effect in Oregon and require builders to choose from among several ways to make homes environmentally friendly, such as by using high-efficiency furnaces. The Council's research suggested the cost of compliance would add about \$4,000-\$5,000 to most new single-family homes. This additional cost was considered by the State Building Code Council during the code hearings and it was determined that the resulting energy cost savings outweighed the initial construction cost. Regardless of whether the new State Energy Code is adopted locally or not, RCW 19.27 requires it to be enforced in all jurisdictions beginning July 1, 2010 unless the courts decide otherwise.

Outreach:

A public outreach plan has been established to ease transition for our stakeholders as they move towards the implementation date of the updated codes. Staff has developed and continues to implement a public outreach plan consisting of low-cost 2009 Code update training seminars with our MyBuildingPermit.com partner jurisdictions targeted towards contractors and design professionals, along with informational handout materials and website information.

15.10.070 International Residential Code adopted.

The 2009 Edition of the International Residential Code, as published by the International Code Council Inc. and as adopted by the State Building Code Council in Chapter 51-51 WAC, including Appendix Chapter G, Swimming Pools, Spas and Hot Tubs, ~~WAC 51-51-60105 – Appendix Chapter R, Dwelling Unit Fire Sprinkler Systems, WAC 51-51-60107 – Appendix S, Fire Sprinklers,~~ and excluding Chapters 1, 11, 25-43, is hereby adopted by reference, together with the amendments set forth in this section. The Construction Administrative Code, as set forth in Chapter 15.05 BMC, shall be used in place of IRC Chapter 1, Administration.

- (1) Energy Code requirements are regulated by Chapter 51-11 WAC (WSEC) as adopted and amended in BMC 15.10.130.
- (2) Plumbing Code requirements are regulated by Chapter 51-56 WAC (UPC) as adopted and amended in BMC 15.10.120.
- (3) Electrical Code requirements are regulated by Burien Electrical Code (WCEC) as adopted in BMC 15.10.140.

~~(4) — Except where required by the International Fire Code for access or fire flow, an automatic residential fire sprinkler system shall not be required for additions or alterations to existing buildings that are not already provided with an automatic residential sprinkler system.~~

~~(5)~~(4) Amend IRC Table R301.2, Climatic and geographic design criteria, to include local design values as follows:

R301.2 Climatic and Geographic design criteria. Buildings shall be constructed in accordance with the provisions of this code as limited by the provisions of this section. Additional criteria shall be established by the local jurisdiction and set forth in Table R301.2 (1). Design values for Table R-301.2(1) shall be as follows:

GROUND AND ROOF SNOW LOAD: 25 PSF
WIND SPEED: 70 mph sustained with 85 mph 3 sec. gust
TOPOGRAPHIC EFFECTS: Not Applicable
SEISMIC DESIGN CATEGORY: D2
WEATHERING: Moderate
FROST LINE DEPTH: 12 inches
TERMITE: Slight to moderate
DECAY: Slight to moderate
WINTER DESIGN TEMPERATURE: 24°F.
SUMMER DESIGN TEMPERATURE: 83°F.
ICE SHIELD UNDERLAYMENT REQUIRED: No
FLOOD HAZARDS: See BMC 15.55
AIR FREEZING INDEX: 148°F.- days
MEAN ANNUAL TEMPERATURE: 51.4 °F.
SOIL BEARING (Assumed): 1500 PSF

~~(6) — Amend IRC Appendix S, Fire Sprinklers, to read as follows:~~

~~**AS107.1 Fire sprinklers.** An approved automatic fire sprinkler system shall be installed in new one-family and two-family dwellings and townhouses in accordance with Appendix R.~~

~~**Exception:** One-family and two-family dwellings with a gross floor area of 3600 square feet or less.~~



AGENDA
SHORELINE MASTER PROGRAM PUBLIC FORUM
SHORELINE ISSUES
June 21, 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**

7:00 pm: WELCOME

- Mike Martin, City Manager
- Scott Greenberg, Community Development Director

7:05 pm: FORUM GROUND RULES AND PROCEDURES

- Robin McClelland, Facilitator

7:10 pm: PRESENTATIONS BY PANELISTS ON MAJOR ISSUES:

Buffers & non-conformance; vegetation; bulkheads, public access

- State Shoreline Management Act & Guidelines: Bob Fritzen, Shoreline Planner, Washington State Dept. of Ecology
- Burien Shoreline Master Program: David Johanson, Senior Planner, City of Burien
- Questions from Burien City Council
- Real Estate Perspective: Gordon Buchan, President & Chief Operating Officer, GVA Kidder Mathews
- Insurance Perspective: Derek House, Vice-President & Manager, Wells Fargo Insurance Services

8:25 pm: QUESTIONS AND DIALOGUE

- Robin McClelland, Facilitator

9:45 pm: CITY COUNCIL OBSERVATIONS AND WRAP-UP

- Burien City Council
- Robin McClelland, Facilitator