



Burien
WASHINGTON

CITY COUNCIL MEETING AGENDA

March 19, 2012

SPECIAL MEETING, Miller Creek Conference Room, 3rd Floor
For the purpose of conducting Planning Commission interviews

6:15 p.m.

and

COUNCIL MEETING, Council Chambers, 1st Floor

7:00 p.m.

400 SW 152nd Street
 Burien, Washington 98166

PAGE NO.

1. CALL TO ORDER	2. PLEDGE OF ALLEGIANCE	3. ROLL CALL	
4. AGENDA CONFIRMATION			
5. PUBLIC COMMENT	Individuals will please limit their comments to three minutes, and groups to five minutes.		
6. CORRESPONDENCE FOR THE RECORD	None received.		
7. CONSENT AGENDA	a. Approval of Vouchers: Numbers 31062 - 31195 in the Amounts of \$261,012.80.		3.
	b. Approval of Minutes: Council Meeting, March 5, 2012.		23.
8. BUSINESS AGENDA	a. Motion to Approve Appointments to the Planning Commission.		27.
	b. Discussion of and Possible Approval of Ordinance 560, Relating to Zoning Code Amendments.		29.
	c. Adopt Proposed Ordinance 562, Updating and Revising Criminal and Traffic Codes.		115.
	d. Adopt proposed Ordinance 561, Updating and Consolidating Code Enforcement Regulations.		133.
	e. Motion to Adopt Resolution No. 329, Relating to Dates, Times and Location of City Council Meetings.		177.
	f. Discussion Regarding If and When to Adopt Resolution No. 330, Requesting King County to Hold a Special Election on August 7, 2012 for the Purpose of Placing on the Ballot a Proposition Concerning Annexation of the North Highline Area "Y" Annexation Area.		181.
	g. Review of Proposed Council Agenda Schedule.		211.
	h. City Business.		215.
9. COUNCIL REPORTS			
10. ADJOURNMENT			

COUNCILMEMBERS

Brian Bennett, Mayor	Rose Clark, Deputy Mayor	Jack Block, Jr.
Bob Edgar	Lucy Krakowiak	Joan McGilton
		Gerald F. Robison

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 19th day of March 2012 the FOLLOWING:

CHECK NOS. 31062-31195

IN THE AMOUNTS OF \$261,012.80

WITH VOIDED CHECK NOS. NA

Accounts Payable
Checks for Approval



User: CathyR
Printed: 03/15/2012 - 7:41 AM

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
31062	03/07/2012	General Fund	Refund Clearing Account -Parks	Ravyn Burris	60.00
					Check Total: <u>60.00</u>
31063	03/19/2012	General Fund	Subscriptions/publications	ABC LEGAL	76.00
					Check Total: <u>76.00</u>
31064	03/19/2012	General Fund	Office Supplies	ACE Hardware	48.50
31064	03/19/2012	General Fund	Office And Operating Supplies	ACE Hardware	44.59
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	21.32
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	25.69
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	11.49
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	56.87
31064	03/19/2012	General Fund	Office And Operating Supplies	ACE Hardware	49.44
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	62.38
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	38.97
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	30.65
31064	03/19/2012	General Fund	Office Supplies	ACE Hardware	5.52
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	16.17
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	10.94
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	29.55
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	16.39
31064	03/19/2012	General Fund	Office And Operating Supplies	ACE Hardware	21.88
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	11.49
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	21.89
31064	03/19/2012	General Fund	Office And Operating Supplies	ACE Hardware	16.40
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	112.69
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	33.36
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	8.74
31064	03/19/2012	General Fund	Office And Operating Supplies	ACE Hardware	8.74
31064	03/19/2012	General Fund	Office And Operating Supplies	ACE Hardware	23.52
31064	03/19/2012	General Fund	Office And Operating Supplies	ACE Hardware	27.90

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	83.18
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	12.00
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	5.43
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	65.68
31064	03/19/2012	General Fund	Office And Operating Supplies	ACE Hardware	5.45
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	12.38
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	41.91
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	14.77
31064	03/19/2012	General Fund	Office And Operating Supplies	ACE Hardware	36.11
31064	03/19/2012	General Fund	Office Supplies	ACE Hardware	19.14
31064	03/19/2012	Street Fund	Office And Operating Supplies	ACE Hardware	180.38
31064	03/19/2012	General Fund	Office And Operating Supplies	ACE Hardware	22.97
31064	03/19/2012	General Fund	Office And Operating Supplies	ACE Hardware	4.38
31064	03/19/2012	General Fund	Office And Operating Supplies	ACE Hardware	58.51
31064	03/19/2012	General Fund	Office And Operating Supplies	ACE Hardware	98.50
31064	03/19/2012	General Fund	Office and Operating Supplies	ACE Hardware	-7.54
Check Total:					1,408.33
31065	03/19/2012	General Fund	Subscriptions/publications	Attorney's Eagle Eye Service	59.13
Check Total:					59.13
31066	03/19/2012	General Fund	Office And Operating Supplies	Airgas Nor Pac Inc	24.36
Check Total:					24.36
31067	03/19/2012	General Fund	Repairs And Maintenance	All Clear Inc.	164.25
Check Total:					164.25
31068	03/19/2012	General Fund	Prof. Svcs-instructors	Pamela Ann Allen	708.50
Check Total:					708.50
31069	03/19/2012	General Fund	Nuisance Abatement Costs	David Karch	127.50
31069	03/19/2012	General Fund	Nuisance Abatement Costs	David Karch	85.00
31069	03/19/2012	General Fund	Nuisance Abatement Costs	David Karch	85.00
Check Total:					297.50
31070	03/19/2012	Surface Water Management Fund	Repairs And Maintenance	Alpine Fence Company	830.01

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
				Check Total:	830.01
31071	03/19/2012	Street Fund	Repairs And Maintenance	Alpine Products Inc	122.20
				Check Total:	122.20
31072	03/19/2012	General Fund	Office and Operating Supplies	Amerigas - Kent	420.62
				Check Total:	420.62
31073	03/19/2012	General Fund	Professional Services	Administrative Office of the C	50.00
				Check Total:	50.00
31074	03/19/2012	General Fund	Dues/memberships	American Public Works Associat	266.00
31074	03/19/2012	Street Fund	Dues/memberships	American Public Works Associat	332.50
31074	03/19/2012	Surface Water Management Fund	Dues/memberships	American Public Works Associat	465.50
				Check Total:	1,064.00
31075	03/19/2012	General Fund	Telephone	A T & T	52.11
				Check Total:	52.11
31076	03/19/2012	Parks & Gen Gov't CIP	PKS & REC OPEN SPACE PLAN	Tom Beckwith FAICP	2,250.00
				Check Total:	2,250.00
31077	03/19/2012	General Fund	Instructors Prof Svcs	Lucas Bonnema	200.00
				Check Total:	200.00
31078	03/19/2012	General Fund	Printing/Binding/Copying	Brim Press, LLC	197.10
31078	03/19/2012	General Fund	Printing	Brim Press, LLC	788.40
				Check Total:	985.50
31079	03/19/2012	General Fund	Prof. Svcs-instructors	Viola Brumbaugh	1,280.50
				Check Total:	1,280.50

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
31080	03/19/2012	General Fund	Telephone	CenturyLink	48.54
31080	03/19/2012	Street Fund	Telephone	CenturyLink	48.53
31080	03/19/2012	Surface Water Management Fund	Telephone	CenturyLink	48.53
Check Total:					145.60
31081	03/19/2012	General Fund	Professional Services	Code Publishing Co.	3,909.15
Check Total:					3,909.15
31082	03/19/2012	General Fund	Utilities	COMCAST	66.95
31082	03/19/2012	General Fund	Telephone	COMCAST	71.90
Check Total:					138.85
31083	03/19/2012	General Fund	Office/operating Supplies	Complete Office	284.08
31083	03/19/2012	General Fund	Office/operating Supplies	Complete Office	319.80
31083	03/19/2012	General Fund	Office And Operating Supplies	Complete Office	248.63
31083	03/19/2012	General Fund	Office And Operating Supplies	Complete Office	248.63
31083	03/19/2012	General Fund	Office And Operating Supplies	Complete Office	319.80
31083	03/19/2012	General Fund	Office And Operating Supplies	Complete Office	35.43
31083	03/19/2012	General Fund	Office/Operating Supplies	Complete Office	35.43
31083	03/19/2012	General Fund	Office And Operating Supplies	Complete Office	35.43
31083	03/19/2012	General Fund	Repairs & Maintenance	Complete Office	307.99
31083	03/19/2012	General Fund	Office And Operating Supplies	Complete Office	274.40
31083	03/19/2012	General Fund	Office And Operating Supplies	Complete Office	260.34
31083	03/19/2012	General Fund	Office And Operating Supplies	Complete Office	46.99
31083	03/19/2012	General Fund	Office And Operating Supplies	Complete Office	219.49
Check Total:					2,636.44
31084	03/19/2012	Street Fund	Repairs And Maintenance	Corliss Resources	293.20
Check Total:					293.20
31085	03/19/2012	General Fund	Instructors Prof Svcs	Janet S. Crawley	297.00
31085	03/19/2012	General Fund	Prof. Svcs-instructors	Janet S. Crawley	371.00
Check Total:					668.00
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	84.07
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	69.59
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	20.68

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	66.74
31086	03/19/2012	General Fund	Utilities	City of Seattle	145.07
31086	03/19/2012	General Fund	Utilities	City of Seattle	17.61
31086	03/19/2012	General Fund	Utilities	City of Seattle	76.35
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	17.94
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	64.09
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	40.00
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	108.99
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	129.64
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	99.02
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	18.26
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	92.21
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	48.79
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	121.27
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	99.44
31086	03/19/2012	General Fund	Utilities	City of Seattle	14.32
31086	03/19/2012	General Fund	Utilities	City of Seattle	422.00
31086	03/19/2012	General Fund	Utilities	City of Seattle	277.02
31086	03/19/2012	General Fund	Utilities	City of Seattle	1,536.33
31086	03/19/2012	General Fund	Utilities	City of Seattle	701.32
31086	03/19/2012	General Fund	Utilities	City of Seattle	33.40
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	193.49
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	8.40
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	460.77
31086	03/19/2012	Street Fund	Utilities - Traffic Signals	City of Seattle	269.82
Check Total:					5,236.63
31087	03/19/2012	Street Fund	Office And Operating Supplies	Culligan Spokane	16.43
31087	03/19/2012	Surface Water Management Fund	Office And Operating Supplies	Culligan Spokane	16.42
Check Total:					32.85
31088	03/19/2012	General Fund	State Lobbying Services	Michael D. Doubleday	4,386.00
Check Total:					4,386.00
31089	03/19/2012	General Fund	Repairs And Maintenance	Dell Computer Corporation	264.57
Check Total:					264.57
31090	03/19/2012	General Fund	Professional Services	Offc.State Procurement Dept of Enterpris	2,000.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
				Check Total:	2,000.00
31091	03/19/2012	Surface Water Management Fund	Regional Watershed (wria9)	Department of Ecology	4,355.81
				Check Total:	4,355.81
31092	03/19/2012	Surface Water Management Fund	Fuel/gas/gasoline consumption	Wright Express FSC	1,398.06
31092	03/19/2012	General Fund	Fuel/gas/gasoline Consumption	Wright Express FSC	203.98
31092	03/19/2012	General Fund	Fuel/gas/gasoline Consumption	Wright Express FSC	389.71
31092	03/19/2012	General Fund	Fuel/Gas Consumption	Wright Express FSC	105.25
31092	03/19/2012	General Fund	Citizens Patrol/ Crime Prevent	Wright Express FSC	13.66
31092	03/19/2012	General Fund	Fuel/gas consumption	Wright Express FSC	102.44
31092	03/19/2012	General Fund	Fuel/gas/gasoline Consumption	Wright Express FSC	135.24
31092	03/19/2012	Street Fund	Fuel/gas/gasoline consumption	Wright Express FSC	1,229.99
				Check Total:	3,578.33
31093	03/19/2012	General Fund	Instructors Prof Svcs	Pam Fredback	168.00
				Check Total:	168.00
31094	03/19/2012	General Fund	Att Svcs - Litigation - 1st So	Global Construction Services,	1,258.00
31094	03/19/2012	General Fund	Att Svcs - Litigation - 1st So	Global Construction Services,	407.00
				Check Total:	1,665.00
31095	03/19/2012	General Fund	Miscellaneous	Kirk Gentile	118.25
				Check Total:	118.25
31096	03/19/2012	General Fund	Professional Services	Goodbye Graffiti	1,761.86
				Check Total:	1,761.86
31097	03/19/2012	General Fund	Utilities	Glendale Heating	2,320.97
				Check Total:	2,320.97
31098	03/19/2012	General Fund	Instructors Prof Svcs	Carol Gouthro	450.00
				Check Total:	450.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
31099	03/19/2012	General Fund	Office and Operating Supplies	Grainger	223.77
				Check Total:	223.77
31100	03/19/2012	General Fund	Parks Building Security	Guardian Security	65.00
				Check Total:	65.00
31101	03/19/2012	Surface Water Management Fund	Dues/memberships	BENJAMIN GUMMERE	33.00
31101	03/19/2012	Surface Water Management Fund	Mileage	BENJAMIN GUMMERE	30.63
31101	03/19/2012	Street Fund	Mileage	BENJAMIN GUMMERE	30.63
				Check Total:	94.26
31102	03/19/2012	General Fund	Instructors Prof Svcs	Victoria E. Hamilton	462.00
31102	03/19/2012	General Fund	Instructors Prof Svcs	Victoria E. Hamilton	202.50
				Check Total:	664.50
31103	03/19/2012	General Fund	MIS Plan Implementation	Harris Computer Systems	12,120.75
				Check Total:	12,120.75
31104	03/19/2012	General Fund	Operating Rentals and Leases	Head-quarters	81.50
				Check Total:	81.50
31105	03/19/2012	Street Fund	Repairs And Maintenance	ICON Materials	85.96
31105	03/19/2012	Surface Water Management Fund	Repairs And Maintenance	ICON Materials	85.96
31105	03/19/2012	Surface Water Management Fund	Repairs And Maintenance	ICON Materials	167.25
31105	03/19/2012	Street Fund	Repairs And Maintenance	ICON Materials	167.24
31105	03/19/2012	Street Fund	Repairs And Maintenance	ICON Materials	10.95
31105	03/19/2012	Surface Water Management Fund	Repairs And Maintenance	ICON Materials	10.95
31105	03/19/2012	Street Fund	Repairs And Maintenance	ICON Materials	176.38
31105	03/19/2012	Surface Water Management Fund	Repairs And Maintenance	ICON Materials	176.39
31105	03/19/2012	Street Fund	Repairs And Maintenance	ICON Materials	62.41
31105	03/19/2012	Surface Water Management Fund	Repairs And Maintenance	ICON Materials	62.41
				Check Total:	1,005.90
31106	03/19/2012	General Fund	Operating Rents & Leases	IKON Office Solutions	326.06
31106	03/19/2012	General Fund	Operating Rentals And Leases	IKON Office Solutions	656.04
31106	03/19/2012	General Fund	Operating Rents & Leases	IKON Office Solutions	20.05

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
31106	03/19/2012	General Fund	Operating Rents & Leases	IKON Office Solutions	455.54
31106	03/19/2012	General Fund	Operating Rents & Leases	IKON Office Solutions	531.21
Check Total:					1,988.90
31107	03/19/2012	General Fund	Miscellaneous	Iron Mountain Rec. Management	81.30
31107	03/19/2012	General Fund	Miscellaneous	Iron Mountain Rec. Management	226.15
Check Total:					307.45
31108	03/19/2012	Street Fund	Repairs & Maint. - Fleet	Interstate Tire & Automotive	144.92
31108	03/19/2012	Surface Water Management Fund	Repairs & Maint. - Fleet	Interstate Tire & Automotive	144.91
Check Total:					289.83
31109	03/19/2012	General Fund	Repairs And Maintenance	JW Tel-Tronics	395.53
Check Total:					395.53
31110	03/19/2012	General Fund	Prof. Svcs-instructors	Moodette Ka'apana	136.50
31110	03/19/2012	General Fund	Instructors Prof Svcs	Moodette Ka'apana	40.00
Check Total:					176.50
31111	03/19/2012	General Fund	Plan Review Fee Fire Dist 2	King County Fire District #2	2,876.20
Check Total:					2,876.20
31112	03/19/2012	General Fund	City Hall Bldg Maintenance	King County Library System	5,000.00
Check Total:					5,000.00
31113	03/19/2012	General Fund	City Hall Bldg Maintenance	King County Library Sytem & Ci	35,385.00
Check Total:					35,385.00
31114	03/19/2012	General Fund	Jail contracts	King County Finance	140.01
Check Total:					140.01
31115	03/19/2012	General Fund	Drug seizure proceeds KCSO	K.C.Sheriff-Sgt.R. Crenshaw	1,962.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
				Check Total:	1,962.00
31116	03/19/2012	General Fund	Instructors Prof Svcs	Keli Sim-DiRitis	140.00
				Check Total:	140.00
31117	03/19/2012	Street Fund	Repairs & Maint. - Fleet	Kenworth Northwest Inc.	1,327.93
31117	03/19/2012	Surface Water Management Fund	Repairs & Maint. - Fleet	Kenworth Northwest Inc.	1,327.92
				Check Total:	2,655.85
31118	03/19/2012	General Fund	Attorney Svcs - Litigation	Kenyon Disend, PLLC	18.00
				Check Total:	18.00
31119	03/19/2012	General Fund	Public Defender	Kirshenbaum & Goss, Inc., P.S	6,100.00
31119	03/19/2012	General Fund	Public Defender	Kirshenbaum & Goss, Inc., P.S	650.00
				Check Total:	6,750.00
31120	03/19/2012	General Fund	Prof. Svcs-instructors	Kim Klose	179.60
				Check Total:	179.60
31121	03/19/2012	General Fund	Prof. Svcs-instructors	Cecilia Koschorreck	170.30
				Check Total:	170.30
31122	03/19/2012	General Fund	Instructors Prof Svcs	Lauren Laughlin	264.00
				Check Total:	264.00
31123	03/19/2012	General Fund	Teen Programs	Larry Cederblom Design	2,171.60
				Check Total:	2,171.60
31124	03/19/2012	General Fund	Instructors Prof Svcs	Yon Lemieux	120.00
				Check Total:	120.00
31125	03/19/2012	General Fund	Prof. Svcs-instructors	Alexander Lewis	1,050.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
				Check Total:	1,050.00
31126	03/19/2012	General Fund	Prof. Svcs-instructors	Anne Marie Littleton	738.40
				Check Total:	738.40
31127	03/19/2012	General Fund	Office and Operating Supplies	Leisuremore Corporation	390.41
				Check Total:	390.41
31128	03/19/2012	General Fund	Instructors Prof Svcs	Loren Lukens	180.00
				Check Total:	180.00
31129	03/19/2012	General Fund	Prof. Svcs-instructors	Galina Malevannaya	90.00
				Check Total:	90.00
31130	03/19/2012	General Fund	Prof. Svcs-instructors	Jacob Matthew	811.20
				Check Total:	811.20
31131	03/19/2012	General Fund	Instructors Prof Svcs	Hunter McGee	262.50
				Check Total:	262.50
31132	03/19/2012	General Fund	Office and Operating Supplies	McLendon Hardware, Inc.	204.13
31132	03/19/2012	General Fund	Office and Operating Supplies	McLendon Hardware, Inc.	30.36
31132	03/19/2012	General Fund	Office and Operating Supplies	McLendon Hardware, Inc.	8.12
31132	03/19/2012	Street Fund	Repairs And Maintenance	McLendon Hardware, Inc.	55.30
31132	03/19/2012	Street Fund	Office And Operating Supplies	McLendon Hardware, Inc.	7.58
31132	03/19/2012	Surface Water Management Fund	Office And Operating Supplies	McLendon Hardware, Inc.	27.51
31132	03/19/2012	Street Fund	Office And Operating Supplies	McLendon Hardware, Inc.	27.51
				Check Total:	360.51
31133	03/19/2012	General Fund	Instructors Prof Svcs	Momentum Dance Academy	613.60
				Check Total:	613.60
31134	03/19/2012	General Fund	B&O Tax collect & audit	Microflex, Inc.	1,927.74
31134	03/19/2012	General Fund	B&O Tax collect & audit	Microflex, Inc.	46.37

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
31134	03/19/2012	Street Fund	Dt Business License Svcs	Microflex, Inc.	3,630.40
31134	03/19/2012	Street Fund	Dt Business License Svcs	Microflex, Inc.	46.38
31134	03/19/2012	General Fund	Sales Tax Auditing Costs	Microflex, Inc.	182.10
Check Total:					5,832.99
31135	03/19/2012	General Fund	Office and Operating Supplies	Miller Paint Co.	18.99
31135	03/19/2012	Street Fund	Office And Operating Supplies	Miller Paint Co.	17.90
Check Total:					36.89
31136	03/19/2012	General Fund	Prof. Svcs-instructors	Scott A. Miller	604.50
Check Total:					604.50
31137	03/19/2012	General Fund	Instructors Prof Svcs	Shariana Mundi	1,166.00
Check Total:					1,166.00
31138	03/19/2012	General Fund	Instructors Prof Svcs	Aaron Murray	160.00
Check Total:					160.00
31139	03/19/2012	General Fund	Instructors Prof Svcs	New City Dance Company	1,021.80
Check Total:					1,021.80
31140	03/19/2012	Street Fund	GIS Plan Implementation	NetMotion Wireless	1,080.84
31140	03/19/2012	Surface Water Management Fund	GIS Plan Implementation	NetMotion Wireless	1,080.84
Check Total:					2,161.68
31141	03/19/2012	General Fund	Instructors Prof Svcs	Drew Nicklas	240.00
Check Total:					240.00
31142	03/19/2012	General Fund	Prof. Svcs-instructors	Pamela Odegard	150.00
Check Total:					150.00
31143	03/19/2012	General Fund	Building Maintenance	OpenWorks-Billing Agent	1,003.00
31143	03/19/2012	General Fund	Building Maintenance	OpenWorks-Billing Agent	605.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount	
					Check Total:	1,608.00
31144	03/19/2012	Street Fund	Repairs & Maint. - Fleet	O'Reilly Auto Parts	8.57	
31144	03/19/2012	Surface Water Management Fund	Repairs & Maint. - Fleet	O'Reilly Auto Parts	8.58	
31144	03/19/2012	Street Fund	Repairs & Maint. - Fleet	O'Reilly Auto Parts	2.74	
31144	03/19/2012	Surface Water Management Fund	Repairs & Maint. - Fleet	O'Reilly Auto Parts	2.73	
31144	03/19/2012	Street Fund	Repairs & Maint. - Fleet	O'Reilly Auto Parts	2.73	
31144	03/19/2012	Surface Water Management Fund	Repairs & Maint. - Fleet	O'Reilly Auto Parts	94.03	
31144	03/19/2012	Street Fund	Repairs & Maint. - Fleet	O'Reilly Auto Parts	94.03	
					Check Total:	216.14
31145	03/19/2012	Street Fund	Repairs & Maint. - Fleet	Pacific Torque LLC	62.97	
31145	03/19/2012	Surface Water Management Fund	Repairs & Maint. - Fleet	Pacific Torque LLC	62.96	
					Check Total:	125.93
31146	03/19/2012	Street Fund	Repairs & Maint. - Fleet	Pape' Machinery Exchange	70.79	
31146	03/19/2012	Surface Water Management Fund	Repairs & Maint. - Fleet	Pape' Machinery Exchange	70.79	
					Check Total:	141.58
31147	03/19/2012	Street Fund	Repairs And Maintenance	Partner Construction Products,	899.00	
					Check Total:	899.00
31148	03/19/2012	General Fund	Meals	ARTHUR PEDERSON	7.99	
31148	03/19/2012	General Fund	Lodging	ARTHUR PEDERSON	77.90	
					Check Total:	85.89
31149	03/19/2012	General Fund	Instructors Prof Svcs	Johawna Olena Perry	125.00	
					Check Total:	125.00
31150	03/19/2012	Street Fund	Small Tools & Minor Equipments	Pacific Industrial Supply	119.35	
31150	03/19/2012	Surface Water Management Fund	Minor Tools & Equipment	Pacific Industrial Supply	119.36	
					Check Total:	238.71
31151	03/19/2012	General Fund	Dues/memberships	Pacific NW Chapter	60.00	

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
				Check Total:	60.00
31152	03/19/2012	General Fund	Channel 21 Video Production	Puget Sound Access	1,352.50
31152	03/19/2012	General Fund	Online Video Streaming	Puget Sound Access	650.00
				Check Total:	2,002.50
31153	03/19/2012	General Fund	Utilities	PSE Pmt. Processing	406.46
31153	03/19/2012	General Fund	Utilities	PSE Pmt. Processing	2,551.06
31153	03/19/2012	Street Fund	Utilities-street Lighting	PSE Pmt. Processing	1,562.25
				Check Total:	4,519.77
31154	03/19/2012	General Fund	RedFlex Red Light Camera	Redflex Traffic Systems	19,400.00
				Check Total:	19,400.00
31155	03/19/2012	General Fund	Electrical Permit	Norman McDonald	44.00
				Check Total:	44.00
31156	03/19/2012	General Fund	Refund Clearing Account -Parks	Roza Antunez	500.00
				Check Total:	500.00
31157	03/19/2012	General Fund	Refund Clearing Account -Parks	Betty Severson	105.00
				Check Total:	105.00
31158	03/19/2012	General Fund	Printing/binding/copying	Claude McAlpin, III	6.56
				Check Total:	6.56
31159	03/19/2012	General Fund	Professional Services	River Oaks Communications Corp	2,199.94
31159	03/19/2012	General Fund	Professional Services	River Oaks Communications Corp	750.56
				Check Total:	2,950.50
31160	03/19/2012	General Fund	Prof. Svcs-instructors	Sandra Schneider	202.50

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount	
					Check Total:	202.50
31161	03/19/2012	General Fund	Memberships	KING COUNTY	100.00	
					Check Total:	100.00
31162	03/19/2012	General Fund	Advertising	Seattle Times	582.14	
31162	03/19/2012	General Fund	Advertising/legal Publications	Seattle Times	300.00	
					Check Total:	882.14
31163	03/19/2012	General Fund	Office and Operating Supplies	Seatown Locksmith	82.13	
					Check Total:	82.13
31164	03/19/2012	General Fund	Office And Operating Supplies	Secure View 3	275.00	
					Check Total:	275.00
31165	03/19/2012	General Fund	Computer Consultant Prof Svcs	SEITEL Systems, LLC	3,827.81	
31165	03/19/2012	Street Fund	Computer Consultant Pro Svc	SEITEL Systems, LLC	637.97	
31165	03/19/2012	Surface Water Management Fund	Computer Consultant Pro Svc	SEITEL Systems, LLC	637.97	
					Check Total:	5,103.75
31166	03/19/2012	General Fund	Instructors Prof Srvs	Kevon Shea	150.00	
					Check Total:	150.00
31167	03/19/2012	Street Fund	Repairs & Maint. - Fleet	Six Robblees' Inc.	71.48	
31167	03/19/2012	Surface Water Management Fund	Repairs & Maint. - Fleet	Six Robblees' Inc.	71.47	
31167	03/19/2012	Street Fund	Office And Operating Supplies	Six Robblees' Inc.	20.25	
					Check Total:	163.20
31168	03/19/2012	General Fund	Misc. EOC	SPRINT	-43.33	
31168	03/19/2012	General Fund	Telephone	SPRINT	43.33	
31168	03/19/2012	General Fund	Telephone	SPRINT	111.25	
31168	03/19/2012	General Fund	Telephone	SPRINT	241.02	
31168	03/19/2012	Street Fund	Telephone	SPRINT	216.15	
31168	03/19/2012	Surface Water Management Fund	Telephone	SPRINT	253.25	
31168	03/19/2012	General Fund	Telephone	SPRINT	145.91	

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
31168	03/19/2012	General Fund	Telephone	SPRINT	185.99
31168	03/19/2012	General Fund	Drug seizure proceeds KCSO	SPRINT	338.01
31168	03/19/2012	General Fund	Telephone	SPRINT	19.21
Check Total:					1,510.79
31169	03/19/2012	Surface Water Management Fund	Professional services	Summit Security & Sound System	65.70
31169	03/19/2012	Street Fund	Professional Services	Summit Security & Sound System	65.70
Check Total:					131.40
31170	03/19/2012	General Fund	Utilities	Southwest Suburban Sewer Dist.	100.50
31170	03/19/2012	General Fund	Utilities	Southwest Suburban Sewer Dist.	399.95
31170	03/19/2012	General Fund	Utilities	Southwest Suburban Sewer Dist.	51.00
31170	03/19/2012	General Fund	Utilities	Southwest Suburban Sewer Dist.	51.00
31170	03/19/2012	General Fund	Utilities	Southwest Suburban Sewer Dist.	51.00
31170	03/19/2012	General Fund	Utilities	Southwest Suburban Sewer Dist.	118.00
31170	03/19/2012	General Fund	Utilities	Southwest Suburban Sewer Dist.	94.50
31170	03/19/2012	General Fund	Utilities	Southwest Suburban Sewer Dist.	303.00
Check Total:					1,168.95
31171	03/19/2012	General Fund	Drug seizure proceeds KCSO	Tactical Tailor Inc.	263.37
31171	03/19/2012	General Fund	Drug seizure proceeds KCSO	Tactical Tailor Inc.	16.91
31171	03/19/2012	General Fund	Drug seizure proceeds KCSO	Tactical Tailor Inc.	16.91
31171	03/19/2012	General Fund	Drug seizure proceeds KCSO	Tactical Tailor Inc.	13.52
31171	03/19/2012	General Fund	Drug seizure proceeds KCSO	Tactical Tailor Inc.	9.31
Check Total:					320.02
31172	03/19/2012	General Fund	Professional Services	Tag Graffiti Removal	585.83
Check Total:					585.83
31173	03/19/2012	General Fund	Prof. Svcs-instructors	Bonnie Taschler	351.96
Check Total:					351.96
31174	03/19/2012	General Fund	Office And Operating Supplies	The Part Works Inc	60.01
31174	03/19/2012	General Fund	Office And Operating Supplies	The Part Works Inc	66.27
Check Total:					126.28

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
31175	03/19/2012	General Fund	Professional Services	Tax Recovery Services, LLC	62,427.00
				Check Total:	62,427.00
31176	03/19/2012	General Fund	Operating Rentals & Leases	Valley View Sewer District	1,000.00
31176	03/19/2012	General Fund	Utilities	Valley View Sewer District	46.10
				Check Total:	1,046.10
31177	03/19/2012	Street Fund	Telephone	Verizon Wireless	107.52
31177	03/19/2012	Surface Water Management Fund	Telephone	Verizon Wireless	64.52
31177	03/19/2012	General Fund	Telephone	Verizon Wireless	43.01
31177	03/19/2012	General Fund	Telephone	Verizon Wireless	43.01
				Check Total:	258.06
31178	03/19/2012	General Fund	Prosecution - City Atty	Walls Law Firm	12,644.30
				Check Total:	12,644.30
31179	03/19/2012	General Fund	Jail contracts	WASPC-Regional Cities EHM	1,205.00
				Check Total:	1,205.00
31180	03/19/2012	General Fund	Prof. Svcs-instructors	Carly Waterman	30.00
				Check Total:	30.00
31181	03/19/2012	General Fund	Utilities	Water District No. 20	43.46
31181	03/19/2012	General Fund	Utilities	Water District No. 20	39.50
31181	03/19/2012	Street Fund	Landscape Maint - Utilities	Water District No. 20	118.50
31181	03/19/2012	General Fund	Utilities	Water District No. 20	41.48
				Check Total:	242.94
31182	03/19/2012	Street Fund	Landscape Maint - Utilities	Water District No. 49	132.00
31182	03/19/2012	Street Fund	Landscape Maint - Utilities	Water District No. 49	65.00
31182	03/19/2012	Street Fund	Landscape Maint - Utilities	Water District No. 49	65.00
31182	03/19/2012	Street Fund	Landscape Maint - Utilities	Water District No. 49	65.00
31182	03/19/2012	General Fund	Utilities	Water District No. 49	215.30
31182	03/19/2012	Street Fund	Landscape Maint - Utilities	Water District No. 49	86.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
				Check Total:	628.30
31183	03/19/2012	General Fund	Probatn/public Defndr Screenng	Tammy Weigel	840.00
				Check Total:	840.00
31184	03/19/2012	General Fund	Subscriptions/publications	West Payment Center	404.94
				Check Total:	404.94
31185	03/19/2012	General Fund	Jury & Witness Fees	Gloria Maria Ponce	12.04
				Check Total:	12.04
31186	03/19/2012	General Fund	Jury & Witness Fees	Christian Bird	12.04
				Check Total:	12.04
31187	03/19/2012	General Fund	Jury & Witness Fees	Nathan Thomas	13.06
				Check Total:	13.06
31188	03/19/2012	General Fund	Jury & Witness Fees	Colin Gierzak	11.02
				Check Total:	11.02
31189	03/19/2012	General Fund	Jury & Witness Fees	Prince Calloway	15.10
				Check Total:	15.10
31190	03/19/2012	General Fund	Jury & Witness Fees	Traci Floyd	15.10
				Check Total:	15.10
31191	03/19/2012	General Fund	Jury & Witness Fees	Jay McKean	14.08
				Check Total:	14.08
31192	03/19/2012	General Fund	Jury & Witness Fees	Jordan Van Matre	40.60

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
				Check Total:	40.60
31193	03/19/2012	General Fund	Jury & Witness Fees	Steven Shinker	12.04
				Check Total:	12.04
31194	03/19/2012	General Fund	Office And Operating Supplies	Walter E Nelson Co	104.52
31194	03/19/2012	General Fund	Office and Operating Supplies	Walter E Nelson Co	186.15
31194	03/19/2012	General Fund	Office And Operating Supplies	Walter E Nelson Co	564.22
31194	03/19/2012	General Fund	Office and Operating Supplies	Walter E Nelson Co	225.69
31194	03/19/2012	General Fund	Office Supplies	Walter E Nelson Co	338.52
				Check Total:	1,419.10
31195	03/19/2012	General Fund	Professional Services	Washington State Patrol	240.00
				Check Total:	240.00
				Report Total:	261,012.80



CITY COUNCIL MEETING MINUTES

March 5, 2012

SPECIAL MEETING, Miller Creek Conference Room, 3rd Floor
For the purpose of conducting Planning Commission interviews

6:00 p.m.

and

COUNCIL MEETING, Council Chambers, 1st Floor

7:00 p.m.

400 SW 152nd Street
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 Bennett called the Special Meeting of the Burien City Council to order at 6:00 p.m. for the purpose of conducting Planning Commission interviews.

Present: Mayor Brian Bennett, Councilmembers Jack Block, Jr., Bob Edgar, Lucy Krakowiak, Joan McGilton and Gerald F. Robison. Deputy Mayor Rose Clark was excused.

Administrative staff present: Mike Martin, City Manager; and Scott Greenberg, Community Development Director.

Interviews were held with applicants Joey Martinez, Brooks Stanfield and Betsy Wheelock.

No action was taken.

The Special Meeting adjourned to the Regular Meeting at 6:50 p.m.

CALL TO ORDER

Mayor Bennett called the Regular Meeting of the Burien City Council to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Mayor Bennett led the Pledge of Allegiance.

ROLL CALL

Present: Mayor Brian Bennett, Councilmembers Jack Block, Jr., Bob Edgar, Lucy Krakowiak, Joan McGilton and Gerald F. Robison. Deputy Mayor Rose Clark was excused.

Administrative staff present: Mike Martin, City Manager; Craig Knutson, City Attorney; Scott Greenberg, Community Development Director; and Monica Lusk, City Clerk.

AGENDA CONFIRMATION

Direction/Action

Motion was made by Councilmember McGilton, seconded by Councilmember Krakowiak and passed unanimously to affirm the March 5, 2012, Agenda.

PUBLIC COMMENT

Chestine Edgar, 1811 SW 152nd Street, Burien

Ms. Edgar voiced her concerns regarding the Zoning Code amendments while Mr. Howell distributed an analysis chart and her written remarks.

Goodspaceguy, 10219 Ninth Avenue South, Seattle

Mr. Goodspaceguy stated that minimum wage in Burien is destroying jobs.

Ed Dacy, 2016 SW 146th Street, Burien

Mr. Dacy noted that the Hospitality House's Spring Fling was successful, and the Clove to Clover event this weekend that will include a 10K, 5K and Wee races with the proceeds given to nonprofits.

Michael B. Fuller

Mr. Fuller spoke to the lack of enforcement of the American with Disability Act.

Pearl Richard, 533 3rd Avenue West, #409, Seattle

Ms. Richard spoke to Women's History Month.

CORRESPONDENCE FOR THE RECORD

- a. Email Dated February 27, 2012, from Kathy Gollob Regarding Burien Community Center.

CONSENT AGENDA

- a. Approval of Vouchers: Numbers 31007 - 31061 in the Amounts of \$132,194.88.
- b. Approval of Minutes: Council Meeting, February 27, 2012.

Direction/Action

Motion was made by Councilmember McGilton, seconded by Councilmember Krakowiak and passed unanimously to approve the March 5, 2012, Consent Agenda.

BUSINESS AGENDA

Proclamation Naming 2012 as the Year of the Girl

Mayor Bennett read and presented the proclamation naming 2012 as the Year of the Girl to Jean Harris, representative of Girl Scout Service Unit 030 and a troop leader to various troops.

Girl Scouts Sophie Pierce and Lilith Berka from Troop 1777; and Gabby Tarlao, Kayla Eide, Jessie Dolan, and Samantha Crotty from Toop 1844 were present.

Presentation of Southwest King County Chamber of Commerce Annual Report

Lynn Wallace, CEO & President, highlighted the 2011 achievements of the Southwest King County Chamber of Commerce: coordinated meeting with local area Hispanic businesses to work with a prospective Hispanic business; working with State Farm to recruit an agency for Burien; and, organized and participated in the Independence Day Parade, an IRS business fair, and an electronic marketing seminar.

Discussion of Proposed Zoning Code Amendments

Direction/Action

Councilmembers requested placing the proposed Zoning Code Amendments on the March 19, 2012, Business Agenda for further discussion.

Follow-up

Staff will provide a matrix of Council's comments for the discussion.

Adopt Proposed Ordinance 562, Updating and Revising Criminal and Traffic Codes

Direction/Action

Councilmembers requested placing Ordinance 562, updating and revising the City's criminal and traffic codes on the March 19, 2012, Business Agenda for further discussion.

Follow-up

Staff will provide a matrix of Council's comments for the discussion.

Adopt Proposed Ordinance 561, Updating and Consolidating Code Enforcement Regulations

Direction/Action

Councilmembers requested placing Ordinance 561, updating and consolidating code enforcement regulations on the March 19, 2012, Business Agenda for further discussion.

Follow-up

Staff will provide a matrix of Council's comments for the discussion.

City Business

Follow-up

Staff will provide the franchise fee with Seattle City Light and schedule an update on the utility tax audit once it's completed.

COUNCIL REPORTS

Councilmember Edgar noted that he attended the North Burien Land Use open house and the annual Discover Burien Awards dinner and auction.

Councilmember Krakowiak announced that the March 18 workshop "The Sustainable Yard: Rain Gardens, Native Plants, and More" sponsored by the Environmental Science Center and Sustainable Burien with support from King Conservation District will be held in the Library's Multipurpose Room.

ADJOURNMENT

Direction/Action

MOTION was made by Councilmember McGilton, seconded by Councilmember Krakowiak and passed unanimously to adjourn the meeting at 8:56 p.m.

Brian Bennett, Mayor

Monica Lusk, City Clerk

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Motion to Approve Appointments to the Planning Commission		Meeting Date: March 19, 2012
Department: City Manager	Attachments:	Fund Source: N/A Activity Cost: N/A Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Contact: Monica Lusk, City Clerk		
Telephone: (206) 248-5517		
Adopted Work Plan Priority: Yes No <input checked="" type="checkbox"/> X	Work Plan Item Description:	
PURPOSE/REQUIRED ACTION:		
<p>The purpose of this agenda item is for Council to make appointments to the Planning Commission. Council held interviews on March 5 and 19, 2012.</p> <p>Background (Include prior Council Action and Discussions):</p> <p>A call for volunteers to serve on Burien’s Planning Commission was placed in the Highline Times, Burien City News, on TBC21, on the B-Town Blog, on White Center Now, and on the City’s website. Seven applications for the Planning Commission were received to fill three full term positions that will expire on March 31, 2016.</p> <p>OPTIONS (Including fiscal impacts):</p> <ol style="list-style-type: none"> 1. Appoint applicants to fill the Planning Commission vacancies with the positions and terms noted. 2. Do not appoint any of the applicants, and re-advertise. 		
Administrative Recommendation: Per Council direction.		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motions:		
<ol style="list-style-type: none"> 1. Move to appoint _____ to Planning Commission Position 5 for a term that will begin on April 1, 2012, and expire on March 31, 2016; 2. Move to appoint _____ to Planning Commission Position 6 for a term that will begin on April 1, 2012, and expire on March 31, 2016; 3. Move to appoint _____ to Planning Commission Position 7 for a term that will begin on April 1, 2012, and expire on March 31, 2016. 		
Submitted by: Monica Lusk	Mike Martin	
Administration _____	City Manager _____	
Today’s Date: March 12, 2012	File Code: <u>R:/CC/AgendaBill2012/031912cm-2</u> <u>advbdappt-pc</u>	

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Discussion of and Possible Approval of Ordinance 560 Relating to Zoning Code Amendments		Meeting Date: March 19, 2012
Department: Community Development	Attachments: Council Comments 3-5-12 Proposed Ordinance 560	Fund Source: N/A Activity Cost: N/A Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Contact: Scott Greenberg, AICP, Community Development Director		
Telephone: 206-248-5519		
Adopted Initiative: Yes <input checked="" type="checkbox"/> No	Initiative Description: Streamline development codes and eliminate outdated language	
PURPOSE/REQUIRED ACTION: The purpose of this agenda item is Council discussion and possible action on proposed Ordinance 560 relating to Zoning Code amendments.		
BACKGROUND (Include prior Council action & discussion): In late 2011, Planning staff prepared a set of Zoning Code amendments designed to provide clarity, consistency and procedural efficiency. The amendments were considered by the Planning Commission at meetings on Dec. 13, 2011 and on January 24, February 14 and February 28, 2012.		
Council discussed the proposed amendments on March 5, 2012 and had several questions for staff. These questions are answered in the attached matrix. Proposed Ordinance 560 is also attached. There is no deadline for adoption of the proposed amendments.		
OPTIONS (Including fiscal impacts): Change proposed amendments.		
Administrative Recommendation: Approve Ordinance 560.		
Committee Recommendation: N/A		
Advisory Board Recommendation: On February 28, the Planning Commission recommended approval of the proposed amendments by a 6-1 vote.		
Suggested Motion: I move approval of Ordinance 560 relating to Zoning Code amendments.		
Submitted by: Scott Greenberg		
Administration _____	City Manager _____	
Today's Date: March 13, 2012	File Code: R:\CC\Agenda Bill 2012\031912cd-1 Zoning Code Amendments.docx	

CITY COUNCIL QUESTIONS AND COMMENTS FROM MARCH 5, 2012 MEETING

PROPOSED LANGUAGE	COUNCIL QUESTION/COMMENT	STAFF RESPONSE	ALTERNATIVES
<p>#2: Community Gardens</p> <p>25% maximum impervious surface coverage allowed</p>	<p>1. Are greenhouses included as impervious surface? If so, should they be excluded from impervious surface?</p> <p>2. Is maximum impervious surface coverage too high?</p>	<p>1. BMC 19.10.280 defines <i>Impervious Surface</i> as “any nonvertical surface artificially covered or hardened so as to prevent or impede the percolation of water into the soil mantle including, but not limited to, roof tops, swimming pools, paved roads and walkways or parking areas and excluding landscaping, surface water retention/detention facilities and vehicular access easements or tracts shared by two or more single detached dwelling units”.</p> <p>The determination of whether a <i>permanent greenhouse</i> is considered impervious or not would be based on this definition.</p> <p><i>Permanent greenhouses</i> are commonly made from materials such as glass, plastic or fiberglass. These materials would prevent or impede the percolation of water into the soil mantle and would therefore be considered an impervious surface by staff.</p> <p><i>Temporary greenhouses</i> such as those constructed over raised beds and made of PVC plumbing pipe and plastic sheeting (commonly known as “hoop houses”) are often used by gardeners to extend the growing season and the plastic sheeting is removed during the warmer months. Because of their temporary nature staff would not consider them in the impervious surface calculation.</p> <p>2. The proposed maximum impervious surface requirement for Community Gardens of 25% would allow for all the typical components of a Community Garden such as sheds, greenhouses, paved paths for disabled gardeners between planting beds, and any on-site parking.</p> <p>The “Food Access Policy and Planning Guide” developed by the University of Washington Northwest Center for Livable</p>	<p>1. Adopt proposed amendment.</p> <p>2. Modify proposed amendment. Reduce 25% Impervious Surface maximum requirement.</p>

PROPOSED LANGUAGE	COUNCIL QUESTION/COMMENT	STAFF RESPONSE	ALTERNATIVES
		<p>Communities recommends a building coverage of 15% for Community Gardens. While the guide did not provide a recommendation for maximum impervious surface on Community Garden sites, staff proposes an additional 10% coverage (for a total of 25%) to account for any paved paths developed for disabled gardeners or on-site parking that may be proposed as part of a project.</p>	
<p>#5: Mixed Use in CI Zone</p> <p>At least 25% of the <i>gross floor area</i> must be designed and used for <i>retail, office or eating and drinking establishment uses</i>.</p>	<p>1. Is the 25% requirement for just the first floor or based on the whole building?</p> <p>2. Councilmember Robison opposed having any minimum non-residential floor area requirement.</p>	<p>BMC 19.10.350 defines <i>mixed use</i> as “A project or <i>building</i> that combines non-residential <i>use</i> with <i>dwelling units</i>, either in the same <i>building</i>, or in different <i>buildings</i> located on the same <i>site</i>.”</p> <p>BMC 19.10.230 defines <i>gross floor area</i> as “The total square footage of all floors in a <i>structure</i> as measured from either the interior surface of each exterior wall of the <i>structure</i> or, if the <i>structure</i> does not have walls, from each outer edge of the roof. Area used to meet minimum parking requirements is not included in gross floor area.”</p> <p>Based on these definitions, the 25% requirement is based on the gross floor area of the entire structure or entire mixed-use project.</p> <p>Limitations related to non-residential space in a mixed use project is also found in all zones where mixed use is allowed: RM, CN, CI, DC, CC, CR, O, SPA-1, and SPA-3. The proposed amendment simply makes the CI zone consistent with 9 other zones.</p> <p>The floor area limitation is needed to distinguish mixed use from other uses. For example, multi-family units are not allowed as an outright use in the CI zone. However, they are allowed as part of a mixed use project. Without some regulation on how much floor space needs to be non-residential, we could end up with a multi-family building with a small espresso cart inside the building being called mixed use (it’s been proposed before)—which defeats the purpose of allowing mixed use projects in many of our commercial zones.</p>	<p>1. Adopt proposed amendment. Effect: Mixed use projects in the CI zone would need 25% non-residential use on the street-level floor.</p> <p>2. Deny proposed amendment. Effect: Mixed use projects in the CI zone would require non-residential use on the entire street-level floor.</p> <p>3. Modify proposed amendment.</p>

PROPOSED LANGUAGE	COUNCIL QUESTION/COMMENT	STAFF RESPONSE	ALTERNATIVES
<p>#10: Parking study flexibility</p> <p>Parking Requirement Not Specified. If this Code does not specify a parking requirement for a <i>use</i>, the <i>Director</i> shall establish the minimum requirement. <u>Parking requirements shall be based on the operation of the proposed use, parking requirements established for similar zones or uses, or a study of anticipated parking demand submitted by the applicant.</u> In the study the applicant shall provide <u>Sufficient information shall be provided</u> to demonstrate that the parking demand for a specific <i>use</i> will be satisfied. Parking studies shall be prepared by a professional engineer with expertise in traffic and parking analyses, unless an equally qualified individual is authorized by the <i>Director</i>.</p>	<p>1. Is shared parking considered?</p>	<p>Shared parking is already allowed in all zones and for all land uses in BMC 19.20.050. Therefore, it is not necessary to refer to it in the proposed amendment.</p>	<p>None.</p>
<p>19.65.095.4.C.ii—Docketing Criteria</p> <p>“The City has the resources, including staff and budget, necessary to review the proposal;”</p>	<p>Should Council be able to reject a proposed docket item solely on resources?</p>	<p>Staff proposed this criterion to allow Council to reject proposed amendments that would create a resource and/or budget issue. If an amendment was proposed that required substantial staff time and/or funding, Council could still place the amendment on the docket and direct staff to shift priorities and work program items to accommodate the request.</p> <p>Council could also adopt a revised fee schedule for Comprehensive Plan amendments that reflected the actual cost of processing an amendment.</p>	<p>1. Adopt proposed amendment. Effect: Allows City Council to reject placing a proposed amendment on the docket if adequate resources were not available (or made available).</p>

PROPOSED LANGUAGE	COUNCIL QUESTION/COMMENT	STAFF RESPONSE	ALTERNATIVES
			<p>2. Deny proposed amendment. Effect: Council could not consider resources while forming your amendment docket.</p> <p>3. Modify proposed amendment.</p>

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 560

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, AMENDING TITLE 19 OF THE BURIEN MUNICIPAL CODE RELATED TO ZONING, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City desires to amend Burien Municipal Code Title 19 to provide clarity, consistency and procedural efficiency; and

WHEREAS, the Planning Commission held a duly noticed public hearing to receive public comments on February 14, 2012 and subsequently recommended approval of the proposed amendments; and

WHEREAS, the City Council has received recommendations from the Planning Commission regarding the proposed amendments; and

WHEREAS, the SEPA Responsible Official issued a Determination of Non-Significance on February 8, 2012; and

WHEREAS, the City provided the proposed zoning amendments to the Washington State Department of Commerce and did not receive any comments during the 10-day expedited comment deadline; and

WHEREAS, the City Council held public meetings on March 5 and 19, 2012 to review and discuss the proposed amendments.

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

Section 1: Amendments to BMC Title 19. The City Council of the City of Burien hereby amends BMC Title 19 as set forth in Exhibit A, which is attached hereto and is incorporated herein by this reference.

Section 2: Findings and Criteria. In accordance with the criteria set forth in BMC 19.65.100, the City Council finds that the amendments adopted herein are consistent with the Comprehensive Plan, bear a substantial relation to the public health, safety, or welfare, and are in the best interest of the community as a whole.

Section 3: Severability. Should any section, subsection, 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 4: Savings. The enactments of this ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this ordinance.

Section 5: Effective Date. This ordinance shall be published by summary in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication, except the amendments to BMC 19.65.095.2.A, B and C shall take effect September 1, 2012.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THIS ____ DAY OF _____, 2012, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS ____ DAY OF _____, 2012.

CITY OF BURIEN
/s/ Brian Bennett, Mayor

ATTEST/AUTHENTICATED:
/s/ Monica Lusk, City Clerk

Approved as to form:
/s/ Craig Knutson, City Attorney

Filed with the City Clerk: 3/12/12
Passed by the City Council:
Ordinance No. 560
Date of Publication:

ORDINANCE 560
EXHIBIT A

19.10.062 Community Garden -- An area of land managed and maintained by a group of individuals to grow and harvest food and/or horticultural products for personal or group consumption or donation.

19.10.475 School – An institution of learning, public or private, offering instruction in the several branches of learning and study required by the Education Code of the state of Washington, such as preschools, elementary, middle/junior high, and secondary or high schools; also including schools of higher education such as colleges, vocational, and technical schools. The following are categories of schools:

1. ~~Elementary, and middle/junior high schools: Grades kindergarten through nine, including associated meeting rooms, auditoriums and athletic facilities.~~
2. ~~Secondary or high school schools: Grades 9 through 12, including associated meeting rooms, auditoriums and athletic facilities.~~

19.17.040 Cargo Containers

1. Purpose. The purpose of this section is to promote vibrant, attractive pedestrian mixed use areas while protecting residential neighborhoods and allow use of *cargo containers* by Burien businesses, contractors and community-related *uses* to provide secure, easily accessible *accessory* storage at relatively inexpensive levels.
2. Temporary Use. *Cargo containers* may be used for temporary storage of equipment and/or materials at a construction *site* during active construction that is authorized by a city permit.
3. *Cargo containers* are not allowed in the Downtown Commercial (DC), Office (O), Neighborhood Center (CN), Professional Residential (PR) and Special Planning Area 1 (SPA-1) zones, except as permitted in BMC 19.17.040.2.
4. *Cargo containers* are permitted as *accessory uses* in *residential zones* at a *community facility, government facility, hospital, public park and recreation facility, or school.*
 - A. All requirements, permits and approvals of BMC Titles 15, 18 and 19 pertaining to *structures* shall apply, including but not limited to *setbacks, lot coverage, critical area* and transition area requirements.
 - B. *Cargo containers* located within a *residential zone* shall be no greater in size than ten (10) feet by twenty (20) feet, and shall have a stick-built *structure* constructed to completely enclose the *cargo container*. Upon removal of the *cargo container* the screening *structure* shall also be removed. No stick-built *structure* shall be required if the *cargo container* is totally screened from abutting *residential zone lots* as determined by the *Director*.

- C. *Cargo containers* shall not be stacked.
 - D. *Cargo containers* shall not occupy any required off-street *parking spaces*, vehicular access, pedestrian facilities or landscape areas for the *site*.
5. *Cargo containers* are permitted as *accessory uses* in the Industrial (I), Intersection Commercial (CI), Community Commercial (CC-1 and CC-2), Regional Commercial (CR), Special Planning Area 3 (SPA-3), Airport Industrial (AI) zones and in the SPA-2 zone as part of the master plan review (pursuant to BMC 19.15.060.1). *Cargo containers* in these zones are subject to the requirements below. *Airplane unit load devices* located in the I and AI zones are not regulated as *cargo containers*.
- A. All requirements, permits and approvals of BMC Titles 15, 18 and 19 pertaining to *structures* shall apply, including but not limited to *setbacks*, *lot coverage*, *critical area* and transition area requirements.
 - B. *Cargo containers* shall be *screened* from abutting *rights-of-way* and *adjoining lots* with a minimum of 10 feet of Type I *landscaping*. The *Director* may approve alternate *screening* that achieves the intent of a visual barrier. In reviewing alternate *screening*, the *Director* shall consider the proposed location of the *cargo container*, amount of usable space on the *site* for *landscaping*, view of the *cargo container* from abutting *rights-of-way* and *adjoining lots*, and the physical condition of the *cargo container*. All proposed *screening* shall be submitted for the review and approval by the *Director*.
 - C. *Cargo containers* shall not be located between a *building* and *front property line*. On a *site* with all *front property lines*, the *cargo container* shall be placed in a location that minimizes visual impact of the *cargo container* from surrounding *streets* and properties.
 - D. *Cargo containers* shall be painted to match the primary color of the adjacent *building*. If the *cargo container* is located within a *building* or not visible from abutting *rights-of-way* and *adjoining lots* as determined by the *Director*, painting is not required.
 - E. A *cargo container* located within 100 feet of a *residential zone* shall be no greater in size than ten (10) feet by twenty (20) feet, and shall have a stick-built *structure* constructed to completely enclose the *cargo container*. Upon removal of the *cargo container* the *screening structure* shall also be removed. No stick-built *structure* shall be required if the *cargo container* is totally *screened* from abutting *residential zone lots* as determined by the *Director*.
 - F. *Cargo containers* shall not occupy any required off-street *parking spaces*, vehicular access, pedestrian facilities or landscape areas for the *site*.
 - G. *Cargo containers* may be stacked two-high in the Industrial (I) zone, and shall not be stacked in any other zone.
 - H. *Cargo containers* shall not be used for warehouse/storage as the primary use of the property.
 - I. Outdoor *cargo containers* shall not be refrigerated.
6. Legal Nonconforming Cargo Containers: *Cargo containers* that have been legally located on a *site* prior to November 12, 2002 shall be a legal *nonconforming structure*. In addition to the provisions for nonconforming structures in BMC 19.55, *cargo containers* shall lose legal *nonconforming* status under the

following circumstances:

- A. Any legal *nonconforming cargo container* that is moved to a different location on a *site* shall comply with the requirements of BMC 19.17.040.
 - B. If a legal *nonconforming cargo container* is removed from a *site*, any subsequent *cargo containers* placed on the *site* shall comply with the requirements of BMC Titles 15, 18 and 19.
7. **Illegal Cargo Containers:** *Cargo containers* located on a *site* prior to {Effective date of ordinance} that do not have all required permits and approvals are considered illegal and shall have until {12 months after effective date of ordinance} to either come into compliance with BMC Titles 15, 18 and 19 or be removed.
8. Permits for *cargo containers* shall include all necessary approvals from the *Director*, Building Official and Fire Marshal. Required permits include a building permit and a General Use Fire Permit. Use of the container shall not inhibit the Building Official and/or Fire Marshal from conducting all necessary inspections. [Ord. 529, 2009, Ord. 396 §1, 2003, Ord. 369 §1, 2002; Ord. 313 §1, 2000]

19.17.070 Accessory Dwelling Units.

1. **Purpose.** *Accessory dwelling units* (ADUs) implement the housing policy provisions of the city's comprehensive plan by creating an affordable housing alternative and providing a choice of housing that responds to changing needs and lifestyles by offering rental income, security, and companionship to individuals and families. The purpose of the ADU regulations is to allow ADUs, while protecting property values, the stability, and appearance of single-family neighborhoods.
2. **Requirements.** An *accessory dwelling unit* is allowed as an *accessory use* to a single *detached dwelling unit*, provided the following requirements are met:
 - A. **Number.** Only one attached or detached *accessory dwelling* is allowed per *lot*. [Ord. 479 §1, 2007]
 - B. For the purpose of this section "attached" shall mean that the primary unit and *ADU* have at least one common wall and appear to be contained within one *structure*. Connection through a breezeway or covered pathway shall not constitute an attached *ADU*. [Ord. 479 §1, 2007]
 - C. **Owner Occupancy.** Either the primary residence or the *accessory dwelling unit* shall be *owner occupied*.
 - D. **Record Notice.** Approval of the *accessory dwelling unit* shall be subject to recording a notice approved by the city attorney with the King County Records and Elections Division. The notice shall run with the land, identify the address of the property, state that the owner(s) must reside in either the *primary* or *accessory dwelling unit*, and provide for the removal of the *ADU* if the owner occupancy requirement is violated.
 - E. **Size.**

- i. The finished floor area of the *accessory dwelling unit* shall not be larger than 50 percent of the finished floor area of the primary residence; and
 - ii. Internal or attached *ADUs* shall not exceed 1000 square feet and detached *ADUs* shall not exceed 800 square feet.
 - iii. The *Director* may make exceptions to size limitations to allow for the better utilization of existing spaces. *Buildings* must be at least 5 years old to be eligible for an exception to the size limitation.
- F. Parking. One additional on-site *parking space* shall be provided. Such parking must be located at the rear or side if feasible.
- G. Design. *ADUs* shall meet the following design requirements:
- i. All new *structures*/additions must meet current *development standards* for the zone in which the property is located.
 - ii. A single *detached dwelling* that contains an *ADU* shall have only one entrance on each front or *street* side of residence. If the residence is not adjacent to a *street*, the front shall mean the side that contains the main entrance to the *primary dwelling*. Exceptions may be made if the second outside, front entrance is recessed or hidden from view.
 - iii. Additions shall be consistent with the *façade*, roof pitch, siding and windows of the existing *structure*.
 - iv. Detached *structures* shall match (or complement) the design of the primary unit and must integrate well with the single-family character of the neighborhood. Trailers, recreational vehicles or other such accommodations shall not be allowed as an *ADU*. [Ord. 479 §1, 2007, Ord. 355 §1, 2002]

3. Legalization of Nonconforming ADUs. ADUs existing without city approval may be legalized if the owner applies for the applicable permits. One ADU may be legalized per lot provided the owner occupancy requirements are met and the unit complies with the requirements set forth in BMC Title 15, Buildings and Construction.

19.17.090 Home occupations

1. Purpose. The purpose of the *home occupation* regulations is to encourage flexibility in the work place and promote small-business opportunities in Burien by allowing *home occupations*. The further purpose of the regulations is to protect the residential character of neighborhoods by ensuring that *home occupations* are of a scale and intensity that is compatible with residential areas.
2. Home Occupation Types.
 - A. Type A *home occupations* are those that have no employees or customers come to the *site* and that do not use machinery or use or store *hazardous substances* on the premises. Type A *home occupations* may

use equipment commonly found in a single-family home or professional *office*, such as computers, fax machines and copiers.

- B. Type B *home occupations* are those that have one employee or any number of customers come to the *site*, use machinery, such as wood or metal shop tools, or use or store *hazardous substances* on the premises.

3. Licensing and Permits Required.

- A. All *home occupations* (Type A and Type B) are required to obtain a City of Burien business license from the City Clerk's Office.

- B. Type B *home occupations* are required to obtain a home occupation permit from the Department of Community Development prior to issuance of a business license.

- C. Home occupation permit procedures:

- i. *Home occupation* permits are valid for a period of two years. It is the responsibility of the *applicant* to obtain a permit every two years.
- ii. Permits for *home occupations* that utilize machinery and/or use or store *hazardous substances* shall obtain approval from the Building Official and Fire Marshall.
- iii. Inspection may be required prior to the issuance of a *home occupation* permit or as necessary to ensure compliance with applicable codes and conditions of the permit.
- iv. Upon approval of a Type B *home occupation* permit, the Department of Community Development shall issue a notice to residents abutting and across the *street* from the *home occupation* and within 300 feet along the *street* in both directions. The notice shall describe the approved *home occupation* and standards by which it must operate
- v. The *Director* shall take appropriate action to enforce the requirements of this section. Failure to comply with the regulations of this section or conditions of the permit may result in the *home occupation* permit being revoked or denial of an application for renewal of the permit.

- D. Type B *home occupations* that have a valid City of Burien business license on April 23, 2002 shall be required to obtain a *home occupation* permit within 2 years. If the Type B *home occupation* does not comply with current standards, it shall be subject to the provisions of BMC 19.55 Non-conformance.

4. Permitted home occupations. Residents of a *dwelling unit* may conduct one or more *home occupation* as *accessory* activities, provided they comply with the standards of this section and are not prohibited by subsection A below or another section of this code. The rationale for restricting the specific *uses* listed below is based on the goals and policies of the comprehensive plan, which generally states that well established residential areas should be protected from encroachment of non-residential *uses* that may be detrimental to those residential areas. The following *uses* are inconsistent with the goals and policies of the comprehensive plan and are restricted due to incompatibilities including but not limited to noise generation, visual appearance, odor and traffic impacts that are detrimental to residential areas:

A. Prohibited home occupations.

- i. Automobile, truck and *heavy equipment* repair, body work or painting
- ii. Large or small engine repair
- iii. Large appliance repair
- iv. Parking and storage of *heavy equipment* or vehicles
- v. Storage of building materials for use on other properties
- vi. Headquarters or dispatch centers where more than one employee comes to the *site* and are dispatched to other locations
- vii. Commercial *kennels*, cateries and stables
- viii. Commercial painting
- ix. *Religious facilities* (see BMC 19.15 for specific zoning requirements)

5. Standards for operation of a *home occupation*.

- A. Size. The total area devoted to all *home occupation(s)* shall not exceed 25 percent of the combined *gross floor area* of the primary residence and permitted *accessory buildings*, provided the floor area must be enclosed within a *building* to be counted.
- B. Location. *Home occupations* may be conducted in the primary residence or a permitted *accessory building*. All the activities of the *home occupation(s)* shall be conducted indoors, except for those related to growing or storing of plants used by the *home occupation(s)*. Exterior storage, display or repair of goods or equipment related to *home occupation(s)* is prohibited.
- C. Employees. *Home occupations* shall have no more than one nonresident employee on the premises at any one time.
- D. Parking. In addition to required parking for the *dwelling unit*, on-site parking shall be provided as follows:
 - i. One stall for a nonresident employee that will work on the premises; and
 - ii. One stall for customers when services are rendered on-site.
- E. Retail Sales. Retail sales shall be limited to items produced on-site or incidental sales of items associated with a service provided by the *home occupation*.

- F. Customers. Customer visits to *home occupations* are limited to the hours from 8 a.m. to 8 p.m. No more than one customer may be at the residence at any one time and no more than 8 customer visits shall occur in any one-day. For the purpose of this section, one customer may consist of more than one person, such as a *family*.
- G. Vehicles. The *home occupation(s)* may use or store one (1) vehicle for pickup or delivery of materials used by the home occupation(s), provided:
- i. Such vehicle shall not park on adjacent *streets* or within any required *setback* areas of the *lot*, with the exception of the driveway; and
 - ii. Such vehicle shall not exceed a gross vehicle weight rating of 10,000 pounds or capacity of one ton or similarly sized vehicle. The *Director* shall have the final determination authority on vehicle size and should consider potential impacts to the residential character of the neighborhood and/or surrounding properties.
- H. Deliveries to the *home occupation(s)* are permitted between 8 a.m. and 8 p.m. Vehicles used to deliver goods to the *home occupation* are limited to passenger vehicles, mail carriers and express carriers, such as UPS.
- I. Operation of the *home occupation(s)* shall comply with all applicable regulations, including but not limited to the Burien Municipal Code, Uniform International Building Code and Uniform International Fire Code, and shall not:
- i. Create vibrations, heat, glare, dust, odors or smoke that is discernible at the *property lines* and is offensive to a reasonable person;
 - ii. Create noise exceeding 55 decibels at the *property line* from 8 a.m. to 8 p.m. or any noise discernible by the human ear at the *property lines* from 8 p.m. to 8 a.m. or noise considered a nuisance under BMC Chapter 8.45;
 - iii. Change the *building* occupancy classification of the *structure(s)* used for the *home occupation(s)*;
 - iv. Use or store *hazardous substances* in excess of those normally allowed in a residential area under the Uniform Building Code and Uniform Fire Code.
 - v. Create any electrical, magnetic or other interference off the premises; or
 - vi. Consume utility quantities that negatively impact the delivery of utilities to surrounding properties.
- J. Residential Character. Internal or external alterations that make the property appear less residential in character are not allowed. Examples of such changes may include paving of *setbacks*, constructing large parking areas visible from the *street* or neighboring properties and commercial type lighting. Use of commercial mobile offices are not allowed.
- K. Signs. Signage for *home occupations* is subject to the standards in BMC 19.30.050. [Ord. 523 § 1, 2009]

6. Exceptions.

- A. Telecommuting is not classified as a *home occupation* and is not subject to the regulations of this section. For the purpose of this section, telecommuting is work done from home on a part-time basis for a business that is based off the premises. Telecommuting does not allow for non-resident employees or customer visits.
- B. *Bed and breakfast establishments* are not subject to the regulations of this section. Regulations for *bed and breakfast establishments* are in section 19.17.080.
- C. Family daycare homes are not subject to the regulations of this section. Regulations for family daycare homes are located in chapter 19.15 Use Zone Charts.
- D. Garage sales, yard sales, temporary home boutiques or bazaars for handcrafted items, parties for display of domestic products, and other such *uses* are not subject to the regulations of this section, provided that any such *use* does not exceed three (3) days in duration and does not operate more than nine (9) days in a calendar year. [Ord. 355 §1, 2002]

19.20.030 General requirements

- 1. Parking Plan Required. Prior to issuance of any permits for a new *building, structure* or *use*, or for the enlargement of an existing *building, structure* or *use* that requires off-street parking, the *applicant* shall submit a parking plan for approval by the *Director*. This plan shall contain all design features and elements necessary to show compliance with this Chapter.
- 2. Parking Requirement Not Specified. If this Code does not specify a parking requirement for a *use*, the *Director* shall establish the minimum requirement. Parking requirements shall be based on the operation of the proposed use, parking requirements established for similar zones or uses, or a study of anticipated parking demand submitted by the applicant. ~~In the study the applicant shall provide~~ Sufficient information shall be provided to demonstrate that the parking demand for a specific *use* will be satisfied. Parking studies shall be prepared by a professional engineer with expertise in traffic and parking analyses, unless an equally qualified individual is authorized by the *Director*.
- 3. *Fee-in-Lieu* Option. The minimum number of stalls to be provided through payment of a *Fee-in-Lieu* of parking as allowed by this Chapter shall be based on a schedule derived from Institute of Transportation Engineers (ITE) standard parking rates for Land Uses, as adjusted periodically to reflect Downtown Burien parking usage. This schedule may be amended as needed by the City Council. [Ord. 531 § 1, 2010]
 - A. The decision to allow or require payment in lieu of construction will be made by the decision maker of the underlying land use review or by the Director if a land use review is not required.
 - B. Provision of required parking through the *Fee-in-Lieu* program shall be optional on the part of the applicant and City, except that *Fee-in-Lieu* payment shall be required for existing buildings with a change of use that requires parking in excess of that available on-site or through a shared parking agreement.

- C. Per Space Fee. The per space parking fee for this program shall be uniform throughout the DC and SPA-1 zones. The fee shall be adjusted annually, based on changes in the State of Washington Department of Transportation's Construction cost Index.
 - D. Fee Payment. All applicants shall pay the *Fee-in-Lieu* Parking Program fee in accordance with provisions of this chapter at the time that the applicable building permit or certificate of occupancy when a building permit is not required is ready for issuance. The actual *Fee-in-Lieu* payment shall be based upon the schedule in effect at the time of permit issuance.
 - E. Accounting. The City shall maintain a record of all of the properties that have met their required parking space obligation by paying the appropriate fee for the spaces.
 - F. Future Obligation. Payment of the *Fee-in-Lieu* of parking shall not relieve the development or property owner from any future obligation to participate financially in construction of publically accessible parking spaces through additional funding mechanisms (e.g. a local improvement district, business improvement district). Payment of the *Fee-in-Lieu* of parking does not guarantee the developer or property owner that parking spaces will be constructed for the sole use of or in the immediate proximity of that development.
 - G. Program Review. The fee-amount and performance of the *Fee-in-Lieu* program shall be reviewed biennially, with the initial report made to the City Council beginning in January of the second full calendar year following the effective date of the implementing ordinance.
4. If the *site* is in the DC zone, the requirements contained in BMC 19.47 supersede any conflicting provisions of this Chapter. The provisions of this Chapter that do not conflict with BMC 19.47 apply to DC-zoned properties.
 5. Except as permitted with a temporary use permit pursuant to BMC 18.80, required *parking spaces* shall be available for the parking of operable passenger motor vehicles of customers, patrons, employees and residents only and shall not be used for any other purpose. [Ord. 292 § 1, 2000]

19.20.040 Computation of required off-street parking spaces

1. Number of Parking Spaces. Off-street parking areas shall contain at a minimum the number of *parking spaces* as stipulated in BMC 19.15. If the formula for determining the number of off-street *parking spaces* results in a fraction, the number of off-street *parking spaces* shall be rounded to the nearest whole number with fractions of .50 or greater rounding up and fractions below .50 rounding down. In the case of two or more *uses* on the same *site*, the total requirements for off-street parking shall be the sum of the requirements for each *use* computed separately, except as permitted in BMC 19.20.050 pertaining to shared parking. [Ord. 313 §1, 2000]
2. Guest Parking. For *townhouse* or *apartment dwelling units*, the *Director* may require additional *parking spaces* for guests if there is inadequate guest parking proposed on the *site*, and
 - A. Adequate, safe on-street parking is not available, or
 - B. The on-street parking is located in or adjacent to an RS zone.

3. Modification of Number of Required Parking Spaces.
 - A. An *applicant* may request a modification of the minimum required number of *parking spaces* by submitting a study of anticipated parking demand complying with BMC 19.20.030.2, proving that parking demand can be met with a reduced parking requirement. In such cases, the *Director* may approve a reduction of the minimum required number of *parking spaces* on a case-by-case basis.
 - B. In the DC and SPA-1 zone, the *applicant* may meet his/her parking obligation, computed using BMC 19.15, in one of the following ways: [Ord. 531 § 1, 2010]
 - i. By providing the required number of *parking spaces* in accordance with the Fee-in-Lieu of Parking Demand Rate Schedule for Downtown Burien Zones as shown on Table 19.20-2.
 - ii. By performing a study of anticipated parking demand in accordance with BMC 19.20.030.2. *Fee-in-Lieu* of parking is not available if required parking is determined through a parking demand study.
 - iii. In accordance with BMC 19.20.030.3, the applicant may meet a portion of his/her parking obligation through contribution to a parking *Fee-in-Lieu* program. The cost per parking space for the parking *Fee-in-Lieu* program shall be established by the City Council.
4. Parking for Shell Building Permits. When the city has received a shell building permit application, off-street parking requirements shall be based on the possible tenant improvements or *uses* authorized by the zone designation and compatible with the limitations of the shell permit. When the range of possible *uses* result in different parking requirements, the *Director* will establish the amount of parking based on a likely range of *uses*. The *Director* may deny a certificate of occupancy for an individual *use* if the number of *parking spaces* required by BMC 19.15 and this chapter are not provided.
5. Bicycle Parking. At least one bicycle parking slot for every 12 required motor vehicle *parking spaces* shall be provided in all non-residential developments. Bicycle parking shall be bike rack or locker-type parking facilities unless otherwise specified.
 - A. The *Director* may reduce bicycle parking facilities for patrons when it is demonstrated that bicycle activity will not occur at that location;
 - B. Bicycle parking facilities for patrons shall be located within 100 feet of the *building* entrance and shall be designed to allow either a bicycle frame or wheels to be locked to a *structure* attached to the pavement or building.
 - C. All bicycle parking and storage shall be located in safe, visible areas that do not impede pedestrian or vehicle traffic flow, and shall be well lit for nighttime use.
6. Handicapped Parking Requirements. Off-street parking and access for physically handicapped persons shall be provided in accordance with BMC Title 15, Buildings and Construction, the Uniform Building Code, Vol. 1, Chapter 11 Accessibility, also known as the Washington State Regulations for Barrier Free Facilities. [Ord. 292 § 1, 2000]

19.40.070 Exemptions and exceptions.

1. Avoid or limit impacts. All exempt activities shall use city-approved *best management practices* and other reasonable methods to reasonably minimize impact to *critical areas* and their required *buffers*. To be exempt from this Chapter does not give permission to degrade a *critical area* or ignore risk from natural hazards. The *Director* may require submittal of a critical area study pursuant to BMC 19.40.110 through BMC 19.40.130 if needed to assess public safety risks associated with the proposal. Restoration of non-exempted *alterations* or damage to a *critical area* or its *buffer* may be required.
2. Exempt activities. The following shall be exempt from the provisions of this Chapter; however, the activities listed below may not be exempted from other city, state or federal permit requirements or regulations:
 - A. Emergencies. *Alterations* in response to emergencies which pose an immediate threat to the public health, safety and welfare or which pose an imminent risk of damage to property. Any *alteration* undertaken as an emergency shall be reported within one (1) business day to the Department of Community Development. The *Director* shall confirm that an emergency exists and determine what, if any, *mitigation* and conditions shall be required to protect the health, safety, welfare and environment and to repair any damage to the *critical area* and its required *buffers*. Emergency work must be approved by the City. If the *Director* determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of ~~BMC 8.45~~ Chapter 1.15 BMC shall apply.
 - B. Normal and routine operation, maintenance, remodeling, repair and revegetation of existing public facilities, parks and open spaces as long as any such activities do not involve the expansion of improvements into previously unimproved areas.
 - C. Normal and routine operation, maintenance, remodeling, replacement and repair of existing public *streets* and city-approved private roads. Such activities shall not involve the expansion of roadways or related improvements into previously unimproved portions of *rights-of-way* or vehicular access easements or tracts.
 - D. Except in *streams* and *wetlands* or their *buffers*, normal and routine operation, maintenance, remodeling, and repair of existing public and quasi-public utilities (including water, sanitary sewer, storm drainage, electric, natural gas, cable communications, telephone utility and related activities), including:
 - i. Relocation of electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less, only when required by a local governmental agency which approves the new location of the facilities;
 - ii. Replacement, modification, installation or construction in an improved city road *right-of-way* or city authorized private road of all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less;
 - iii. Relocation of public sewer local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment or appurtenances, only when required by a local governmental agency which approves the new location of the facilities; and

- iv. Replacement, modification, installation or construction of public sewer local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment or appurtenances when such facilities are located within an improved public *right-of-way* or city authorized private roadway;
- E. Normal and routine maintenance, repair, renovation or structural alteration of public and private *structures* not listed in this section, in existence on January 14, 2003.
- F. New *accessory structures* and additions to *structures* that do not exceed a cumulative *imperious surface* addition after January 14, 2003 of 1,000 square feet or 7% of *lot area*, whichever is greater; provided that:
- i. Construction is not within a *stream, wetland* or lake or in their required *buffers*; and
 - ii. The proposal does not increase non-conformance to *critical area* standards related to *streams, wetlands* or lakes.
- G. Public and private pedestrian trails, except in *streams, wetlands*, fish and wildlife habitat conservation areas, or their *buffers*, subject to the following:
- i. *Critical area* and/or *buffer* widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and
 - ii. Trails proposed to be located in *landslide* or *erosion hazard areas* shall be constructed in a manner that does not increase the risk of *landslide* or *erosion* and in accordance with an approved geotechnical report;
- H. Forest practices. *Forest practices* regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and *forest practices* regulations, Title 222 WAC, and those that are exempt from city's jurisdiction, provided that *forest practice* conversions are not exempt.
- I. Minor site investigative work. Work necessary for permit submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads, significant amounts of excavation or removal of *significant trees*. In every case, impacts to the *critical area* shall be minimized and disturbed areas shall be immediately *restored*.
- J. Slope exemptions: The following *slopes* are exempt, unless the *slope* is part of another *critical area* or required *buffer*:
- i. *Slopes* resulting from *street, alley*, sidewalk and other typical *rights-of-way* improvements, including rockeries or retaining walls. This exemption shall not extend beyond the cut or fill created by the *street, alley*, sidewalk or other *rights-of-way* improvement.
 - ii. *Slopes* with a vertical elevation change of up to ten feet (10) and not part of a larger *steep-slope* system.

iii. Slopes which have been created through previous verifiable, legal *grading* activities, may be exempted by the *Director* based on a geotechnical report demonstrating that no adverse impact will result from the exemption.

K. Stabilization of Landslide-hazard Area. Certain *landslide hazard areas* may be exempt if the *Director* determines based on geotechnical expertise, that application of the regulations would prevent necessary stabilization of a *landslide-prone* area.

L. Non-regulated activities in the *critical aquifer recharge areas*.

3. Public agency and utility exception.

A. If the application of this chapter would prohibit a development proposal by a *public agency* or *public utility*, the agency or utility may apply for a Public Agency and Utility Exception. All requirements of this chapter apply, except as specifically waived as part of the decision on the exception.

B. Exception request and review process. An application for a public agency and utility exception shall be made to the city and shall include a *critical area* study, including mitigation plan, if necessary; other related project documents, and any applicable environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW). The application shall be processed using the Type 1 review process pursuant to BMC 19.65.

C. Public agency and utility exception review criteria. The *Director's* decision shall be based on the following criteria:

i. There is no other practical or feasible alternative to the proposed development with less impact on the *critical areas*; and

ii. The proposal minimizes the impact on *critical areas*; and

iii. The application of this chapter would unreasonably restrict the ability to provide utility services to the public, and

iv. The proposal meets the decision criteria in BMC 19.40.100.

4. Reasonable use exception.

A. If the application of this chapter would deny all *reasonable use* of the property, the *applicant* may apply for a Reasonable Use Exception. All requirements of this chapter apply, except as specifically waived as part of the decision on the exception.

B. Limitations. Reasonable use exceptions are not authorized for changes in density limitations, permitted *uses* or activities in *critical areas* or their required *buffers*, expanding a use otherwise prohibited, and shall not be used to achieve the maximum density allowed without the existence of *critical areas*.

C. Exception request and review process. An application for a reasonable use exception shall be made to the city and shall include a *critical area* study, including mitigation plan, if necessary; and any other related project documents, such as special studies, and environmental documents prepared pursuant to

the State Environmental Policy Act (Chapter 43.21C RCW). The application shall be processed using the Type 1 review process pursuant to BMC 19.65.

D. Reasonable use exception review criteria. The *Director's* decision shall be based on the following criteria:

- i. The application of this chapter would deny all *reasonable use* of the property;
- ii. There is no other *reasonable use* with less impact on the *critical area*;
- iii. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal *site* and is consistent with the general purposes of this chapter and the public interest; and
- iv. Any *alterations* permitted to the *critical area* shall be the minimum necessary to allow for *reasonable use* of the property.
- v. The proposal meets the decision criteria in BMC 19.40.100. [Ord. 394 § 1, 2003; Ord. 376 § 1, 2003]

19.40.190 Vegetation management plan.

1. For all proposals where preservation of existing vegetation is required by this chapter, a vegetation management plan shall be submitted and approved prior to issuance of the permit or other request for permission to proceed with an *alteration*.
2. The vegetation management plan shall incorporate all City requirements relating to protection, maintenance and planting of vegetation and shall identify the proposed clearing limits for the project and any areas where vegetation in a *critical area* or its *buffer* is proposed to be disturbed.
3. Clearing limits as shown on the plan shall be marked in the field in a prominent and durable manner. Proposed methods of field marking shall be reviewed and approved by the *Director* prior to any *site alteration*. Field marking shall remain in place until the certificate of occupancy or final project approval is granted.
4. The vegetation management plan may be incorporated into a temporary erosion and sediment control plan or landscaping plan where either of these plans is required by other laws or regulations.
5. Vegetation within *critical areas* and their *buffers* may be trimmed, pruned or removed only upon prior written approval by the *Director*. A report by a qualified professional or certified arborist may be required to address alternatives, to ensure that the proposed activity will not be detrimental to surrounding properties and to the *functions and values* of the associated *critical area*.
6. Where *alteration* of the *critical area* or *buffer* has occurred during construction, revegetation with *native vegetation* will be required unless the *Director* approves a substitute vegetation with the same or better functions than the original *buffer area*. If the *alteration* was unauthorized by the City, the *Director* may also impose penalties pursuant to ~~BMC 8.45~~ Chapter 1.15 BMC. [Ord. 394 § 1, 2003; Ord. 376 § 1, 2003]

19.40.330 Wetlands - Mitigation Requirements.

1. General Requirements.

- A. All approved activities that affect regulated *wetlands* or their *buffers* require *compensatory mitigation* so that the goal of no net loss of *wetland* function or value may be achieved.
- B. Mitigation for *alterations* to *wetlands* shall achieve equivalent or greater biological functions. Mitigation plans shall be consistent with the Department of Ecology Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposal (Ecology, 1994) or other *best available science*.
- C. *Wetland* mitigation shall provide for *in-kind* lost *functions and values*. Mitigation actions shall address functions affected by the *alteration* to achieve functional equivalency or improvement, and shall provide similar *wetland* functions as those lost except when:
 - i. The altered *wetland* provides minimal functions as determined by a site-specific function assessment; and
 - ii. The proposed mitigation action(s) will provide equal or greater functions or will provide functions that are limited in the watershed; or
 - iii. Out-of-kind replacement will best meet formally identified regional goals, such as replacement of historically diminished *wetland types*.

2. Types of Mitigation. *Applicants* shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to *wetlands* and *wetland buffers*. When an *alteration* to a *wetland* or its required *buffer* is proposed, such *alteration* shall be avoided, minimized, or compensated for in the following order of preference:

- A. Avoidance of *wetland* and *wetland buffer* impacts, whether by finding another *site* or changing the location of the proposed activity on-site.
- B. Minimizing *wetland* and *wetland buffer* impacts by limiting the degree of impact on-site.
- C. Mitigation actions that require compensation by replacing, enhancing, or substitution, shall occur in the following order of preference:
 - i. *Restoring wetlands* on upland *sites* that were formerly *wetlands*.
 - ii. *Creating wetlands* on disturbed upland *sites* such as those with vegetative cover consisting primarily of exotic introduced *species* or *noxious weeds*.
 - iii. *Enhancing* significantly degraded *wetlands*.

3. Mitigation Location. Mitigation actions shall be conducted within the same *sub-drainage basin* and on the *site* as the alteration except when all of the following apply:

- A. There are no reasonable on-site or in *sub-drainage basin* opportunities or on-site and in *sub-drainage basin* opportunities do not have a high likelihood of success due to development pressures, adjacent land uses, or on-site *buffers* or connectivity are inadequate;
 - B. Off-site mitigation has a greater likelihood of providing equal or improved *wetland* functions than the impacted *wetland*, and
 - C. Off-site locations shall be in the same *sub-drainage basin* and the same Water Resource Inventory Area (WRIA) unless regional or watershed goals for water quality, flood or conveyance, habitat or other *wetland* functions have been established and strongly justify location of mitigation at another site.
 - D. If compensatory *wetland* or *wetland buffer* mitigation is proposed off-site, a signed statement of consent is required from owners of all affected properties. This statement shall be submitted to the *Director* and a Notice on Title recorded with King County Department of Assessments prior to approval of a *compensatory mitigation* plan.
4. Mitigation Timing. Mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development causing the *wetland alteration*. Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and flora.
5. Mitigation Schedule.
- A. A mitigation *monitoring* schedule shall be established for a period of five years.
 - B. An "as-built" mitigation report shall be submitted to the City within one month of mitigation installation. Acceptance of the as-built report by the City will be made after a site investigation is performed by the City, and all changes requested by the City are completed.
 - C. Mitigation *monitoring* reports shall be submitted annually to the City.
6. Financial Surety. A performance bond, or other approved financial surety, is required before building and clearing and grading permits are issued. The purpose of the financial surety is to hold an *applicant* accountable for implementing the mitigation, *monitoring*, and contingency plans. The release of financial surety is contingent on satisfactory completion by the *applicant* of the proposed construction, mitigation, *monitoring*, and contingency plans as determined by the Director.
7. Mitigation ratios
- A. The following ratios shall apply to *creation* or *restoration* that meets all other requirements in Section 19.40.330.1 to .6 and is the same category of *wetland*, and has a high probability of success. The first number in the following table specifies the acreage of replacement *wetlands* and the second specifies the acreage of *wetlands* altered.

Wetland Category	Creation or Restoration Ratio
Category 1 and 2	3-to-1
Category 3 and 4	2-to-1

- B. Increased creation or restoration ratios. The City of Burien may increase the ratios under the following circumstances:
- i. Uncertainty exists as to the probable success of the proposed *restoration* or *creation*;
 - ii. A significant period of time will elapse between impact and replication of *wetland* functions;
 - iii. Proposed mitigation will result in a lower category *wetland* or reduced functions relative to the *wetland* being impacted; or
 - iv. The impact or alteration requiring mitigation was not authorized by the City.
8. Wetlands enhancement as mitigation.
- A. Impacts to *wetlands* may be mitigated by *enhancement* of existing significantly degraded *wetlands*. *Applicants* proposing to enhance *wetlands* must produce a critical area study that identifies how *enhancement* will increase the functions of the degraded *wetland* and how this increase will adequately mitigate for the loss of *wetland* area and function at the impact *site*. An *enhancement* proposal must also show whether existing *wetland* functions will be reduced by the *enhancement* actions.
 - B. At a minimum, *enhancement* acreage shall be double the acreage required for *creation* or *restoration* under Subsection A.
9. Wetland and Wetland Buffer Violations. *Restoration* shall be required when a *wetland* or its *buffer* is altered in violation of law or without any specific permission or approval by the *Director*. The following minimum requirements shall be met for the *restoration* of a *wetland*:
- A. The original *wetland* configuration shall be replicated including its depth, width, length and gradient at the original location;
 - B. The original soil type and configuration shall be replicated;
 - C. The *wetland edge* and *buffer* configuration shall be *restored* to its original condition;
 - D. The *wetland, edge* and *buffer* shall be replanted with vegetation *native* to Burien which replicates the original vegetation in *species*, sizes and densities; and
 - E. The original *wetland* functions shall be *restored* including, but not limited to, hydrologic and biologic functions.
 - F. Violators may be imposed penalties pursuant to ~~BMC 8.45~~ Chapter 1.15 BMC.

G. At the discretion of the *Director*, the violator may be required to enhance the *wetland* or *wetland buffer* to provide higher *functions and values* than the original *wetland* or *wetland buffer*. [Ord. 394 § 1, 2003]

19.40.350 Streams – Performance Standards.

1. General Requirements.

- A. Any *alterations* to a *stream* may require state and federal approvals that may require mitigation and conditions of approval beyond those required by the City.
- B. The use of *hazardous substances*, pesticides and fertilizers in the *stream* corridor and its *buffer* are prohibited by the City of Burien unless approved by the City.
- C. Plantings in a *wetland stream* or *buffer* should be native to Western Washington or increase the functions of the *stream wetland* or *buffer wildlife habitat*.
- D. No vegetation removal, including mowing, shall be allowed in a *stream buffer* unless authorized by the *Director*. Removal of *noxious weeds* is permitted if done manually.
- E. Non-Conformance. Activities occurring in a *stream* or *stream buffer* prior to October 20, 2003 shall be considered a non-conforming use as described in BMC 19.55.

2. Buffers.

- A. A *stream buffer* area shall be established for all development proposals and activities on a site containing a *stream* as required in this section. The purpose of the *buffer* shall be to protect the integrity, functions, and values of the *stream*.
- B. Required *buffer* widths shall reflect the sensitivity of the particular *stream*. The following minimum *buffers* for *streams* shall be established from the *ordinary high water mark* of the adjacent *stream(s)* or from the top of the defined *stream* bank if the *ordinary high water mark* cannot be identified:

Stream Type	Standard Stream Buffer (feet)
Type 1*	125
Type 2	100
Type 3	50
Type 4	25

* as of October 20, 2003, no Type 1 *streams* exist in Burien

- C. Any *stream* restored or enhanced because of a *stream alteration* shall have the minimum *buffer* required for the highest *stream* class involved pursuant to an approved *mitigation* plan and *stream* study set forth in Section 19.40.370.

- D. No *imperious surfaces* are allowed within of fifteen (15) feet of the edge of a designated or modified *stream buffer*. This area serves to protect the *stream* during development activities, use, and routine maintenance occurring adjacent to these resources. The following *imperious surfaces* may be allowed within fifteen (15) feet of the *buffer* edge: building overhangs which do not extend more than eighteen (18) inches into the area, and residential driveways and patios subject to water quality regulations as adopted in the City's stormwater management regulations (BMC 13.10).
- E. Increased *stream buffer* widths may be required by the City of Burien when the *slope* is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the *stream*.
- F. Any *stream* with an *ordinary high water mark* within twenty-five (25) feet of the toe of a *slope* thirty percent (30%) or steeper, shall have the minimum *buffer* required for the *stream* class involved or a twenty-five (25) foot *buffer* beyond the top of the *slope*, whichever is greater.
- G. Standard *buffer* width averaging may be allowed by the *Director* (in accordance with an approved *critical area* review) if:
- i. Additional protection to the *stream* and *riparian habitat* area will be provided through the implementation of a *buffer enhancement* plan as described in BMC 19.40.350.2 (F1);
 - ii. Minimum *buffer* width is the greater of fifty percent (50%) of the standard *buffer* width or twenty-five (25) feet;
 - iii. *Stream* and *riparian functions or values* will not be reduced; and
 - iv. As long as the total area contained in the *buffer* on the development proposal *site* does not decrease.
- H. *Buffer* reduction with *enhancement* may be allowed by the *Director* (in accordance with an approved *critical area* study) if:
- i. Additional protection to *streams* will be provided through the implementation of a *buffer enhancement* plan.
 - ii. The existing condition of the *buffer* is degraded.
 - iii. *Buffer enhancement* includes, but is not limited to the following:
 - a. Planting *vegetation* that would increase value for fish and *wildlife habitat*, improve water quality, or provide aesthetic/ recreational value.
 - b. *Enhancement* of *wildlife habitat* by incorporating *structures* that are likely to be used by wildlife, including wood duck boxes, bat boxes, nesting platforms, snags, rootwads/stumps, birdhouses, and heron nesting areas.
 - c. Removing non-native plant *species* from the *buffer* area.

- iv. *Buffer* reductions under this Section shall be limited to twenty five (25)% of the standard *buffer* width or a minimum of twenty-five (25) feet, whichever is greater.
 - v. If the *buffer* reduction results in a *buffer* of less than twenty-five (25) feet, the *applicant* shall be responsible for attending an environmental stewardship class acceptable to the City.
- I. Unless otherwise provided, the following restrictions shall apply to all development proposals within the vicinity of all City of Burien *streams* and *stream buffers* that include the introduction of livestock:
- i. Implementation of a plan approved by the *Director* to protect and *enhance* the *stream's* water quality; and
 - ii. Fencing located at the *stream buffer* edge. [Ord. 394 § 1, 2003]

19.50.025 Collocation.

To minimize potential adverse visual impacts associated with the proliferation of *PWSF support structures*, *collocation* of *PWSF antennas* on existing or new *support structures* is encouraged, as follows:

1. *Collocation* shall be accomplished in a manner consistent with the provisions of this Chapter.
2. This subsection applies to both new and existing *PWSF*. The terms and conditions for collocating late-comer providers on collocatable *PWSF* facilities shall be reasonable and based on current market rates for comparable facilities. Imposition of unreasonable or higher than market rate terms and conditions by the host provider shall be considered failure to cooperate in good faith to accommodate *collocation* with competitors and shall be subject to the provisions of BMC 19.50.025.6 below.
3. The City may deny an application to construct a new *monopole* if the *applicant* has not shown by substantial evidence that it has made an effort to mount the proposed *antennas* on an existing *building* or *support structure* that would provide adequate service to the proposed coverage area. The *applicant* shall use the following *collocation* protocol:

A. Prior to or with an application for approval of a *PWSF*, the *applicant* shall demonstrate that the following notice was mailed via certified mail to all other *PWSF* providers licensed to provide service within the City:

“Pursuant to the requirements of City of Burien Municipal Code Section 19.50.025, (name of wireless provider) is hereby providing you with notice of our intent to submit an application with the City of Burien for construction of a new freestanding personal wireless service facility that would be located at _____ (location). In general, we plan to construct a monopole of _____ feet in height for the purpose of providing (cellular, PCS, ESMR, etc.) service in the _____ frequency range. Please inform us whether you have any existing or planned personal wireless service facilities within one mile of the proposed facility that may be available for possible collocation. If you do not have a facility available for collocation, please indicate whether you would be interested in collocating on our proposed facility. Please provide us with this information within 10 business days after the date of this letter. Your cooperation is appreciated.”

B. Copies of any responses to the *collocation* request letter shall be provided to the City prior to or with the *PWSF* application. If a response to a *collocation* request letter is received by an *applicant* indicating an opportunity for *collocation*, the *applicant* shall make a good faith effort to analyze the feasibility of *collocation*. This analysis shall be submitted with an application for any *monopole* and shall include, at a minimum:

- i. A statement from a qualified engineer indicating whether the necessary service can or cannot be provided by *collocation* at the possible *collocation* site.
- ii. Evidence that the lessor of the possible *collocation* site either agrees or disagrees to *collocation* on his/her property.
- iii. Evidence that adequate space exists or does not exist at the possible *collocation* site to accommodate needed equipment and meet the applicable requirements of this Code.
- iv. Evidence that adequate access does or does not exist at the possible *collocation* site.

4. To reduce the number of future *support structures* needed in the City, new *support structures* shall be designed to accommodate *antennas* for more than one user, unless the *applicant* demonstrates why such design is not feasible for economic, technical or physical reasons.

5. Unless *collocation* is not feasible, an *applicant's* site plan shall reserve an area for at least one other provider's equipment near the base of the *applicant's* *monopole*. An option agreement to lease the area at the base of the *monopole* for a second provider shall not expire prior to the underlying lease.

6. *Personal wireless service* providers, their lessees and agents shall cooperate in good faith to accommodate *collocation* with competitors, including responding in a timely manner to a *collocation* letter required by BMC 19.50.025.3. If a dispute arises about the feasibility of collocating, the *Director* may require a third party technical study, pursuant to BMC 19.50.050, to resolve the dispute. Failure to accommodate *collocation* may be grounds for revocation of permit and removal of the *PWSF* under public nuisance abatement procedures (BMC 8.45 Chapter 1.15 BMC). [Ord. 265 § 6, 1999]

19.55.025 Nonconforming and continuing uses

A *nonconforming* or *continuing use* may be continued and is transferable to a new owner or tenant, subject to the following conditions:

1. If a *use* is a *nonconforming* or *continuing use*, the applicable use zone chart in BMC Chapter 19.15 does not establish what regulations of this Code apply to that *use* in that zone. To determine which regulations apply, the *Director* will select the use in that zone that is most similar to the *nonconforming* or *continuing use*.
2. The following applies only to a *continuing use*.
 - A. The *gross floor area* and the area devoted to outdoor use, activity or storage may be expanded under the following conditions:
 - i. Such expansion shall comply with applicable development regulations in BMC Chapter 19.15 (including but not limited to setbacks and landscaping); and

- ii. Expansion may occur on contiguous *lots* if on November 1, 1999, the *continuing use* and contiguous *lot* were owned by the same property owner and have remained joined through any ownership transfer.
- B. A *continuing use* must be brought into conformance or discontinued if the *use* has ceased for 12 or more consecutive months.
3. Except as authorized in BMC 19.55.025.4 or .5, any *nonconforming use* that does not qualify as a *continuing use* under BMC 19.55.025.2 must be brought into conformance or discontinued if:
 - A. The *applicant* is increasing the *gross floor area* of any *structure* that houses or supports the *nonconforming use*; or
 - B. The *applicant* is increasing the area devoted to outdoor use, activity or storage associated with the *nonconforming use*; or
 - C. The *nonconforming use* has ceased for 12 or more consecutive months; or.
 4. The *Director*, through a Type 1 review, may allow up to a 10 percent increase in the area of land or *structure* occupied by the *nonconforming use* on the date of adoption of this Code, or any subsequent amendments. In deciding whether to grant such request, the *Director* shall use the criteria in BMC 19.55.025.5.
 5. The City Council, through the Type 3 review process, may modify or waive any of the provisions in BMC 19.55.025.2 or 3, based on a finding that the proposal:
 - A. Does not create an expansion that would be detrimental to adjacent properties; and
 - B. Improves aspects of safety or function of the *nonconformance*. [Ord. 268 § 6, 1999]

19.55.030 Nonconforming structures

A *nonconforming structure* may remain and be used, provided that:

1. A *nonconforming structure* shall not be expanded unless the expansion conforms to the regulations of this Code or as follows:
 - A. A *structure* in an RS or RM zone with *nonconforming setbacks* may extend horizontally and vertically along existing *building setbacks* (see Figure 19.55-1) if the proposed expansion:
 - i. Will not endanger public safety; and
 - ii. Will not interfere with adopted City plans or regulations requiring additional *right-of-way* width; and
 - iii. Is not an expansion of a *setback* previously authorized by a City of Burien variance process or Type 1, 2, or 3 land use review. In this case, a new variance or Type 1, 2 or 3 land use review application is required; and

- iv. Will not create any new *nonconformance* in *height* or *setback*.
- B. An increase in nonconforming building coverage and/or impervious surface coverage is permitted if the additional storm drainage runoff created by the new building coverage and/or impervious surface coverage is collected, transported and treated in accordance with the Surface Water Design Manual as adopted by the City of Burien, when each new square foot of impervious surface is offset by a reduction of two square feet of existing impervious surface, or until the site is in conformance with the current requirements for the maximum allowed impervious surface coverage.
2. If moved, the *structure* shall be made to conform to this Code;
 3. If the *structure* is damaged or destroyed, it may be reconstructed or repaired provided that:
 - A. The fire or other casualty was not intentionally caused by the *applicant* or owner of the *structure*; and
 - B. The damage or destruction was not due to abatement or voluntary demolition beyond 50% of the assessed value of the *nonconforming structure* as established by the most current county assessor's tax roll; and [Ord. 523 § 1, 2009]
 - C. Except as allowed in BMC 19.55.030.1, the extent of the previously existing *nonconformance* is not increased and a new *nonconformance* is not created; and
 - D. A complete building permit application for repair or reconstruction is submitted within 12 months of the occurrence of the damage or destruction; and
 - E. Construction conforms with the provisions of the City of Burien *Construction Code* in effect at the time when the complete building permit application is submitted.
 4. The City Council, through the Type 3 review process, may modify or waive any of the provisions in Sec. 19.55.030.1 through 3 above, based on a finding that the proposal:
 - A. Does not create an expansion that would be detrimental to adjacent properties; and
 - B. Improves aspects of safety or function of the *nonconformance*.
 5. Any *nonconforming structure* for which a valid building permit has been issued prior to the effective date of this Code as now or hereafter amended, may be completed and used in accordance with the provisions of this Code as now or hereafter amended, provided that such *structure* is completed essentially in accordance with the plans and specifications on which the building permit was issued. [Ord. 268 § 7, 1999]

19.65.010 User guide.

Various places in this Code indicate that certain developments, activities, permits or *uses* are permitted only if approved through a Type 1, 2, 3 or 4 review process. If you are interested in obtaining approval for something requiring a Type 1, 2, 3 or 4 decision, you should read this chapter. In general, sections .020 through .060-063 apply to all Type 1, 2 and 3 reviews. Sections .065 through .080 apply, as applicable to Type 1, 2, 3 or 4 reviews. Section .085 applies to requests for variance of certain provisions of this Code,

which is a Type 1 decision. Section .090 applies to rezoning of land (changing the City's zoning map), which is also a Type 3 or Type 4 decision. Section .095 applies to changing the text or map of the City's Comprehensive Plan, which is also a Type 4 decision. Section .100 applies to changing the text of the City's Zoning Code, which is also a Type 4 decision. Section .105 applies to administrative design review, which is either an administrative or Type 1 decision. [Ord. 479 §1, 2007, Ord. 396 §1, 2003]

19.65.017 Exemptions.

1. The following permits and approvals are exempt from the provisions of this Chapter and from RCW 36.70B.060 through 36.70B.090-080 and RCW 36.70B.110 through 36.70B.130: landmark designations, street vacations, street use permits and right-of-way permits.
2. The following permits and approvals are exempt from the provisions of this Chapter and from RCW 36.70B.060 and RCW 36.70B.110 through 36.70B.130: building and other construction permits, lot line adjustments, final plats, or similar administrative approvals categorically exempt from SEPA (Chapter 43.21C RCW and BMC 14.10) and Ordinance 220, as amended, or permits/approvals for which environmental review has been completed in connection with other project permits are excluded from the following procedures:
 - A. ~~Determination of completeness (RCW 36.70B.060 and BMC 19.65.035).~~
 - B. ~~Notice of application (RCW 36.70B.060 and BMC 19.65.040).~~
 - C. ~~Except as provided in RCW 36.70B.140, optional consolidated project permit review processing (RCW 36.70B.060).~~
 - D. ~~Joint public hearings (RCW 36.70B.060).~~
 - E. ~~Single report stating that all of the decisions and recommendations made as of the date of the report do not require an open record hearing (RCW 36.70B.060).~~
 - F. ~~Notice of decision (RCW 36.70B.060 and BMC 19.65.055). [Ord. 313 §1, 2000]~~

19.65.020 Framework for decisions.

1. Land use decisions are classified into three processes (Types 1, 2 and 3) based on who makes the decision, the amount of discretion exercised by the decision maker, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity. The *Director* shall determine the proper procedure for all land use decisions. If there is a question as to the appropriate type of procedure, the *Director* shall resolve it in favor of the higher numbered procedure. An application involving two or more decisions shall be processed collectively under the highest numbered procedure required for any of the requested applications.
2. SEPA threshold determinations shall be processed as outlined in BMC 14.10, always be processed as a Type 1 decision, regardless of the process required for review of the underlying action. An appeal of a SEPA threshold determination shall be processed in conjunction with and follow the procedures for appeal of the underlying action. If the underlying action does not require a Type 2, 3 or 4 decision, then appeal of a SEPA threshold determination shall follow the procedures for appeal of a Type 1 decision.

3. Type 1 decisions are administrative decisions made by the *Director*. Type 2 decisions are quasi-judicial decisions made by the Hearing Examiner following a recommendation by the *Director* and an open record hearing. Type 3 decisions are quasi-judicial decisions made by the City Council based on an open record hearing and recommendation by the Hearing Examiner. See Table 19.65.020-1 for a summary of these processes.

4. Type 4 decisions are not land use decisions, but are legislative non-project decisions. Type 4 decisions are made by the City Council following a public hearing and recommendation by the Planning Commission, under its authority to establish policies and regulations regarding future private and public development and management of public lands. See Table 19.65.020-1 for a summary of the Type 4 process.

TABLE 19.65.020-1

	LAND USE DECISIONS			LEGISLATIVE DECISION
	Type 1 (see BMC 19.65.065)	Type 2 (see BMC 19.65.070)	Type 3 (see BMC 19.65.075)	Type 4 (see BMC 19.65.080)
Public hearing held by:	None	Hearing Examiner (Open Record Hearing)	Hearing Examiner (Open Record Hearing)	Planning Commission
Decisionmaker:	<i>Director</i>	Hearing Examiner	City Council (Closed Record Hearing or Meeting)	City Council
City appeal heard by:	Hearing Examiner (Open Record Appeal)	City Council (Closed Record Appeal)	None	None
State appeal heard by:*	Superior Court	Superior Court	Superior Court	Growth Management Hearings Board

*--Shoreline management permits must first be appealed to State Shorelines Hearing Board.

19.65.050 Project Timelines.

The *Director* shall establish reasonable and predictable timelines for review of land use applications and shall provide target dates for decisions on such applications. ~~All land use decisions on applications filed on or after April 1, 1996, shall be made within the time period specified under RCW 36.70B.090.~~ For purposes of calculating timelines and counting days of permit processing, the applicable time period shall begin on the first working day following the date the application is determined to be complete and shall only include the time during which the City can proceed with review of the application ~~as specified in RCW 36.70B.090.~~

19.65.063 Expiration of Approvals.

Approval of a Type 1, 2 or 3 application shall expire two years from the date of the City's final decision on the Type 1, 2 or 3 application, unless one of the following actions occurs prior to the end of the two year term:

1. A complete building permit application is filed. If the building permit application expires, is canceled or withdrawn within the two-year term, the applicant may re-apply for the building permit within the two-year term without the Type 1, 2 or 3 approval expiring. If the building permit application expires, is canceled or withdrawn after the end of the two-year term, it cannot be re-submitted or renewed, and a new Type 1, 2 or 3 application must be filed.
2. If 19.65.063.1 is not applicable, the applicant must begin construction authorized by the Type 1, 2 or 3 approval.
3. If 19.65.063.1 and 2 are not applicable, the applicant must begin the use of land authorized by the Type 1, 2 or 3 approval.
4. For approvals specifically allowing phased construction, the two-year term may be extended as part of the findings, conclusions and conditions of the approval.
5. Extensions. The applicant may apply to the Director for a one-time extension of up to one year, to the two year expiration period. The applicant shall submit a letter demonstrating that substantial progress is being made toward developing the site consistent with the land use decision, and that circumstances beyond his/her control prevent compliance with the two year expiration period. [Ord. 313 §1, 2000]

19.65.065 Type 1 Decisions

1. **General.** A Type 1 decision is an administrative decision made by the *Director*, based upon the decision criteria set forth in the Code for each type of Type 1 application. City processing of a Type 1 application begins with a determination of completeness (BMC 19.65.035). Once the application is determined to be complete, the City issues public notice in the form of a Notice of Application (BMC 19.65.040). An informational meeting may be required for projects which may be controversial. After the 21-day public comment period ends, the City issues a SEPA threshold determination, if required. The threshold determination may be issued in conjunction with the *Director's* decision on the application. If an Environmental Impact Statement (EIS) is required, the EIS must be completed prior to issuance of the *Director's* decision. If the requirement to prepare an EIS is appealed by the *applicant*, that appeal must be resolved prior to issuance of the *Director's* decision. The *Director's* decision is appealable to the Hearing Examiner (BMC 19.65.065.5). The *Director's* decision, or, if appealed, the Hearing Examiner's action on the appeal is the final City decision on a Type 1 application.
2. **State Environmental Policy Act (SEPA).** If required by the State Environmental Policy Act (SEPA), a threshold determination will be issued by the Responsible Official. The threshold determination is also a Type 1 decision and may be issued in conjunction with the *Director's* decision on the underlying land use decision. However, if an Environmental Impact Statement (EIS) is required, the threshold determination will be issued early and the EIS will be completed prior to issuance of the underlying land use decision. If the requirement to prepare an EIS is appealed by the *applicant*, that appeal must be resolved prior to the issuance of the land use decision.
3. **Public Meetings.** The *Director* may require the *applicant* to sponsor and participate in a public meeting to inform citizens about a proposal. When required, public meetings shall be held as early in the review process as possible. Notice of the public meeting shall be provided in the same manner as required for the notice of

application. The public meeting notice should be combined with the notice of application whenever possible.

4. Director's Decision.

A. *Criteria for Decision.* The *Director* shall use the criteria listed in the provision of this Code describing the requested *use* or decision in deciding upon the application. In addition, the *Director* may approve the application only if:

- i. It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
- ii. It is consistent with the purpose and intent of the zone in which the *site* is located; and
- ii. It is consistent with the public health, safety and welfare.

B. *Decision.* The *Director* shall approve, approve with conditions or modifications, or deny an application. The *Director's* decision shall be based on the applicable Zoning Code decision criteria, shall include any conditions to ensure consistency with City zoning regulations, and may include mitigation measures proposed under SEPA. The *applicant* carries the burden of proof that a preponderance of the evidence supports approval of the application or approval with conditions or modifications.

C. *Written Decision.* The *Director* shall distribute a written report supporting the decision. The report shall contain all of the following:

- i. The *Director's* decision;
- ii. Any conditions included as part of the decision;
- iii. Findings of fact upon which the decision, including any conditions, was based and the conclusions derived from those facts;
- iv. A statement explaining the appeal process.

5. Appeal of Type 1 Decisions.

A. Parties of record may appeal the decision by filing a written statement setting forth:

- i. Facts demonstrating that the person is adversely affected by the decision;
- ii. A concise statement identifying the specific findings of fact or conclusions which are being appealed;
- iii. The specific relief requested; and
- iv. Any other information reasonably necessary to make a decision on the appeal.

B. The written statement of appeal and appeal fee, if any, must be received by the City Clerk no later than 5:00 p.m. on the 14th day after issuance of the Notice of Decision; except that if the *Director's* decision is consolidated with a threshold Determination of Non-significance under the State Environmental Policy Act for which a comment period pursuant to WAC 197-11-340 must be provided, the appeal period for the consolidated decision shall be 21 days.

6. Notice of Appeal Hearing. If a Type 1 decision is appealed, an open record appeal hearing before the Hearing Examiner shall be set and notice of the hearing shall be mailed to all parties of record by the *Director*. Notice shall be mailed no less than 14 days prior to the hearing. The notice shall contain the following items, at a minimum:

A. Appellant name and project name (if applicable)

B. The street address of the subject property or a description in non-legal terms of the property's location.

C. A brief description of the decision of the *Director* which is being appealed.

D. A statement of the scope of the appeal including a summary of the specific errors alleged in the letter of appeal.

E. The date, time and place of the appeal hearing before the Hearing Examiner.

7. Staff Report on the Appeal. The *Director* shall prepare a staff report analyzing the specific elements of the *Director's* decision disputed in the letter of appeal. At least seven (7) calendar days before the hearing, the *Director* shall distribute copies of the staff report to the Hearing Examiner and all parties of record.

8. Hearing Examiner Hearing on Appeal. The Hearing Examiner shall conduct an open record appeal hearing on a Type 1 appeal. The scope of the appeal is limited to the specific elements of the *Director's* decision disputed in the letter of appeal, and the Hearing Examiner may only consider comments, testimony and arguments on these specific elements. Only parties of record may participate in the appeal. These persons may participate in either or both of the following ways:

A. By submitting written comments or testimony to the Hearing Examiner prior to the hearing.

B. By appearing in person, or through a representative, at the hearing and submitting written or oral testimony directly to the Hearing Examiner. The Hearing Examiner may reasonably limit the extent of the oral testimony to facilitate the orderly and timely conduct of the hearing.

9. Hearing Examiner Decision on Appeal.

A. Criteria. The Hearing Examiner may grant the appeal or grant the appeal with modifications if the appellant has carried the burden of proof and the Hearing Examiner finds the decision of the *Director* is not supported by a preponderance of the evidence. In all other cases, the appeal shall be denied. The Hearing Examiner shall accord substantial weight to the decision of the *Director* and SEPA Responsible Official.

B. Conditions. The Hearing Examiner may impose conditions as part of the granting of an appeal or granting of an appeal with modifications to ensure conformance with the criteria under which the application was made.

C. Findings. The Hearing Examiner shall adopt findings and conclusions which support its decision on the appeal.

10. Time Period to Complete Appeal Process. The Hearing Examiner's decision on a Type 1 appeal shall be issued within 90 days from the date the original administrative appeal period closed, unless all parties to an appeal have agreed to an extended time period.

11. Effect of Decision. Type 1 decisions of the *Director* and SEPA threshold determinations are final decisions, effective on the day following the expiration of any associated administrative appeal period. If an administrative appeal is filed, the decision is not final until the appeal is heard and decided by the Hearing Examiner. The *Director's* decision, or Hearing Examiner's decision on an appeal, is the City's final decision on the application.

12. Appeal to Superior Court. A final decision by the Hearing Examiner on a Type 1 appeal may be appealed to Superior Court as set forth in BMC 19.65.060.1. [Ord. 269 §28, 1999]

19.65.070 Type 2 Decisions

1. General. A Type 2 land use decision is a quasi-judicial decision made by the Hearing Examiner, following a recommendation by the *Director*, and is based upon the decision criteria set forth in the Code for each type of Type 2 application. City processing of a Type 2 application begins with a determination of completeness (BMC 19.65.035). Once the application is determined to be complete, the City issues public notice in the form of a Notice of Application (BMC 19.65.040). An informational meeting may be required for projects which may be controversial. After the 21-day public comment period ends, the City issues a SEPA threshold determination, if required. The threshold determination may be issued in conjunction with the *Director's* recommendation on the application. If an Environmental Impact Statement (EIS) is required, the EIS must be completed prior to issuance of the *Director's* recommendation. If the requirement to prepare an EIS is appealed by the *applicant*, that appeal will also be resolved prior to issuance of the *Director's* recommendation.

Following issuance of the *Director's* recommendation, an open record hearing will be held by the Hearing Examiner. If a SEPA Determination of Non Significance (DNS) was issued and an appeal of the DNS was filed, the appeal hearing on the DNS will be combined with the public hearing on the *Director's* recommendation. Following the public hearing, the Hearing Examiner will issue a written report which approves, approves with modification, or denies the application.

The Hearing Examiner's decision on the Type 2 application is appealable to the City Council. The Hearing Examiner's decision, or if appealed, the City Council action on the appeal is the final City decision on a Type 2 application.

2. State Environmental Policy Act (SEPA).

A. If required by the State Environmental Policy Act (SEPA) and BMC 14.10, a threshold determination will be issued by the Responsible Official. The threshold determination is a Type 1

decision and may be issued in conjunction with the *Director's* recommendation on the underlying land use decision.

B. An appeal of a threshold determination authorized by BMC 14.10 shall be consolidated with the Hearing Examiner's hearing on the underlying land use application. The Hearing Examiner's decision on the SEPA appeal is the City's final action related to SEPA.

A.C. ~~However,~~ if an Environmental Impact Statement (EIS) is required, the threshold determination will be issued early and the EIS will be completed prior to issuance of the *Director's* recommendation. If the requirement to prepare an EIS is appealed by the *applicant*, that appeal must be resolved prior to the issuance of the *Director's* recommendation.

3. Public Meetings. The *Director* may require the *applicant* to sponsor and participate in a public meeting to inform citizens about a proposal. When required, public meetings shall be held as early in the review process as possible. Notice of the public meeting shall be provided in the same manner as required for the notice of application. The public meeting notice will be combined with the notice of application whenever possible.

4. Director's Recommendation. The *Director* shall prepare a written recommendation to the Hearing Examiner for approval, approval with conditions or modifications, or for denial of the application. The *Director's* recommendation shall be based on the applicable Zoning Code decision criteria, shall include any conditions to ensure consistency with City zoning regulations, and may include mitigation measures proposed under SEPA.

5. Hearing Examiner Public Hearing

A. Participation in Hearing/Parties of Record. Any person may participate in the Hearing Examiner open record hearing and become a party of record by submitting written comments to the *Director* prior to the hearing or by submitting written or oral comments at the hearing.

B. Hearing Record. The Hearing Examiner shall create a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording of each hearing.

6. Hearing Examiner Decision.

A. Criteria for Decision. The Hearing Examiner shall use the criteria listed in the provision of this Code describing the requested *use* or decision in deciding upon the application. In addition, the Hearing Examiner may approve the application only if:

- i. It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
- ii. It is consistent with the purpose and intent of the zone in which the *site* is located; and
- iii. It is consistent with the public health, safety and welfare.

B. Decision. The Hearing Examiner shall approve, approve with conditions or modifications, or deny an application. The Hearing Examiner's decision shall be based on the applicable Zoning Code decision criteria, shall include any conditions to ensure consistency with City zoning regulations, and may include

mitigation measures proposed under SEPA. The *applicant* carries the burden of proof that a preponderance of the evidence supports approval of the application or approval with conditions or modifications.

C. Written Decision. Within 10 working days following the close of the record, the Hearing Examiner shall distribute a written report supporting the decision. The report shall contain all of the following:

- i. The Hearing Examiner's decision;
- ii. Any conditions included as part of the decision;
- iii. Findings of fact upon which the decision, including any conditions, was based and the conclusions derived from those facts;
- iv. A statement explaining the appeal process.

D. Distribution. The *Director* shall mail the written decision, bearing the date it is mailed, to all parties of record.

7. Appeal of Type 2 Decisions.

A. Parties of record may appeal the decision by filing a written statement setting forth:

- i. Facts demonstrating that the person is adversely affected by the decision;
- ii. A concise statement identifying the specific findings of fact or conclusions which are being appealed;
- iii. The specific relief requested; and
- iv. Any other information reasonably necessary to make a decision on the appeal.

B. The written statement of appeal and appeal fee, if any, must be received by the City Clerk no later than 5:00 p.m. on the 14th day after issuance of the Notice of Decision.

8. Notice of Appeal Hearing. If a Type 2 decision is appealed, a closed record appeal hearing before the City Council shall be set and notice of the hearing shall be mailed to all parties of record by the City Clerk. Notice shall be mailed no less than 14 days prior to the hearing. The notice shall contain the following items, at a minimum:

- A. Appellant name and project name (if applicable)
- B. The street address of the subject property or a description in non-legal terms of the property's location.
- C. A brief description of the decision of the Hearing Examiner which is being appealed.

D. A statement of the scope of the appeal including a summary of the specific errors alleged in the letter of appeal.

E. The date, time and place of the appeal hearing before the City Council.

9. Staff Report on the Appeal. The *Director* shall prepare a staff report analyzing the specific elements of the Hearing Examiner's decision disputed in the letter of appeal. At least seven (7) calendar days before the hearing, the City Clerk shall distribute copies of the staff report to the City Council and all parties of record.

10. City Council Hearing on Appeal. The City Council shall conduct a closed record hearing on a Type 2 appeal. The City Council shall make an electronic sound recording of each appeal hearing. The scope of the appeal is limited to the specific elements of the Hearing Examiner's decision disputed in the letter of appeal, and the City Council may only consider comments, testimony and arguments on these specific elements. Argument on the appeal is limited to information contained in the record developed before the Hearing Examiner and must specify the findings or conclusions which are the subject of the appeal, as well as the relief requested from the Council. Only parties of record may participate in the appeal. These persons may participate in either or both of the following ways:

A. By submitting written comments or testimony to the City Clerk prior to the hearing.

B. By appearing in person, or through a representative, at the hearing and submitting written or oral testimony directly to the City Council. The City Council may reasonably limit the extent of the oral testimony to facilitate the orderly and timely conduct of the hearing.

11. City Council Decision on Appeal.

A. Criteria. The City Council may grant the appeal or grant the appeal with modifications if the appellant has carried the burden of proof and the City Council finds the decision of the Hearing Examiner is not supported by a preponderance of the evidence. In all other cases, the appeal shall be denied. The City Council shall accord substantial weight to the decision of the Hearing Examiner.

B. Conditions. The City Council may impose conditions as part of the granting of an appeal or granting of an appeal with modifications to ensure conformance with the criteria under which the application was made.

C. Findings. The City Council shall adopt findings and conclusions which support its decision on the appeal.

D. Required Vote. A vote to grant the appeal or grant the appeal with modifications must be by a majority vote of the membership of the City Council. Any other vote constitutes denial of the appeal.

12. Time Period to Complete Appeal Process. The City Council's decision on a Type 2 appeal shall be issued within 60 days from the date the original administrative appeal period closed, unless all parties to an appeal have agreed to an extended time period.

13. Effect of Decision. Type 2 decisions of the Hearing Examiner are final decisions, effective on the day following the expiration of any associated administrative appeal period. If an administrative appeal is filed,

the decision is not final until the appeal is heard and decided by the City Council. The Hearing Examiner's decision, or City Council's decision on appeal, is the City's final decision on the application.

14. Appeal to Superior Court. A final decision by the City Council on a Type 2 appeal may be appealed to Superior Court as set forth in BMC 19.65.060.1.

19.65.075 Type 3 Decisions

1. General. A Type 3 land use decision is a quasi-judicial decision made by the City Council, following a recommendation by the *Director*, and public hearing and recommendation by the Hearing Examiner. The decision is based upon the decision criteria set forth in the Code for each type of Type 3 application. City processing of a Type 3 application begins with a determination of completeness (BMC 19.65.035). Once the application is determined to be complete, the City issues public notice in the form of a Notice of Application (BMC 19.65.040). An informational meeting may be required for projects which may be controversial. After the 21-day public comment period ends, the City issues a SEPA threshold determination, if required. The threshold determination may be issued in conjunction with the *Director's* recommendation on the application. If an Environmental Impact Statement (EIS) is required, the EIS must be completed prior to issuance of the *Director's* recommendation. If the requirement to prepare an EIS is appealed by the *applicant*, that appeal will also be resolved prior to issuance of the *Director's* recommendation.

Following issuance of the *Director's* recommendation, an open record hearing will be held by the Hearing Examiner. If a SEPA Determination of Non Significance (DNS) was issued and an appeal of the DNS was filed, the appeal hearing on the DNS will be combined with the public hearing on the *Director's* recommendation. Following the public hearing, the Hearing Examiner will issue a written report which recommends approval, approval with modification, or denial of the application and any SEPA appeal.

The City Council action on the Hearing Examiner's recommendation on the Type 3 application is the final City decision on a Type 3 application.

2. State Environmental Policy Act (SEPA).

A. If required by the State Environmental Policy Act (SEPA) and BMC 14.10, a threshold determination will be issued by the Responsible Official. The threshold determination is a Type 1 decision and may be issued in conjunction with the *Director's* recommendation on the underlying land use decision.

B. An appeal of a threshold determination authorized by BMC 14.10 shall be consolidated with the Hearing Examiner's hearing on the underlying land use application. The Hearing Examiner's decision on the SEPA appeal is the City's final action related to SEPA.

A.C. However, if an Environmental Impact Statement (EIS) is required, the threshold determination will be issued early and the EIS will be completed prior to issuance of the *Director's* recommendation. If the requirement to prepare an EIS is appealed by the *applicant*, that appeal will be resolved prior to the issuance of the *Director's* recommendation.

3. Public Meetings. The *Director* may require the *applicant* to sponsor and participate in a public meeting to inform citizens about a proposal. When required, public meetings shall be held as early in the review process

as possible. Notice of the public meeting shall be provided in the same manner as required for the notice of application. The public meeting notice will be combined with the notice of application whenever possible.

4. Director's Recommendation. The *Director* shall prepare a written recommendation to the Hearing Examiner for approval, approval with conditions or modifications, or for denial of the application. The *Director's* recommendation shall be based on the applicable Zoning Code decision criteria, shall include any conditions to ensure consistency with City zoning regulations, and may include mitigation measures proposed under SEPA.

5. Hearing Examiner Public Hearing

A. Participation in Hearing/Parties of Record. Any person may participate in the Hearing Examiner open record hearing and become a party of record by submitting written comments to the *Director* prior to the hearing or by submitting written or oral comments at the hearing.

B. Hearing Record. The Hearing Examiner shall create a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording of each hearing.

6. Hearing Examiner Recommendation.

A. Criteria for Recommendation. The Hearing Examiner shall recommend approval, approval with conditions or modifications, or denial of an application. The Hearing Examiner's recommendation shall be based on the applicable Zoning Code decision criteria, shall include any recommended conditions to ensure consistency with City zoning regulations, and may include mitigation measures proposed under SEPA. The *applicant* carries the burden of proof that a preponderance of the evidence supports approval of the application or approval with conditions or modifications.

B. Written Decision. Within 10 working days following the close of the record, the Hearing Examiner shall distribute a written report supporting the recommendation. The report shall contain all of the following:

- i. The Hearing Examiner's recommendation;
- ii. Any conditions included as part of the recommendation;
- iii. Findings of fact upon which the recommendation, including any conditions, was based and the conclusions derived from those facts;
- iv. A statement explaining the City Council decision process.

C. Distribution. The *Director* shall mail the written recommendation, bearing the date it is mailed, to all parties of record.

7. City Council Decision on the Application.

A. General. The City Council shall, at a public meeting, consider and take final action on a Type 3 application.

B. Elements to be Considered. The City Council shall not accept new written or oral information on the application, but shall consider the complete record developed before the Hearing Examiner, including the Hearing Examiner's recommendation.

C. Criteria for Decision. The City Council shall use the criteria listed in the provision of this Code describing the requested use or decision in deciding upon the application. In addition, the City Council may approve the application only if:

- i. It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
- ii. It is consistent with the purpose and intent of the zone in which the site is located; and
- iii. It is consistent with the public health, safety and welfare.

D. Decision. The City Council may approve the application, approve the application with modifications, deny the application or remand the application to the Hearing Examiner for an additional hearing limited to specific issues identified by the Council. The Council may, based on the record, include conditions in order to ensure conformance with the criteria under which the application was made. The City Council shall adopt written findings of fact and conclusions derived from those facts which support the decision of the Council.

E. Required Vote. If the City Council's decision on the application is for approval, or approval with modifications, the Council shall by majority vote of the membership of the Council, adopt an ordinance or resolution containing the findings of fact and conclusions supporting the Council's decision. If the City Council's decision on the application is to remand the application back to the Hearing Examiner, the Council shall, by motion, identify those specific findings, conclusions and/or conditions to be reconsidered by the Hearing Examiner. Any other vote constitutes a denial of the application.

8. Effect of Decision. Type 3 decisions of the City Council to approve or deny an application are final decisions of the City on the application, effective on the day on which the ordinance or resolution is effective.

9. Appeal to Superior Court. A final decision by the City Council on a Type 3 application may be appealed to Superior Court as set forth in BMC 19.65.060.1.

19.65.080 Type 4 Decisions

1. General. A Type 4 land use decision is a legislative non-project decision made by the City Council under the City Council's authority to establish policies and regulations regarding future private and public development and management of public lands. The process usually includes a public hearing by the Planning Commission and action by the City Council. The decision is based upon the decision criteria set forth in this Code for each type of Type 4 application.

2. State Environmental Policy Act (SEPA).

A. If required by the State Environmental Policy Act (SEPA) and BMC 14.10, a threshold determination will be issued by the Responsible Official. The threshold determination is a Type 1

decision and may be issued in conjunction with the *Director's* recommendation on the Type 4 decision.

B. An appeal of a threshold determination authorized by BMC 14.10 shall be to the Growth Management Hearings Board pursuant to RCW 36.70A.290.

A.C. ~~However, if~~ an Environmental Impact Statement (EIS) is required, the threshold determination may be issued early and the EIS completed prior to issuance of the *Director's* recommendation. Alternatively, the City may prepare an "integrated GMA document" under the provisions and procedures of WAC 197-11.

3. Planning Commission Procedure.

A. General. Type 4 proposals will usually be introduced to the Planning Commission, which may schedule study sessions as needed to consider the proposal. Prior to making a recommendation, the Planning Commission shall schedule a public hearing. After the public hearing and after any further study sessions as may be needed, the Planning Commission shall transmit its recommendation to the City Council through the applicable department *Director* and City Clerk.

B. Criteria. The Planning Commission may recommend the Council adopt or adopt with modifications a proposal if it complies with the applicable decision criteria of the Zoning Code. In all other cases, the Planning Commission shall recommend denial of the proposal.

C. Limitation on Modification. If the Planning Commission recommends a modification which results in a proposal not reasonably foreseeable from the notice provided pursuant to BMC 19.65.080.4, the Planning Commission shall conduct a new public hearing on the proposal as modified.

D. Required Vote. A vote to recommend adoption of the proposal or adoption with modification must be by a majority vote of the Planning Commission members present and voting.

4. Public Hearing Notice.

A. Contents. The *Director* shall prepare a notice of the Planning Commission or City Council public hearing containing at least the following information:

- i. The name of the *applicant* and, if applicable, the project name;
- ii. The street address of the site, or if not available, a locational description on non-legal language along with a vicinity map that identifies the site;
- iii. A brief description of the requested action;
- iv. The date, time and place of the hearing;
- v. The location where the application and any studies can be reviewed;
- vi. A statement of the right of any person to submit written comments or testimony to the hearing body and to appear at the public hearing to give comments or testimony orally;

B. Distribution. At least 14 days prior to the date of the public hearing, the *Director* shall provide for notice of the public hearing to be published in the City's official newspaper. If the proposal involves specific property, rather than an area-wide or zone-wide change, the notice shall also be mailed via first class mail to property owners of record within 500 feet of the specific property, and shall also be posted on one or more notice boards on or near the specific property. The *Director* shall establish standards for size, color, layout, design, wording and placement of the signs and notice boards.

5. Director's Recommendation. The *Director* shall prepare a written recommendation to the Planning Commission for approval, approval with conditions or modifications, or for denial of the application. The *Director's* recommendation shall be based on the applicable Zoning Code decision criteria, shall include any conditions to ensure consistency with City zoning regulations, and may include mitigation measures proposed under SEPA.

6. Public Hearing.

A. Participation in Hearing. Any person may participate in the public hearing by submitting written comments to the *Director* prior to the hearing or by submitting written or oral comments at the hearing.

B. Hearing Record. The Planning Commission or City Council shall create a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording of each hearing.

7. City Council Decision on the Application.

A. General. The City Council shall consider at a public meeting each recommendation transmitted by the Planning Commission and each proposal before the Council at the Council's own direction. The Council may hold a public hearing pursuant to the procedures in BMC 19.65.080.4 and BMC 19.65.080.6. The Council shall take legislative action on the proposal in accordance with State law.

B. City Council Action. The City Council may take one of the following actions:

i. Adopt an ordinance or resolution adopting the proposal or adopting the proposal with modifications; or

ii. Adopt a motion denying the proposal; or

iii. Refer the proposal back to the ~~appropriate Council Committee or~~ Planning Commission for further proceedings, in which case the City Council shall specify the time within which the ~~Council Committee or~~ Planning Commission shall report back to the City Council with a recommendation.

8. Effect of Decision. Type 4 decisions of the City Council are final decisions of the City, effective on the day on which the ordinance or resolution is effective.

9. Appeal to Growth Management Hearings Board. The action of the City Council on a Type 4 proposal may be appealed together with any SEPA Threshold Determination by filing a petition with the Growth Management Hearings Board pursuant to the requirements set forth in RCW 36.70A.290. The petition must be filed within the 60-day time period set forth in RCW 36.70A.290(2).

19.65.090 Rezones.

1. Purpose. The purpose of this section is to establish the process and criteria for a rezone of property from one zoning designation to another. Changes to the zoning map that are Citywide, area-wide, or have area-wide significance are processed as area-wide amendments pursuant to section 2 below. All other rezones shall be processed as site-specific rezones pursuant to section 3 below.

2. Process. Rezones shall be considered using the Type 4 review process.

2. Area-wide rezones.

A. Process: An area-wide rezone application is processed as a Type 4 legislative decision pursuant to the provisions set forth in this chapter.

B. Applicant: Anyone may apply for an area-wide rezone.

C. Criteria for approval: The City Council may approve an area-wide rezone only if all of the following criteria are met:

i. The rezone is consistent with the comprehensive plan; and

ii. The rezone will advance the public health, safety, or welfare; and

iii. The rezone will not have significant adverse environmental impacts that are materially detrimental to adjacent properties or other affected areas.

D. Comprehensive Plan Consistency: If a Comprehensive Plan amendment is required in order to satisfy BMC 19.65.090.2.C.i, approval of the Comprehensive Plan amendment is required prior to or concurrently with the granting of an approval on the area-wide rezone.

3. Site-specific rezones.

A. Process: A site-specific rezone application is processed as a Type 3 quasi-judicial decision pursuant to the provisions set forth in this chapter.

B. Applicant: The City, federal, state or local agencies, owner(s) of the property proposed for rezoning, or their designated agents may initiate a request for a site-specific rezone.

C. Criteria for Approval: The City may grant a site-specific rezone only if all of the following criteria are met:

i. The rezone is consistent with the Comprehensive Plan; and

ii. The rezone will advance the public health, safety, or welfare; and

iii. The rezone will not have significant adverse environmental impacts that are materially detrimental to adjacent properties or other affected areas; and

iv. The rezone is necessary because at least one of the following is met:

- a. Conditions in the immediate vicinity or neighborhood have changed so that it is in the public interest to approve the rezone, or
- b. The rezone will correct a zone classification or zone boundary that was inappropriate when established, or
- c. The rezone is necessary to achieve consistency with the Comprehensive Plan land use map.

D. Comprehensive Plan Consistency: If a Comprehensive Plan amendment is required in order to satisfy BMC Section 19.65.090.3.C.i, approval of the Comprehensive Plan amendment is required prior to the granting of an approval on the rezone.

~~Criteria. The City may approve or approve with modifications an application for a rezone of property if:~~

- ~~A. The rezone is consistent with the Comprehensive Plan; and~~
- ~~B. The rezone bears a substantial relation to the public health, safety, or welfare; and~~
- ~~C. The rezone will not be materially detrimental to uses or property in the immediate vicinity of the property; and~~
- ~~D. The rezone has merit and value for the community as a whole.~~

4. Map change. Following approval of a rezone, the City shall amend the zoning map to reflect the change in zoning designation. The City shall also indicate on the zoning map the number of the ordinance adopting the rezone.

5. Repealed. [Ord. 479 §1, 2007, Ord. 396 §1, 2003]

19.65.095 Comprehensive Plan Amendments.

1. Purpose. The purpose of this section is to provide for plan amendments pursuant to the requirements of Growth Management Act (GMA) (RCW 36.70A.130(1)). Comprehensive plan amendments may be proposed to any element including goals, policies, or plan maps. Amendments to the plan may require and include amendments to supporting plans or ordinances.

2. Process. Amendments to the comprehensive plan may be considered by the City once every calendar year, using the Type 4 review process (BMC 19.65.080) and the timing indicated below. More frequent amendments may be allowed if the amendment complies with RCW 36.70A.130.

A. ~~By May-January 1, property owners and other interested parties will be notified the City will issue notice of the annual Comprehensive Plan amendment request deadline. The amendment request deadline is June-March 1.~~

~~B. The *Director* will create the list a preliminary docket of eligible amendments submitted by the public, the City Council, the Planning Commission, and City staff amendment requests received by the March 1 deadline. By July 1, †The Planning Commission shall hold at least one public meeting on the preliminary docket to consider testimony and make recommendations to the City Council on which amendments to consider, and may recommend a priority be assigned to each proposed amendment.~~

~~C. By August 1, †The City Council shall consider the recommendations of the Planning Commission on the preliminary docket, and establish by May 1 adopt by resolution a final docket of Comprehensive Plan amendments for consideration. The final docket shall be kept on file for public review during the public meeting/hearing process.~~

~~D. Once the docket is established by the City Council, the Planning Commission shall hold public meeting(s) and/or hearing(s) to solicit public comment on the docket.~~

~~E. The *Director* shall provide written recommendations concerning all amendment requests to the Planning Commission.~~

~~F. The proposed amendment(s) shall be accompanied by the necessary documents for compliance with the State Environmental Policy Act by the time the Planning Commission makes a recommendation to the City Council.~~

~~G. The Planning Commission shall make a recommendation to the City Council on all proposed amendments pursuant to a schedule established by the City Council.~~

~~H. The City Council shall consider the recommendations of the Planning Commission at a public meeting. Adoption of the Comprehensive Plan amendment(s) may occur at the public meeting or at a subsequent meeting. Those items that require funding in the City budget shall receive final consideration concurrent with final budget consideration.~~

~~I. Participation in Public Meeting(s) and Hearing(s). Any person may participate in the Public Meeting(s) or Hearing(s) by submitting written comments to the *Director* prior to the meeting/hearing or by submitting written or oral comments at the meeting/hearing.~~

~~J. Hearing Record. The Planning Commission or City Council shall create a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording of each hearing. [Ord. 397 §4, 2003]~~

3. Concurrent review area-wide rezones. A proposed Comprehensive Plan amendment that also requires an area-wide rezone shall be considered concurrently, and all public notice must reflect the dual nature of the request.

4. Docketing Criteria. The City Council shall use the following criteria for deciding whether a proposed amendment is added to the docket in 2C above:

A. The request has been filed in a timely manner, and either:

B. State law requires, or a decision of a court or administrative agency has directed such a change; or,

C. All of the following criteria are met:

- i. The proposed amendment presents a matter appropriately addressed through the Comprehensive Plan; and
- ii. The City has the resources, including staff and budget, necessary to review the proposal; and
- iii. The proposal does not raise policy or land use issues that are more appropriately addressed by an ongoing work program item approved by the City Council; and
- iv. The proposal will serve the public interest by implementing specifically identified goals of the Comprehensive Plan or a new approach supporting the City's vision; and
- v. The proposal has not been considered by the City Council in the last three (3) years. This time limit may be waived by the City Council, if the proponent establishes that there exists a change in circumstances that justifies the need for the amendment.

5. Expansion of Land Use Map Amendment. The City may propose to expand the geographic scope of an amendment to the Comprehensive Plan land use map to allow for consideration of adjacent property, similarly situated property, or area-wide impacts. The following criteria shall be used in determining whether to expand the geographic scope of a proposed land use map amendment:

- A. The effect of the proposed amendment on the surrounding area or city;
- B. The effect of the proposed amendment on the land use and circulation pattern of the surrounding area or city; and
- C. The effect of the proposed amendment on the future development of the surrounding area or city.

46. Amendment Decision Criteria. The City Council may approve or approve with modifications a Comprehensive Plan amendment if all of the following criteria are met:

- A. The request has been filed in a timely manner; and
- B. There is a public need for the proposed amendment; and
- CA. The proposed amendment is the best means for meeting the an identified public benefit need; and
- CB. The proposed amendment is consistent with the overall intent of the goals and policies of the Burien Comprehensive Plan, Growth Management Act, applicable Puget Sound Regional Council (PSRC) plans, and King County Countywide Planning Policies and Burien Comprehensive Plan; and
- CC. The proposed amendment will result in a net benefit to the community; and
- CD. The revised Comprehensive Plan will be internally consistent; and
- CE. The capability of the land can support the projected land use; and

~~HF.~~ Adequate public facility capacity to support the projected land use exists, or, can be provided by the property owner(s) requesting the amendment, or, can be cost-effectively provided by the City or other public agency; and

~~IG.~~ The proposed amendment will be compatible with nearby uses; and

~~IH.~~ The proposed amendment would not result in the loss of capacity to meet other needed land uses, such as housing; and prevent the City from achieving its Growth Management Act population and employment targets; ~~the; and~~

I. For a Comprehensive Plan land use map change, the applicable designation criteria for the proposed land use designation are met and either of the following is met:

- i. Conditions have ~~so markedly~~ changed since the property was given its present Comprehensive Plan designation so that the current designation is no longer appropriate; or,
- ii. The map change will correct a Comprehensive Plan designation that was inappropriate when established.

57. Comprehensive plan and map change. Following approval of a Comprehensive Plan amendment, the City shall amend the Comprehensive Plan text and map, as applicable, to reflect the change in text or plan designation.

19.65.100 Zoning Code Amendments.

1. Purpose. The purpose of this section is to establish the process and criteria for amendment of this Code.
2. Process. Zoning Code amendments shall be considered using the Type 4 review process.
3. Initiation of zoning code amendment request. A zoning code amendment request may be initiated by the City Council, Planning Commission or Director, or any City department.
4. Criteria. The City may approve or approve with modifications a proposal to amend the text of this Code if:
 - A. The amendment is consistent with the Comprehensive Plan; and
 - B. The amendment bears a substantial relation to the public health, safety, or welfare; and
 - C. The amendment is in the best interest of the community as a whole.
5. Code change. Following approval of an amendment, the City shall amend this Code to reflect the change.

19.65.105 Administrative Design Review.

1. Purpose. The purpose of this section is to establish the process and criteria for administrative design review (ADR). [Ord. 273 § 1, 1999]
2. Applicability.
 - A. *Major new construction or modification* in the DC and SPA-1 zones is subject to the provisions of BMC 19.47, 19.49 and the procedures for ADR contained in this section. [Ord. 441 § 12, 2005]
 - B. All other changes to existing *structures* and *sites* in the DC and SPA-1 zones do not require ADR approval, unless a design departure is requested. However, the portion of the *structure* or *site* being changed must comply with the applicable design objectives and standards in BMC 19.47 and BMC 19.49. This includes, but is not limited to exterior modifications, including paint, material, roof or *façade* changes; parking area restriping or redesign; and landscaping. [Ord. 273 § 1, 1999, Ord. 441 § 12, 2005]
3. Process. The *Director* shall review applications for ADR according to the procedures established for a Type 1 review (BMC 19.65.065). BMC 19.65.040 (Notice of Application) does not apply, unless SEPA review is required. For large or complex projects, the *Director* may retain design professionals at the *applicant's* expense to review ADR applications submitted by the *applicant*. The *Director* shall establish a roster of qualified licensed design professionals in the fields of architecture, landscape architecture and/or urban design to assist the City in the ADR process. When the *Director* has determined the need for assistance, prior to or following the pre-application meeting, the *Director* shall prepare a scope of work and select at least 3 firms from the roster to prepare specific cost and schedule proposals for completing the scope of work. These proposals shall be reviewed by the *Director*, and if found acceptable, shall be given to the *applicant* for selection. [Ord. 273 § 1, 1999]
4. Criteria for Decision. In addition to the criteria for approval of a Type 1 review in BMC 19.65.065.4.A, the *Director* shall determine whether the proposal complies with the applicable design objectives and standards in BMC 19.47 or BMC 19.49. [Ord. 273 § 1, 1999, Ord. 441 § 12, 2005]
5. Design Departure.
 - A. General. This section provides a mechanism for obtaining approval from the City for departing from strict adherence to the design standards.
 - B. Process. If a design departure is requested, the ADR decision will be reviewed and decided upon using the Type 1 review process, described in BMC 19.65.065.
 - C. Criteria: The City may grant a design departure from BMC 19.47 or BMC 19.49 only if it finds that either: there is a compelling reason to deviate from the specific standards or the intent of the standards can be met, and that:
 - i. All of the following requirements are met:
 - a. The request is consistent with and fulfills the policy basis for the applicable design standards, and
 - b. The departure will not have any substantial detrimental effect on nearby properties and the City as a whole, and

- c. The departure manifests high quality design and/or innovative and appropriate use of materials that will create a high quality development, and
 - d. The departure will result in increased pedestrian activity and visual interest along the *street*; or
- ii. All of the following requirements are met:
 - a. The size, configuration, topography, or location of the *site* is unusual and was not contemplated in the design standards, and
 - b. Because of these unusual circumstances, application of the design standards to the *site* would not result in a project that fulfills the policy basis for the design standard, and
 - c. The proposed departure will result in a development which fulfills the policy basis for the design regulations and will result in high quality development sensitive to its surroundings.

[Ord. 273 § 1, 1999, Ord. 441 § 12, 2005]

6. Modifications.

- A. The *Director* may approve a modification to the ADR approval for the proposed development if:
 - i. The need for the modification was not known and could not reasonably have been known before the ADR approval was granted; and
 - ii. The modification is minor and will not, in any substantial way, change the proposed development; and
 - iii. The development that will result from the modification will be consistent with the design standards.
- B. Any modification, other than as specified in paragraph A of this section, must be reviewed and decided upon as a new ADR approval under this Chapter. [Ord. 273 § 1, 1999]

~~7. Lapse of approval.~~

- ~~A. General. Unless otherwise specified in the ADR decision, the *applicant* must submit a complete building permit application to the City (or if no building permit is required, begin the activity approved in the ADR decision) within one (1) year after the final ADR decision, or that decision becomes void. The *applicant* shall substantially complete construction consistent with the ADR approval and complete all conditions listed in the ADR approval within three (3) years after the final ADR decision, or the decision becomes void. "Final decision" means the final decision of the City on the ADR application, including any appeals.~~
- ~~B. Extensions. The *applicant* may apply to the *Director* for a one time extension of up to one year, of each of the time limits under paragraph A of this section. The *applicant* shall submit a letter demonstrating that substantial progress is being made toward developing the *site* consistent with the ADR decision, and that circumstances beyond his/her control prevent compliance with the applicable time limit under paragraph A of this section.~~

8-Z. Appeals. The applicant may appeal denial of a time extension by filing a written statement of appeal and appeal fee, if any, to the City Clerk no later than 5:00 p.m. on the 14th day after issuance of the written

denial of the requested extension. The appeal will be processed as an appeal of a Type 1 decision pursuant to Section 19.65.065. [Ord. 273 § 1, 1999]

19.70.070 Adequate Roads – Road Capacity Level of Service (“LOS”) Standard.

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

1. ~~LOS standard E for First Avenue South;~~ LOS standard D for designated vehicle priority roadways;
2. ~~LOS standard D within the urban center boundary, as shown in Figure 2LU.1.11 of the Comprehensive Plan;~~ LOS standard E for downtown Burien streets;
3. ~~LOS standard D for the intersection of SW 128th Street and Ambaum Boulevard SW;~~ LOS C for all other roadway facilities and services; LOS standard D for the intersection of SW 128th Street and Ambaum Boulevard SW;
4. As mandated by state law, the city of Burien adopts LOS “D” for SR-509 and SR-518 (highways of statewide significance) and an LOS of “E/mitigated” for the segment of SR-509 from First Avenue South to the Burien city limits (highway of regional significance), or whichever LOS is currently adopted by the Washington State Department of Transportation;
5. ~~LOS standards C for all other roadway facilities and services.~~ [Ord. 545 § 1, 2010, Ord. 431 § 1, 2005; Ord. 28 § 1(516), 1993]

19.80.010 Purpose.

The purpose of this chapter is to promote compliance with this title by establishing enforcement authority, defining violations, and setting standards for initiating the procedures set forth in BMC 8.45 Chapter 1.15 BMC, when violations of this title occur. [Ord. 545 § 1, 2010, Ord. 28 § 1(614), 1993]

19.80.030 Violations Defined.

No building permit or land use approval in conflict with the provisions of this title shall be issued. *Structures* or *uses* which do not conform to this title, except legal nonconformances specified in BMC 19.55 and approved variances, are violations subject to the enforcement, penalty and abatement provisions of BMC 8.45 Chapter 1.15 BMC, including but not limited to:

1. Establishing a *use* not permitted in the zone in which it is located;
2. Constructing, expanding or placing a *structure* in violation of *setback*, *height* and other dimensional standards in this title;
3. Establishing a permitted *use* without complying with applicable development standards set forth in other titles, ordinances, rules or other laws, including but not limited to, road construction, surface water management, the Fire Code, and rules of the department of public health;

4. Failing to carry out or observe conditions of land use or permit approval, including contract development standards;
5. Failing to secure required land use or permit approval prior to establishing a permitted use; and
6. Failing to maintain *site improvements*, such as *landscaping*, parking or drainage control facilities as required by this code or other city of Burien ordinances. [Ord. 545 § 1, 2010, Ord. 28 § 1(616), 1993]

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

 USE ↓	↓REGULATIONS	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.005.1 and Chapter 19.17, Miscellaneous Use, Development and Performance Standards)		
		Special Review Process (See Ch. 19.65)	Lot Area	SETBACKS		Lot Coverage				Height	
				Front Setback	Interior Setback	Building Coverage					Impervious Surface Coverage
19.15.005.4 <i>Public Park and Recreation Facilities</i>	Type 1, if less than 1 acre Type 2, otherwise None. See Spec. Reg. 4	None. See Spec. Reg. 1	30' See Spec. Reg. 3	30' See Spec. Reg. 3	35%	RS-A zone: 20% RS- 12,000 zone: 45% RS-7,200 zone: 70% [Ord. 313 §1, 2000]	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Marinas only allowed on public property in excess of two acres. 2. Lighting for <i>structures</i> and fields shall be directed away from <i>dwelling units</i> . 3. <i>Structures</i> shall maintain a 50-foot <i>setback</i> from <i>adjoining</i> lots containing <i>single detached dwelling units</i> . The Director may allow <i>structures</i> such as playground equipment, ball field backstops and tennis court fences closer than 50 feet if compatible with the surrounding neighborhood and traffic safety considerations. 4. <u>No special review process if project design is approved by the City Council through a public review process that includes posting a notice board at the site and notification to neighbors; otherwise a Type 2 review process is required.</u>	
19.15.005.5 <i>Cemetery</i>	Type 3 Type 2	None	30'	30'	35%	RS-A zone: 20% RS- 12,000 zone: 45% RS-7,200 zone: 70% [Ord. 313 §1, 2000]	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. <i>Columbarium</i> or <i>mausoleum</i> structures must be setback 100 feet minimum from <i>property lines</i> adjoining residential zones.	

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

 USE ↓	↓REGULATIONS	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.005.1 and Chapter 19.17, Miscellaneous Use, Development and Performance Standards)		
		Special Review Process (See Ch. 19.65)	Lot Area	SETBACKS		Lot Coverage				Height	
				Front Setback	Interior Setback	Building Coverage					Impervious Surface Coverage
19.15.005.6 Community Residential Facility - (2)	Type 3 Type 2	See Spec. Reg. 1	20'	5'	35%	RS-A zone: 20% RS- 12,000 zone: 45% RS-7,200 zone: 70% [Ord. 313 \$1, 2000]	35'	B	1 space for every 2 bedrooms	1. Minimum lot area per dwelling unit is: a. 1 acre in the RS-A zone. b. 12,000 s.f. in the RS-12,000 zone. c. 7,200 s.f. in the RS-7,200 zone.	
19.15.005.7 Golf Course	Type 3 Type 2	None	30' See Spec. Reg. 1	30' See Spec Reg. 1	35%	RS-A zone: 20% RS- 12,000 zone: 45% RS-7,200 zone: 70% [Ord. 313 \$1, 2000]	35'	C	3 spaces per hole, plus 3 spaces per 1,000 s.f. of clubhouse facilities	1. Structures, driving ranges and lighted areas shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.	

(2) Amended, Ord. 269, 1999

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

 USE ↓	↓REGULATIONS	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.005.1 and Chapter 19.17, Miscellaneous Use, Development and Performance Standards)		
		Special Review Process (See Ch. 19.65)	Lot Area	SETBACKS		Lot Coverage				Height	
				Front Setback	Interior Setback	Building Coverage					Impervious Surface Coverage
19.15.005.8 Hatchery/Fish Preserve	Type 3 Type 2	None.	30'	30'	35%	RS-A zone: 20% RS- 12,000 zone: 45% RS-7,200 zone: 70% [Ord. 313 §1, 2000]	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. This use may be further subject to the provisions of KCC Title 25, Shoreline Management Program.	
19.15.005.9 Religious Facility	Type 2	None	30'	30'	35%	RS-A zone: 20% RS- 12,000 zone: 45% RS-7,200 zone: 70% [Ord. 313 §1, 2000]	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Accessory use shall comply with the requirements for that use listed in this use zone chart (BMC 19.15.005).	

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

 USE ↓	↓REGULATIONS	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.005.1 and Chapter 19.17, Miscellaneous Use, Development and Performance Standards)		
		Special Review Process (See Ch. 19.65)	Lot Area	SETBACKS		Lot Coverage				Height	
				Front Setback	Interior Setback	Building Coverage					Impervious Surface Coverage
19.15.005.10 School	Type-3 <u>Type 2</u>	None	30'	30'	35%	RS-A zone: 20% RS- 12,000 zone: 45% RS-7,200 zone: 70% [Ord. 313 §1, 2000]	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]		
19.15.005.11 Senior Citizen Assisted Dwelling Unit ⁽²⁾	Type-3 <u>Type 2</u>	See Spec. Reg. 1	20'	5'	35%	RS-A zone: 20% RS- 12,000 zone: 45% RS-7,200 zone: 70% [Ord. 313 §1, 2000]	35'	B	0.5 spaces per unit	1. Minimum <i>lot area per dwelling unit</i> is: a. 1 acre in the RS-A zone. b. 12,000 s.f. in the RS-12,000 zone. c. 7,200 s.f. in the RS-7,200 zone. 2. Conversion to another <i>use</i> is allowed, provided that all requirements for the new <i>use</i> are met, including density limitations.	

⁽²⁾ Amended, Ord. 269, 1999

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

 USE ↓	↓REGULATIONS	Special Review Process (See Ch. 19.65)	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.005.1 and Chapter 19.17, Miscellaneous Use, Development and Performance Standards)	
			Lot Area	SETBACKS		Lot Coverage					Height
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				

19.15.005.12 Essential Public Facility	Type 3 Type 2	Development standards shall be determined on a case-by-case basis through the Type 3 review process.							See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts. 2. Shall comply with criteria for siting found in the Burien Comprehensive Plan.
19.15.005.13 Community, Cultural or Government Facility	Type 3 Type 2	See Spec. Reg. 1	30'	30'	35%	RS-A zone: 20% RS-12,000 zone: 45% RS-7,200 zone: 70% [Ord. 313 §1, 2000]	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Minimum lot area for a public agency training facility is 35 acres.
19.15.005.14 Public Utility	Type 3 Type 2	None	30'	30'	35%	RS-A zone: 20% RS-12,000 zone: 45% RS-7,200 zone: 70% [Ord. 313 §1, 2000]	20' See Spec. Reg. 1	D	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. The City Council may approve height no greater than 35 feet if the applicant shows that no feasible alternative is available. 2. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts.

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS											
 USE ↓	↓REGULATIONS	Special Review Process (See Ch. 19.65)	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.005.1 and Chapter 19.17, Miscellaneous Use, Development and Performance Standards)	
			Lot Area	SETBACKS		Lot Coverage					Height
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				

19.15.005.15 <i>Personal Wireless Service Facility⁽¹⁾</i>	See Chapter 19.50									
<u>19.15.005.16</u> <u>Community Garden</u>	None	None	20'	5'	15%	25%	12'	A	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. <u>A land use agreement approved by the Director shall be executed between the landowner and those who are interested in gardening on private land. The agreement shall include Community Garden Rules to maintain the property safely and prevent disturbances to neighboring property owners and residents.</u>

(1) Amended, Ord. 265, 1999

Note: All landscape categories added by Ord. 293, 2000.

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

<div style="border: 1px solid black; padding: 5px; text-align: center;"> RM Zones </div> <p align="center">USE ↓</p>	REGULATIONS	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.010.1 and Chapter 19.17, Miscellaneous Use, Development and Performance Standards)		
		Special Review Process (See Ch. 19.65)	Lot Area	SETBACKS		Lot Coverage				Height	
				Front Setback	Interior Setback	Building Coverage					Impervious Surface Coverage

										6. In the RM-48 zone this height limit may be increased if portions of the structure that exceed the base height limit provide one additional foot of front and interior setback for each foot above the base height limit, but the maximum height may not exceed 75 feet. [Ord. 533 § 1, 2010]
19.15.010.8 <i>Public Park and Recreation Facilities</i>	Type 1, if less than 4 acre Type 2, otherwise None. See Spec. Reg. 3	None.	30' See Spec. Reg. 2	30' See Spec. Reg. 2	60%	85%	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Lighting for <i>structures</i> and fields shall be directed away from <i>dwelling units</i> . 2. <i>Structures</i> shall maintain a 50-foot <i>setback</i> from <i>adjoining lots</i> containing <i>single detached dwelling units</i> . The <i>Director</i> may allow <i>structures</i> such as playground equipment, ball field backstops and tennis court <i>fences</i> closer than 50' if compatible with the surrounding neighborhood and traffic safety considerations. 3. <u>No special review process if project design is approved by the City Council through a public review process that includes posting a notice board at the site and notification to neighbors; otherwise a Type 2 review process is required.</u>
19.15.010.9 <i>Community Residential Facility</i>	Type 3 Type 2	5,000 s.f.	10'	5'	RM-12 & RM-18 zones: 60% RM-24 & RM-48 zone: 70% [Ord. 533 § 1, 2010]	85% RM-48 zone: 90% [Ord. 533 § 1, 2010]	35' RM-48 zone: 60' See Spec Reg.1 [Ord. 533 § 1, 2010]	B	1 space for every 2 bedrooms	1. In the RM-48 zone this height limit may be increased if portions of the structure that exceed the base height limit provide one additional foot of front and interior setback for each foot above the base height limit, but the maximum height may not exceed 75 feet. [Ord. 533 § 1, 2010]

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS

 USE ↓	↓REGULATIONS	MINIMUMS							MAXIMUMS		Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.010.1 and Chapter 19.17, Miscellaneous Use, Development and Performance Standards)
		Special Review Process (See Ch. 19.65)	Lot Area	SETBACKS		Lot Coverage		Height	Building Coverage	Impervious Surface Coverage			
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage						
19.15.010.13 Senior Citizen Assisted Dwelling Unit	Type 2	5,000 s.f. See Spec. Reg. 1	10'	5'	RM-12 & RM-18 zones: 60% RM-24 & RM-48 zone: 70% [Ord. 533 § 1, 2010]	85% RM-48 zone: 90% [Ord. 533 § 1, 2010]	35' RM-48 zone: 60' See Spec Reg.3 [Ord. 533 § 1, 2010]	B	0.5 spaces per unit	1. Maximum density per <i>dwelling unit</i> is: a. 12 units per acre in the RM-12 zone. b. 18 units per acre in the RM-18 zone. c. 24 units per acre in the RM-24 zone. d. 48 units per acre in the RM-48 zone. Additional density may be allowed in the RM-24 and RM-48 zone if appropriate for the <i>site</i> and if zoning code requirements are met without the need for variances or administrative adjustments. [Ord. 533 § 1, 2010] 2. Chapter 19.17 contains regulations regarding home occupations, and other <i>accessory uses</i> , facilities and activities associated with this use. 3. In the RM-48 zone this height limit may be increased if portions of the structure that exceed the base height limit provide one additional foot of front and interior setback for each foot above the base height limit, but the maximum height may not exceed 75 feet. [Ord. 533 § 1, 2010]			
19.15.010.14 Essential Public Facility	Type 3 Type 2	Development standards shall be determined on a case-by-case basis through the Type 3 review process.							B	0.5 spaces per unit	1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts. 2. Shall comply with criteria for siting found in the Burien Comprehensive Plan.		
19.15.010.15 Community, Cultural or Government Facility	Type 3 Type 2	5,000 s.f.	30'	30'	60%	85%	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	0.5 spaces per unit	1. Maximum density per <i>dwelling unit</i> is: a. 12 units per acre in the RM-12 zone. b. 18 units per acre in the RM-18 zone. c. 24 units per acre in the RM-24 zone. d. 48 units per acre in the RM-48 zone. Additional density may be allowed in the RM-24 and RM-48 zone if appropriate for the <i>site</i> and if zoning code requirements are met without the need for variances or administrative adjustments. [Ord. 533 § 1, 2010] 2. Chapter 19.17 contains regulations regarding home occupations, and other <i>accessory uses</i> , facilities and activities associated with this use. 3. In the RM-48 zone this height limit may be increased if portions of the structure that exceed the base height limit provide one additional foot of front and interior setback for each foot above the base height limit, but the maximum height may not exceed 75 feet. [Ord. 533 § 1, 2010]		

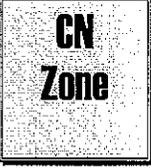
DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

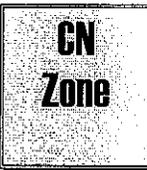
 USE ↓	↓REGULATIONS	Special Review Process (See Ch. 19.65)	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.010.1 and Chapter 19.17, Miscellaneous Use, Development and Performance Standards)	
			Lot Area	SETBACKS		Lot Coverage					Height
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				
19.15.010.16 <i>Public Utility</i>	Type 3 Type 2	None	30'	30'	60%	85%	35'	D	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts.	
19.15.010.17 <i>Personal Wireless Service Facility⁽¹⁾</i>	See Chapter 19.50										
19.15.010.18 <i>Community Garden</i>	None	None	10'	5'	15%	25%	12'	A	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. <u>A land use agreement approved by the Director shall be executed between the landowner and those who are interested in gardening on private land. The agreement shall include Community Garden Rules to maintain the property safely and prevent disturbances to neighboring property owners and residents.</u>	

(1) Amended, Ord. 265, 1999

NOTE: All landscape categories added by Ord. 293, 2000.

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

 CN Zone USE ↓	↓REGULATIONS	MINIMUMS							MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.015.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)
		Special Review Process (See Ch. 19.65)	Lot Area	SETBACKS		Lot Coverage		Building Height	Building Coverage	Impervious Surface Coverage				
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage							
19.15.015.6 Public Park and Recreation Facilities	Type 1, if less than 4 acre Otherwise, Type 2 <u>None. See Spec. Reg. 3</u>	None.	10' See Spec. Reg. 2	0' See Spec. Reg. 2	60%	85%	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Lighting for <i>structures</i> and fields shall be directed away from <i>dwelling units</i> . 2. <i>Structures</i> shall maintain a 50-foot <i>setback</i> from <i>adjoining lots</i> containing <i>single detached dwelling units</i> . The <i>Director</i> may allow <i>structures</i> such as playground equipment, ball field backstops and tennis court <i>fences</i> closer than 50' if compatible with the surrounding neighborhood and traffic safety considerations. 3. <u>No special review process if project design is approved by the City Council through a public review process that includes posting a notice board at the site and notification to neighbors; otherwise a Type 2 review process is required.</u>				
19.15.015.7: Community, Cultural, Religious or Government Facility [Ord. 479 § 1, 2007]	Type 3 <u>Type 2</u>	None	10'	0'	60%	85%	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]					

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS											
 CN Zone USE ↓	↓REGULATIONS	Special Review Process (See Ch. 19.65)	MINIMUMS			MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.015.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)
			Lot Area	SETBACKS		Lot Coverage		Building Height			
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				
19.15.015.8: <i>Public Utility</i>	Type 3 Type 2	None	30'	30'	60%	85%	35'	D	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts.	
19.15.015.9: <i>Personal Wireless Service Facility</i> ⁽¹⁾	See Chapter 19.50										
19.15.015.10 <i>Community Garden</i>	None	None	10'	0'	15%	25%	12'	A	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. <u>A land use agreement approved by the Director shall be executed between the landowner and those who are interested in gardening on private land. The agreement shall include Community Garden Rules to maintain the property safely and prevent disturbances to neighboring property owners and residents.</u>	

(1) Amended, Ord. 265, 1999

Note: All landscape categories added by Ord. 293, 2000

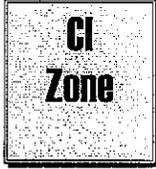
DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

 USE ↓	↓REGULATIONS	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.020.1 and Chapter 19.17, Miscellaneous Use, Development and Performance Standards)	
		Lot Area	SETBACKS		Lot Coverage					Building Height
			Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				
19.15.020.5 Mixed Use Senior Citizen Assisted Dwelling Unit Community Residential Facility	None	None	10'	0'	70%	85%	45'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Shall provide <i>convenience retail, office or eating and drinking establishment uses</i> on the floor adjacent to a <i>street</i> , or if the <i>site</i> does not abut a <i>street</i> , on floor adjacent to parking lot. <i>Eating and drinking establishment</i> is permitted on any floor. 2. Maximum residential density shall not exceed the highest density allowed by the zoning of an abutting residentially zoned lot. If more than one residentially zoned lot abuts the subject lot, the highest residential zoning density may be used to calculate the maximum residential density. In cases where there is no residentially zoned lot abutting the subject lot, the maximum allowed residential density shall be established by the zoning of the closest residentially zone lot. [Ord. 484 § 1, 2008] 3. The following are not permitted: auto repair shop, auto sales, <i>convenience auto service</i> , drive-through facilities, <i>pawn shop</i> , or veterinarian. 4. Outdoor <i>use</i> and storage is limited to <i>accessory display and/or storage of goods sold at retail</i> on the premises. Outdoor <i>use</i> and storage areas shall be limited to five feet in <i>height</i> and shall not be located in any required landscape area. 5. <i>Senior citizen assisted dwelling unit or community residential facility</i> only allowed as part of a <i>mixed use</i> project. 6. <u>At least 25% of the gross floor area must be designed and used for retail, office or eating and drinking establishment uses.</u>

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

 USE ↓	↓ REGULATIONS	Special Review Process (See Ch. 19.65)	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.020.1 and Chapter 19.17, Miscellaneous Use, Development and Performance Standards)	
			Lot Area	SETBACKS		Lot Coverage					Building Height
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				
19.15.020.6 <i>Public Park and Recreation Facilities</i>	Type-1, if less than 1 acre Otherwise, Type-2 None. See Spec. Reg. 3	None.	10' See Spec. Reg. 2	0' See Spec. Reg. 2	60%	85%	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Lighting for structures and fields shall be directed away from residential areas. 2. Structures shall maintain a 50-foot <i>setback</i> from <i>adjoining lots</i> zoned RS. The <i>Director</i> may allow structures such as playground equipment, ball field backstops and tennis court <i>fences</i> closer than 50' if compatible with the surrounding neighborhood and traffic safety considerations. 3. <u>No special review process if project design is approved by the City Council through a public review process that includes posting a notice board at the site and notification to neighbors; otherwise a Type 2 review process is required.</u>	
19.15.020.7 <i>Community, Cultural, Religious or Government Facility</i> [Ord. 479 § 1, 2007]	Type-3 Type 2	None	10'	0'	60%	85%	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]		

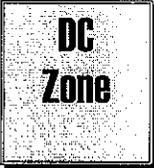
DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

 CI Zone USE ↓	↓REGULATIONS	Special Review Process (See Ch. 19.65)	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.020.1 and Chapter 19.17, Miscellaneous Use, Development and Performance Standards)	
			Lot Area	SETBACKS		Lot Coverage					Building Height
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				
19.15.020.8 <i>Public Utility</i>	Type 3 Type 2	None	30'	30'	60%	85%	35'	D	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts.	
19.15.020.9 <i>Personal Wireless Service Facility⁽¹⁾</i>	See Chapter 19.50										
19.15.020.10 <i>Community Garden</i>	None	None	10'	0'	15%	25%	12'	A	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. <u>A land use agreement approved by the Director shall be executed between the landowner and those who are interested in gardening on private land. The agreement shall include Community Garden Rules to maintain the property safely and prevent disturbances to neighboring property owners and residents.</u>	

(1) Amended, Ord. 265, 1999

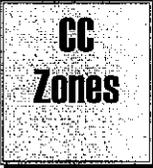
Note: All landscape categories added by Ord. 293, 2000

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS

 USE ↓	↓ REGULATIONS	Special Review Process (See Ch. 19.65)	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.030.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)	
			Lot Area	SETBACKS		Lot Coverage					Building Height
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				

19.15.025.6 <i>Family Day Care Home I and II</i>	None	See Special Regulation 1							1. Must comply with requirements of the <i>primary use</i> . 2. <i>Family Day Care Home II</i> : Must provide State certification of safe passenger loading area. 3. Use of the <i>Fee-In-Lieu</i> of Parking Program in BMC 19.20.040.3.B is an option for this use.	
19.15.025.7 <i>Day Care Center</i>	None	None	0'	0'	85%	95%	See Sec. 19.15.025.1 .F	E	See Sec. 19.20.040.3. B [Ord. 531 § 1, 2010]	1. Must provide State certification of safe passenger loading area.
19.15.025.8 <i>Religious Facility</i> [Ord. 479 § 1, 2007]	None	None	0'	0'	85%	95%	See Sec. 19.15.025.1 .F	E	See Sec. 19.20.040.3. B [Ord. 531 § 1, 2010]	
19.15.025.9 <i>Public Utility</i>	Type 1	None	0'	0'	85%	95%	35 feet	E	See Sec. 19.20.040.3. B [Ord. 531 § 1, 2010]	1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts.
19.15.025.10 <i>Essential Public Facility</i>	Type-3 Type 2								1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts. 2. Shall comply with criteria for siting found in the Burien Comprehensive Plan.	
19.15.025.11 <i>Personal Wireless Service Facility</i>	See Chapter 19.50									
19.15.025.12 <i>Community Garden</i>	None	None	0'	0'	15%	25%	12'	A	See Sec. 19.20.040.3. B [Ord. 531 § 1, 2010]	1. <u>A land use agreement approved by the Director shall be executed between the landowner and those who are interested in gardening on private land. The agreement shall include Community Garden Rules to maintain the property safely and prevent disturbances to neighboring property owners and residents.</u>

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

 USE ↓	↓REGULATIONS	Special Review Process (See Ch. 19.65)	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.035.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)	
			Lot Area	SETBACKS		Lot Coverage					Building Height
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				
19.15.035.2 Retail Office Recreational Facility	None	None	10'	0'	80%	85%	35'	C	3 spaces per 1,000 s.f. of net floor area. [Ord. 313 §1, 2000]	1. The following are not permitted: motor vehicle sales and rental; boat sales and rental; theater; recycling center, and self-service storage facility. 2. The following requires Type 1 review: Vehicle repair, except as accessory to service station (permitted); Vehicle repair activities must occur inside a building. 3. For retail use in the CC-1 zone, maximum gross floor area per building is 25,000 s.f. Up to 30,000 s.f. may be approved through a Type 1 review process. 4. A kennel is allowed as an indoor accessory use to a veterinarian, provided that noise and odor impacts are adequately mitigated. 5. Distribution, wholesaling, repair or manufacturing that support the primary use are allowed as an accessory use. 6. An amusement arcade is allowed as an accessory use. 7. Development of retail use on parcel numbers 302304-9037, 302304-9089, 302304-9117, 302304-9271 and 302304-9376 (located east of Sylvester Middle School) must be part of a master site plan that includes property to the east of these lots. The master site plan shall include at least the following elements: coordinated access, site and building design, and signing. Through a Type 1 review the Director may approve a master site plan involving two or more parcels that does not include property to the east of these parcels, if the elements above are included in the plan.	

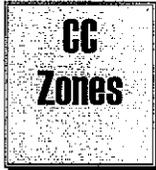
DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

<div style="border: 1px solid black; padding: 5px; text-align: center;"> CC Zones </div> USE ↓	↓REGULATIONS	Special Review Process (See Ch. 19.65)	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.035.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)	
			Lot Area	SETBACKS		Lot Coverage					Building Height
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				
19.15.035.11 <i>Public Utility</i>	Type 1	None	30'	30'	80%	85%	35'	D	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts.	
19.15.035.12 <i>Essential Public Facility</i>	Type-3 Type 2	Development standards shall be determined on a case-by-case basis through the Type 3 review process.								1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts. 2. Shall comply with criteria for siting found in the Burien Comprehensive Plan.	
19.15.035.13 <i>Personal Wireless Service Facility⁽¹⁾</i>	See Chapter 19.50										
19.15.035.14 Uses permitted in King County Code (KCC) 21A.38.100 Special Overlay District – Commercial/Industrial, In Effect on 4/1/2010 with exception of Adult Entertainment [Ord. 533 § 1, 2010]	None	None	10'	0'	80%	85%	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Uses are only permitted in the CC-2 zoned area located on both sides of 16 th Avenue SW between SW 112 th Street and SW 116 th Street.	

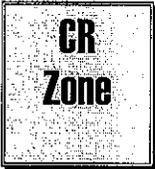
(1) Amended, Ord. 265, 1999

Note: All landscape categories added by Ord. 293, 2000

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 USE ↓	↓REGULATIONS	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.035.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)	
		Lot Area	SETBACKS		Lot Coverage					Building Height
			Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				
<u>19.15.035.15</u> <u>Community Garden</u>	None	None	<u>10'</u>	<u>0'</u>	<u>15%</u>	<u>25%</u>	<u>12'</u>	A	<u>See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]</u> 1. <u>A land use agreement approved by the Director shall be executed between the landowner and those who are interested in gardening on private land. The agreement shall include Community Garden Rules to maintain the property safety and prevent disturbances to neighboring property owners and residents.</u>	

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS

 USE ↓	↓REGULATIONS	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.040.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)		
		Special Review Process (See Ch. 19.65)	Lot Area	SETBACKS		Lot Coverage				Building Height	
				Front Setback	Interior Setback	Building Coverage					Impervious Surface Coverage
19.15.040.12 Indoor Shooting Range	Type 2	None	30'	30'	85%	90%	35'	D	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to mitigating noise impacts and designing the facility to protect non-users outside of the <i>building</i> from bullets that may penetrate the outer walls and ceiling of the <i>use</i> .	
19.15.040.13 Essential Public Facility	Type 3 Type 2	Development standards shall be determined on a case-by-case basis through the Type 3 review process.								1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts. 2. Shall comply with criteria for siting found in the Burien Comprehensive Plan.	
19.15.040.14 Personal Wireless Service Facility ⁽¹⁾	See Chapter 19.50										
19.15.040.15 Off-Site Commercial Parking	None See Special Regulations 1 and 2.	None	10'	0'	85%	90%	35'	C	See Sec. 19.20.030.2	1. This <i>use</i> is limited to property used for new and/or used automotive sales currently or in the twelve (12) month period preceding application. 2. This <i>use</i> is allowed only until July 12, 2012. After this date, the <i>use</i> is illegal and must be removed.	
19.15.040.16 Community Garden	None	None	10'	0'	15%	25%	12'	A	See Sec. 19.20.030.2	1. <u>A land use agreement approved by the Director shall be executed between the landowner and those who are interested in gardening on private land. The agreement shall include Community Garden Rules to maintain the property safely and prevent disturbances to neighboring property owners and residents.</u>	

(1) Amended, Ord. 265, 1999

Note: All landscape categories added by Ord. 293, 2000

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 O Zone USE ↓	↓REGULATIONS	MINIMUMS							Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.045.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)
		Special Review Process (See Ch. 19.65)	Lot Area	SETBACKS		Lot Coverage		Building Height			
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				
19.15.045.5 <i>Day Care Center</i>	None	None	10'	0'	70%	85%	35'	B	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Must provide State certification of safe passenger loading area.	
19.15.045.6 <i>Nursing Home</i>	None	None	10'	0'	70%	85%	35'	B	1 space for every 4 beds		
19.15.045.7 <i>Public Park and Recreation Facilities</i>	Type 1, if less than 1 acre Otherwise, Type 2 <u>None. See Spec. Reg. 3</u>	None.	10'. See Spec. Reg. 2	0' See Spec. Reg. 2	70%	85%	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Lighting for <i>structures</i> and fields shall be directed away from residential areas. 2. <i>Structures</i> shall maintain a 50-foot <i>setback</i> from <i>adjoining lots</i> zoned RS. The <i>Director</i> may allow <i>structures</i> such as playground equipment, ball field backstops and tennis court <i>fences</i> closer than 50' if compatible with the surrounding neighborhood and traffic safety considerations. 3. <u>No special review process if project design is approved by the City Council through a public review process that includes posting a notice board at the site and notification to neighbors; otherwise a Type 2 review process is required.</u>	
19.15.045.8 <i>Funeral Home</i>	Type 1	None	10'	0'	70%	85%	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]		
19.15.045.9 <i>Hospital</i>	Type 3. Type 2 See Spec. Reg. 1	None	10' See Spec. Reg. 2 [Ord. 467 § 1, 2007]	0' See Spec. Reg. 2 [Ord. 467 § 1, 2007]	70%	85%	45' See Spec. Reg. 2 [Ord. 467 § 1, 2007]	B	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. If development is consistent with a Master Plan approved through a Type 3 & 2 review, no land use review process is required. 2. For any <i>hospital</i> use on a site of 5 acres or greater with an approved Master Plan, the maximum <i>building height</i> shall be 95'. Any portion of a <i>structure</i> over 45' in height shall be set back an additional 2' from any site boundary for each additional 1' in height above 45'. For the purposes of this special regulation 'site boundary' is defined as the <i>property lines</i> defining the exterior boundary of a contiguous site.	

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

 O Zone USE ↓	REGULATIONS ↓	Special Review Process (See Ch. 19.65)	MINIMUMS			MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.045.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)
			Lot Area	SETBACKS		Lot Coverage		Building Height			
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				
19.15.045.10 <i>Community, Cultural, Religious or Government Facility</i> <i>School</i> [Ord. 479 § 1, 2007]	Type 3 <u>Type 2</u>	None	10'	0'	70%	85%	45'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]		
19.15.045.11 <i>Public Utility</i>	Type 3 <u>Type 2</u>	None	30'	30'	70%	85%	35'	D	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts.	
19.15.045.12 <i>Personal Wireless Service Facility⁽¹⁾</i>	See Chapter 19.50										
<u>19.15.045.13</u> <i>Community Garden</i>	None	None	10'	0'	15%	25%	12'	A	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. <u>A land use agreement approved by the Director shall be executed between the landowner and those who are interested in gardening on private land. The agreement shall include Community Garden Rules to maintain the property safely and prevent disturbances to neighboring property owners and residents.</u>	

(1) Amended, Ord. 265, 1999

Note: All landscape categories added by Ord. 293, 2000

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS



USE



REGULATIONS

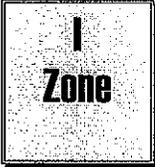
Special Review Process (See Ch. 19.65)	MINIMUMS		MAXIMUMS				Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.050.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)
	Lot Area	SETBACKS		Lot Coverage		Building Height			
		Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				

19.15.050.7: Community or Religious Facility [Ord. 479 § 1, 2007]	Type 1	None	25'	0'	70%	75%	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	
19.15.050.8 Government Facility	Type 1	None	25'	0'	70%	75%	See Spec. Reg. 1	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Maximum <i>building height</i> is 35 feet. If at least 50% of the required parking stalls are located under or within the <i>building</i> , maximum <i>building height</i> is increased to 60 feet.
19.15.050.9 On-site hazardous waste treatment and storage facility	Type 1	None	25'	See Spec. Reg. 1	70%	75%	35'	D Also see Spec. Reg. 1	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Fifty (50) feet if <i>adjoining a residential zone</i> , otherwise, none. The outer 25 feet of the <i>setback</i> must be landscaped with Type I landscaping (as prescribed in BMC 19.25.050.1). [Ord. 523 § 1, 2009]. 2. Must comply with the state siting criteria adopted in accordance with RCW 70.105.210.
19.15.050.10 Public Park and Recreation Facilities	Type 1 None. See Spec. Reg. 2	None.	25'	0'	70%	75%	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Lighting for <i>structures</i> and fields shall be directed away from residential areas. 2. <u>No special review process if project design is approved by the City Council through a public review process that includes posting a notice board at the site and notification to neighbors; otherwise a Type 2 review process is required.</u>
19.15.050.11 Public Utility	Type 1	None	30'	30'	70%	75%	35'	D	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts.

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

 Zone USE ↓	↓ REGULATIONS	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.050.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)		
		Special Review Process (See Ch. 19.65)	Lot Area	SETBACKS		Lot Coverage				Building Height	
				Front Setback	Interior Setback	Building Coverage					Impervious Surface Coverage
19.15.050.15 Recycling Center	Type 2	None	25'	See Spec. Reg. 1	70%	75%	35'	D Also see Spec. Reg. 1	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Fifty (50) feet if <i>adjoining a residential zone</i> , otherwise, none. The outer 25 feet of the <i>setback</i> must be landscaped with Type I landscaping (as prescribed in BMC 19.25.050.1). [Ord. 523 § 1, 2009]. 2. Shall mitigate all operational impacts, including noise, odor, visual and health and sanitary impacts. 3. May deal only in metal cans, glass, plastic and paper. Other materials may be recycled if the Hearing Examiner determines that the impacts are no greater than those associated with recycling metal cans, glass, plastic or paper. The applicant will have the burden of proof in demonstrating similar impacts.	
19.15.050.16 Any <i>use</i> not listed in the use column of any use zone chart	Type 2	Development standards shall be determined on a case-by-case basis through the Type 2 review process.							1. The proposed <i>use</i> shall be compatible with <i>adjoining uses</i> . The facility shall be designed, located, constructed and buffered to blend in with its surroundings and mitigate all adverse impacts on <i>adjoining</i> properties and the community. Special attention shall be given to minimizing noise, light, glare and traffic impacts. 2. <i>Social card games</i> are prohibited.		
19.15.050.17 Essential Public Facility	Type 3 Type 2	Development standards shall be determined on a case-by-case basis through the Type 3 review process.							1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts. 2. Shall comply with criteria for siting found in the Burien Comprehensive Plan.		

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

 Zone USE ↓	REGULATIONS ↓	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.050.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)		
		Special Review Process (See Ch. 19.65)	Lot Area	SETBACKS		Lot Coverage				Building Height	
				Front Setback	Interior Setback	Building Coverage					Impervious Surface Coverage
19.15.050.18 Off-site hazardous waste treatment and storage facility	Type 3 Type 2	None	50'	50'	70%	75%	35'	D Also see Spec. Reg. 1	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. The outer 25 feet of the <i>setback</i> must be landscaped with Type I landscaping (as prescribed in BMC 19.25.050.1). [Ord. 523 § 1, 2009]. 2. Must comply with the state siting criteria adopted in accordance with RCW 70.105.210.	
19.15.050.19 Personal Wireless Service Facility ⁽¹⁾	See Chapter 19.50										
19.15.050.20 Adult Entertainment Facility ⁽²⁾	None	None	25'	0'	70%	75%	35'	C	See Sec. 19.20.030.2	1. See Sec. 19.17.030 for additional requirements.	
19.15.050.21 Secure Community Transition Facility [Ord. 363 § 1, 2002]	Type 3 Type 2	See Section 19.17.110									
19.15.050.22 Community Garden	None	None	10'	0'	15%	25%	12'	A	See Sec. 19.20.030.2	1. <u>A land use agreement approved by the Director shall be executed between the landowner and those who are interested in gardening on private land. The agreement shall include Community Garden Rules to maintain the property safely and prevent disturbances to neighboring property owners and residents.</u>	

(1) Amended, Ord. 265, 1999

Note: All landscape categories added by Ord. 293, 2000

(2) Amended, Ord. 291, 2000

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS



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Special Review Process (See Ch. 19.65)	MINIMUMS		MAXIMUMS				Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.055.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)
	Lot Area	SETBACKS		Lot Coverage		Building Height			
		Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				

19.15.055.5 <i>Family Day Care Home I and II</i>	None	See Special Regulation 1							1. Must comply with requirements of the <i>primary use</i> . 2. <i>Family Day Care Home II</i> : Must provide State certification of safe passenger loading area. 3. Use of the Fee-In-Lieu Parking Program in BMC 19.20.040.3.B is an option for this use.	
19.15.055.6 <i>Day Care Center</i>	None	None	0'	0'	85%	85%	2 stories	E	See Sec. 19.20.040.3.B [Ord. 531 §1, 2010]	1. Must provide State certification of safe passenger loading area.
19.15.055.7 <i>Mixed Use</i>	Type 1	None	0'	0'	85%	85%	3 stories	E	See Sec. 19.20.040.3.B [Ord. 531 §1, 2010]	1. Maximum residential density is 24 <i>dwelling units</i> per acre. 2. Shall provide <i>retail and/or eating and drinking establishment uses</i> on the floor adjacent to a <i>street</i> , or if the <i>site</i> does not abut a <i>street</i> , on floor adjacent to parking lot. 3. At least 25% of the <i>gross floor area</i> must be designed and used for <i>retail, office and/or eating and drinking establishment uses</i> .
19.15.055.8 <i>Public Park and Recreation Facilities</i>	Type 1 None. See Spec. Reg. 2	None. See Spec. Reg. 1	0'	0'	80%	85%	3 stories	E	See Sec. 19.20.040.3.B [Ord. 531 §1, 2010]	1. Lighting for <i>structures</i> and <i>fields</i> shall be directed away from residential areas. 2. <u>No special review process if project design is approved by the City Council through a public review process that includes posting a notice board at the site and notification to neighbors; otherwise a Type 2 review process is required.</u>

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

<div style="border: 1px solid black; padding: 5px; display: inline-block;"> SPA-1: Old Burien </div> USE ↓	↓ REGULATIONS	Special Review Process (See Ch. 19.65)	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.055.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)	
			Lot Area	SETBACKS		Lot Coverage					Building Height
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				
19.15.055.9 <i>Government Facility</i> <i>Private Club</i> <i>Religious Facility</i>	Type 1	None	0'	0'	80%	85%	3 stories	E	See Sec. 19.20.040.3. B [Ord. 531 §1, 2010]		
19.15.055.10 <i>Public Utility</i>	Type 1	None	20'	30'	80%	85%	3 stories	E	See Sec. 19.20.040.3. B [Ord. 531 §1, 2010]	1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts.	
19.15.055.11 <i>Essential Public Facility</i>	Type 3 <u>Type 2</u>	Development standards shall be determined on a case-by-case basis through the Type 3 review process.								1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts. 2. Shall comply with criteria for siting found in the Burien Comprehensive Plan.	
19.15.055.12 <i>Personal Wireless Service Facility</i>	See Chapter 19.50										
19.15.050.22 <i>Community Garden</i>	None	None	0'	0'	15%	25%	12'	A	See Sec. 19.20.040.3. B [Ord. 531 §1, 2010]	1. <u>A land use agreement approved by the Director shall be executed between the landowner and those who are interested in gardening on private land. The agreement shall include Community Garden Rules to maintain the property safely and prevent disturbances to neighboring property owners and residents.</u>	

Note: All landscape categories added by Ord. 293, 2000



Section 19.15.060—Special Planning Area 2: Ruth Dykeman Children's Center

PURPOSE AND INTENT: The Special Planning Area 2 (SPA-2) zone implements the Special Planning Area 2 Comprehensive Plan designation. The purpose of this zone is to establish and preserve areas for the Ruth Dykeman Children's Center and the special uses associated with the Center's activities. The intent is to provide for continued residential, home-based and community-based programs and services to families and children of the community through the activities of the Ruth Dykeman Children's Center. Due to the unique nature and location of the Ruth Dykeman property, all use and development must be consistent with a City-approved Master Plan for the property.

ONLY THOSE USES LISTED ON THE FOLLOWING USE ZONE CHARTS MAY BE ALLOWED IN THE SPA 2 ZONE, SUBJECT TO MEETING ALL APPLICABLE REQUIREMENTS OF THE ZONING CODE. THE FOLLOWING SPECIAL REGULATIONS APPLY TO ALL USES IN THE SPA -2 ZONE. BE SURE TO CHECK THE APPLICABLE USE ZONE CHART FOR ADDITIONAL REQUIREMENTS THAT PERTAIN TO SPECIFIC USES. WHERE A SPECIAL REGULATION BELOW CONFLICTS WITH A SPECIAL REGULATION IN A USE ZONE CHART FOR A SPECIFIC USE, THE USE ZONE CHART SHALL APPLY.

19.15.060.1: SPECIAL REGULATIONS:

A. All uses and development in SPA-2 must be consistent with a City-approved Master Plan for the entire zone. The Master Plan must be approved through a Type 3 2 review. Modifications to the approved Master Plan may be allowed as follows:

i. Minor modifications may be approved by the *Director*. The following are minor modifications, if the *Director* determines that the modification will not have significantly more or different impact on the surrounding neighborhood than does the present development:

- a. An increase of 20% or less in the *gross floor area* of any approved *primary* or *accessory use*.
- b. An increase of 20% or less in the number of beds.
- c. Up to 20% increase or decrease in the number of approved parking spaces.

ii. Major modifications may be approved through a Type I review process. Major modifications are those modifications that do not comply with Section 19.15.060.1.a.i above.

B. The *primary use* allowed in the zone is *community residential facility*. Any use listed in the Office zone (Section 19.15.045) may be allowed as an *accessory use* if it supports the *primary use*. *Religious facilities* are also allowed as a *primary use*. [Ord. 479 §1, 2007]

C. Development standards, such as *lot coverage*, *building height*, landscaping, signing and parking are established as part of the approved Master Plan. The standards in the Office zone (Section 19.15.045) shall be used as a guideline.

D. There shall be a minimum 20-foot landscape strip between SPA -2 and any *adjoining* RS zones.

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

 USE ↓	↓ REGULATIONS Special Review Process (See Ch. 19.65)	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.065.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)	
		Lot Area	SETBACKS		Lot Coverage					Building Height
			Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				
19.15.065.8 <i>Public Park and Recreation Facilities</i>	None	None	5'	0'	85%	90%	3 Stories	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Lighting for <i>structures</i> and fields shall be directed away from residential areas.
19.15.065.9 <i>Government Facility</i> <i>Private Club</i> <i>Religious Facility</i> <i>Funeral Home</i>	Type 1	None	5'	0'	85%	90%	3 Stories	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	
19.15.065.10 <i>Public Utility</i>	Type 1	None	30'	30'	85%	90%	3 Stories	D	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts.
19.15.065.11 <i>Essential Public Facility</i>	Type 3 Type 2	Development standards shall be determined on a case-by-case basis through the Type 3 review process.								1. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts. 2. Shall comply with criteria for siting found in the Burien Comprehensive Plan.
19.15.065.12 <i>Nursing Home</i>	None	None	5'	0'	85%	90%	3 Stories	B	1 space for every 4 beds	



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DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

Special Review Process (See Ch. 19.65)	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.065.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)	
	Lot Area	SETBACKS		Lot Coverage					Building Height
		Front Setback	Inferior Setback	Building Coverage	Impervious Surface Coverage				

19.15.065.13 <i>Personal Wireless Service Facility</i>	See Chapter 19.50									
19.15.065.14 <i>Off-Site Commercial Parking</i>	None. See Special Regulations 1 and 2.	None	5'	0'	85%	90%	3 stories	C	See Sec. 19.20.030.2	1. This use is limited to property used for new and/or used automobile sales currently or in the twelve (12) month period preceding application. 2. This use is allowed only until July 1, 2012. After this date, the use is illegal and must be removed.
19.15.065.15 <i>Community Garden</i>	None	None	5'	0'	15%	25%	12'	A	See Sec. 19.20.030.2	1. <u>A land use agreement approved by the Director shall be executed between the landowner and those who are interested in gardening on private land. The agreement shall include Community Garden Rules to maintain the property safely and prevent disturbances to neighboring property owners and residents.</u>

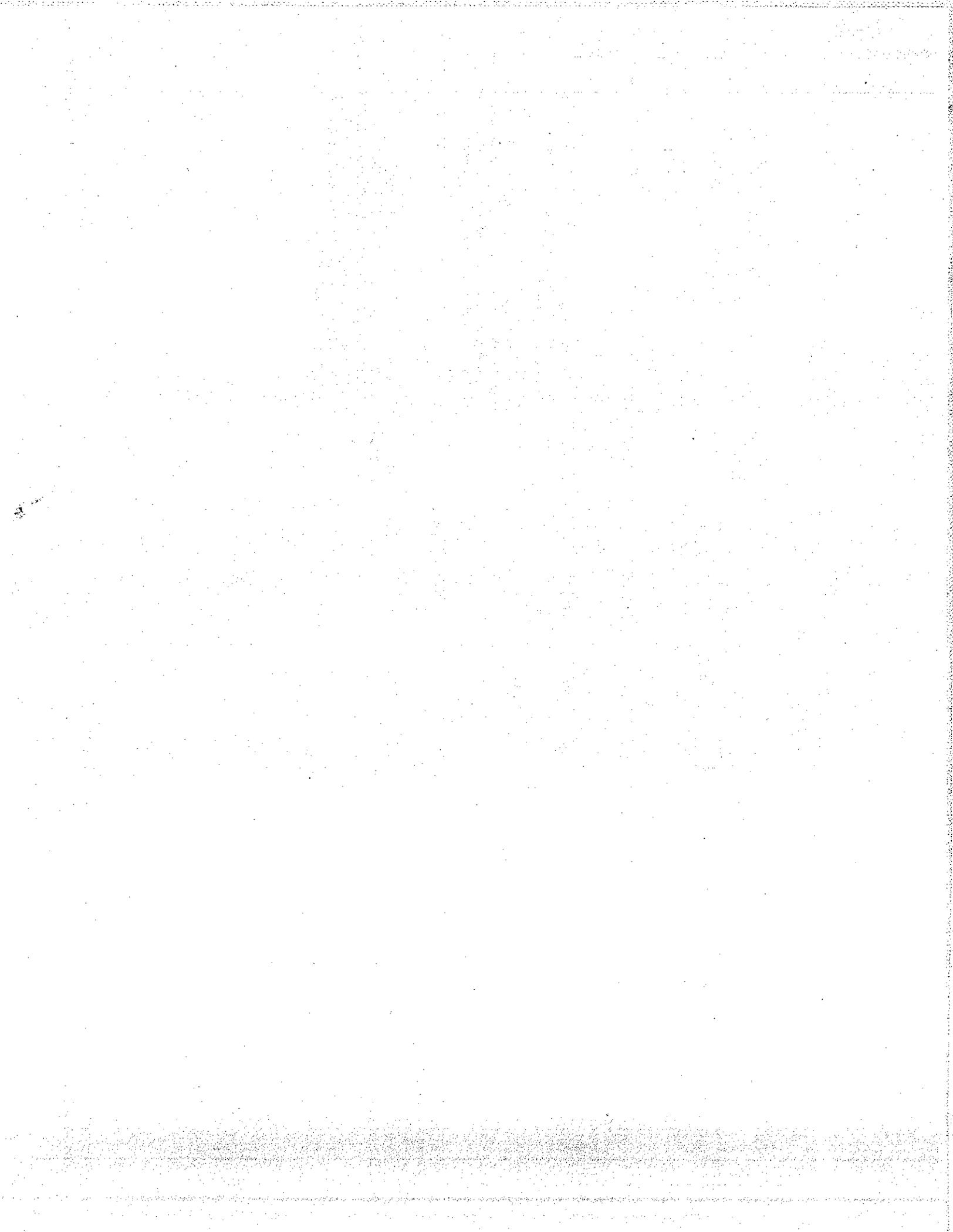
Note: All landscape categories added by Ord. 293, 2000

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

<div style="border: 1px solid black; padding: 5px; display: inline-block;"> AI Zone </div> USE ↓	↓ REGULATIONS	MINIMUMS		MAXIMUMS				Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.070.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)	
		Special Review Process (See Ch. 19.65)	Lot Area	SETBACKS		Lot Coverage					Building Height
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				
19.15.070.8 Any use not listed in the use column of any use zone chart	Type 2	Development standards shall be determined on a case-by-case basis through the Type 2 review process.								1. The proposed use shall be compatible with <i>adjoining</i> uses. 2. The facility shall be designed, located, constructed and buffered to blend in with its surroundings and mitigate all adverse impacts on <i>adjoining</i> properties and the community. Special attention shall be given to minimizing noise, light, and glare impacts.	
19.15.070.9 Adult Entertainment Facility	Type 2	None	10'	10'	None	See BMC 19.15.07 0.1.E.	45' See BMC 19.15.070. 1	F	See Section 19.20.030.2.	1. See Sec. 19.17.030 for additional requirements.	
19.15.070.10 Secure Community Transition Facility	Type 2	See Section 19.17.110									
19.15.070.11 Personal Wireless Service Facility	See BMC 19.50 for specific requirements.										
19.15.010.18 Community Garden	None	None	10'	10'	15%	25%	12'	A	See Section 19.20.030.2.	1. <u>A land use agreement approved by the Director shall be executed between the landowner and those who are interested in gardening on private land. The agreement shall include Community Garden Rules to maintain the property safely and prevent disturbances to neighboring property owners and residents.</u>	

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS

 PR Zone USE ↓	↓ REGULATIONS	MINIMUMS		MAXIMUMS				Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.030.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)	
		Special Review Process (See Ch. 19.65)	Lot Area	SETBACKS		Lot Coverage					Building Height
				Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage				
19.15.030.13 <i>Community, Cultural or Government Facility</i>	Type 2	None	20'	10'	70%	85%	35'	C	See Sec. 19.20.030.2		
19.15.030.14 <i>Public Utility</i>	Type 2	None	30'	30'	35%	70%	20' See Spec. Reg. 1	D	See Sec. 19.20.030.2	1. The Hearing Examiner may approve height no greater than 35 feet if the applicant shows that no feasible alternative is available. 2. Shall be designed, located, constructed and buffered to blend in with their surroundings and minimize adverse impacts on adjacent properties. Special attention shall be given to minimizing noise, light and glare impacts.	
19.15.030.15 <i>Personal Wireless Service Facility</i>	See Chapter 19.50										
19.15.030.16 <i>Community Garden</i>	None	None	20'	5'	15%	25%	12'	A	See Sec. 19.20.030.2	1. <u>A land use agreement approved by the Director shall be executed between the landowner and those who are interested in gardening on private land. The agreement shall include Community Garden Rules to maintain the property safety and prevent disturbances to neighboring property owners and residents.</u>	



**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Adopt proposed Ordinance 562, updating and revising criminal and traffic codes		Meeting Dates: March 5 and 19, 2012
Department: Legal	Attachments: 1. Matrix – Criminal/Traffic Ordinance 2. Proposed Ordinance 562 updating and revising criminal and traffic codes	Fund Source: Activity Cost: Amount Budgeted: Unencumbered Budget Authority:
Contact: Craig Knutson, Renee Walls		
Telephone:		
Adopted Work Plan Priority: Yes No	Work Plan Item Description:	
<p>PURPOSE/REQUIRED ACTION: The City Attorney and City Prosecutor are recommending adoption of an ordinance updating and revising the City’s criminal and traffic codes. The ordinance is necessary to correct inconsistencies with state law and to adopt provisions dealing with Inattentive Driving, Attempted Forgery, Vehicle Trespass, and Public Defender Standards.</p> <p>BACKGROUND (Include prior Council action & discussion):</p> <p><u>Inattentive Driving</u> The inattentive driving offense will provide a lesser charge option for defendants to plead guilty to in lieu of non-criminal moving violations, such as negligent driving, failure to yield, following too close, speeding, etc. This offense will not be reported to the Department of Licensing, will not affect insurance rates, and will be a useful prosecutorial option.</p> <p><u>Attempted Forgery</u> Under recently adopted King County filing standards, forgery is one of the crimes that cities are now responsible for prosecuting. Burien needs to adopt forgery as a non-felony offense, so that it may be charged in District Court.</p> <p><u>Vehicle Trespass</u> Adopting the crime of Vehicle Trespass will allow another charging option in situations where it is difficult to prove intent to commit a crime in the vehicle, which is necessary to charge the crime of Vehicle Prowling.</p> <p><u>Public Defender Standards</u> State law requires cities and counties to adopt public defender standards to insure that indigent defendants receive effective assistance of counsel. RCW 10.101.030. The standards endorsed by the Washington State Bar Association serve as accepted guidelines. The proposed City standards are modeled after these guidelines.</p> <p>OPTIONS (Including fiscal impacts):</p> <ol style="list-style-type: none"> 1. Adopt the ordinance. 2. Do not adopt the ordinance. 		
Administrative Recommendation: Adopt the ordinance		
Suggested Motion for March 19, 2012 meeting: Move to adopt Ordinance 562, updating and revising the City’s criminal and traffic codes		
Submitted by: Administration _____ City Manager _____		
Today’s Date: February 29, 2012	File Code: \\File01\records\CC\Agenda Bill 2012\03051912ls-Ord updating and revising criminal and traffic codes.doc	

CRIMINAL/TRAFFIC ORDINANCE

PROPOSED ORDINANCE REVISION	COUNCIL QUESTION/COMMENT	STAFF RESPONSE	ALTERNATIVES
Inattentive Driving	<p>Language too vague; need clarification of elements of this crime; too much police officer discretion.</p> <p>Will Inattentive driving be a primary or secondary offense?</p>	<p>Elements include: driving with lack of attentiveness to conditions (e.g. nature and condition of roadway, presence of other traffic and/or pedestrians, weather conditions) and duty to safely operate vehicle. Staff suggests adding the word “negligent” before “lack of attentiveness” to make the elements more specific.</p> <p>This offense can be a useful tool in obtaining guilty pleas due to its appeal to defendants and defense attorneys. An advantage to the City is receiving a greater percentage of fine revenue that would otherwise go to the State.</p> <p>As originally drafted, Inattentive Driving would be a primary offense, but staff has added a subsection making it a secondary offense so that police officers must have some other basis for stopping drivers.</p>	<p>Add “negligent” to the definition of Inattentive Driving in subsection (1) of BMC 10.05.080.</p> <p>Add subsection (4) to BMC 10.05.080, making Inattentive Driving a secondary offense.</p>
Attempted Forgery	<p>Will attempted forgery apply to defendants who have committed actual forgery?</p> <p>Will attempted forgery apply to bad checks?</p>	<p>Yes.</p> <p>No.</p>	N/A
Non-adoption of RCW 9A.16.110, regarding reimbursing defense costs	Does this mean City will not reimburse defense costs to defendants acquitted of violent crimes by reason of self-defense?	Yes. This is currently the law in Burien. The state has set up a fund to reimburse defendants in state cases under these circumstances through this state statute. However, the City cannot compel the state to pay for City defendants.	N/A
Make probation violations a misdemeanor.	It isn't necessary to add another misdemeanor for violating a probation order, since	Staff agrees that it is appropriate to remove this section of the ordinance.	Delete BMC 9.60.600(1).

CRIMINAL/TRAFFIC ORDINANCE

PROPOSED ORDINANCE REVISION	COUNCIL QUESTION/COMMENT	STAFF RESPONSE	ALTERNATIVES
	the court already can impose additional penalties, so this should be removed from the ordinance.		
Adoption of 9A.76.175, regarding false or misleading statement to a public servant	What is the definition of “public servant” and does it include Council members?	RCW 9A.04.110(23) defines “public servant” to mean “any person other than a witness who presently occupies the position of or has been elected, appointed, or designated to become any officer or employee of government, including a legislator, judge, judicial officer, juror, and any person participating as an advisor, consultant, or otherwise in performing a governmental function.” This definition does include Council members. False statements must be material to their official duties.	N/A
Vehicle trespass	Could the vehicle trespass or attempted forgery concepts be applied to mailbox theft by adopting mailbox trespass or attempted mail theft as offenses?	Mail theft is a felony that is prosecuted by the County Prosecuting Attorney or the United States District Attorney. Staff is researching the legality and practical enforceability of the City adopting lesser offenses such as mailbox trespass or attempted mail theft.	N/A

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 562

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, UPDATING THE CITY'S CRIMINAL AND TRAFFIC CODES, ADOPTING NEW PROVISIONS RELATED TO ATTEMPTED FORGERY, INATTENTIVE DRIVING, VEHICLE TRESPASS, AND PUBLIC DEFENDER STANDARDS, AMENDING THE PROVISION RELATED TO LIQUOR IN A PUBLIC PLACE, AND AMENDING TITLES 9 AND 10 OF THE BURIEN MUNICIPAL CODE

WHEREAS, some of the City's current criminal and traffic code provisions need to be updated; and

WHEREAS, it is in the interest of the public health, safety and welfare to adopt new provisions related to attempted forgery, inattentive driving, vehicle trespass, and public defender standards; and

WHEREAS, in order to be consistent with State law, the crime of liquor in a public place should be penalized as a civil infraction, as provided in RCW 66.44.100, rather than a misdemeanor, as currently provided in the BMC 9.15.200;

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

Section 1. A new Burien Municipal Code Section 9.85.600, entitled "Attempted Forgery," and Section 9.85.610, entitled "Definitions-Fraud," are hereby adopted to read as follows:

9.85.600. Attempted Forgery.

(1) A person is guilty of the crime of attempted forgery if with the intent to commit the crime of forgery does intend to injure or defraud by:

1. falsely making, completing, or altering a written instrument; or
2. possessing, uttering, offering, disposing of or putting off as true, a written instrument which **the person** knows to be forged; and

does an act which is a substantial step toward the commission of that crime.

9.85.610. Definitions, Fraud

The following section of the Washington Criminal Code, as now in effect, and as may subsequently be amended, is adopted by reference as definitions of fraud under the Burien criminal code:

RCW 9A.60.010 Definitions.

Section 2. A new Burien Municipal Code Section 10.05.080, entitled "Inattentive Driving," is hereby adopted to read as follows:

10.05.080. Inattentive Driving.

(1) Definition.

For the purpose of this section, “inattentive” means with a negligent lack of attentiveness to conditions, circumstances, and one’s duties required to safely operate the vehicle. Conditions include but are not limited to the nature and condition of the roadway, presence of other traffic, presence of pedestrians, and weather conditions.

(2) Inattentive Driving Prohibited.

It is unlawful for any person to operate a motor vehicle in an inattentive manner.

(3) Violation – Penalty.

The offense of inattentive driving shall be considered to be a lesser offense than, but included in, the offense of operating a motor vehicle in a negligent manner.

Any person convicted of inattentive driving shall be guilty of an infraction, and shall be subject to a fine of two hundred and fifty dollars (\$250.00).

(4) No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.

Section 3. A new Burien Municipal Code Section 9.85.105, entitled “Vehicle trespass,” is hereby adopted to read as follows:

9.85.105 Vehicle trespass prohibited – Penalty.
(1) A person is guilty of vehicle trespass if he or she knowingly enters or remains unlawfully in a vehicle belonging to another.
(2) As used in this section:
(a) The word “enter” shall include the entrance of the person, or the insertion of any part of his or her body, or any instrument or weapon held in his or her hand.
(b) A person enters or remains unlawfully in or upon a vehicle when he or she is not licensed, invited, or otherwise privileged to so enter or remain.
(3) Vehicle trespass is a misdemeanor.

Section 4. A new Burien Municipal Code Chapter 9.150, entitled “Public Defender Standards,” is hereby adopted to read as follows:

PUBLIC DEFENDER STANDARDS

9.150.010 Adoption of public defender standards.

The city hereby adopts the following standards for public defenders:

(1) Purpose and Intent. These public defender standards are intended to ensure that indigent criminal defendants receive high-quality legal representation through a public defense system that efficiently and effectively protects the constitutional requirement of effective assistance of counsel.

(2) Contract. All indigent defense services shall be paid pursuant to a written contract between the indigent defense attorney(s) and the city, with input from judicial officers.

(3) Compensation. All indigent defense attorneys shall be reasonably compensated, taking into consideration the experience and training of the attorney. Attorneys who have a conflict of interest shall be required to select or compensate conflict counsel.

(4) Duties and Responsibilities of Counsel. All indigent defense contracts shall require that services be provided to all clients in a professional, skilled manner consistent with minimum standards set forth by the American Bar Association, applicable Washington State Bar Association standards, the Rules of Professional Conduct (RPC), case law and applicable court rules defining the duties of counsel and the rights of defendants. Counsel's primary and most fundamental responsibility is to promote and protect the best interests of the client.

(5) Malpractice Insurance. Indigent defense attorneys shall maintain malpractice insurance with agreed-upon policy limits.

(6) Caseload Limits and Types of Cases. Caseloads shall be limited to ensure effective representation. An attorney should not allow his or her private law practice to interfere with the competent representation of indigent defendants.

The caseload standards adopted by the Washington Supreme Court shall be considered as guidelines. A "case" is defined as the filing of a document wherein a person is designated a defendant or respondent and an attorney is appointed by the court. Adjustments may be made wherein a full case is not attributed in the following nonexclusive circumstances:

- (a) A bench warrant is issued before a case is resolved;
- (b) Probation violation, extradition, restitution hearings, etc., that do not require a full-blown hearing;
- (c) Diversions, continuances for dismissal, misdemeanor compromises or similar dispositions;
- (d) Deferred prosecution or other similar procedure;
- (e) Early dismissal by a prosecutor based on lack of evidence or standard plea offers, based on the prosecutor's charging and plea bargaining practices or other reasons that dispose of a case without extensive litigation; or

(f) Withdrawal of counsel at an early stage of the case, due to conflict of interest or other reasons.

Additional adjustments may be made for attorneys who have extensive experience in the practice of criminal law and are able to competently handle more cases, due to their ability to recognize issues, awareness of longstanding case law, knowledge regarding specific jurisdictions, and the administrative procedures of the District Court serving the City of Burien. Such adjustments may include adding an additional 50 cases to a public defender's case limit for every five years of experience spent working primarily in criminal law.

Attorneys providing indigent defense services, judicial officers and city administration shall monitor caseloads to assure adequate representation and progress in moving cases to final adjudication. The above-mentioned parties should not hesitate to confer and craft a remedy for dealing with caseload issues that materially affect representation of an indigent client. Excessive continuances, missed court dates, client complaints, etc., shall be addressed as soon as practicable.

(7) Services Other Than Counsel. Reasonable compensation for expert witnesses, investigators and other services necessary for an adequate preparation and presentation of the defense case shall be provided pursuant to Criminal Rule 3.1(f).

(8) Administrative Expenses. Attorneys shall be responsible for paying all administrative expenses of their office or firm not otherwise provided for in these standards or in a contract. Such costs may include law libraries, financial accounting, case management systems and other costs incurred in the day-to-day management of the contract. Attorneys shall maintain an office to maintain confidential meetings with clients.

(9) Reports of Attorney Activity and Vouchers. Attorneys on contract shall maintain a case reporting and management information system, which includes the number and type of cases. Any such system shall be maintained independently from client files so as to disclose no privileged information. At least quarterly reports shall be submitted by the contract firm to the court and to the city administration. If the City needs to obtain information regarding the disposition of cases, such information may be obtained from the District Court.

A standardized voucher form shall be used by attorneys seeking payment for services rendered. Payment should be made at times agreed to by the parties, without regard to the number of cases closed in the period.

(10) Training. Attorneys shall participate in regular training programs in areas relating to their indigent defense practice.

Attorneys providing counsel to indigent accused should take the opportunity to attend courses that foster trial advocacy skills and to review professional publications and tapes.

(11) Supervision. Each attorney or firm providing indigent defense services should provide adequate supervision of attorneys providing indigent defense services.

(12) Substitution of Attorneys or Assignment of Contracts. The attorney or firm engaged by the respective city to provide indigent defense services shall not subcontract with another firm or attorney to provide representation without prior written approval and shall remain directly involved in the provision of representation. If the contract is with a firm or office, the respective city or judicial officer may request the names and experience levels of those attorneys who will actually be providing the services, to ensure they meet minimum qualifications. Any indigent defense contract shall address the procedures for new counsel taking over upon the conclusion of the contract to ensure a smooth transition upon nonrenewal or termination, with the minimal possible detriment to the indigent client.

(13) Limitations on Private Practice for Contract Attorneys. New contracts for indigent defense attorneys with private attorneys or firms may set limits on the number of private or special appointment cases. These limits shall be based on the percentage of a full-time caseload which the public defense cases represent. An attorney or firm rendering indigent defense services shall not allow his or her private practice or accept special appointments to diminish his or her ability to represent indigent clients he or she is obligated to serve by any contract.

(14) Disposition of Client Complaints. The following procedure shall be utilized for responding to client complaints: Complaints should first be directed to the attorney, firm or agency which provided representation. If the attorney and client cannot resolve the complaint amicably, the attorney shall ask the court to withdraw and substitute new counsel. The complaining client should be informed as to the disposition of his or her complaint within a reasonable period of time. If the client feels dissatisfied with the evaluation and response received, he or she should be advised of the right to complain to the Washington State Bar Association.

(15) Cause for Termination or Removal of Attorney. Contracts for indigent defense services should include the grounds for termination of the contract by the parties. Termination of an attorney's contract should only be for good cause or as provided within the terms of the agreement between the city and firm or attorney. Good cause shall include the failure of the attorney to render adequate representation to clients; the willful disregard of the rights and best interests of the client; the willful disregard of the standards herein addressed; or violations of the RPCs.

The representation in an individual case establishes an inviolable attorney-client relationship. Removal of counsel from representation, therefore, should not occur over the objections of both the attorney and the client.

(16) Nondiscrimination. Neither the city, in its selection of an attorney, firm, or agency to provide indigent defense representation, nor the attorneys selected, in their hiring practices or in their representation of clients, shall discriminate on the grounds of race, color, religion, national origin, age, marital status, sex, sexual orientation, or handicap. Both the city and the contractor shall comply with all federal, state, and local nondiscrimination requirements.

(17) Guidelines for Awarding Defense Contracts. The city shall award contracts for indigent defense services only after determining that the attorney or firm chosen can meet appropriate professional standards and qualifications. Under no circumstances will a contract be awarded on the basis of cost alone. Attorneys or firms seeking contracts for indigent defense services must demonstrate their ability to meet these standards.

Prosecutor and law enforcement officers shall not select the attorneys who will provide indigent defense services.

Section 5. Titles 9 and 10 of the Burien Municipal Code are hereby amended by amending various sections as set forth in the attached Exhibit A.

Section 6. Effective Date. This Ordinance shall take effect five days after publication.

Section 7. 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.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF _____, 2012, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS ____ DAY OF _____, 2012.

CITY OF BURIEN

Brian Bennett, Mayor

AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Craig D. Knutson, City Attorney

Filed with the City Clerk: _____, 2012

Passed by the City Council: _____, 2012

Ordinance No. _____

Date of Publication: _____, 2012

EXHIBIT A

9.05.005 Adoption of State Criminal Statutes

(1) With the exception of the RCW sections set forth in subsection (3) of this section or other RCW sections that are otherwise specifically disavowed in this Code, all RCW sections that constitute misdemeanors and gross misdemeanors and the RCW sections necessary for the investigation, arrest, prosecution, sentencing, confinement, and enforcement of misdemeanors and gross misdemeanors are hereby adopted by reference, as well any future changes, amendments, recodifications, additions, or deletions to those sections, and shall be given the same force and effect as if set forth herein in full. The fact that sections of this Code adopt by reference specific sections of the RCW shall not affect this section. Sections of the Code that specifically recite that sections of the RCW are not adopted or do not apply shall control over this section.

(2) The following RCW sections are specifically not adopted:

(a) RCW 9A.16.110, Defending against violent crime – Reimbursement.

(3) In adopting the state's statutes by reference, only those crimes and offenses within the jurisdiction of a municipality are intended to be adopted and in those sections adopted which deal with both felonies and misdemeanors or gross misdemeanors, only the language applicable to misdemeanors or gross misdemeanors is to be applied (including to the extent that an anticipatory offense would be a misdemeanor or gross misdemeanor). By adopting state statutes, the city intends to assume jurisdiction over and become the jurisdictional authority for the enforcement and prosecution of misdemeanor and gross misdemeanor crimes. Whenever the word "state" shall appear in any statute adopted by reference in this chapter, the word "city" shall be substituted; provided, however, the term "city" shall not be substituted for the term "state" in those circumstances that set forth administrative or licensing duties of the state and its subdivisions. Whenever a state statute specifically adopted in this chapter refers to another state statute not specifically adopted in this chapter, the statute referred to shall be given the force and effect necessary to enforce the statute specifically adopted in this chapter. When issuing a citation, information, or complaint for the violation of any section of the RCW adopted by this chapter, it shall be sufficient for a commissioned officer or prosecutor to cite to and refer to the RCW section number.

(4) Reference to, or adoption of, a statute, code, or ordinance includes and incorporates the statute, code, or ordinance as it exists or is enacted at the time of the reference or adoption, as well any future changes, amendments, recodifications, additions, or deletions in that statute, code, or ordinance that may thereafter occur unless a contrary intent is clearly expressed, and such statute, code, or ordinance shall be given the same force and effect as if set forth in full. Whenever the word "state" shall appear in any statute adopted by reference in this chapter, the word "city" shall be substituted; provided, however, the term "city" shall not be substituted for the term "state" in those circumstances that set forth administrative or licensing duties of the state and its subdivisions. Whenever a state statute specifically adopted in this chapter refers to another state statute not specifically adopted in this chapter, the statute referred to shall be given the force and effect necessary to enforce the statute specifically adopted in this chapter. Statutes and codes adopted by reference by this Code shall be harmonized with other provisions of this Code to the extent practicable, but if they are in direct conflict with other provisions of this Code that are explicitly articulated, the articulated provisions control.

9.05.030 City criminal jurisdiction.

Any person who commits within the corporate limits of the city any crime, in whole or in part, is liable to arrest and punishment.

The following persons are subject to arrest, prosecution, and criminal punishment:

(1) A person who commits within the corporate limits of the city any crime, in whole or in part;

(2) A person who commits out of the city any act which, if committed within it, would be theft and is afterward found in the city with any of the stolen property;

(3) A person who, being out of the city, counsels, causes, procures, aids, or abets another to commit a crime in the city;

(4) A person who commits an act without the city which affects persons or property within the city which, if committed within the city, would be a crime.

9.05.040 Classes of crimes.

Any violation of this code for which punishment is authorized for more than 90 days in jail is deemed a gross misdemeanor. Any violation of this Code for which punishment is solely authorized for 90 days or less is deemed a misdemeanor.

~~(1) An offense defined by this code, for which a sentence of imprisonment is authorized, constitutes a violation of city ordinance and a crime. For purposes of this code, the two terms shall have the same meaning and may be used interchangeably. Violations of city ordinances are classified as gross misdemeanors, or misdemeanors.~~

~~(2) A violation of a city ordinance is a gross misdemeanor, if not otherwise designated by this code, and if persons convicted thereof may be fined up to \$5,000 and sentenced to imprisonment for a term not in excess of one year. A violation of city ordinance is a misdemeanor, if so designated in this code, and if persons convicted thereof may be fined up to \$1,000 and sentenced to imprisonment for a term not in excess of 90 days. [Ord. 63 § 4, 1993]~~

9.05.060 Personal jurisdiction.

Every person, regardless of whether or not an inhabitant or resident of the city, may be tried and punished under this code for any violation of city ordinance committed by him or her within the criminal jurisdiction ~~corporate limits of~~ the city. [Ord. 63 § 6, 1993]

9.05.070 Limitation of action.

(1) Prosecution for a ~~No~~ violation of a city ordinance which is classified as a gross misdemeanor may not be commenced ~~be prosecuted~~ more than two years after its commission. Prosecution for a ~~No~~ violation of a city ordinance classified as a misdemeanor may not be commenced ~~be prosecuted~~ more than one year after its commission.

(2) The periods of limitation prescribed herein do not run during any time when the person charged is not usually and publicly resident within this state.

(3) If, before the end of a period of limitation prescribed herein, a complaint or an information has been filed, and the complaint or information is set aside, then the period is extended by a period equal to the length of time from the filing to the setting aside. [Ord. 63 § 7, 1993]

9.05.150 Violation – Penalty.

(1) Unless otherwise specified, every ~~Every~~ person convicted of violating a city ordinance classified as a gross misdemeanor, or not otherwise classified, shall be punished by a fine of not more than \$5000, or by imprisonment for not more than three hundred sixty-four (364) days, or by both such fine and imprisonment. ~~by imprisonment in jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than \$5,000, or by both such imprisonment and fine.~~

(2) Unless otherwise specified, every ~~Every~~ person convicted of violating a city ordinance classified as a misdemeanor, shall be punished by a fine of not more than \$1000, or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. ~~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.~~

(3) A person who is convicted of a misdemeanor violation of any provision of Chapter 69.50 RCW adopted by reference shall be punished by imprisonment for not less than 24 consecutive hours, and by a fine of not less than \$250.00. On a second or subsequent conviction, the fine shall not be less than \$500.00. These fines shall be in addition to any other fine or penalty imposed. Unless the court finds that the imposition of the minimum imprisonment will pose a substantial risk to the defendant's physical or mental well-being or that local jail facilities are in an overcrowded condition, the minimum term of imprisonment shall not be suspended or deferred. If the court finds such risk or overcrowding exists, it shall sentence the defendant to a minimum of 40 hours of community service. If a minimum term of imprisonment is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. Unless the court finds the person to be indigent, the minimum fine shall not be suspended or deferred. [Ord. 63 § 15, 1993]

9.05.160 Restitution – Adopted by reference.

(1) RCW 9A.20.030, as now in effect, and as may subsequently be amended, is adopted by reference to provide for restitution as an alternative to a fine under the Burien criminal code.

(2) Restitution may be imposed as part of a sentence and shall be ordered by the court whenever a person is convicted of a crime which results in injury to any person or damage to or loss of property, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment and the court sets forth such circumstances in the record. In addition, restitution shall be ordered to pay for an injury, loss, or damage if the defendant pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the defendant be required to pay restitution to a victim of an offense or offenses that are not prosecuted pursuant to a plea agreement. The court shall identify in the judgment and sentence the victim or victims entitled to restitution and what amount is due each victim.

(a) Restitution shall be ordered by the court whenever a person is convicted of any charge of hit and run, whether involving persons, property, or attended vehicles. This restitution shall include:

(i) Damages for injury, property loss and/or lost wages attributable to leaving the scene of the accident or collision in all cases; and

(ii) Damages for injury, property loss and/or lost wages where there is a preponderance of evidence that the convicted person was at fault in the underlying accident or collision.

(b) When restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within 180 days thereof. The court may continue the hearing beyond the 180 days for good cause. Restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime, whichever is greater.

(c) The city or victim may enforce the court-ordered restitution in the same manner as a judgment in a civil action. This section does not limit civil remedies or defenses available to the victim, survivors of the victim, or defendant. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim.

9.15.200 Liquor in public place.

(1) Except as permitted by RCW Title 66, no person shall open a package containing liquor, or possess an open container of liquor, or consume liquor in a public place; provided, this provision shall not apply to containers kept in the trunk of a vehicle or in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle does not have a trunk. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers.

(2) This section shall not prohibit the offering of alcohol for sale and consumption in a public place as part of a community event; provided, that the organization seeking to offer alcohol must request in writing authorization from the city manager and identify the particular community event or events at which the sponsor wishes to offer alcohol for sale and consumption. The written request must be made no later than 30 days prior to the first community event for which authorization is sought. Those applying for the city manager's authorization to offer alcohol for sale and consumption must meet the requirements of state law with respect to liquor permits and this chapter. During the course of the community event, the state liquor permit must be displayed within the area. For purposes of this subsection, "community event" shall mean fairs, markets, and festivals held on public property where the public at large is invited to attend, including but not limited to the Farmers Market, the Strawberry Festival, Oktoberfest, and the Fourth of July Festival. As appropriate, the city manager may specify special conditions of use and note the conditions on the authorization.

(3) Violation of this section is a class 3 civil infraction under Chapter 7.80 RCW, misdemeanor punishable by a fine of not more than \$100.00. [Ord. 546 § 1, 2010; Ord. 412 § 1, 2004; Ord. 96 § 2, 1994; Ord. 63 § 89, 1993]

9.60.200 Obstructing governmental operation – Adopted by reference.

(1) The following sections of the Washington Criminal Code as now in effect and as may subsequently be amended, are adopted by reference to establish the crimes relating to obstructing governmental operation under the Burien criminal code:

RCW

9A.76.010 Definitions

9A.76.020 Obstructing a law enforcement officer.

9A.76.030 Refusing to summon aid for a peace officer.

9A.76.040 Resisting arrest.

9A.76.050 Rendering criminal assistance – Definition of term.

9A.76.060 Relative defined.

9A.76.070 Rendering criminal assistance in the first degree.

9A.76.080 Rendering criminal assistance in the second degree.

9A.76.090 Rendering criminal assistance in the third degree.

9A.76.100 Compounding.

9A.76.130 Escape in the third degree.

9A.76.160 Introducing contraband in the third degree.

9A.76.170 Bail jumping.

9A.76.200 Harming a police dog.

9A.76.175 Making a false or misleading statement to a public servant.

(2) The following sections of RCW Title 9, as now in effect and as may subsequently be amended, are adopted by reference to establish additional crimes relating to obstructing governmental operation under the Burien criminal code:

RCW

9.31.090 Escaped prisoner recaptured.

9.62.010 Malicious prosecution.

9.62.020 Instituting suit in name of another.

9.60.400 Interference of court – Adopted by reference.

The following sections of RCW Title 9, as now in effect and as may subsequently be amended, are adopted by reference to establish the crimes relating to contempt and interference with courts under the Burien criminal code:

RCW

~~9.23.010 Criminal contempt.~~

9.27.015 Interference, obstruction of any court, building, or residence – Violations.

9.80.300 Harassment – Adopted by reference.

(1) The following sections of the Revised Code of Washington as now in effect and as may subsequently be amended, are hereby adopted by reference:

RCW

- 9A.46.010 Legislative finding.
- 9A.46.020 Definition – Penalties.
- 9A.46.030 Place where committed.
- 9A.46.040 Court-ordered requirements upon person charged with crime – Violation.
- 9A.46.050 Arraignment – No-contact order.
- 9A.46.060 Crimes included in harassment.
- 9A.46.070 Enforcement of orders restricting contact.
- 9A.46.080 Order restricting contact – Violation.
- 9A.46.090 Nonliability of peace officer.
- 9A.46.100 “Convicted,” time when.
- 9A.46.110 Stalking.

(2) The following sections of RCW Title 9, as now in effect, and as may subsequently be amended, are adopted by reference to establish additional crimes of harassment under the Burien criminal code:

RCW

- 9.61.230 Telephone calls to harass, intimidate, torment, embarrass.
- 9.61.240 Telephone calls to harass, intimidate, torment, or embarrass – Permitting telephone to be used.
- 9.61.250 Telephone calls to harass, intimidate, torment, or embarrass – Offense, where deemed committed.
- 9.61.260 Cyberstalking

(3) The following sections of RCW Title 10, as now in effect and as may subsequently be amended, are adopted by reference to establish additional crimes of harassment under the Burien criminal code:

- 10.14.120 Disobedience of order -- Penalties.
- 10.14.170 Criminal penalty.

9.85.200 Theft and possession of stolen property – Adopted by reference.

The following sections of the Washington Criminal Code, as now in effect, and as may subsequently be amended, are adopted by reference to establish the crimes of theft and stolen property under the Burien criminal code:

RCW

- 9A.56.010 Definitions.
- 9A.56.020 Theft – Definition, defense.
- 9A.56.050 Theft in the third degree.
- 9A.56.060 Unlawful issuance of checks or drafts.
- 9A.56.100 Theft and larceny equated.
- 9A.56.140 Possessing stolen property – Definition – Access, devices, presumption.
- 9A.56.170 Possessing stolen property in the third degree.
- 9A.56.180 Obscuring identify of a machine.
- 9A.56.220 Theft of cable television services.
- 9A.56.230 Unlawful sale of cable television services.
- 9A.56.240 Forfeiture and disposal of device used to commit violation.
- 9A.56.260 Connection of channel converter.
- 9A.56.270 Shopping cart theft.
- 9A.56.330 Possession of another's identification

9.90.080 ~~Subsequent prostitution convictions as violation for prostitution activity as separate crime.~~

It is a gross misdemeanor and a separate crime for any person to commit any second or subsequent violation of this chapter relating to unlawful acts of prostitution or pandering, unlawful acts of prostitution loitering, unlawful acts of permitting prostitution or pandering, or unlawful acts of patronizing a prostitute, when the person has a previous violated a provision of this chapter relating to unlawful acts of prostitution or pandering, unlawful acts of prostitution loitering, unlawful acts of permitting prostitution or pandering, or unlawful acts of patronizing a prostitute, and the conviction date of the previous violation is within 12 months of the incident date of the new violation, which may arise from an incident occurring within any period of 12 months from a first or prior conviction of the same or similar offense shall constitute a separate crime which is designated a gross misdemeanor and, upon conviction shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than \$5,000, or by both such imprisonment and fine.

The court may suspend all or a portion of the term of imprisonment or fine on condition that the convicted person never enter into, or be present in, any anti-prostitution emphasis area during the term of any such suspension or deferral. The court may further require AIDS testing and counseling, as a condition of suspension or deferral, pursuant to RCW 70.24.350, at the defendant's expenses; provided, however, that King County, as agent for the city pursuant to interlocal agreement, may require such testing and counseling as provided in RCW 70.24.360 upon imprisonment in jail of any such convicted person. [Ord. 63 § 47, 1993]

9.90.090 Violation of conditions of release or conditions of suspension or deferral as separate crime.

The presence of any person within a designated area in violation of court-imposed conditions of release or conditions of suspension or deferral of any sentence shall constitute a separate crime designated a gross misdemeanor and any such person may be apprehended and arrested without the necessity for any warrant or additional court order. ~~Upon conviction, any person so violating the conditions of release or conditions of suspension or deferral shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than \$5,000, or by both such imprisonment and fine.~~ [Ord. 63 § 48, 1993]

9.100.100. Impersonating members of public safety department -- Adopted by reference.

The following sections of the King County Code and the Washington Criminal Code, as now in effect, and as may subsequently be amended are adopted by reference to establish the crime of fraud by impersonating members of the public safety department, except that the reference thereto shall also refer to members of the city police department whether contracted or employed:

KCC

- 12.08.010 Impersonating members of public safety department.
- 12.08.020 Selling or disposing of police badges prohibited.
- 12.08.030 Possessing badge with intent to impersonate officer.
- 12.08.040 Intent to impersonate presumed.
- 12.08.050 Penalty for violation.

RCW

9A.60.045 Criminal impersonation in the second degree.

9.100.200 Obstructing public city officers.

(1) It is unlawful for any person to make any ~~willfully untrue, misleading or exaggerated statement~~ false or misleading material statement to, or to willfully hinder, delay or obstruct any public city officer in the discharge of his or her official powers or duties. Obstructing public city officers is a misdemeanor.

(2) "Public City officer", as used in this article, comprises ~~police officers, fire chief and his or her designees, health officers, and~~ the public works director and his or her designees, city clerk and his or her designees, code enforcement personnel, and other city personnel authorized for enforcement of city ordinances, statutes and codes. [Ord. 63 § 33, 1993]

~~10.11.050 Enforcement procedure.~~

~~The enforcement procedure for this chapter shall be the enforcement procedure set out in Chapter 8.45.~~

10.45.030 Violation – Penalty.

Violation of BMC 10.45.020 is an infraction a misdemeanor and will be punished by a fine of not less than \$100.00 or more than \$1,000 per violation.

10.50.020 General penalties.

(1) Except as otherwise provided in this section or elsewhere in this division, every violation of this division and all

R:\CC\AAA Ordinances - Preliminary\Ord562 Exhibit A Criminal-Traffic Code Update Ordinance (2).doc

Ordinance 562

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conduct made unlawful by this division shall constitute a civil violation. Conviction of a violation shall not give rise to any disability or legal disadvantage based on the conviction of a criminal offense.

(2) Any person convicted of a violation of this division may be punished by a civil fine or forfeiture not to exceed \$500.00 or such lesser amount as may be specifically provided for in this division; provided, that any person convicted of an offense or conduct made unlawful by this division shall be guilty of a crime and, unless specifically provided otherwise in this division, may be punished by a fine in any sum not to exceed \$500.00 or by imprisonment in the city jail for a term not to exceed six months, or by both such fine and imprisonment.

(3) Notwithstanding the civil nature of the penalty provided herein for violations, nothing in this section shall deny any constitutional rights which a defendant would have were the penalty deemed criminal.

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**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Adopt proposed Ordinance 561, updating and consolidating code enforcement regulations		Meeting Dates: March 5 and 19, 2012
Department: Legal	Attachments: 1. Matrix - Code Enforcement Ordinance 2. Proposed Ordinance 561 updating and consolidating code enforcement regulations	Fund Source: Activity Cost: Amount Budgeted: Unencumbered Budget Authority:
Contact: Craig Knutson		
Adopted Work Plan Priority: Yes No	Work Plan Item Description:	
<p>PURPOSE/REQUIRED ACTION: The City Attorney, Code Enforcement Officer, Paralegal, and other staff involved in code enforcement are recommending adoption of an ordinance updating and consolidating the City’s code enforcement regulations. The ordinance is necessary to address legal issues with the existing regulations, make the regulations more internally consistent, and update the regulations to more effectively deal with current code enforcement situations. Some of the more significant matters addressed in the ordinance are as follows:</p> <p>1)The new ordinance provides a clear and concise process for addressing code violations and contains several clear options for obtaining compliance (i.e. voluntary compliance, infraction, notice of civil violation, stop work order, appeal to hearing examiner).</p> <p>2)The definition of “Person responsible for violation” is amended to include a mortgagee of property that is in foreclosure or has been unoccupied for 90 days . This should be a substantial tool in obtaining compliance, as we have had numerous properties with significant code violations where the owner has disappeared. Usually, in order to obtain compliance we have to wait until the foreclosure sale occurs, which can take a year or more. The amended definition will allow us to hold the banks responsible much sooner and get properties secured and cleaned up in a more timely manner.</p> <p>3)Instead of numerous code enforcement sections throughout the code that sometimes conflict with other chapters or are unclear regarding enforcement mechanisms, the new ordinance refers most code violations to one chapter for enforcement;</p> <p>4) Monetary penalties are set forth in a clear and consistent manner.</p> <p>5) The methods of serving notice and the process for obtaining abatement authority have been revised to be more expedient and legally supportable.</p> <p>The City’s Hearing Examiner has been given the opportunity to review the proposed ordinance and is very supportive of how it addresses issues such as effective service of notice, who is a responsible party, how abatement may proceed, and some ambiguities that now exist in the current code.</p> <p>OPTIONS (Including fiscal impacts):</p> <ol style="list-style-type: none"> 1. Adopt the ordinance. 2. Do not adopt the ordinance. 		
Administrative Recommendation: Adopt the ordinance		
Suggested Motion for March 19, 2012 meeting: Move to adopt Ordinance 561, updating and consolidating the City’s code enforcement regulations.		
Submitted by: Administration _____ City Manager _____		
Today’s Date: February 29, 2012	File Code: \\File01\records\CC\Agenda Bill 2012\03051912ls-1 Updating and consolidating code enforcement provisions.doc	

CODE ENFORCEMENT ORDINANCE

PROPOSED ORDINANCE REVISION	COUNCIL QUESTION/COMMENT	STAFF RESPONSE	ALTERNATIVES
Misdemeanor penalties for code enforcement violations	More appropriate to pursue code violations as civil cases than criminal cases.	Staff concurs that civil penalties are generally more appropriate for code violations than criminal penalties. However, most if not all city codes, including Burien's current code, make code enforcement violations subject to both civil and criminal penalties. This is because criminal penalties may occasionally be appropriate in egregious circumstances when civil penalties do not achieve compliance.	N/A
Code enforcement officer <i>may</i> attempt to secure voluntary correction.	Code enforcement officer should be <i>required</i> to obtain voluntary correction.	Staff believes that securing voluntary correction should be attempted whenever possible, which is the standard practice in Burien. However, since there may be rare instances when immediate corrective action by the City is necessary, staff does not support changing "may" to "shall" "attempt to secure voluntary correction."	Change "may" to "shall" "attempt to secure voluntary correction" in BMC 1.15.100. (Change not made.)
Unlawful to transfer ownership after receiving notice of civil violation, unless transferee acknowledges and accepts responsibility for the violation.	Clarify whether owner or transferee is responsible for the violation. Suggest that City provide a form with the appropriate language. How does this provision apply to foreclosure or probate cases?	The intent is for the form to provide for the transferee to acknowledge and accept responsibility for the violation. Staff concurs that the City's Legal Department should provide a form with the appropriate language. This provision would not be applied in foreclosure, probate or other cases when the owner cannot be located or held responsible for the ongoing violation.	N/A
Alleged violator must respond to notice of civil violation within 14 days.	Provide for a stay of the 14 day response requirement if the violator is in active discussions with the	Staff concurs that an alleged violator should be allowed to request a stay of the 14 day response requirement if engaged in active discussions with the code enforcement officer.	Add stay provision to 14 day response requirement in BMC

CODE ENFORCEMENT ORDINANCE

PROPOSED ORDINANCE REVISION	COUNCIL QUESTION/COMMENT	STAFF RESPONSE	ALTERNATIVES
	code enforcement officer.		1.15.130(2).
\$100 filing fee for appeal to the Hearing Examiner.	People should not have to pay a fee to assert their rights.	Staff concurs that it is appropriate to remove the filing fee requirement.	Delete \$100 filing fee requirement in BMC 1.15.130(1) and (2).

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 561

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, CONSOLIDATING AND UPDATING THE CITY'S CODE ENFORCEMENT PROVISIONS BY ADOPTING A NEW CHAPTER 1.15 AND AMENDING VARIOUS ENFORCEMENT SECTIONS IN TITLES 2, 3, 5, 7, 8, 10, 12, 13, AND 15, OF THE BURIEN MUNICIPAL CODE

WHEREAS, the City's current code enforcement provisions are set forth in various parts of the Burien Municipal Code and are in need of being consolidated and updated in order to be more uniform and effective; and

WHEREAS, it is in the public interest to revise the City's code enforcement provisions to have a uniform enforcement scheme that applies to all appropriate and applicable violations of the Burien Municipal Code;

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

Section 1. A new Chapter 1.15 of the Burien Municipal Code is hereby adopted to read as follows:

**Chapter 1.15
CODE ENFORCEMENT**

Sections:

- 1.15.010 Purpose
- 1.15.020 Definitions
- 1.15.030 Conflicting code provisions
- 1.15.040 Joint and several responsibility and liability
- 1.15.050 Computation of time
- 1.15.060 Interference with code enforcement unlawful
- 1.15.070 Service of documents
- 1.15.080 Violations
- 1.15.090 Infractions
- 1.15.100 Voluntary correction
- 1.15.110 Stop work order
- 1.15.120 Notice of civil violation
- 1.15.130 Response to notice of civil violation
- 1.15.140 Scheduling of hearing to contest or mitigate – correction prior to hearing
- 1.15.150 Contested hearing – procedure
- 1.15.160 Mitigation hearing – procedure
- 1.15.170 Decision of Hearing Examiner
- 1.15.180 Failure to appear – default order
- 1.15.190 Judicial review
- 1.15.200 Payment and recovery of penalties and costs
- 1.15.210 Abatement
- 1.15.220 Right of entry

1.15.010 Purpose.

The purpose of this Chapter is to establish an efficient system of enforcing City regulations that will enable violations to be promptly resolved whenever possible, while providing both appropriate penalties and a full opportunity for alleged violators to have a hearing to contest the violations. It is the express and specific purpose and intent of this Chapter to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Chapter. It is also the express and specific purpose and intent of this Chapter that no provision or term used in this Chapter is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Chapter is intended or shall be construed to create or form the basis of any liability on the part of the City, its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City, its officers, employees or agents.

1.15.020 Definitions.

The definitions in this section apply throughout this Chapter unless the context clearly requires otherwise or they are more specifically defined in a subchapter or section. Terms not defined shall be given their usual meaning.

“Abate” means to act to stop an activity and/or to repair, replace, remove, or otherwise remedy a condition, when such activity or condition constitutes a violation of this Code or a City regulation, by such means and in such a manner and to such an extent as the applicable department director, enforcement officer, or other authorized official determines is necessary in the interest of the general health, safety, and welfare of the community. For the purposes of this Chapter, the verbs “abate” and “correct” shall be interchangeable and have the same meaning.

“Act” means doing or performing something.

“City” means City of Burien, Washington.

“Civil penalty” or “monetary penalty,” as used in any code, ordinance or regulation of the City, shall be deemed to have the same meanings as used in this Chapter.

“Code” means the Burien Municipal Code.

“Code enforcement officer” or “enforcement officer” means the City’s Code Enforcement Officer(s); the Building Official; building inspectors; construction inspectors; the Fire Marshal or his or her designee; fire inspectors; the Chief of the Burien Police Department or his or her designee; the Director of the Community Development Department or his or her designee; the Director of the Public Works Department or his or her designee; or any other person or persons assigned or directed by the City Manager or his or her designee to enforce the regulations subject to the enforcement and penalty provisions of this Chapter.

“Costs” means, but is not limited to, contract expenses and City employee labor expenses incurred in abating a nuisance; a rental fee for City equipment used in abatement; costs of storage, disposal, or destruction; legal expenses and attorneys’ fees associated with civil judicial enforcement of abatement orders or in seeking abatement orders; and any other costs incurred by the City, excluding fees and expenses associated with appeals authorized by this Code or by state law.

“Correction Notice” means a written statement issued by a code enforcement officer, notifying a person that property or work under his or her control is in violation of one or more regulations and informing such person that a notice of civil violation may be issued and/or an infraction or criminal charges filed if the violations are not abated.

“Day” or “Days” means one or more calendar days, unless expressly stated otherwise in a given section or subsection. In addition, any portion of a twenty-four hour day shall constitute a full calendar day.

“Hearing Examiner” means the Burien Hearing Examiner and the office thereof, as established pursuant to Ch. 2.15 BMC.

“Knowledge” means being aware of a fact or circumstance or having information, which would lead a reasonable person in the same situation to believe a fact or circumstance exists. A person acts knowingly or with knowledge when that person either is aware of one or more facts, circumstances, or results, which are described by an ordinance defining an offense, or has information which would lead a reasonable person in the same situation to believe that facts, circumstances, or results exist, which are described by an ordinance defining an offense.

“Notice of Violation” or “Notice of Civil Violation” means a written statement, issued by a code enforcement officer, which contains the information required under Section 1.15.120 and which notifies a person that he or she is responsible for one or more civil violations of the Burien Municipal Code.

“Omission” means a failure to act.

“Owner” means any owner, part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of a building or land.

“Person” means any individual, firm, business, association, partnership, corporation, or other legal entity, public or private, however organized. Because “person” shall include both human beings and organizational entities, any of the following pronouns may be used to describe a person: he, she, or it.

“Person Responsible for the Violation” or “Violator” means any of the following: a person who has titled ownership or legal control of the property or structure that is subject to the regulation; an occupant or other person in control of the property or structure that is subject to the regulation; a developer, builder, business operator, or owner who is developing, building, or operating a business on the property or in a structure that is subject to the regulation; a mortgagee that has filed an action in foreclosure on the property that is subject to the regulation, based on breach or default of the mortgage agreement, until title to the property is transferred to a third party; a mortgagee of property that is subject to the regulation and has not been occupied by the owner, the owner’s tenant, or a person having the owner’s permission to occupy the premises for a period of at least ninety (90) days; or any person who created, caused, participated in, or has allowed a violation to occur.

“Regulation” means and includes any of the following, as now enacted or hereafter amended:

1. All Burien Municipal Code provisions;
2. All standards, regulations, and procedures adopted by the City pursuant to a City ordinance;
3. The terms and conditions of any permit or approval issued by the City, or any concomitant agreement entered into with the City, pursuant to Code provisions; and
4. A written order of the Hearing Examiner that has been served as provided in this Chapter.

“Repeat Violation” means, as evidenced by the prior issuance of a correction notice or a notice of violation, a subsequent violation that has occurred on the same property or that has been committed by a person responsible for the prior violation elsewhere within the City of Burien. To constitute a repeat violation, the violation need not be the same violation as the prior violation. The violation of a written order of the Hearing Examiner that has been served as provided in this Chapter shall constitute a repeat violation.

“Right-of-way” means land owned, dedicated or conveyed to the public or a unit of government, used primarily for the movement of vehicles or pedestrians and providing for access to adjacent parcels, with the secondary purpose of providing space for utility lines and appurtenances and other devices and facilities benefiting the public. “Right-of-way” includes, but is not limited to, any street, easement, sidewalk, or portion thereof under the jurisdiction of the City.

“Violation” or “civil violation” or “civil infraction” means an act or omission contrary to a regulation as defined in this section. A violation continues to exist until abated to the satisfaction of the City, with each day or portion thereof in which the violation continues constituting a separate violation.

1.15.030 Conflicting code provisions.

In the event a conflict exists between the enforcement provisions of this Chapter and the enforcement provisions of any international or uniform code, statute, or regulation that is adopted in the Burien Municipal Code and subject to the enforcement provisions of this Chapter, the enforcement provisions of this Chapter will prevail, unless the enforcement provisions of this Chapter are preempted or specifically modified by said code, statute, or regulation. In the event of a conflict between this Chapter and any other provision of this Code or City ordinance providing for a civil penalty, the more specific provision shall control.

1.15.040 Joint and several responsibility and liability.

Responsibility for violations of the codes enforced under this Chapter is joint and several, both as to duty to correct and to payment of monetary penalties and costs, and the City is not prohibited from taking action against a party where other persons may also be potentially responsible for a violation, nor is the City required to take action against all persons potentially responsible for a violation.

1.15.050 Computation of time.

In computing any period of time prescribed or allowed by this Code, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

1.15.060 Interference with code enforcement unlawful.

Any person who intentionally obstructs, impedes, or interferes with any lawful attempt to serve a notice of violation, stop work order, or emergency order, or intentionally obstructs, impedes, or interferes with lawful attempts to correct a violation shall be guilty of a gross misdemeanor.

1.15.070 Service of documents.

(1) Methods of service. For purposes of this Chapter, service of documents related to code enforcement, such as correction notices, notices of civil violation, stop work orders, etc. (hereinafter “document”), shall be accomplished by one of the following methods, provided that civil infractions shall be served as provided in Chapter 7.80 RCW and criminal misdemeanors and gross misdemeanors shall be served as provided by applicable law:

(a) “Personal service” is accomplished by handing the document to the person subject to the document or leaving it at his or her last known dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or leaving it at his or her office or place of employment with a person in charge thereof. Personal service may also be accomplished by the Hearing Examiner or his or her assistant handing any order, ruling, decision, or other document to a person prior to, during, or after a hearing.

(b) “Service by mail” is accomplished by sending the document by regular first class mail to the last known address of the person subject to the document. The last known address shall be an address provided to the City by the person to whom the document is directed. If an address has not been provided to the City, the last known address shall be any of the following as they appear at the time the document is mailed: the address of the property where the violation is occurring, as reflected on the most recent equalized tax assessment roll of the County Assessor or the taxpayer address appearing for the property on the official property tax information website for King County; the address appearing in any database used for the payment of utilities for the property at which the violations are occurring; or the address of the person to whom the documents are being sent that appears in the Washington State Department of Licensing database.

(c) “Service by posting” is accomplished by affixing a copy of the document in a conspicuous place on the

subject property or structure, or as near to the affected property or structure as feasible, with at least one (1) copy of such document placed at an entryway to the property or structure if an entryway exists.

(d) “Service by publication” is accomplished by publishing the document as set forth in RCW 4.28.100 and RCW 4.28.110, as currently enacted or hereafter amended.

(2) Service – when complete. If service is accomplished by personal service, service shall be deemed complete immediately. If service is accomplished by mail, service shall be deemed complete upon the third day following which the document is placed in the mail, unless the third day falls on a Saturday, Sunday, or legal holiday, in which event service shall be deemed complete on the first day other than a Saturday, Sunday, or legal holiday following the third day. If service is accomplished by posting, service shall be deemed complete upon the fourteenth day following the day upon which the document is posted. If service is accomplished by publication, service shall be deemed complete upon the final publication of the document as set forth in RCW 4.28.110.

(3) Proof of service – Due diligence. Proof of service shall be made by written affidavit or declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service and the manner by which service was made. If service was made solely by posting or publication, the proof of service shall include a statement as to what steps were used in attempting to serve personally and by mail the person at whom service of the document is directed. If service was made by posting, a photograph of the posting may be taken and retained by the City as documentation.

(4) Additional proof of service not necessary. No additional proof of service beyond the requirements in this Chapter shall be required by the Hearing Examiner or other entity. Any failure of the person to whom a document is directed to observe a document served by posting or publication shall not invalidate service made in compliance with this section, nor shall it invalidate the document.

1.15.080 Violations.

(1) The violation of any regulation shall be unlawful. Violations may be enforced by issuing notices of violation and, if necessary, by filing civil infractions. In addition, any violation of this Code shall constitute a misdemeanor, unless otherwise designated as a gross misdemeanor, and the City shall have discretionary authority to enforce a violation as either a civil infraction or civil violation pursuant to this Chapter or as a criminal misdemeanor punishable by imprisonment in jail for a maximum term fixed by the court of not more than ninety (90) days or by a fine in an amount fixed by the court of not more than one thousand dollars (\$1,000) or by both such imprisonment and fine. A gross misdemeanor is punishable by a fine of not more than five thousand dollars (\$5000) or by imprisonment for not more than twelve (12) months or by both such fine and imprisonment.

(2) Each day during any portion of which a violation of this Code occurs or continues is a separate offense.

(3) Civil enforcement of the provisions of this Code or the terms and conditions of any permit or approval issued pursuant to this Code shall be governed by this Chapter unless other more specific provisions apply.

(4) Code enforcement officers are authorized to enforce the Code using the provisions and procedures of this Chapter; provided, however, that enforcement under this Chapter is in addition to, and does not preclude or limit, any other forms of enforcement available to the City including, but not limited to, criminal proceedings or sanctions, nuisance and injunction actions, rights to file and enforce liens, or other civil or equitable actions to abate, discontinue, correct, or discourage unlawful acts in violation of this Code.

(5) Nothing in this Chapter or in other Chapters of the Burien Municipal Code shall prevent code enforcement officers or any other officers of the City of Burien or other governmental unit from taking any other action, summary or otherwise, necessary to eliminate or minimize an imminent danger to the health or safety of any person or property. The City’s costs of abating any such nuisance or endangerment summarily or otherwise abated shall be recoverable under this Chapter as well as in the same manner and to the same extent as costs of abating nuisances or endangerment under any other provisions of this Code, in addition to or as an alternative to any other rights or remedies the City may possess.

1.15.090 Infractions.

(1) When the City determines that it is appropriate to enforce violations of this Code as civil infractions rather than civil or criminal violations as otherwise provided in this Chapter, or if the City is unable to obtain payment of civil fines pursuant to a notice of civil violation, enforcement officers shall file such infractions in King County District Court and shall follow the provisions of Chapter 7.80 RCW. First offenses shall be class 2 civil infractions, for which the maximum penalty and the default amount shall be \$125.00, and second or subsequent violations shall be class 1 civil infractions, for which the maximum penalty and the default amount shall be \$250.00, not including fees, costs, and assessments.

(2) Chapter 7.80 RCW is hereby adopted by reference to the extent that it is not inconsistent with explicit provisions of the Burien Municipal Code, including this Section.

1.15.100 Voluntary correction.

(1) General. When the City determines that a violation has occurred, a code enforcement officer may attempt to secure the voluntary correction of a violation by attempting to contact the person responsible for the violation, explaining the violation, and requesting correction. This may be done orally and/or in writing. The City may also enter into a written voluntary correction agreement with any person causing, allowing, or participating in the violation, including the property owner. A voluntary correction agreement may be instead of, in lieu of, or in conjunction with, a notice of violation. Voluntary correction efforts need not be made where the nature of the violation creates a risk of imminent harm to public health or safety or where it is a repeat violation.

(2) Contents of written voluntary correction agreement. A voluntary correction agreement is a contract between the City and the person responsible for the violation, in which the responsible person agrees to abate the violation within a specified time and according to specified conditions. A voluntary correction agreement will generally contain the following information:

- (a) The name and address of a person responsible for the violation;
- (b) The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring;
- (c) A description of the violation and a reference to the code provisions that have been violated;
- (d) A statement indicating what corrective actions are required and a correction deadline stating the date by which the corrective actions must be completed to the satisfaction of the code enforcement officer in order for the violator to avoid the issuance of a notice of violation;
- (e) 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;
- (f) An agreement by the person responsible for the violation and/or the owner(s) of property on which the violation has occurred or is occurring that, if the terms of the voluntary correction agreement are not met, the City may enter the property, abate the violation, and recover its costs and expenses as provided in this Chapter;
- (g) An agreement that by entering into the voluntary correction agreement, the person responsible for the violation waives the right to a hearing before the Hearing Examiner under this Chapter regarding the violation, any penalty, and/or required corrective action; and
- (h) A statement indicating that, pursuant to BMC 1.15.120, a notice of civil violation may be issued with each violation constituting a separate offense subject to civil penalties, or, alternatively, civil infraction or criminal charges may be filed.

(3) Extension of voluntary correction period or modification of required actions. An extension of the deadline for voluntary correction, or a modification of any required corrective action, may be granted by the code enforcement officer if the person responsible for the violation has, in the opinion of the code enforcement officer, shown due diligence or made substantial progress in correcting the violation but unforeseen circumstances have rendered correction unattainable within the original deadline.

(4) Revocation of deadline for compliance. The original deadline for compliance, or any extension for compliance previously granted by the code enforcement officer, may be revoked and immediate compliance required where, in the opinion of the code enforcement officer, circumstances make immediate correction necessary to avoid an imminent risk of injury to persons or property.

(5) Failure to comply with voluntary correction agreement.

(a) Abatement by the City. In addition to any other remedy provided for in this Chapter, the City may abate the violation in accordance with BMC 1.15.210, if the terms of the voluntary correction agreement are not met.

(b) Penalties and costs. If the terms of the voluntary correction agreement are not met, the person responsible for the violation may be issued a notice of civil violation and assessed a monetary penalty in accordance with BMC 1.15.120, plus all costs and expenses of abatement. Alternatively, the City may file a civil infraction or criminal charges.

1.15.110 Stop work order.

(1) Issuance. Whenever a code enforcement officer determines that any work, use, activity, or conduct is a violation under the Burien Municipal Code and creates an imminent threat of injury to the health, safety, or welfare of any member of the public or will damage or injure, or exacerbate damage or injury already caused, to any property, the code enforcement officer may issue a stop work order directing any person causing, allowing, or participating in the offending conduct to cease such use, activity or conduct immediately.

(2) Service of order. Service of the stop work order shall generally be accomplished as set forth in BMC 1.15.070(1)(c).

(3) The stop work order shall state the reasons for the order and may be appended to, or incorporate by reference, a notice of violation. The stop work order shall take effect immediately upon service and may be appealed under the procedures set forth in this Chapter. During any such appeal, the stop work order shall remain in effect.

(4) Effect of a stop work order. When a stop work order has been issued, posted and/or served pursuant to this section, it is unlawful for any person to whom the order is directed or any person with actual or constructive knowledge of the order to conduct the activity or perform the work covered by the order, even if the order has been appealed, until the code enforcement officer has removed the copy of the order, if posted, and issued written authorization for the activity or work to be resumed. In addition, a monetary penalty shall accrue for each day or portion thereof that a violation of a stop work order occurs, in the same amounts as under BMC 1.15.120. In addition to such criminal or monetary penalties, the city may enforce a stop work order pursuant to any other provision of this Chapter and enforce it in Superior Court.

(5) Removal of a stop work order. When a stop work order has been posted in conformity with the requirements of this Chapter, removal of such order without the authorization of the City, or the Hearing Examiner if the matter has been heard by the Hearing Examiner, is unlawful and a violation.

1.15.120 Notice of civil violation.

(1) Issuance of notice of violation. When the City determines that a violation has occurred or is occurring, the code enforcement officer may issue a notice of civil violation to any person responsible for the violation.

(2) Monetary penalty. A monetary penalty shall accrue for each day or portion thereof that each violation continues beyond the date set in a notice of civil violation or any Hearing Examiner's decision. Unless a different penalty amount for a given violation is expressly authorized or required by a more specific City code provision, the maximum penalty and the default amount shall be \$125.00 for the first violation and \$250.00 for a second or subsequent violation of the same nature or a continuing violation past a deadline set by a notice of violation, not including fees, costs, and assessments. The City may waive the monetary penalty, if corrective action is completed by the date specified in the notice of civil violation or a voluntary correction agreement. The City shall have the discretion to impose penalties in an amount lower than those shown above.

(3) Contents of notice. The notice of civil violation shall include the following:

- (a) The name and address of a person responsible for the violation;
- (b) The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring;
- (c) A description of the violation and a reference to the provision violated and a description of what must be done to correct the violation;
- (d) A statement indicating that the violator must respond to the notice of civil violation within fourteen (14) days of the date of issuance, or within such other time period as specified in the notice of civil violation, by doing one of the following:
 - i. Paying any fine and correcting the violation;
 - ii. Entering into and complying with a voluntary correction agreement with the City;
 - iii. Requesting a mitigation hearing and correcting the violation; or
 - iv. Requesting a hearing to contest the violation;
- (e) A statement indicating that failure to respond to the notice of violation, or failure to attend any hearing, shall result in the violation being deemed committed without requiring further action by the City, and that the monetary penalty specified in the notice shall be due to the City by the violator and further accrue as provided; and
- (f) A statement indicating that payment of a monetary penalty does not relieve the person or entity named in the notice of civil violation of the duty to abate the violation, and that failure to abate may result in the issuance of additional notices of violation and/or criminal charges, with additional civil and/or criminal penalties, including the payment of costs for any abatement action taken by the City.

(4) Extension. Upon written request received prior to the correction date or time, the code enforcement officer may extend the date set for correction for good cause or in order to accommodate a violation correction agreement. The code enforcement officer may consider substantial completion of the necessary correction or unforeseeable circumstances which render completion impossible by the date established as a good cause.

(5) Transfer of Ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a notice of civil violation 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 civil 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 civil violation issued by the code enforcement officer and shall furnish to the code enforcement officer a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of civil violation and fully accepting the responsibility without condition for making the

corrections or repairs required by such compliance order or notice of violation.

1.15.130 Response to notice of civil violation

(1) Generally. A person who has been served with a notice of civil violation must respond to the notice within fourteen (14) days of the date the notice is served or within such other time period as specified in the notice of civil violation. A person may respond to the notice of civil violation by:

- (a) Paying the amount of the monetary penalty as set forth in the notice of violation. Partial payment or payment using a check that is rejected for insufficient funds shall not be deemed payment under this subsection. Payment of the fine shall not relieve the person or entity responsible for the violation from the duty to correct or abate the violation. Additional notices of violation may be issued if the violation goes uncorrected.
- (b) Entering into a voluntary correction agreement with the City.
- (c) Contesting the notice of civil violation by requesting a contested hearing in writing and sending the request to the City as described in subsection (2) below.
- (d) Seeking to mitigate the monetary penalty by requesting a mitigation hearing to explain the circumstances surrounding the violation. The request to mitigate must be made in writing and sent to the City with a \$100 filing fee as described in subsection (2) below. Requesting to mitigate the penalty shall not relieve the person responsible for the violation from the duty to correct or abate the violation. Additional notices of violation may be issued if the violation goes uncorrected.

(2) Method of response. The person or entity to whom a notice of civil violation has been issued may respond by mailing or hand-delivering the response to the City Clerk. Mailed responses must be received no later than the fourteenth (14th) day from the date of service of the notice of violation or such other day as specified in the notice of violation. Hand-delivered responses must be brought to the City Clerk no later than 4:30 p.m. on the fourteenth (14th) day after service or such other day as specified in the notice of violation; provided that, where the fourteenth or other specified day falls on a weekend or holiday, the deadline shall be extended to the next regular business day. Telephone, facsimile, or email responses shall not satisfy the requirements of this section. The response deadline may be stayed for a time certain by the code enforcement officer, if the responsible person or entity is engaged in active discussions with the code enforcement officer and the code enforcement officer determines there is a reasonable probability that such discussions may result in compliance.

(3) If the person to whom the notice of civil violation is issued fails to respond as required in the notice of civil violation and this Chapter, the violation(s) shall be deemed committed without requiring further action by the City or the City's Hearing Examiner, and the person to whom the notice of civil violation was issued shall owe the monetary penalty indicated.

1.15.140 Scheduling of hearing to contest or mitigate – correction prior to hearing.

(1) Notice and scheduling of hearing. Upon the timely filing of a request for a hearing to contest a violation or to mitigate the penalty, the matter shall be scheduled to be heard at the next available appearance by the Hearing Examiner that is a minimum of fourteen (14) but no later than sixty (60) calendar days after the date the request was received by the City. Notice of the hearing date and time shall be served by regular first class mail to the address of the party who requested the hearing. The date and time for any hearing may be rescheduled by the Hearing Examiner for good cause upon the motion of a party or the Hearing Examiner.

(2) Correction of violation prior to hearing. The hearing may be cancelled and the party requesting the hearing need not appear if, at least two (2) business days prior to the scheduled hearing, the code enforcement officer determines that the violation has been satisfactorily corrected or abated and the monetary penalty paid in full. Where the scheduled hearing involves a repeat violation as defined in this Chapter, the hearing shall not be cancelled unless the

new violation has been corrected or abated to the satisfaction of the code enforcement officer and the monetary penalty and costs for the new violation(s) and any monetary penalty and costs owing for the previous violation(s) have been paid in full.

1.15.150 Contested hearing – procedure.

The Hearing Examiner shall conduct a contested violation hearing when such hearing is properly and timely requested. The City and the person or entity to whom the notice of civil violation was issued may participate in the hearing, and each party or its legal representative may call witnesses and present evidence and rebuttal, subject to the following:

- (1) Where not in conflict with a more specific provision of this Chapter, hearings shall be conducted in accordance with Chapter 2.15 BMC
- (2) The City shall have the burden of proving by a preponderance of the evidence that a violation has occurred.
- (3) The parties are responsible for securing the appearance of any witnesses they may wish to call. Neither the City nor the Hearing Examiner shall have the burden of securing any witnesses on behalf of the person who is contesting the violation(s) or seeking to mitigate the penalties.
- (4) Formal rules of evidence shall not apply to any such hearing, and the Hearing Examiner shall allow hearsay testimony by the parties and not require proof of chain of custody for evidence that is presented; provided that the Hearing Examiner shall determine the weight to be assigned to any evidence presented.
- (5) Any notes, reports, summaries, photographs, or other materials prepared by the parties shall be admitted into evidence if requested; provided that the parties are free to argue the weight that should be assigned by the Hearing Examiner to any evidence submitted.

1.15.160 Mitigation hearing – procedure.

The Hearing Examiner shall conduct a hearing to mitigate the penalty on a violation when such hearing is properly and timely requested; provided that in the event a person has requested a hearing to contest a violation and prior to the start of the hearing indicates to the Hearing Examiner a desire to mitigate rather than contest, the Examiner shall permit the person to seek mitigation of the monetary penalty. The mitigation hearing shall be conducted according to the following general procedures:

- (1) The person responsible for the violation shall be given the opportunity to explain or provide evidence regarding the nature of the violation, why the violation exists, why the violation has not been abated or corrected, and any other information the Hearing Examiner determines is relevant.
- (2) The City shall be given the opportunity, at its discretion, to provide evidence of the nature of the violation, evidence to rebut assertions made by any party, and any other information or evidence the Hearing Examiner deems to be relevant.

1.15.170 Decision of Hearing Examiner.

(1) Contents of Order. Upon the conclusion of a hearing, the Hearing Examiner may issue an oral decision pending issuance of the written decision. If necessary, the Hearing Examiner may delay issuing the written order for up to ten (10) business days following the hearing. In either event, the oral decision and written order shall contain findings and conclusions based on the record, which to the extent applicable includes the following information:

- (a) In mitigation hearings a statement indicating that each alleged violation has been found committed, and in contested hearings, for each alleged violation of the City code, a statement indicating whether the violation has been found committed or not committed;
- (b) For violations found committed, the monetary penalties and costs being assessed pursuant to this Chapter;

provided that, where the person has requested to mitigate the monetary penalty, the Hearing Examiner may reduce the monetary penalty for each violation, but in no case shall the penalty be reduced to an amount less than one hundred dollars (\$100) for each violation found committed;

(c) For violations found committed, any required corrective actions and compliance dates;

(d) For violations found committed, a finding that abatement of the violations by the City is authorized, at the expense of the person responsible for the violations; and

(e) A statement notifying the person responsible for the violation that he or she is subject to additional civil and/or criminal penalties if any violation that was the subject of the hearing has not been corrected or abated as required by the Hearing Examiner's order.

(2) Notice of decision. The Hearing Examiner may cause a copy of the decision and order to be served upon the parties at the close of the hearing. When the Hearing Examiner requires more time to prepare a written order, or when a party fails to appear after requesting a contested hearing, the Hearing Examiner shall cause a copy of the decision and order to be served on the parties by mailing a copy to each party's last known address no later than ten (10) business days following the hearing.

1.15.180 Failure to appear – default order.

If the person who requests a hearing to contest a violation or mitigate the penalty then fails to appear at the scheduled hearing after having been given notice in the manner provided for by this Chapter, the Hearing Examiner shall immediately issue a default order, which finds committed all the violations set forth in the notice of civil violation and which assesses a monetary penalty in the full amount indicated in the notice of violation. In addition, at the request of the City, the Hearing Examiner shall also impose upon the non-appearing party any costs to the City related to preparation for the hearing. The Hearing Examiner shall cause a copy of the decision to be served upon the non-appearing party by mailing a copy to the last known address of the non-appearing party within ten (10) business days of the hearing. Upon the motion of a party, the Hearing Examiner may rescind a default judgment only upon a showing of good cause to do so and only if such motion has been brought within thirty (30) calendar days of the date of the hearing at which the default judgment was ordered.

1.15.190 Judicial review.

Judicial review of a decision by the Hearing Examiner relating to any ordinance regulating the improvement, development, modification, maintenance, or use of real property may be sought by any person aggrieved or adversely affected by the decision, pursuant to the provisions of the Land Use Petition Act, Chapter 36.70C RCW, if applicable, or other applicable authority, if any, if the petition or complaint seeking review is filed and served on all parties within 21 days of the date of the decision. For purposes of this section, "aggrieved or adversely affected" shall have the meaning set forth in RCW 36.70C.060(2). Judicial review of all other decisions may only occur subject to the procedures of Chapter 7.16 RCW.

1.15.200 Recovery of penalties and costs.

(1) Payment of monetary penalties and costs. Any monetary penalties or costs assessed pursuant to this Chapter constitute a personal obligation of the person responsible for the violation. In addition, the monetary penalties or costs assessed pursuant to this Chapter may be assessed against the property that is the subject of the enforcement action. The City Attorney is authorized to collect the monetary penalty or costs by use of appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate the accrual of additional per diem monetary penalties so long as the violation continues. The city may incorporate any outstanding penalty or cost into an assessment lien, if the city incurs costs of abating the violation. Any monetary penalty assessed must be paid in full to the City within thirty (30) days from the date of service of an uncontested notice of civil violation or any order of the Hearing Examiner that assesses monetary penalties.

(2) Recovery of costs. The City shall bill its costs, including incidental expenses, of pursuing code compliance and/or of abating a violation to the person responsible for the violation and/or against the subject property. Such costs shall become due and payable 30 days after the date of the bill. The term "incidental expenses" shall include,

but not be limited to, personnel costs, both direct and indirect, including attorneys' fees incurred by the City; costs incurred in documenting the violation; the actual expenses and costs to the city in the preparation of notices, specifications and contracts, and in inspecting the work; hauling, storage and disposal expenses; the cost of any required printing and mailing; and interest. The City Manager or designee, or the Hearing Examiner, may in his or her discretion waive in whole or part the assessment of any costs upon a showing that abatement has occurred or is no longer necessary or that the costs would cause a significant financial hardship for the responsible party. Any challenge to the amount of the abatement costs must be made within 14 days of issuance of the bill and shall be heard by the City Manager in an informal hearing. The City Manager shall make a written determination as to whether or not the City's costs were accurate and necessary for accomplishing the abatement.

(3) Use of collection agency. Pursuant to Chapter 19.16 RCW, as currently enacted or hereafter amended, the City may, at its discretion, use a collection agency for the purposes of collecting penalties and costs assessed pursuant to this Chapter. The collection agency may add fees or interest charges to the original amount assigned to collections as allowed by law. No debt may be assigned to a collection agency until at least thirty (30) calendar days have elapsed from the time that the City attempts to notify the person responsible for the debt of the existence of the debt and that the debt may be assigned to a collection agency for collection if the debt is not paid. Notice of potential assignment to collections shall be made by regular first class mail to the last known address of the person responsible for the violation; provided that inability to ascertain a current mailing address shall not prohibit the debt from being assigned to collections.

(4) Assessment lien. If penalties or costs assessed against a property are not paid within 30 days, the City Clerk shall certify to the County Treasurer the confirmed amount for assessment on the tax rolls. 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 as provided in RCW 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. The lien shall be of equal rank with the state, county and municipal taxes. The validity of any assessment made under the provisions of this Chapter shall not be contested in any action or proceeding unless the same is commenced within 15 calendar days after the assessment is placed upon the assessment roll. The City Attorney may also file a lien for such costs against the real property.

(5) Continuing duty to abate violations. Payment of a monetary penalty or costs pursuant to this Chapter does not relieve the person responsible for the violation of the duty to correct or abate the violation. Additional notices of violation may be issued and/or criminal charges filed for continuing failure to correct or abate a violation.

1.15.210 Abatement.

(1) Abatement by City. The City may perform the abatement required upon noncompliance with the terms of an unappealed notice of violation, a voluntary correction agreement, or a final order of the Hearing Examiner. The City may utilize city employees or a private contractor under City direction to accomplish the abatement. The City, its employees and agents using lawful means are expressly authorized to enter upon the property of the violator for such purposes. Nothing in this Chapter shall prohibit the City from pursuing abatement of a violation pursuant to any other laws of the State of Washington or the City.

(2) Summary Abatement. Whenever any violation causes a condition, the continued existence of which constitutes an immediate threat to the public health, safety or welfare or to the environment, the City may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it shall be given to the person responsible for the violation as soon as reasonably possible after the abatement. No right of action shall lie against the City or its agents, officers, or employees for actions reasonably taken to prevent or cure any such immediate threats, but neither shall the City be entitled to recover any costs incurred for summary abatement, prior to the time that notice thereof is served on the person responsible for the violation as set forth in BMC 1.15.070.

(3) Obstruction with work prohibited. No person shall obstruct, impede or interfere with the City, its employees or agents, or any person who owns or holds any interest or estate in any property in the performance of any necessary act preliminary or incidental to carrying out the requirements of a notice of violation, voluntary correction agreement, or order of the Hearing Examiner issued pursuant to this Chapter.

1.15.220 Right of entry.

(1) When it is necessary to enforce the provisions of the Burien Municipal Code, or when a code enforcement officer has reasonable cause to believe that there exists in a building or upon a premises a condition that is contrary to or in violation of this Code, the code enforcement officer may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the code enforcement officer shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the code enforcement officer shall have recourse to the remedies provided by law to secure entry.

(2) Posted property. Where private property is posted with a "No Trespassing" sign and has a gate or chain on private property, or where private property is enclosed by a secured gate or chain (other than by a simple latching or closure device) a City employee shall not make entry beyond areas open to the public without the express permission of the property owner/resident or a court order. No employee shall be required to enter a posted or gated piece of property if the employee feels threatened, intimidated, or otherwise in fear of his or her personal safety.

(3) Employee identification. City employees shall carry identification cards while on duty. Any employee, when legitimately requested by the public, shall show the requesting party his/her identification card.

(4) Intimidation of employees. Threats, intimidation, or other violations of public peace directed against an employee engaged in the lawful action upon private property are unlawful and may subject that person and the owner of the property, as applicable, to legal action.

Section 2. Titles 2, 3, 5, 7, 8, 10, 12, 13, and 15 of the Burien Municipal Code are hereby amended by amending various enforcement sections as set forth in the attached Exhibit A.

Section 3. Effective Date. This Ordinance shall take effect five days after publication.

Section 4. 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.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF _____, 2012, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS ____ DAY OF _____, 2012.

CITY OF BURIEN

Brian Bennett, Mayor

AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Craig D. Knutson, City Attorney

Filed with the City Clerk: _____, 2012

Passed by the City Council: _____, 2012

Ordinance No. _____

Date of Publication: _____, 2012

EXHIBIT A

2.15.070 Duties of the examiner.

The examiner shall consider the matters set forth below.

(1) Applications and Appeals – Final Decision. The examiner shall receive and examine available information, conduct public hearings, prepare a record thereof, and enter findings of fact and conclusions based upon those facts, which conclusions shall represent the final action on the application, unless appealed, as specified herein, for the following type of applications and appeals:

(a) Applications.

(i) Applications for residential condominium binding site plan;

(ii) Applications for shoreline substantial development permits when combined with other land use applications pursuant to KCC 25.32.080.

(b) Appeals.

(i) Appeals from the decision of the director regarding short subdivisions;

(ii) Appeal of administrative decision on building permits, grading permits and temporary use permit pursuant to review of the zoning code;

~~(iii) Appeals from notices and orders issued pursuant to KCC Title 23 as adopted by reference;~~

~~(iv) Appeal from decisions of the director on requests for rate adjustments to surface and storm water management rates and charges.~~

(2) Applications – Recommendation to Council. Until such time as the planning commission is created and its duties and procedures are adopted, the examiner shall receive and examine available information, conduct public hearings, prepare a record thereof and enter findings of fact and conclusions, based upon those facts, together with a recommendation to the city council, for the following applications:

(a) Applications for preliminary plats;

(b) Applications for shoreline environment redesignation.

(3) The examiner shall act as the board of appeals ~~and the hearing examiner~~ for the purposes of the building and construction codes adopted in BMC Title 15.

(4) Other applications or appeals which the council may prescribe by ordinance.

(5) Hearings related to Chapter 1.15 BMC.

2.15.110 Appeals.

Other than matters arising under Chapter 1.15 BMC, when When an appeal has been filed with the director or city clerk as prescribed by ordinance, the hearing shall be scheduled pursuant to the appeal procedures set forth in Chapter 2.20 BMC. [Ord. 61 § 11, 1993]

2.15.120 Public hearing.

(1) Before rendering a decision or recommendation on any application or appeal, other than one arising under Chapter 1.15 BMC, the examiner shall hold at least one public hearing thereon.

(2) Notification of the time and place of the public hearing shall be given as provided in the ordinance governing the application. If none is specifically set forth, such notice shall be given as follows:

(a) Published and posted notice at least 10 days prior to scheduled hearing; and

(b) Mailed notice to all parties of record at least 10 day prior to scheduled hearing. [Ord. 61 § 12, 1993]

3.06.220 Unlawful actions – Violations – Penalties

(1) It shall be unlawful for any person liable for fees under this chapter (or other chapters as listed):

(a) To violate or fail to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the director;

(b) To make any false statement on any license application or tax return;

(c) To aid or abet any person in any attempt to evade payment of a license fee or tax;

(d) To fail to appear or testify in response to a subpoena issued in accordance with state law;

(e) To testify falsely in any investigation, audit, or proceeding conducted pursuant to this chapter.

(2) Violation of any of the provisions of this chapter is a gross misdemeanor. ~~Any person convicted of a violation of this chapter may be punished by a fine not to exceed \$1,000, imprisonment not to exceed one year, or both fine and imprisonment. Penalties or punishments provided in this chapter shall be in addition to all other penalties provided by law.~~

(3) Any person, or officer of a corporation, convicted of continuing to engage in business after the revocation of a license shall be guilty of a gross misdemeanor ~~and may be punished by a fine not to exceed \$5,000, or imprisonment not to exceed one year, or both fine and imprisonment.~~

3.10.060 Penalties.

It is unlawful for any seller to fail or refuse to collect taxes with intent to violate the provisions of BMC 3.10.010 and 3.10.020, or to gain some advantage or benefit, whether direct or indirect, or for any buyer to refuse to pay any tax due under the provisions of BMC 3.10.010 and 3.10.020. Any such violation shall constitute a misdemeanor ~~and shall be punished by a fine not exceeding \$1,000 or by imprisonment for any term not exceeding 180 days, or both.~~

3.10.130 Penalties.

It is unlawful for any seller to fail or refuse to collect taxes with intent to violate the provisions of BMC 3.10.080 and 3.10.090 or to gain some advantage or benefit, whether direct or indirect, or for any buyer to refuse to pay any tax due under the provisions of BMC 3.10.080 and 3.10.090. Any such violation shall constitute a misdemeanor ~~and shall be punished by a fine not exceeding \$1,000 or by imprisonment for any term not exceeding 180 days, or both.~~

5.55.300 Penalty for violations.

Any person who violates or fails to comply with any requirement of this chapter shall be guilty of a gross misdemeanor. ~~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.~~

5.62.090 License – Ground for suspension or revocation.

The city manager or designee may deny, suspend or revoke a rental housing 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 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 operation of rental housing;

(4) The licensee is causing or permitting a public nuisance to exist;

- (5) The licensee, or licensee's employees or agents, have engaged in, have permitted or have acquiesced in unlawful activity on the business premises;
- (6) The licensee currently owes a civil penalty or is currently in noncompliance with any notice and order of the city clerk with regard to a violation of this chapter; or
- (7) The licensee's continued operation of rental housing will, for any other reason, result in substantial danger to the public health, safety or welfare. [Ord. 322, § 10, 2001]

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. 3 [Ord. 543 § 1 (Exh. A), 2010; Ord. 11 § 11, 1993] which violation shall constitute a gross misdemeanor.

6.40.200 Penalty Enforcement.

Violation of this chapter shall constitute a civil infraction, punishable by a civil fine not to exceed \$2,000. [Ord. 543 § 1 (Exh. A), 2010; Ord. 207 § 2, 1997] be enforced as provided in Chapter 1.15 of the Burien Municipal Code.

7.40.020 Criminal violation.

Any person who violates BMC 7.30.230, 7.30.240 or 7.30.320 is guilty of a misdemeanor and shall be subject to a maximum fine of \$1,000 or imprisonment for no more than 90 days or to both such fine and imprisonment. Any person who violates BMC 7.30.270 or BMC 7.30.330 and the damage to the property is in an amount exceeding \$250.00 is guilty of a gross misdemeanor and shall be subject to a maximum fine of \$5,000 or imprisonment for no more than 365 days or to both such fine and imprisonment, and in all other cases shall be guilty of a misdemeanor and shall be subject to a maximum fine of \$1,000 or imprisonment for no more than 90 days or to both such fine and imprisonment. Any person who violates BMC 7.30.330 shall be guilty of a gross misdemeanor and shall be subject to a maximum fine of \$5,000 or imprisonment for no more than 365 days or to both such fine and imprisonment. [Ord. 475 § 2, 2007]

8.05.030 Enforcement – Penalty.

The director of the Seattle-King County department of public health, the director of the King County department of public health, and city personnel occupying similar positions and authorities are authorized to enforce the provisions of this title, and any rules and regulations promulgated hereunder, and any applicable United States statutes, and any person violating any provision of this title shall, upon conviction, be guilty of a gross misdemeanor, violating a city ordinance, and shall be punished by a fine not to exceed \$5,000 or imprisonment for a term not to exceed one year, or both, and each day during which such violation continues shall be considered an additional violation.

8.45.015 Declaration of nuisance.

All violations of city of Burien ordinances are found and declared to be detrimental to the public health, safety, and welfare and are further found and declared to be nuisances. It is unlawful and a violation of this chapter, whether by act or omission, to cause, create, maintain, suffer, or allow a nuisance to occur, exist, or remain. Each day any person allows or fails to abate such nuisance after notice shall constitute a separate violation. Nuisances create public harm. Prevention and correction of nuisances are necessary to prevent public harm. For purposes of this chapter, "public nuisances" and "private nuisances" shall have the same meaning. [Ord. 383 § 1, 2003; Ord. 146 § 1, 1995]

8.45.020 Definitions.

As used in this chapter, unless a different meaning is plainly required:

- (1) "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a civil violation by such means, in such a manner, and to such an extent as the applicable department director determines is necessary in the interest of the general health, safety and welfare of the community.

(1) "Act" means doing or performing something.

~~(3) "Administrative notice of violation" means the notice of violation issued pursuant to BMC 8.45.035.~~

(2) "Applicable department director" means the city manager or his designee, including any department director or other designee, empowered by ordinance or by the city manager to enforce a city ordinance or regulation.

~~(5) "Civil violation" means a violation for which a monetary penalty may be imposed as specified in this chapter. Each day or portion of a day during which a violation occurs or exists is a separate violation.~~

(3) "Development" means the erection, alteration, enlargement, demolition, maintenance or use of any structure or the alteration or use of any land above, at or below ground or water level, and all acts authorized by a city regulation.

~~(7) "District court" shall mean the King County District Court, South Division.~~

(4) "Emergency" means a situation which in the opinion of the applicable department director requires immediate action to prevent or eliminate an immediate threat to the health or safety of persons or property.

(5) "Nuisance" (also referred to herein as "violation" or "nuisance violation") means:

(a) A violation of any city of Burien ordinance;

(b) Doing an act, omitting to perform any act or duty, or permitting or allowing any act or omission, which annoys, injures, or endangers the comfort, repose, health or safety of others, is unreasonably offensive to the senses, or which obstructs or interferes with the free use of property so as to interfere with or disrupt the free use of that property by any lawful owner or occupant; or

(c) The existence, without limitation, of any of the following conditions:

(i) Trash Covered Premises. Any premises containing trash or abandoned materials, except that kept in garbage cans or containers maintained for regular collection;

(ii) Dangerous Structures. Any dangerous, decaying, unkempt, falling or damaged dwelling, fence, or other structure;

(iii) 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;

(iv) Junk Vehicles. Any wrecked, inoperable, abandoned or disassembled trailer, house trailer, boat, tractor, automobile or other vehicle, or any parts thereof. A junk vehicle includes apparently inoperable, immobile, disassembled or extensively damaged vehicles. Evidence of inoperability and damage includes, but is not limited to, a buildup of debris that obstructs use, a broken window or windshield, a

missing wheel, a flat tire, a nonfunctional motor or transmission, missing bumpers, or missing license plates; provided nothing herein shall prevent the keeping or storage of any vehicle on private property which is screened from view;

(v) Attractive Nuisances. 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;

(vi) Obstructions to the Public Right-of-Way. Use of property abutting a public street or sidewalk or use of a public street or sidewalk which causes any obstruction to traffic or to open access to the streets or sidewalks; provided, that this subsection shall not apply to events, parades, or the use of the streets or public rights-of-way when authorized by the city. This section includes the existence of drainage onto or over any sidewalk, street or public right-of-way, and the existence of any debris or plant growth on sidewalks adjacent to any property;

(vii) Vegetation. Any noxious or toxic weed or uncultivated plant, weeds or tall grass which may be a fire hazard, or any tree which is in danger of falling and creates a substantial risk of damage or injury;

(viii) Illegal Dumping. Dumping of any type by any person on public or private property not registered as a legal dump site; and

(ix) Dumping in Waterways. Dumping, depositing, placing or leaving of any garbage, ashes, debris, gravel, earth, rock, stone or other material upon the banks, channels, beds or bars of any navigable water, or the felling of any tree or trees, so that the same shall in whole or in part project within the high water bank of any navigable watercourse, or the casting, placing, depositing or leaving of any logs, roots, snags, stumps or brush upon the banks or in the bed or channel of any navigable watercourse.

(6) "Omission" means a failure to act.

(11) "Person" means any individual, firm, association, partnership, corporation or any entity, public or private.

(12) "Person responsible for the violation" means any person who has an interest in or resides on the property, whether as owner, tenant, occupant, or otherwise.

(13) "Repeat violation" means a violation of the same regulation in any location by the same person, for which voluntary compliance previously has been sought or a notice of civil violation has been issued, within the immediately preceding 12 consecutive month period.

(14) "Superior Court" shall mean the Washington State Superior Court for King County. [Ord. 383 § 1, 2003; Ord. 146 § 1, 1995]

8.45.030 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). [Ord. 383 § 1, 2003; Ord. 146 § 1, 1995]

8.45.035 Administrative notice and order.

(1) Effect.

(a) An administrative notice of violation represents a determination that a civil code violation has occurred, that the cited party is a person responsible for code compliance, and that the violations set out in the administrative notice of violation require the assessment of penalties and costs and other remedies specified in the administrative notice of violation.

(b) Failure to correct the civil code violation in the manner prescribed by the administrative notice of violation subjects the person to whom the administrative notice of violation is directed to the use of any of the compliance remedies provided by this title, including:

(i) Additional civil penalties and costs;

(ii) A requirement that abatement, remediation and/or mitigation be performed;

(iii) Abatement by a director and recovery of the costs of abatement under BMC 8.45.060; or

(iv) Any other legal or equitable remedy within this chapter or at law.

(e) Any person identified in the administrative notice of violation as responsible for code compliance may appeal the administrative notice of violation by filing a written notice of appeal with the city clerk no more than 10 days following the date of the administrative notice of violation along with a \$100.00 filing fee. The appellant must include in the notice of appeal concise statements indicating the reasons why the administrative notice of violation is in error. This requirement that the notice of appeal contain concise reasons for the appeal is jurisdictional, and upon motion of the city attorney, the hearing examiner shall dismiss appeals failing to comply with the requirements in this section regarding content of the notice of appeal. Appeals before the hearing examiner shall be scheduled and conducted as set forth in BMC 2.20.070. For purposes of the appeal hearing before the hearing examiner, the appellant bears the burden of establishing, by a preponderance of the evidence, that the appellant has not violated the applicable ordinances and regulations of the city of Burien. Should the appellant not prevail on appeal before the

hearing examiner, the appellant shall reimburse the city the hearing examiner's fees for conducting the appeal hearing.

(d) Failure to appeal the administrative notice of violation within the applicable time limits shall render the administrative notice of violation a final determination that the conditions described in the administrative notice of violation existed and constituted a civil code violation, and that the named party is liable as a person responsible for code compliance.

(e) Issuance of an administrative notice of violation in no way limits a director's authority to issue a stop work order to a person previously cited through the administrative notice of violation process pursuant to this title, or to pursue any of the other remedies for compliance set forth in this chapter. Payment of the civil penalties assessed under the administrative notice of violation does not relieve a person found to be responsible for code compliance of his or her duty to correct the violation and/or to pay any and all civil fines or penalties accruing under this chapter.

(2) Contents. The administrative notice of violation shall include the following:

- (a) The name and address of the person responsible for code compliance; and
- (b) The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
- (c) A description of the violation and a reference to the provision(s) of the city regulation(s) which has been violated; and
- (d) The required corrective action and a date and time by which the correction must be completed after which the city may abate the unlawful condition in accordance with BMC 8.45.060; and
- (e) A statement specifying the amount of any civil penalty assessed on account of the violation and, if applicable, the conditions on which assessment of such civil penalty is contingent; and
- (f) Statements advising that:

(i) If any required work is not commenced or completed within the time specified, a director will proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property and as a joint and separate personal obligation of any person in violation;

(ii) If the date for compliance is to be extended, such request for an extension must be made, in writing, to the department within three days of the date of the administrative notice of violation;

(iii) If any assessed civil penalty is not paid, a director will charge the amount of the penalty as a lien against the property and as a joint and separate personal obligation of any person in violation; and

(iv) A statement advising that the order shall become final, unless, no later than 10 days after the notice and order are served, any person aggrieved by the order requests in writing an appeal before the city of Burien hearing examiner pursuant to subsection (1) of this section.

(3) Service of Administrative Notice of Violation. The city shall serve the administrative notice of violation upon the person responsible for code compliance, either personally or by mailing a copy of the notice of civil violation by certified or registered mail, return receipt requested, to such person at their last known address. If the person responsible for code compliance cannot be personally served within King County and if an address for mailed service cannot be ascertained, notice shall be served by posting a copy of the notice of civil violation conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made and, if by posting, the facts showing the attempts to serve the person personally or by mail.

(4) Extension. Extensions of the time specified in the administrative notice of violation for correction of the violation may be granted at the discretion of the applicable department director; provided, however, that should a person in violation desire to extend the time by which compliance is required as stated in the administrative notice of violation, such a request must be made to the department in writing within three days of the date of the administrative notice of violation; the department has the authority to deny the request.

(5) Monetary Penalty. The monetary penalty to be imposed concurrent with the notice of administrative violation shall be \$100.00. The city may waive the monetary penalty if corrective action is completed by the date specified in the notice of administrative violation. If corrective action is not completed by the date specified in the notice of administrative violation, the \$100.00 shall remain in effect. The notice of administrative violation shall contain a second deadline for compliance to be established by the department. If the corrective action is not completed by the second deadline, the penalty shall increase to \$250.00. The notice of administrative violation shall contain a third

deadline for compliance. If the corrective action is not completed by the third deadline, the penalty shall increase to \$500.00. The department shall have the discretion to impose penalties in an amount lower than those shown above.

(6) ~~Continued Duty to Correct.~~ Payment of a monetary penalty pursuant to this chapter does not relieve the person to whom the notice of civil violation was issued of the duty to correct the violation.

(7) ~~Collection of Monetary Penalty.~~

(a) ~~The monetary penalty constitutes a personal obligation of the person to whom the administrative notice of violation is directed. Any monetary penalty assessed must be paid to the city within 10 calendar days from the date the penalty is imposed pursuant to the notice of administrative violation. Any such monetary penalty shall further constitute a lien against the affected real property, in the manner as set forth in BMC 8.45.060(6).~~

(b) ~~The city attorney is authorized to pursue any legal or equitable action to collect the monetary penalty, including referring the action to a collection agency.~~

(8) ~~Recording.~~

(a) ~~Whenever an administrative notice of violation is served on a person responsible for code compliance, the city attorney shall cause to have recorded a copy of the administrative notice of violation with the King County records and elections division, or its successor agency.~~

(b) ~~When all violations specified in the administrative notice of violation have been corrected or abated, the city attorney shall cause to have recorded a certificate of compliance with the King County records and elections division, or its successor agency. The certificate shall include a legal description of the property where the violation occurred and shall state that any unpaid civil penalties for which liens have been recorded are still outstanding and continue as liens on the property.~~

(9) ~~Supplementation, Revocation, Modification.~~

(a) ~~Whenever there is new information or a change in circumstances, a director may add to, rescind in whole or part or otherwise modify an administrative notice of violation by issuing a supplemental notice and order. The supplemental administrative notice of violation shall be governed by the same procedures applicable to all administrative notice of violations contained in this title.~~

(b) ~~A director may revoke or modify an administrative notice of violation issued under this title if the original notice and order was issued in error or if a party to an order was incorrectly named. The revocation or modification shall identify the reasons and underlying facts for revocation and shall be recorded with the King County records and elections division, or its successor agency.~~

(10) ~~Administrative Conference.~~ An informal administrative conference may be conducted by a director at any time for the purpose of facilitating communication among concerned persons and providing a forum for efficient resolution of any violation. Interested parties shall not unreasonably be excluded from such conferences.

(11) ~~Remedies — Civil Penalties — Authority and General Provisions.~~

(a) ~~Failure to correct a civil code violation in the manner and within the time frame specified by the administrative notice of violation subjects the person responsible for code compliance to civil penalties as set forth in BMC 8.45.040(5).~~

(b) ~~Civil penalties assessed create a joint and several personal obligations in all persons responsible for code compliance. The city attorney may collect the civil penalties assessed by any appropriate legal means.~~

(c) ~~Civil penalties assessed also authorize the city of Burien to take a lien for the value of civil penalties imposed against the real property of the person responsible for code compliance.~~

(d) ~~The payment of penalties does not relieve a person responsible for code compliance of any obligation to cure, abate or stop a violation.~~

(12) ~~Remedies — Cost Recovery.~~

(a) ~~In addition to the other remedies available under this title, a director may charge the costs of pursuing code compliance and abatement incurred to correct a code violation to the person responsible for code compliance, including legal and incidental expenses to the extent these costs exceed the amount of the penalty paid. Such costs are due and payable 30 days from mailing of the invoice.~~

(b) ~~For purposes of this section, "legal and incidental expenses" shall include but are not limited to:~~

(i) ~~Personnel costs, both direct and indirect, including attorney's fees and costs incurred to document the violation as soon as the violation occurs;~~

(ii) ~~Hauling, storage and disposal expenses;~~

(iii) Actual expenses and costs of the city in preparing notices, specifications and contracts and in accomplishing or contracting and inspecting the work and the costs of any required printing or mailing; and

(iv) Interest on the costs of abatement incurred by the city.

(c) All costs assessed by the city in pursuing code compliance and/or abatement create a joint and several personal obligation in all persons responsible for code compliance. The city attorney may collect the costs of code compliance efforts by any appropriate legal means.

(d) The city of Burien may take a lien for the value of the costs of pursuing code compliance against the real property of the person responsible for code compliance.

(13) Remedies—Abatement—Authorized. In addition to or as an alternative to any other judicial or administrative remedy, a director may use the administrative notice of violation provisions of this title to order any person responsible for code compliance to abate the violation and to complete the work at such time and under such conditions as a director determines reasonable under the circumstances. If the required corrective work is not commenced or completed within the time specified, a director may proceed to abate the violation pursuant to BMC 8.45.060. [Ord. 383 § 1, 2003]

8.45.040 Filing of nuisance abatement action in district court.

(1) Issuance.

(a) When the applicable department director determines that a violation has occurred or is occurring, the department director may cause the city attorney to issue a notice and order of civil violation and summons to the person responsible for the violation.

(b) The notice and order of civil violation and summons may issue without the city having attempted to secure voluntary correction as provided in BMC 8.45.030 at the discretion of the department director.

(2) Content. The notice and order of civil violation and summons shall include the following:

(a) The name and address of the person responsible for that violation; and

(b) The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and

(c) A description of the violation and a reference to the provision(s) of the city regulation(s) which has been violated; and

(d) The required corrective action and a date and time by which the correction must be completed after which the city may abate the unlawful condition in accordance with BMC 8.45.060; and

(e) The date, time and location of an appeal hearing before a judge, judge pro tem, or commissioner of the district court which will be at least 20 days but no more than 60 days from the date the notice of civil violation is issued, unless such date is continued by the district court for good cause shown; and

(f) A statement indicating that the hearing will be canceled and no monetary penalty will be assessed, other than the district court filing fee, if the applicable department director approves the completed, required corrective action prior to the hearing; and

(g) A statement that the costs and expenses of abatement incurred by the city pursuant to BMC 8.45.060(4), and a monetary penalty in an amount per day for each violation as specified in subsection (5) of this section, may be assessed against the person to whom the notice of civil violation is directed as specified and ordered by the district court.

(3) Service of Notice and Order of Civil Violation and Summons. The city shall serve the notice and order of civil violation and summons upon the person responsible for code compliance, either personally or by mailing a copy of the notice of civil violation by certified or registered mail, return receipt requested, to such person at their last known address. If the person responsible for code compliance cannot be personally served within King County and if an address for mailed service cannot be ascertained, notice shall be served by posting a copy of the notice of civil violation conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person affecting the service, declaring the time and date of service, the manner by which the service was made and, if by posting, the facts showing the attempts to serve the person personally or by mail.

(4) Extension. Extensions of the time specified in the notice and order of civil violation and summons for correction of the violation may be granted at the discretion of the applicable department director or by order of the district court.

(5) **Monetary Penalty.** The monetary penalty for each violation shall be \$100.00, which shall increase to \$250.00 if the violation is not corrected within seven days prior to the district court hearing, and which shall increase to \$500.00 if the violation is not corrected by the date of the scheduled hearing in district court.

(6) **Continued Duty to Correct.** Payment of a monetary penalty pursuant to this chapter does not relieve the person to whom the notice and order of civil violation and summons was issued of the duty to correct the violation.

(7) **Collection of Monetary Penalty.**

(a) The monetary penalty constitutes a personal obligation of the person to whom the notice and order of civil violation and summons is directed. Any monetary penalty assessed must be paid to the city within 10 calendar days from the date of mailing of the district court's decision or a notice from the city that penalties are due. Any such monetary penalty shall further constitute a lien against the affected real property, in the manner as set forth in BMC 8.45.060(6). Payment of the monetary penalty does not relieve the person responsible for code compliance of the duty to correct the violation.

(b) The city attorney is authorized to take appropriate action to collect the monetary penalty. [~~Ord. 383 § 1, 2003; Ord. 146 § 1, 1995~~]

8.45.050 Hearing before the district court.

(1) **Notice.** A person to whom a notice of civil violation is issued will be scheduled to appear before the district court not less than 20 calendar days nor more than 60 calendar days after the notice of civil violation is issued. Continuances may be granted at the discretion of the applicable department director, or by the district court for good cause shown.

(2) **Prior Correction of Violation.** The hearing will be canceled and no monetary penalty will be assessed; other than the district court filing fee, if the applicable department director approves the completed required corrective action prior to the scheduled hearing.

(3) **Procedure.** The district court shall conduct a hearing on the civil violation pursuant to the then current applicable rules of civil procedure for district courts of limited jurisdiction. The applicable department director and the person to whom the notice of civil violation was directed may participate as parties in the hearing and each party may call witnesses. The city shall have the burden of proof to demonstrate by a preponderance of the evidence that a violation has occurred and that the required corrective action is reasonable under the circumstances. The determination of the applicable department director as to the need for the required corrective action shall be accorded substantial weight by the court in determining the reasonableness of the required corrective action.

(4) **Decision of the District Court.**

(a) The district court shall determine whether the city has established by a preponderance of the evidence that a violation has occurred and that the required correction is reasonable under the circumstances, and shall affirm, vacate, or modify the city's decisions regarding the alleged violation and/or the required corrective action, with or without written conditions.

(b) The district court shall issue an order to the person responsible for the violation which contains the following information:

(i) The decision regarding the alleged violation including findings of fact and conclusions based thereon in support of the decision;

(ii) The required corrective action;

(iii) The date and time by which the correction must be completed;

(iv) The monetary penalties assessed based on the criteria in subsection (4)(c) of this section; and

(v) The date and time after which the city may proceed with abatement of the unlawful condition if the required correction is not completed.

(c) **Assessment of Monetary Penalty.** Monetary penalties assessed by the district court shall be in accordance with the monetary penalty in BMC 8.45.040(5).

(i) The district court shall have the following options in assessing monetary penalties.

(A) Assess monetary penalties beginning on the date the notice of civil violation was issued and thereafter; or

(B) Assess monetary penalties beginning on the correction date set by the applicable department director or an alternate correction date set by the district court and thereafter; or

(C) Assess less than the established monetary penalty set forth in BMC 8.45.040(5), based on the criteria of subsection (4)(c)(ii) of this section; or

(D) Assess no monetary penalties.

(ii) In determining the monetary penalty assessment, the district court shall consider the following factors:

(A) Whether the person responded to staff attempts to contact the person, and cooperated to correct the violation;

(B) Whether the person failed to appear at the hearing;

(C) Whether the violation was a repeat violation;

(D) Whether the person showed due diligence and/or substantial progress in correcting the violation;

(E) Whether a genuine, "close call" code interpretation issue exists; and

(F) Any other relevant factors.

(iii) The district court may double the monetary penalty schedule if the violation was a repeat violation. In determining the amount of the monetary penalty for repeat violations the district court shall consider the factors set forth in subsection (4)(c)(ii) of this section.

(5) Failure to Appear. If the person to whom the notice of civil violation was issued fails to appear without lawful excuse at the scheduled hearing, the district court will enter an order with findings pursuant to subsection (4)(b) of this section and assess the appropriate monetary penalty pursuant to subsection (4)(c) of this section. The city may enforce the district court's order and recover all related expenses, including attorney fees, plus the costs of the hearing and any monetary penalty from that person.

(6) Appeal to Superior Court. Any appeal of the decision of the district court shall be prosecuted pursuant to the then current Rules for Appeal from Courts of Limited Jurisdiction (RALJ). [Ord. 383 § 1, 2003; Ord. 146 § 1, 1995]

8.45.060 Abatement by the city.

(1) The city may abate a condition which was caused by or continues to be a civil violation when:

(a) The terms of voluntary correction agreement pursuant to BMC 8.45.030 have not been met; or

(b) An administrative notice of violation has been issued pursuant to BMC 8.45.035 and the required correction has not been completed by the date specified in the administrative notice of violation; or

(c) A notice and order of civil violation and summons has been issued pursuant to BMC 8.45.040 and a hearing has been held pursuant to BMC 8.45.050 and the required correction has not been completed by the date specified in the district court's order; or

(d) The condition is subject to summary abatement as provided for in subsection (2) of this section.

(2) Summary Abatement. Whenever any nuisance causes a condition, the continued existence of which constitutes an immediate threat to the public health, safety or welfare or to the environment, the city may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it shall be given to the person responsible for the violation as soon as reasonably possible after the abatement. No right of action shall lie against the city or its agents, officers, or employees for actions reasonably taken to prevent or cure any such immediate threats, but neither shall the city be entitled to recover any costs incurred for summary abatement, prior to the time that actual notice of same is provided to the person responsible for the violation.

(3) Authorized Action by the City. Using any lawful means, the city may enter upon the subject property and may remove or correct the condition which is subject to abatement. The city may seek such judicial process as it deems necessary to effect the removal or correction of such condition.

(4) Recovery of Costs and Expenses. The costs, including incidental expenses, of correcting the violation shall be billed to the person responsible for the violation and/or the owner, lessor, tenant or other person entitled to control, use and/or control of the property and shall become due and payable to the city within 10 calendar days. The term

“incidental expenses” includes but is not limited to personnel costs, both direct and indirect and including attorney’s fees; costs incurred in documenting the violation; hauling, storage and disposal expenses; and actual expenses and costs of the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; and the costs of any required printing and mailing. All such costs and expenses shall constitute a lien against the affected property, as set forth in subsection (6) of this section.

(5) Interference. Any person who knowingly obstructs, impedes, or interferes with the city or its agents, or with the person responsible for the violation in the performance of duties imposed by this chapter, shall be guilty of a misdemeanor punishable by imprisonment not exceeding 90 days and a fine not exceeding \$1,000.

(6) Lien – Authorized. The city of Burien shall have a lien for any monetary penalty imposed, the cost of any abatement proceedings under this chapter, and all other related costs including attorney and expert witness fees, against the real property on which the monetary penalty was imposed or any of the work of abatement was performed. The lien shall be subordinate to all previously existing special assessment liens imposed on the same property and shall be superior to all other liens, except for state and county taxes, with which it shall be on a parity.

(a) The applicable department director shall cause a claim for lien to be filed for record within 90 days from the later of the date that the monetary penalty is due or the date the work is completed or the nuisance abated.

(b) The claim of lien shall contain sufficient information regarding the notice of civil violation, as determined by the applicable department director, a description of the property to be charged with the lien and the owner of record, and the total amount of the lien.

(c) Any such claim of lien shall be verified by the applicable department director, and may be amended from time to time to reflect changed conditions.

(d) No such liens shall bind the affected property for a period longer than five years, without foreclosure or extension agreed to by the property owner. [Ord. 383 § 1, 2003; Ord. 146 § 1, 1995]

8.45.080 Conflicts.

In the event of a conflict between this chapter and any other provision of the Burien Municipal Code or other city ordinance providing for a civil penalty, this chapter shall control. [Ord. 383 § 1, 2003; Ord. 146 § 1, 1995]

8.45.070 Enforcement procedures.

This chapter shall be enforced as provided in Chapter 1.15 of the Burien Municipal Code. The provisions of this chapter are not exclusive and may be used in addition to other enforcement provisions authorized by the Burien Municipal Code except as precluded by law.

8.55.030 Graffiti prohibited.

It shall be unlawful for any person to write, paint or draw upon any wall, rock, bridge, building, fence, gate, signage or other structure, tree or other real or personal property, either publicly or privately owned, any drawing, inscription, figure or mark of the type which is commonly known and referred to as “graffiti” within the city without permission from the city.

Violation of any of the provisions of this section shall constitute a gross misdemeanor, and may be punished by a fine of up to \$5,000 and a jail term not in excess of one year. [Ord. 270 § 4, 1999]

8.55.050 City costs enforceable – Debt – Lien.

Any and all costs incurred by the city in the abatement of the graffiti nuisance as provided in this chapter shall be recoverable pursuant to Chapter 1.15 BMC constitute a debt owed to the city by the property owner and shall be enforceable as a lien against the property upon which such nuisance existed, in addition to the other legal remedies available for enforcement of debts. [Ord. 270 § 6, 1999]

8.55.060 Appeal.

Within 14 calendar days from the mailing or from personal service of the notice of intent to remove graffiti, the owner or person occupying or managing the premises affected may appeal the matter to the hearing examiner serving the city. Appeals will be governed by the provisions of Chapter 1.15 BMC Chapter 2.20 BMC. [Ord. 312 § 10, 2000; Ord. 270 § 7, 1999]

10.10.010 Regulation of vehicle impoundment and redemption – Adopted by reference.

(1) Chapter 46.08 KCC, Impoundment and Redemption of Certain Vehicles, as now in effect and as may subsequently be amended is adopted in its entirety, except that unless the context indicates otherwise, the words “county” or “King County” shall refer to the city and references to violations of the county code or of a county ordinances shall be deemed to be references to violations of a city ordinances, ~~subject to punishment by fine of not more than \$5,000 or imprisonment for a term not to exceed one year, or both, which shall constitute a gross misdemeanor.~~

(2) To the extent necessary or convenient to implement this chapter, the administrative hearing officers appointed pursuant to KCC 46.08.100 or otherwise, are appointed as agents for the city of Burien to conduct any applicable hearings on Burien’s behalf. [Ord. 43 § 1, 1993]

10.11.050 Enforcement procedure.

The enforcement procedure for this chapter shall be the enforcement procedure set out in Chapter 8.45 1.15 BMC. [Ord. 492 § 1, 2008]

12.17.050 Definitions.

The following words and phrases when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

(1) ~~“Administrative notice of violation means a letter from the city to a right of way use permittee notifying the recipient of specific nonconforming or unsafe conditions and specifying the date by which corrective action must be taken.~~

(1) “Citation and notice” means a written document initiating a criminal proceeding after an arrest and issued by an authorized peace officer, in accordance with the Criminal Rules for Courts of Limited Jurisdiction.

(2) “City” means the city of Burien, Washington.

(3) “City inspector” means the designated employee(s) of the department responsible for inspecting the installation of warning and safety devices in the public right-of-way and restoration of public rights-of-way disturbed by work.

(4) “Complaint” means a written document certified by the prosecuting attorney initiating a criminal proceeding in accordance with the Criminal Rules for Courts of Limited Jurisdiction.

(5) “Department” means the public works department or other department designated by the city manager.

(6) “Director” means the director of the public works department, or his/her designated representative, or other person designated by the city manager.

(7) “Emergency” means a condition of imminent danger to the health, safety, and welfare of property or persons located within the city including, but not limited to, damage to persons or property from natural or manmade consequences, such as storms, earthquakes, riots or wars.

(8) “Franchised utilities” means utilities that have city approval to use city rights-of-way for the purpose of providing their services within the city, whether by written franchise or other agreement granted by the city.

(9) “Nonprofit” means not for a monetary gain unless for charitable purposes.

(10) “Oral directive” means a directive given orally by city personnel to correct or discontinue a specific condition.

(11) “Permit” means a document issued by the city granting permission to engage in an activity not allowed without a permit.

(12) “Permit center” means the central location for applying for permits.

(13) “Person” means and includes corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies and individuals and includes their lessors, trustees and receivers.

(14) "Private use" means use of the public right-of-way for the benefit of a person, partnership, group, organization, company, or corporation, other than as a thoroughfare for any type of vehicles, pedestrians or equestrians.

(15) "Procedure" means a procedure adopted by the director to implement this code, or to carry out other responsibilities as may be required by this code or by other codes, ordinances, or resolutions of the city or other agencies.

(16) "Right-of-way" means all public streets and property granted or reserved for, or dedicated to, public use for street purposes, together with public property granted or reserved for, or dedicated to, public use for walkways, paths, trails, sidewalks, bikeways and horse trails, whether improved, unimproved, or unopened, including the air rights, sub-surface rights and easements related thereto.

(17) "Right-of-way use permit" or "permit" means a permit for use of the right-of-way issued in conformance with BMC 12.17.080.

(18) "Stop work order" means a notice posted at the site of activity that requires all work to be stopped until the city approves continuation of work.

(19) "Telecommunications carrier" means every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of offering and providing telecommunications or cable services.

(20) "Telecommunications facilities" means the plant, equipment and property, including but not limited to cables, wires, conduits, ducts, fiber optic cable, pedestals, antennas, electronics, poles, and other appurtenances used or to be used to transmit, receive, distribute, provide or offer telecommunications or cable services.

(21) "Telecommunications provider" means every person who provides telecommunications or cable services over telecommunications facilities without any ownership or management control of the facilities.

(22) "Telecommunications service(s)" means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit of any closed transmission medium.

(23) "Underground location service" means the underground utilities location center that will locate all underground utilities prior to an excavation.

(24) "Unsafe condition" means any condition which the director determines is a hazard to health, or endangers the safe use of the right-of-way by the public, or does or may impair or impede the operation or functioning of any portion of the right-of-way, or which may cause damage thereto. [Ord. 395 § 2, 2004]

12.17.110 Correction and discontinuance of unsafe, nonconforming, or unauthorized conditions.

(1) Whenever the director determines that any condition on any right-of-way is in violation of, or any right-of-way is being used contrary to any provision of this code or procedures adopted hereunder or other applicable codes or standards, or without a right-of-way use permit, the director may order the correction or discontinuance of such condition or any activity causing such condition.

(2) The director is authorized to order correction or discontinuance of any such condition or activities following the methods specified in any of the procedures adopted pursuant to this code or pursuant to Chapter 8.45.15 BMC.

(3) The director shall also have all powers and remedies which may be available under state law, this code, and procedures adopted hereunder for securing the correction or discontinuance of any condition specified in this section.

(4) The director is authorized to use any or all of the following methods in ordering correction or discontinuance of any such conditions or activities as the director determines appropriate including but not necessarily limited to:

(a) Serving of oral or written directives to the permittee or other responsible person requesting immediate correction or discontinuance of the specified condition;

(b) Service of a ~~written administrative notice of civil violation~~ pursuant to BMC 8.45.035 15.120, ordering correction or discontinuance of a specific condition or activity within any reasonable period as the director may determine;

(c) Service of a ~~summons and notice of order of violation~~ civil infraction filed in the King County District Court, District South pursuant to Chapter 8.45 1.15 BMC;

(d) Revocation of previously granted permits where the permittee or other responsible person has failed or refused to comply with requirements imposed by the city related to such permits;

(e) Issuance of a stop work order to immediately stop work until authorization is received from the city to proceed with such work;

(f) Service of summons and complaint certified by the city prosecutor prosecuting attorney or a citation and notice to appear by an arresting peace officer upon the permittee or other responsible person who is in violation of this or other city ordinances;

(g) Any object or thing which shall occupy any right-of-way without a permit is declared a nuisance per Chapters 8.45 and 9.75 BMC. The department may attach a notice to any such object or thing stating that if it is not removed from the right-of-way within 24 hours of the date and time stated on the notice, the object or thing may be taken into custody and stored at the owner's expense. The notice shall provide an address and phone number where additional information may be obtained. If the object or thing is a hazard to public safety, it may be removed summarily by the city. Notice of such removal shall be thereafter given to the owner, if known. This section does not apply to motor vehicles legally occupying the right-of-way;

(h) All expenses incurred by the city in abating the condition or any portion thereof shall constitute a civil debt owing to the city jointly and severally by such persons who have been given notice or who own the object or thing or placed it in the right-of-way, which debt shall be collectible in the same manner as any other civil debt; and

(i) The city shall also have all powers and remedies which may be available under law, this code and procedures adopted hereunder for securing the correction or discontinuance of any conditions specified by the city. [Ord. 395 § 2, 2004]

12.17.250 Violation – Penalty.

(1) The violation of or failure to comply with any provision of this chapter is declared to be unlawful and subject to enforcement as set forth in Chapter 1.15 BMC.

(2) Any violation of any provision of this chapter is a civil violation as provided for in Chapter 8.45 BMC, for which a monetary penalty may be assessed and abatement may be required as provided therein.

(3) In addition to or as an alternative to any other penalty provided by this chapter or by law, any person who violates any provision of this chapter shall be guilty of a misdemeanor.

12.20.060 Violations – Penalty.

The violation of or failure to comply with any provision of this chapter is declared to be unlawful and subject to enforcement as set forth in Chapter 1.15 BMC. (1) ~~Criminal Penalties. Any violation of this chapter is a misdemeanor and shall be punishable, upon conviction, by fine not exceeding \$250.00 or by confinement in the county jail not exceeding 90 days, or both.~~

(2) ~~Civil Penalties. Any person who fails to comply with the provisions of this chapter is in addition, but not as an alternative, to any criminal penalties, subject to a maximum civil penalty of \$250.00 for each day or portion of any day that the violation continues.~~

(3) ~~Other Legal Remedies. Nothing in this chapter limits the right of the city to pursue other lawful, criminal, civil or equitable remedies to abate, discontinue, correct or discourage unlawful acts under or in violation of this chapter.~~

12.38.060 Violations – Penalties.

(1) The violation of or failure to comply with any provision of this chapter is declared to be unlawful and subject to enforcement as set forth in Chapter 1.15 BMC. ~~Criminal Penalties. In addition to or as an alternative to any other penalty herein or by Chapter 8.45 BMC, 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.~~

(2) ~~Nuisance. Any person violating the provisions of this chapter is hereby declared to have committed, or to continue to commit, a nuisance and is subject to applicable enforcement provisions contained in Chapters 1.15 and 8.45 BMC.~~

(3) ~~Action Under RCW 64.12.030. In addition to or as an alternative to any other penalty provided herein, the city may bring an action in trespass under the timber trespass statute, RCW 64.12.030, for the removal or damage to any tree or ornamental shrub on city property. Should the city obtain judgment against a person or persons under RCW 64.12.030, the city shall be entitled to treble the amount of damages claimed or assessed therefor.~~

(4) Additional Enforcement Procedures. The provisions of this chapter are not exclusive and may be used in addition to any other remedies in law or equity. [Ord. 402 § 1, 2003]

13.10.510 Enforcement – Violations.

The provisions set forth in this section shall apply to all Any violations of this chapter, or the Surface Water Design Manual, and or the Stormwater Pollution Prevention Manual, are violations of this chapter and code and are subject to the provisions of this section. In addition to the listed enforcement options, the city may also pursue any other lawful civil, criminal or equitable remedy or relief. At the director of public works' discretion, the choice of enforcement option taken and the severity of any monetary penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, the public resources expended to take enforcement action and ensure compliance with this chapter, and/or the degree of bad faith of the persons subject to the enforcement action. Enforcement options are cumulative and shall not be deemed exclusive.

(1) Nuisance. Any structure, condition, act or failure to act which violates any provision of this chapter shall be, and the same is declared to be, unlawful and a public nuisance, and may be abated using the procedures of Chapters 1.15, 8.45, and 9.75 BMC, as currently written or hereafter amended or as otherwise allowed by law.

(2) Violation. Any structure, condition, act or failure to act which violates any provision of this chapter shall be and the same is declared to be, unlawful and is subject to the enforcement and penalty provisions of this section, Chapter 1.15 BMC, and BMC 13.10.520.

(3) Order to Cease Activity. ~~The director or designee shall have the authority to order immediate cessation of any activity that is in violation of this chapter whether occurring on public or private property.~~

(a) ~~Posting and Notice. The director or designee shall prominently post this order at the subject location and shall make reasonable attempts to send this order on to the property owner, the person in charge of the property, or the person causing the activity to be conducted or the improvement erected or altered.~~

(b) ~~Effect. When an order to cease activity has been posted on the subject location, it is a violation of this chapter for any person with actual or constructive knowledge of the order to conduct the activity or do the work covered by the order until such time as the director or designee has removed or authorized removal of the order. If an order to cease activity is violated, the director or designee may issue a notice of civil infraction under subsection (5) of this section.~~

(c) ~~Appeal. An order to cease activity may be appealed in like manner as a notice of civil infraction under subsection (5) of this section. If a notice of civil infraction has also been issued and appealed, the appeals shall be consolidated for hearing.~~

(4) Notice of Violation. If the public works director or designee determines that any structure, condition, act or failure to act exists that is in violation of this chapter, he/she may issue a notice of violation. This notice will specifically indicate:

(a) ~~The name and address of the property owner or other person to whom the notice of violation is directed;~~

(b) ~~The street address or description sufficient for identification of the location where the violation has occurred or is occurring;~~

(c) ~~A description of the violation and a reference to the provision or provisions of this chapter being violated;~~

(d) ~~A statement of the action required to be taken to correct the violation, as determined by the public works director, and a date or time by which correction is to be completed; and~~

(e) ~~A statement that a monetary penalty in an amount per day for each violation as specified by BMC 13.10.520 shall be assessed against the person to whom the notice of violation is directed for each and every day, or portion of a day, that the violation continues following the date set for correction.~~

(f) Notice to Property Owner and Responsible Party. The public works director or designee shall:

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(i) Leave a copy of this notice with the occupant or responsible party or post it in a conspicuous place on the subject property; and

(ii) Personally serve or send a copy of the notice by certified mail to the owner of the subject property and/or responsible party.

(iii) Extension. Upon written request received prior to the correction date or time, the public works director or designee may extend the date set for correction for good cause. The public works director or designee may consider substantial completion of the necessary correction or unforeseeable circumstances which render completion impossible by the date established as good cause.

(5) Notice of Civil Infraction.

(a) General. The public works director or designee may cause a notice of civil infraction to be issued in the following circumstances:

(i) There is a violation of a posted order to cease activity; or

(ii) If, after the time specified in a notice of violation, the corrections specified in the notice of violation have not been completed, and a violation persists; or

(iii) There is reasonable cause to believe that there has been a violation of this chapter.

(b) Issuance. The notice of civil infraction will be issued to the owner of the property and/or to the responsible party, if the violation exists on private property, or to the party responsible for the activity or condition if the violation exists on public property.

(i) Notwithstanding the provisions of subsections (3) and (4) of this section, the public works director or designee may issue a notice of civil infraction without having issued an order to cease activity or a notice of violation when a repeated violation occurs within a six-month period of time or otherwise at the director's or designee's discretion.

(ii) A notice of civil infraction represents a determination that a civil infraction has been committed. The determination is final unless appealed as provided in this chapter.

(c) Content. The following shall be included in the notice of civil infraction:

(i) The name and address of the property owner or other persons to whom the notice of civil infraction is directed;

(ii) The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring;

(iii) A description of the violation and a reference to that provision or provisions of this chapter which has been violated;

(iv) A statement that the monetary penalty in the amount per day for each violation as specified in BMC 13.10.520 is assessed against the person to whom the notice of civil infraction is directed for each and every day, or portion thereof, during which the violation continues beyond the date or time established for correction in the notice of violation; and

(v) A statement that the person to whom the notice of civil infraction was directed must complete correction of the violation and may pay the monetary penalty imposed to the city clerk or may appeal the notice of civil infraction as provided in subsection (5)(c) of this section.

(d) Service of Notice. The public works director or designee shall serve the notice of civil infraction upon the person to whom it is directed, either personally or by mailing a copy of the notice of civil infraction by certified mail, postage prepaid, return receipt requested, to such person at his/her last known address or by posting the notice of civil infraction conspicuously on the affected property or structure. The person who effected personal service shall

make proof of service at the time of service by a written declaration under penalty of perjury declaring the time and date and the manner in which service was made.

(e) Appeal to Hearing Examiner.

(i) A person to whom a notice of civil infraction is directed may appeal the notice of civil infraction, including the determination that a violation exists, or may appeal the amount of any monetary penalty imposed to the hearing examiner.

(ii) A person may appeal the notice of a civil infraction by filing a written notice of appeal with the department of public works within the earlier of seven calendar days from the date of personal service of the notice of civil infraction, and if the notice is not personally served, within 10 calendar days from the date the notice was deposited in the United States mail, properly addressed and postage prepaid, and if the notice was posted, within 10 calendar days from the date the notice was posted on the property.

(iii) The monetary penalty for a continuing violation does not accrue during the pendency of the appeal; however, the hearing examiner may impose a daily monetary penalty from the date of service of the notice of civil infraction if the hearing examiner finds that the appeal is frivolous or intended solely to delay compliance.

(iv) The hearing before the hearing examiner shall be conducted as follows:

(A) The office of the hearing examiner shall give notice of the hearing before the hearing examiner to the appellant 17 calendar days before such hearing; and

(B) The hearing examiner shall conduct a hearing on the appeal. The city and the appellant may participate as parties in the hearing and each may call witnesses. The city shall have the burden of proof by a preponderance of the evidence that a violation has occurred.

(f) Action of Hearing Examiner.

(i) The hearing examiner shall determine whether the city has proven by a preponderance of the evidence that a violation has occurred and shall affirm, vacate, suspend, or modify the amount of any monetary penalty imposed by the notice of civil infraction with or without written conditions.

(ii) The hearing examiner shall consider the following in making his/her determination:

(A) Whether the intent of the appeal was to delay compliance;

(B) Whether the appeal is frivolous;

(C) Whether there was a written contract or agreement with another party which specified the securing by the other party of the applicable permit or approval from the city;

(D) Whether the appellant exercised reasonable and timely effort to comply with applicable development regulations; and

(E) Any other relevant factors.

(g) Notice of Decision. The hearing examiner shall mail a copy of his or her decision to the appellant by certified mail, postage prepaid, return receipt requested.

(h) Judicial Review. The decision of the hearing examiner may be reviewed pursuant to the standards set forth in Chapter 36.70C RCW in King County superior court. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision by the hearing examiner. For more information on the judicial review process for land use decisions, see Chapter 36.70C RCW.

(i) Criminal Penalty. Each day for which there occurs or continues to occur a willful violation of an order issued pursuant to this section for which a criminal penalty is not prescribed by state law shall constitute a misdemeanor and any person found guilty thereof shall be subject to a maximum penalty of \$1,000 or 90 days in jail, or by both such fine and imprisonment for each such day that a violation occurs or continues to occur.

(63) Criminal. Any willful violation of the provisions of this chapter is deemed a misdemeanor unless a more exacting charge is allowed by law. [Ord. 534 § 13, 2010; Ord. 519 § 14, 2009; Ord. 489 § 2, 2008]

13.10.520 Enforcement – civil penalties.

Any person, firm, corporation, or association or any agent thereof who violates any of the provisions of this chapter shall be liable for all damages to public or private property arising from such violation and for all costs of inspection and sampling in the event the violation constitutes an illicit discharge. If the city repairs or replaces the damaged property, the actual cost to the city for such repair or replacement shall be assessed against the responsible party and shall be due and payable within ten days of the date of written notice of the same. Delinquent bills may be collected by a civil action or as otherwise allowed by law. If the City obtains judgment, it shall also be entitled to reimbursement for court costs and reasonable attorney's fees expended in the litigation.

(1) Monetary Penalty.

(a) The amount of the monetary penalty per day or portion thereof for each violation of this chapter shall be as set forth in Ch. 1.15 BMC, is as follows:

(a) — Except as may be otherwise set forth herein, the monetary penalty assessed shall not exceed \$1,000 per day for each such day that a violation occurs or continues to occur. The monetary penalty constitutes a personal obligation of the person to whom the notice of civil infraction is directed. Any monetary penalty assessed must be paid to the City Clerk within seven calendar days from the date of service of the notice of civil infraction or, if a contested or mitigation hearing was held pursuant to Ch. 1.15 BMC, within seven calendar days of the Hearing Examiner's decision.

(b) — The City Attorney, on behalf of the city, is authorized to collect the monetary penalty by use of appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate accrual of additional per diem monetary penalties so long as the violation continues.

(c) — In the event of failure to appear at a hearing as provided in Ch. 1.15 BMC, the Hearing Examiner shall assess the monetary penalty prescribed and a penalty of twenty-five dollars.

(db) In the event of a conflict between this chapter and any other provision of this code or city ordinances providing for a civil penalty, this chapter shall control.

(2) Payment of a monetary penalty pursuant to this chapter does not relieve a person of the duty to correct the violation as ordered by the Director of Public Works.

15.05.410 Violations – Penalties.

The violation of or failure to comply with any provision of this chapter is declared to be unlawful and subject to enforcement as set forth in Chapter 1.15 BMC. (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) 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. [Ord. 541 § 2 (Exh. A), 2010]

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 sight 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 BMC 15.05.375(5), 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 BMC 15.05.400, 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. is declared to be unlawful and subject to enforcement as provided in BMC 1.15.110.~~

(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 BMC 15.05.410(3), 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 this title. [Ord. 541 § 2 (Exh. A), 2010]~~

15.05.420 Unsafe structures and equipment.

(1) General. Structures or existing equipment which are or hereafter become unsafe, insanitary 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 civil violation as prescribed in BMC 15.05.4101.15.120. 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. [Ord. 541 § 2 (Exh. A), 2010]

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~~Enforcement. Any person who violates a provision of this code or fails to comply with any of the requirements thereof shall be subject to enforcement as set forth in Chapter 1.15 BMC. ~~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.

(e) ~~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 (4)(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 8.45.035(12). [Ord. 541 § 11 (Exh. E), 2010]~~

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). [Ord. 541 § 11 (Exh. E), 2010]

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. [Ord. 541 § 11 (Exh. E), 2010]

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 8-45-0601.15.200. [Ord. 541 § 11 (Exh. E), 2010]

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 15-40-1051.15.070. [Ord. 541 § 11 (Exh. E), 2010]

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's 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 15-40-1051.15.120.

(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. [Ord. 541 § 11 (Exh. E), 2010]

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, Means of appeal.

(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 pursuant to Chapter 1.15 BMC.

(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 Chapter 1.15 BMC.

(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 Chapter 1.15 BMC.

(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 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 this title. [Ord. 541 § 11 (Exh. E), 2010]

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 1.15 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). [Ord. 541 § 11 (Exh. E), 2010]

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 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 Chapter 8-45 1.15 BMC.

The city is authorized to recover all costs and expenses from the property owner in accordance with BMC 8-45-060 1.15.200.

(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 and 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. [Ord. 541 § 11 (Exh. E), 2010]

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Motion to Adopt Resolution No. 329, Relating to Dates, Times and Location of City Council Meetings		Meeting Date: March 19, 2012
Department: City Manager	Attachments: Draft Resolution No. 329	Fund Source: N/A Activity Cost: N/A Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Contact: Monica Lusk, City Clerk		
Telephone: 206/248-5517		
Adopted Initiative: Yes No <input checked="" type="checkbox"/>	Initiative Description: N/A	
PURPOSE/REQUIRED ACTION:		
The purpose of this agenda item is for Council to consider adopting Resolution No. 329, relating to dates, times and location of City Council meetings.		
BACKGROUND (Include prior Council action & discussion):		
At the January 28 Annual Council Retreat, changes to Council meeting dates and types were discussed. The attached resolution reflects the Council's desire to change the Regular Meeting dates to the 1 st and 3 rd Monday of each month and add Study Sessions to the 4 th Monday of each month. The location of the Council meetings has been revised to read 400 SW 152 nd Street.		
OPTIONS (Including fiscal impacts):		
<ol style="list-style-type: none"> 1. Adopt Resolution No. 329. 2. Modify proposed Resolution No. 329 and place on the April 2, 2012, Agenda. 3. Do not adopt Resolution No. 329. 		
Administrative Recommendation: Adopt Resolution No. 329, relating to dates, times and location of City Council meetings.		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motion: Move to adopt Resolution No. 290.		
Submitted by: Monica Lusk Administration _____	Mike Martin City Manager _____	
Today's Date: March 2, 2012	File Code: R:/CC/AgendaBill2012/031912cm-1 council mtg dates	

CITY OF BURIEN, WASHINGTON

RESOLUTION NO. 329

A RESOLUTION OF THE CITY OF BURIEN, WASHINGTON, ESTABLISHING THE DATES, TIME AND PLACE OF CITY COUNCIL MEETINGS AND REPEALING RESOLUTION NOS. 071, 097, 101 AND 290.

THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON HEREBY
RESOLVES AS FOLLOWS:

Section 1. Regular Meetings and Study Sessions.

- A. Regular Meetings of the City Council of the City of Burien shall be held at 7:00 p.m. on the first and third Monday of each month at the building designated as Burien City Hall, currently located at 400 SW 152nd Street, Burien, Washington, or at another location the City Council may deem appropriate.
- B. Regular Meeting is defined as a meeting used to conduct all ordinary and routine business of the city.
- C. Study Sessions of the City Council of the City of Burien shall be held at 7:00 p.m. on the fourth Monday of each month.
- D. Study Session is defined as a meeting used to review and discuss pertinent business of the city and to prepare matters for action at a Regular Meeting. Business items requiring action that are time sensitive shall be scheduled at a Study Session.
- E. During the months of June, July, and August, Council meetings shall be held only on the first and third Mondays of the month. These meetings will be designated as Regular Meetings and may include action and/or study items.
- G. Should any Council meeting fall upon a date designated as a legal holiday, then that meeting shall be canceled.

Section 2. Repealer. Resolution Nos. 071, 097, 101 and 290 are hereby repealed.

Section 3. Effective Date. This resolution shall take effect immediately upon passage by the Burien City Council.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, AT
A REGULAR MEETING THEREOF THIS ____ DAY OF _____, 2012.

CITY OF BURIEN

Brian Bennett, 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:
Resolution No. 329

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Discussion Regarding If and When to Adopt Resolution No. 330, Requesting King County to Hold a Special Election on August 7, 2012 for the Purpose of Placing on the Ballot a Proposition Concerning Annexation of the North Highline Area "Y" Annexation Area		Meeting Date: March 19, 2012
Department: City Manager	Attachments: 1. Resolution 330 2. Boundary Review Board Decision	Fund Source: General Fund Activity Cost: Approx. \$10,000 Amount Budgeted: \$100,000 Unencumbered Budget Authority: \$100,000
Contact: Mike Martin, City Manager		
Telephone: (206) 248-5508		
Adopted Work Plan Priority: Yes X No	Work Plan Item Description: North Highline Area "Y" Annexation	
<p>PURPOSE/REQUIRED ACTION: The purpose of this agenda item is for City Council to discuss if and when to act on proposed Resolution 330 (Attachment 1).</p> <p>BACKGROUND (Include prior Council action & discussion): On October 3, 2011, Council approved Resolution 323 authorizing submittal of a Notice of Intent to Annex with the King County Boundary Review Board (BRB), and calling for an annexation election in the area proposed for annexation. The BRB held its public hearing on the Notice of Intent on January 9 and 10, 2011 and approved moving forward with the proposed annexation on February 16, 2012(Attachment 3).</p> <p>The proposed Resolution 330 requests King County to hold a special election in conjunction with the August 7th primary election for the purpose of placing on the ballot a proposition concerning the annexation of the North Highline Area "Y" Annexation Area. Only registered voters within the North Highline Area "Y" Annexation Area would be eligible to vote on this proposition. The County Clerk requires an adopted resolution no later than April 25th in order to be able to process the request through the King County Council. (The statutory deadline to place an item on the August 7th ballot is May 11th. County Council approval of an ordinance creating the ballot measure could occur as late as May 7th.)</p> <p>OPTIONS (Including fiscal impacts):</p> <ol style="list-style-type: none"> Schedule attached Resolution 330 for adoption at April 2nd or 16th Council meeting (allows proposed annexation to move forward on August 7th election). Do not schedule adoption of Resolution 330 (stops or delays annexation process). 		
Administrative Recommendation: Schedule Resolution 330 for adoption at April 2 nd or 16 th Council meeting.		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motion: None required.		
Submitted by: Mike Martin		
Administration _____	City Manager _____	
Today's Date: March 15, 2012	File Code: \\File01\records\CC\Agenda Bill 2012\031912cm-1 RES North Highline Annexation Election.doc	

CITY OF BURIEN, WASHINGTON

RESOLUTION NO. 330

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, REQUESTING THE KING COUNTY DIRECTOR OF ELECTIONS TO HOLD A SPECIAL ELECTION IN CONJUNCTION WITH THE PRIMARY ELECTION ON AUGUST 7, 2012 FOR THE PURPOSE OF PLACING ON THE BALLOT A PROPOSITION CONCERNING THE ANNEXATION OF CERTAIN PROPERTY KNOWN AS THE NORTH HIGHLINE AREA "Y" ANNEXATION AREA.

WHEREAS, the City Council of the City of Burien, Washington, has determined that it would be in the best interest and general welfare of the City of Burien and the North Highline Potential Annexation Area to annex certain property lying in an area north of existing City of Burien corporate boundary, referenced as the North Highline Area "Y" Annexation Area; and

WHEREAS, the Growth Management Act and the King County Countywide Planning Policies encourage transition of unincorporated urban and urbanizing areas within Potential Annexation Areas from county governance to city governance; and

WHEREAS, the North Highline Area "Y" Annexation Area is within the City of Burien's Potential Annexation Area adopted pursuant to Burien City Council Ordinance No. 455; and

WHEREAS, on October 3, 2011, the City Council of the City of Burien adopted Resolution No. 323 which directed the City Clerk to file with the King County Boundary Review Board a notice of intent to annex the North Highline Area "Y" Annexation Area, and

WHEREAS, the Boundary Review Board held a public hearing on the proposed annexation on January 9 and 10, 2011, and

WHEREAS, the Boundary Review Board approved the annexation on February 16, 2012, with a modified legal description of the North Highline Area "Y" Annexation Area boundaries, which boundaries are legally described in Exhibit "A" attached hereto and incorporated by the reference as though fully set forth herein, and

WHEREAS, the City has determined to call for a special election to be held in conjunction with the primary election on August 7, 2012 and to submit the question of annexation as a ballot question as authorized by RCW 35A.14.085,

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

Section 1. The City Council hereby requests the King County Director of Elections to find an emergency and hold a special election in conjunction with the primary election on August 7, 2012 and to submit to the qualified electors of the North Highline Area "Y" Annexation Area a proposition authorizing the North Highline Area "Y" Annexation Area to be annexed to the City.

Section 2. The ballot title shall read as follows:

NORTH HIGHLINE AREA "Y" ANNEXATION AREA

Shall that area of unincorporated King County known as the North Highline Area "Y" Annexation Area as legally described in City of Burien Resolution No. 330 be annexed to the City of Burien?

- For annexation.
- Against annexation.

Section 3. A certified copy of this resolution shall be transmitted by the City Clerk to the King County Department of Records and Elections upon passage.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, AT A REGULAR MEETING THEREOF THIS ____ DAY OF _____, 2012.

CITY OF BURIEN

Brian Bennett, 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:
Resolution No. 330

EXHIBIT A

BOUNDARIES OF THE PROPOSED NORTH HIGHLINE AREA "Y" ANNEXATION
AREA

The legal description of the boundaries of the proposed North Highline Annexation Area, located in Sections 1 and 12, Township 23 North, Range 3 East, W.M., in Sections 4, 5, 6, 7 and 8, Township 23 North, Range 4 East, W.M. and in Section 32, Township 24 North, Range 4 East, W.M., all in King County, Washington, more particularly described as follows:

Beginning at the northeast corner of existing City of Burien as established by City of Burien Ordinance No. 527, said corner also being the intersection of the westerly right-of-way line of Primary State Highway No. 1 as approved July 23, 1957 and shown on Sheets 1 through 4 of 7 of Engineer's Plans for section South 118th Street to Junction with Secondary State Road No. 1-K (State Route 509), as now established and hereinafter referred to as State Route 99 with the south margin of South 108th Street, said point also being on the westerly limits of the City of Tukwila;

Thence departing from said city limits of Tukwila and westerly along the northern limits of the City of Burien as established by City of Burien Ordinance No. 527 and along said south margin of South 108th Street to the intersection with the east line of the Southwest quarter of the Southwest quarter of Section 4, Township 23 North, Range 4 East, W.M.;

Thence north 30 feet along said east line to the southeast corner of the Northwest quarter of the Southwest quarter of said Section 4;

Thence west 30 feet along the south line of the Northwest quarter of the Southwest quarter of said Section 4 to the west margin of 20th Avenue South;

Thence northerly along said west margin of 20th Avenue South to the north line of the south 136 feet of the Northwest quarter of the Southwest quarter of said Section 4;

Thence westerly along the north line of the south 136 feet of the Northwest quarter of the Southwest quarter of said Section 4 to the intersection with the west line of said Section 4;

Thence southerly along the west line of said Section 4 to the north margin of South 112th Street;

Thence westerly along said north margin of South 112th Street to intersection with the north line of said Section 8;

Thence westerly along said north line to the intersection with the east margin of State Route 509;

Thence southerly along said east margin of State Route 509 to the north margin of South 116th Street;

Thence westerly along said north margin of South 116th Street and Southwest 116th Street to the west margin of 10th Avenue Southwest;

Thence northerly along said west margin of 10th Avenue Southwest to the north margin of Southwest 114th Street;

Thence westerly along said north margin of Southwest 114th Street to the east margin of 15th Avenue Southwest;

Thence northerly along said east margin of 15th Avenue Southwest to the south margin of Southwest 112th Street;

Thence westerly along said south margin of Southwest 112th Street to present limits of the City of Seattle as established by City of Seattle Ordinance 84568 and the east margin of Seola Beach Drive Southwest (previously referred to as Qualheim Avenue Southwest, Qualheim Road or Seola Beach Road);

Thence northerly along said present City of Seattle limits and said east margin of Seola Beach Drive Southwest to the south margin of Southwest 106th Street;

Thence easterly along said south margin of Southwest 106th Street to the intersection with a line parallel with and 30 feet east of the east line of the West Half of the West Half of Section 1, Township 23 North, Range 3 East, W.M., also being the southerly extension of the east margin of 30th Avenue Southwest;

Thence northerly along said parallel line, also being the southerly extension, the east margin of and the northerly extension of 30th Avenue Southwest to a point on the south line of Section 36, Township 24 North, Range 3 East, W.M., said point being at the intersection with the south line of the present limits of the City of Seattle as established by City of Seattle Ordinance 16558 and the centerline of Southwest Roxbury Street (also known as Southwest 96th Street);

Thence easterly along said south lines and said centerline of Southwest Roxbury Street to the northwest corner of the Northwest Quarter of the Northeast Quarter of the Northeast Quarter of said Section 1, Township 23 North, Range 3 East, W.M. and the northwest corner of that portion of the present limits of the City of Seattle as established by City of Seattle Ordinance 74754 and the centerline intersection with 21st Avenue

Southwest;

Thence southerly along the west line of said Northwest Quarter of the Northeast Quarter of the Northwest Quarter, the west line of said present City of Seattle limits as established by City of Seattle Ordinance 77429 and the centerline of said 21st Avenue Southwest to an angle point in said present City of Seattle limits and the centerline intersection with Southwest 98th Street;

Thence easterly along said present City of Seattle limits and the centerline of said Southwest 98th Street to the southeast corner of that portion of the present limits of the City of Seattle as established by said City of Seattle Ordinance 77429 and the southerly extension of the alley centerline of Block 2 of the unrecorded plat of Haines Heights Addition;

Thence northerly along that portion of the present limits of the City of Seattle as established by said City of Seattle Ordinances 74757 and 77429 and said southerly extension, the centerline of and the northerly extension of said alley to a point on the south line of said Section 36, Township 24 North, Range 3 East, W.M., said point being at the intersection with the south line of the present limits of the City of Seattle as established by said City of Seattle Ordinance 16558 and said centerline of Southwest Roxbury Street;

Thence easterly along said south lines, the north line of Section 6, Township 23 North, Range 4 East, W.M., and said centerline of Southwest Roxbury Street to a point on the north line of said Section 6 lying 654.11 feet from the northeast corner thereof, said point also being the northwest corner of that portion of the present limits of the City of Seattle as established by City of Seattle Ordinance 113271;

Thence South 05°28'00" West 30.07 feet to the northeast corner of the land conveyed to the Housing Authority of the County of King, recorded under Auditor's File No. 4413217;

Thence south along said present City of Seattle limits and the east line of said tract of land 1,174 feet, more or less, to the north margin of Southwest 100th Street;

Thence easterly along said present City of Seattle limits and said north margin of Southwest 100th Street 686.29 feet to the east line of said Section 6;

Thence northerly along said present City of Seattle limits and said east line 186.07 feet;

Thence easterly along said present City of Seattle limits, South 88°38'48" East 95 feet;

Thence easterly along said present City of Seattle limits, North 89°33'05" East for 94.68 feet to the west margin of Occidental Avenue South;

Thence northerly along said present City of Seattle limits and said west margin of Occidental Avenue South for 87.52 feet;

Thence southeasterly along said present City of Seattle limits, South $64^{\circ}57'53''$ East to the northerly line of the unrecorded plat of Highlands Half Acre Tracts as noted on the survey recorded in King County under Recording No. 8103319002;

Thence northeasterly along said present City of Seattle limits and said northerly line, North $75^{\circ}47'11''$ East 537.72 feet;

Thence northeasterly along said present City of Seattle limits, North $23^{\circ}10'47''$ East 6.66 feet to westerly margin of Myers Way South;

Thence easterly along said present City of Seattle limits to an the intersection of the easterly margin of Myers Way South and the southerly margin of the City of Seattle Transmission Line Right-of Way;

Thence southerly along said present City of Seattle limits and said easterly margin of Meyers Way South to the north margin of South 100th Street;

Thence easterly along said present City of Seattle limits and said north margin of South 100th Street and said margin extended to the easterly margin of State Road No. 1-K as constructed per Engineer's Plans, Sheets 7 through 9 inclusive, approved December 17, 1957, and revised September 14, 1984, as now established and hereafter referred to as State Route 509;

Thence generally northerly along said present City of Seattle limits and said east margin of State Route 509 to the north line of the South Half of the Southwest Quarter of Section 32, Township 24 North, Range 4 East, W.M., also being south margin of South Barton Street;

Thence easterly along said present City of Seattle limits as established by City of Seattle Ordinance 15917, said north line and said south margin of South Barton Street to the intersection with the west line of the plat of Excelsior Acre Tracts as recorded in Volume 8 of Plats, Page 93, records of said King County;

Thence southerly along said present City of Seattle limits and said west line of said plat of Excelsior Acre Tracts to the southwest corner of said plat of Excelsior Acre Tracts;

Thence easterly along said present City of Seattle limits, the south line of said plat of Excelsior Acre Tracts and the south line of the plat of Excelsior Acre Tracts No. 2 as recorded in Volume 9 of Plats, Page 48, records of said King County, to the intersection with the westerly margin of State Route 99;

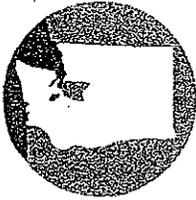
Thence departing said present City of Seattle limits, southeasterly along said westerly margin of State Route 99 to the intersection with the east line of the westerly 178.51 feet of Tract 8 of Moore's Five Acre Tracts as recorded in Volume 9 of Plats, Page 28, records of said King County;

Thence southerly along said east line to the north margin of South 96th Street;

Thence easterly along said north margin of South 96th Street to the intersection with the westerly margin of State Route 99;

Thence southeasterly along said westerly margin of State Route 99 to the intersection with the north line of Tract 55 of said plat of Moore's Five Acre Tracts and the present northwest corner of the City of Tukwila as established by City of Tukwila Ordinance 1670;

Thence southeasterly continuing along said westerly margin of State Route 99 and the present limits the City of Tukwila to the south margin of South 108th Street and the Point of Beginning.



**Washington State Boundary Review Board
For King County**

Yesler Building, Room 240, 400 Yesler Way, Seattle, WA 98104
Phone: (206) 296-6800 • Fax: (206) 296-6803 • <http://www.kingcounty.gov/annexations>

RECEIVED

April 17, 2009

APR 20 2009

CITY OF BURIEN

City of Burien
Attn: Scott Greenberg,
Community Development Director
15811 - Ambaum Blvd SW, Suite C
Burien, WA 98166

RE: CLOSING LETTER FOR RESOLUTION AND HEARING DECISION
File No. 2290 - City of Burien - North Highline Annexation (Area X)

Dear Mr. Greenberg:

We are writing to advise you that the Washington State Boundary Review Board for King County has now completed the Resolution and Hearing Decision, as specified in RCW 36.93, to approve the above referenced proposed action filed with the Board effective: April 16, 2009.

The Resolution and Hearing Decision for this action is enclosed for filing as prescribed by RCW 36.93.160(4). An appeal period to Superior Court has been established, as mandated by RCW 36.93.160. The appeal period to Superior Court will close on May 18, 2009.

In order to finalize the proposed action, the applicant must address the following requirements, where applicable:

1. Compliance with the statutory requirements and procedures specified in the Notice of Intention;
2. Sewer and Water district actions and some other actions are also subject to approval by the Metropolitan King County Council. If the Council makes changes to the proposal, the Board may then be required to hold a public hearing.
3. Filing with King County of franchise application(s), as required, accompanied by a copy of this letter.
4. Filing with King County of permit application(s), as required, accompanied by a copy of this letter.

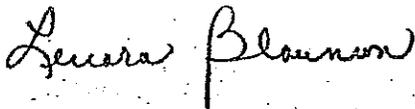
Page two continued, April 17, 2009

Form HE8

5. Notification to King County Office of Regional Policy and Planning, in writing, of your intended effective date of this action. This notification should be provided as early as possible. Please send this information to Gwen Clemens, Office of Strategic Planning & Performance Management (OSPPM), 401 Fifth Avenue, Suite 810, Seattle, Washington 98104, and
6. Filing with King County Council of: (1) one certified copy of your final resolution or ordinance accomplishing this action; and (2) a copy of this letter. This document should be filed with the Clerk of the Council (Attn: Ms Anne Noris), King County Courthouse, Room 1025, Seattle, Washington 98104

If you have questions or would like additional information, please contact our office at 206.296.6800.

Sincerely,



Lenora Blauman
Executive Secretary

Attachment: Resolution and Hearing Decision

- cc: The Honorable King County Councilmember Dow Constantine
The Honorable King County Councilmember Larry Phillips
The Honorable King County Councilmember Julia Patterson
Ms. Anne Noris, Clerk of Council
Ms. Hazel Gantz, King County Department of Assessments
Ms. Lydia Reynolds-Jones, Manager, Project Support Services
Mr. Dave Wilson, Elections Division
Mr. Paul Reitenbach, Department of Development & Environmental Services
Ms. Gwen Clemens, Office of Strategic Planning & Performance Management
King County E-911 Program
Ms. Connie Wong, Facilities Management Division, Real Estate Division
Ms. Anne Lockmiller, Facilities Management Division, Real Estate Division
Cities: Seattle, Sea-Tac and Tukwila
District(s): King County Fire Protection District Nos. 2, 11 and 24; King County Water District Nos. 20, 45, 49, 54 and 125, Highline Water District, Seattle Public Utilities, Midway Sewer District, Valley View Sewer District and Southwest Sewer District; Highline School District No. 401 and Tukwila School District No. 406

PROCEEDINGS OF THE
WASHINGTON STATE BOUNDARY REVIEW BOARD
FOR KING COUNTY
RESOLUTION AND HEARING DECISION

IN RE: CITY OF BURIEN
North Highline Area "X"
Proposed Annexation
King County, Washington

FILE NO. 2290

I. PUBLIC HEARING OVERVIEW

In February of 2009, the City of Burien, the proponent, filed a Notice of Intention with the Boundary Review Board to annex North Highline Area "X" (File No. 2290).

North Highline Area "X" (1680 acres) is located immediately adjacent to the northern boundary of the City of Burien. The northernmost boundary of the site is variously formed by South 107th Street, South 108th Street, South 116th Street, SW 112th Street and SW 116th Street. The site's western boundary is variously formed by the City of Seattle corporate boundary (at approximately 29th Avenue SW) and by Ambaum Boulevard SW. The eastern boundary is generally formed by SR 99 adjacent to the City of Tukwila. The southern boundary is formed by South 128th Street and SW 128th Street.

The City of Burien invoked the jurisdiction of the Boundary Review Board for the purpose of providing citizens a public hearing before an independent forum in order to obtain information and comment upon the proposed North Highline Area "X" Annexation.

The City of Burien also reported to the Boundary Review Board that the Resolution for North Highline Area "X" calls for an election to permit the citizens within the North Highline Area "X" to ultimately decide whether or not to join the City of Burien.

The Board held a Special Meeting/Public Hearing on March 30, 2009 to consider the proposal by the City of Burien to annex North Highline Area "X" (1680 acres).

The Board reviewed File No. 2290 in accord with RCW 36.93 (Local Governments – Boundaries – Review Boards). The Board directed particular attention to RCW 36.93.170 (Factors) and RCW 36.93.180 (Objectives). The Board also considered RCW 36.93.150, the authority for modification of annexation proposals. In accord with the law, the Board also considered RCW 36.70.A, the Growth Management Act, the King County Comprehensive Plan, the City of Renton Comprehensive Plan, together with other applicable state, regional, and local regulations and guidelines.

The Board is required by Washington law, to: (1) examine the record (e.g., application materials; technical studies; fiscal studies; regulatory analyses; other documents, exhibits, statements and testimony); (2) determine the specific policies and guidelines applicable to the proposed action; (3) review and weigh these elements; and (4) take the action that best advances those elements.

On March 30, 2009, the Board completed the public hearing and closed the record for the City of Burien North Highline Area "X" Annexation (File No. 2290.) The Board then deliberated the matter and came to a preliminary decision in the matter of File No. 2290. The Board finds as follows:

- The record for File No. 2290 contains sufficient documentation (e.g., technical data, fiscal data), evidence of community information programs, and certification of petitions and/or legislative action to complete its review of the North Highline Area "X" Annexation.
- On the basis of the testimony, evidence, and exhibits presented at said hearing, and the matters on record in said File No. 2290, it is the decision of the Board to approve the action proposed in said Notice of Intention. The legal description of the North Highline Area "X" is attached hereto and marked as "Exhibit I", together with a map showing the boundaries of the area herein marked as "Exhibit II."

II. FINDINGS

RCW 36.93.170 FACTORS AFFECTING THIS PROPOSAL

The Boundary Review Board finds the following Factors (RCW 36.93.170) to be applicable to the proposal for annexation of North Highline Area "X" (1680 acres) into the City of Burien. The key issues related to each applicable element are as follows:

RCW 36.93.170 (1) POPULATION AND TERRITORY

The Board considered the following factors to be applicable: Population Density; Proximity to Other Populated Areas; Land Area/Land Uses; Comprehensive Land Use Plans; Topography, Natural Boundaries and Drainage Basins; Likelihood of Significant Growth in the Area During the Next Ten Years; and Population Density/Proximity to Other Populated Areas.

North Highline Area "X" is generally unified with respect to its land area and its built community. The area is essentially fully developed with residential, commercial, and public uses. North Highline Area "X" also includes natural features such as water bodies, vegetated open space, and sensitive sloped terrain. North Highline Area "X" and the surrounding communities are linked, in part, by several elements of the natural environment (e.g., topography, vegetation).

North Highline Area "X" is an urban community that is substantially developed with single-family homes and multi-family residences. There is sizeable commercial property within North Highline Area "X" boundaries. Public facilities and open spaces are present in the North Highline Area. The Area will likely experience continued growth over the next ten years as there is remaining land that is suitable and permitted for redevelopment/new development with various land uses.

The North Highline Area "X" Annexation is based upon a Memorandum of Understanding ratified by the City of Burien, King County, Fire District No. 2, and Fire District No. 11 and signed (but not yet ratified) by the City of Seattle. This Memorandum of Understanding includes, but is not limited to, the identification of annexation area boundaries, agreements for provision of services; and allocation of fees in order to ensure adequate governance and service to the North Highline Area "X" community.

All of the proposed North Highline Area "X" Annexation (1680 acres) lies within the Urban Growth Area defined by King County. The proposed annexation is consistent with the King County Comprehensive Plan and Countywide Planning Policies for annexation of and service to urban territories.

The Burien Comprehensive Plan identifies North Highline Area "X" as being within the City's Potential Annexation Area. The North Highline Area "X" Annexation is consistent with City's Comprehensive Plan policies supporting inclusion of urban areas within the City for local governance. The City of Burien Comprehensive Plan provides for the commitment and the resources to govern the North Highline Area. The Plan provides for growth at urban levels of density generally consistent with the existing built environment and the natural environment.

For example, the City will develop specific land use/zoning designations and zoning for this community to permit future residential development that will be generally similar to and essentially compatible with existing density/design standards for residential uses, commercial uses, and public facilities/open spaces permitted in North Highline. With annexation of the North Highline Area "X", there would be an opportunity to immediately implement consistent and coordinated development standards throughout the community.

Further, the North Highline Area "X" contains environmentally sensitive features (e.g., variable topography, drainage basins, natural habitat). The Burien Comprehensive Plan provides support for the natural environment within the North Highline Area "X" through guidelines and regulatory controls (e.g., critical areas ordinances; open space preservation; storm water/flood control programs) designed to protect sensitive areas.

Under the City's Comprehensive Plan, citizens of the North Highline Area "X" will be provided with a full array of uniform public services, facilities and infrastructure. For example:

- Policy AN 1.1: Designates North Highline as being within the City's Potential Annexation Area
- Policy AN 1.2: Establishes provisions for land use and zoning designations of the North Highline Area
- Policy AN 1.3: Establishes requirements for plans and programs to provide services to areas annexed to the City of Burien.

The State Growth Management Act (RCW 36.70A) also supports the North Highline Area "X" Annexation. The proposed action would be consistent with RCW 36.70.20 which calls for community planning goals, for urban growth, services and infrastructure, and environmental preservation.

RCW 36.93.170 (2) MUNICIPAL SERVICES

The Board finds the following factors to be applicable: need for municipal services; effects of ordinances, governmental codes, regulations and resolutions on existing uses; present cost and adequacy of governmental services and controls in area; probable future need for such services; costs; effect on the finance, debt structure and contractual obligations; and prospects of government services from other sources, and rights of other affected governmental units. Following is a brief review of key issues related to these factors:

The evidence shows that North Highline Area "X" is an urban community requiring municipal services and facilities. Service goals and policies for urban areas are established by the State Growth Management Act and King County Comprehensive Plan. For example, King County FW-13 states that cities are the appropriate provider of local urban services to Urban Areas. Policies LU-27, LU-31, LU-32, CA-9, CA-10, U-205, and U-208 call for jurisdictions to plan for and coordinate land designations, land uses, and services. Further, annexation is appropriate under Countywide Policy CO-1, when a jurisdiction has "identified and planned for (a) full range of urban services."

Consistent with the State Growth Management Act and King County Plan, the City of Burien has developed policies – through the Comprehensive Land Use Plan, Comprehensive Service Plans, and other regulatory authorities – to govern and serve all properties within its corporate boundaries. Upon annexation, the City of Burien will govern North Highline Area "X" properties under unified regulatory authorities administered by a single local government unit:

The City of Burien will assume responsibility for land use management through the City's Comprehensive Plan and land use regulations. The City of Burien will assume responsibility for protection of environmentally sensitive areas (e.g., variable terrain, open spaces) through the Comprehensive Plan, Critical Areas Ordinance, Stormwater Management Plan, and other local, regional, and state guidelines. The City will assume responsibility for providing services (either directly or by contract) to the North Highline "X" Area. Services would be equal to – or improved from – the services currently provided by King County. More specifically, the City will assume responsibility for:

- Provision and management of capital facilities (e.g., roadways, parks/recreation areas). Acquisitions and improvements will be identified by means of a priority listing which reflects both necessity (i.e., public health, welfare and safety) and the interests of the citizens.
- Provision of police services through a contract with the King County Sheriff Department.
- Provision of fire/emergency services to the North Highline properties through a contract based upon the adopted Memorandum of Understanding with Fire Protection Districts No. 2 and No. 11.
- Valley View District and Southwest Suburban Sewer District will continue to provide wastewater treatment services to the North Highline Area "X".
- King County Water District No. 20 and Seattle Public Utilities will continue to provide water services to the community.
- Students would continue to be served by Highline School District and Tukwila School District.
- Public facilities, including libraries, parks, and recreation facilities will be available to citizens.
- Law and justice services and human services will be available to citizens.

The City has demonstrated the existence of resources to serve North Highline Area "X" through a Fiscal Feasibility Study which examined revenues/expenditures relating to governance and service of the North Highline Area. More specifically, the Fiscal Feasibility Study finds that the City would receive an increase in annual revenue in the amount of \$4.6 million for North Highline Area "X". Annual expenditures are anticipated at \$4.6 million including the addition of services and support staff to North Highline Area "X". North Highline Area "X" residents would be provided with services, infrastructure, and facilities at a basic level immediately upon incorporation. There is an anticipated need for capital projects in the amount of \$60 million to serve North Highline Area "X."

At annexation, the citizens of North Highline Area "X" will contribute to the funding of services in their community, in part, through property taxes (which are anticipated to be slightly reduced from taxes currently paid by residents), standard service fees, and other revenues based on population. For example, upon annexation, property owners will assume their share of the regular and special levy rate of the City for capital facilities and public services.

The City would also have access to other resources to address these costs. More specifically, SSB 6686 would provide the City access to sales tax funds that would permit the off-setting of the cost-to-revenue imbalances occurring in conjunction with the North Highline Area "X" Annexation. Newly adopted sales tax streaming regulations (SSB 5089) would likely benefit the community as well.

Burien and King County have agreed that, upon annexation, the City must govern built lands, open spaces, and basic services (e.g., surface water management facilities, ground water facilities, and other facilities.) The framework also establishes a commitment by the County to provide the City of Burien assistance with transition of service responsibilities from King County to the City of Burien (e.g., vested property improvements; infrastructure.) Further, administration of revenues/expenditures is addressed by the Memorandum of Understanding.

The Memorandum of Understanding (ratified by the City of Burien, King County, Fire District No.2 and Fire District No. 11) provides service plans and funding plans for fire protection and emergency medical services to the North Highline Area "X".

The City is committed to taking necessary steps to efficiently coordinate governance and service to North Highline Area "X" under unified regulatory authorities administered by a single local government.

King County supports annexation of the North Highline Area "X". This action creates a logical municipal service area. The City can provide more cohesive policies, standards, programs, cohesive operations, and efficient, economic control of services. Thus, services will be more effective, more efficient, and less costly to both government and citizens of North Highline Area "X."

RCW 36.93.170 (3) Effects of Proposal

The Board considers mutual economic and social interests, and local government structure effects to be applicable to the City of Burien North Highline Area "X" Annexation. Following is a brief review of key issues related to these factors.

The evidence shows that the City of Burien shares mutual social and economic links with the adjacent North Highline Area "X". Citizens of North Highline Area "X" utilize facilities in the City of Burien - including libraries, schools, parks and recreation programs. Citizens shop in Burien and use professional services (e.g., medical care, personal care) in the City. Citizens travel local and arterial roads through the City. Utility services are coordinated under the aegis of regional service providers.

With annexation, citizens would benefit from a governance system linking North Highline Area "X" to the City of Burien, for land use planning, service planning, fiscal planning and planning for public amenities to serve the community. The City of Burien Comprehensive Plan encourages local governance of communities. The City will provide for parks; surface water management facilities, ground water facilities, and other similar facilities. Additional enhancements to levels of service would occur over time to address community interests and as permitted by available resources.

City representatives provided a basic Fiscal Study related to the proposed North Highline Area "X" Annexation. The Study includes fiscal analyses of benefits and costs incurred for providing immediate governance and service to North Highline Area "X." Findings from the Fiscal Study provide reasonable assurance that available municipal funds, together with regional funds, and state funds (e.g., sales taxes available pursuant to SSB 6686); will provide sufficient resources to ensure governance of the North Highline Area "X" and maintain services to the greater City of Burien. The City is committed to taking the necessary steps to govern and serve the North Highline Area "X."

King County Comprehensive Plan/Countywide Planning Policies encourage local governance of communities. Annexation of the North Highline Area "X" is also consistent with the King County policies which call for transfer of urban lands to local jurisdictions at the earliest feasible date.

Coordinated integration of citizens of the North Highline Area "X" into Burien would preserve social organization, support economic health, and protect public safety and welfare.

CONSISTENCY WITH THE GROWTH MANAGEMENT ACT

RCW 36.93.157 mandates that Boundary Review Board decisions must be consistent with three sections of the Growth Management Act:

- RCW 36.70A.020 Planning Goals
- RCW 36.70A.110 Urban Growth Areas
- RCW 36.70A.210 Countywide Planning Policies

Key Growth Management Act policies that guide the provision of public services and that are relevant to the proposed North Highline Area "X" include:

- RCW 36.70A.020 (1) Urban Growth: Encourages development in urban areas where adequate public facilities and services exist or can be provided efficiently.
- RCW 36.70A.020 (2) Reduce Sprawl: Reduce inappropriate conversion of undeveloped land into sprawling low-density development.
- RCW 36.70A.020 (10) Environment: Protect and enhance the environment and quality of life.
- RCW 36.70A.020 (11) Citizen Participation and coordination in the planning process and ensure coordination between communities/jurisdictions to reconcile conflicts.
- RCW 36.70A.020 (12) Public Facilities and services: Ensures that adequate public services and facilities are available to serve land developments.
- RCW 36.70A.110 (1/6) calls for each county to designate an urban growth area.
- RCW 36.70A.110 (3) directs urban growth to areas with existing or available public services and facilities
- RCW 36.70A.110 (4) states that "(in) general, cities are the units of local government most appropriate to provide urban...services."
- RCW 36.70A.210 (1) calls for cities to be primary providers of governmental services in urban growth areas.

Annexation of North Highline Area "X" into the City of Burien meets Growth Management Act criteria for governance of urban areas. This action is supported by RCW 36.70.A which requires community planning goals for urban growth, services and infrastructure, and environmental preservation. For example, the proposed North Highline Area "X" Annexation is consistent with RCW 36.70A.020 (1), encouraging development in urban areas where there are adequate public services.

The North Highline Area "X" Annexation is consistent with RCW 36.70A.020 (12), which calls for public services to support permitted development. Annexation would also permit urban growth – and protection of environmentally sensitive areas – as envisioned in the Growth Management Act.

RCW 36.93.180 OBJECTIVES

The Boundary Review Board has considered RCW 36.93.180 (Objectives), with respect to the North Highline Area "X" Annexation as follows:

RCW 36.93.180 (1) PRESERVATION OF NATURAL NEIGHBORHOODS AND COMMUNITIES

The Board finds that the North Highline Area "X" is a "neighborhood" as that term is defined by case law, as "either geographically distinct areas or socially... distinct groups of residents". North Highline Area "X" exhibits many features that support its link with the City. The communities are characterized by similar and linked built environments and natural environments (e.g., parklands, open spaces; topography, drainage basin.)

The citizens of both communities share similar demographic, social, and economic profiles. Residents of the City and the North Highline Area "X" use common community facilities – e.g., schools, roadways, community centers, shopping centers, parks, and recreation facilities.

The City of Burien Comprehensive Plan anticipates annexation of the North Highline Area "X." The City includes the North Highline Area "X" in its Potential Annexation Area. The inclusion of the North Highline Area "X", a sizeable area and population, serves to create a coordinated community and encourages a more effective connection to the City of Burien.

Annexation will allow the City of Burien to guide synchronized community development in a manner which considers both built lands and the critical natural areas. Burien officials are committed to providing North Highline Area "X" citizens with a voice and a vote in planning for the future development of the built community and preservation of environmentally sensitive areas.

More specifically, the North Highline Area "X" is included in community planning programs to enable the City to guide growth and to provide coordinated services. With annexation of North Highline Area "X", the City of Burien can establish and administer land use designations and zoning standards for North Highline. Under City of Burien regulations, the North Highline Area "X" would be proposed to continue as a predominantly residential community with designations and zoning similar to that existing under King County. Additionally, the City of Burien would continue to support various commercial uses and public uses in the North Highline Area.

The City of Burien is prepared to provide development review and environmental review (e.g., protection of slopes, sensitive areas, and stormwater management) to the North Highline Area "X" based upon local, regional and state regulations to support preservation of this community.

King County officials support annexation of North Highline Area "X" citing that this action is consistent with state, regional and local guidelines. The County has indicated a preference for immediate annexation of urban areas to advance uniform governance for citizens of the North Highline Area "X."

RCW 36.93.180 (2) USE OF PHYSICAL BOUNDARIES, INCLUDING BUT NOT LIMITED TO BODIES OF WATER, HIGHWAYS, AND LAND CONTOURS

The proposed North Highline Area "X" is contiguous to the northern border of the City of Burien. Other North Highline Area "X" boundaries are formed by Unincorporated King County, the City of Seattle, the City of Tukwila, and the City of SeaTac. North Highline Area "X" is specifically established for annexation by Burien under the City's Comprehensive Plan (approved by the State of Washington.) Annexation of North Highline Area "X" to the City of Burien advances the transition of the entire North Highline Area to local jurisdictions.

"Social neighborhoods" may also be the basis for boundaries. The evidence shows that the North Highline Area "X" shares a social affiliation with the City of Burien. As such annexation of the North Highline Area "X" would further the establishment of a cohesive community.

The North Highline Area "X" annexation is consistent with the King County Comprehensive Plan because this action achieves progress toward incorporation of the greater unincorporated area in King County.

Annexation of the North Highline Area "X" advances the planning goals established by the State Growth Management Act for providing local governance to unincorporated urban territories.

Therefore, the Board finds that annexation of the lands within the North Highline Area "X" would be based upon – and enhance – clearly delineated geographic boundaries.

RCW 36.93.180 (3) CREATION AND PRESERVATION OF LOGICAL SERVICE AREAS

The North Highline Area "X" annexation would create and preserve logical service areas throughout this community and the City of Burien. Annexation of North Highline Area "X" will enable planning, design, and implementation of efficient, consistent, consolidated service programs throughout the greater community.

The City of Burien Comprehensive Plan identifies the City as the provider of services for North Highline Area "X". More specifically, the City of Burien will assume responsibility for land use management through the City's Comprehensive Plan and land use regulations. The City of Burien will assume responsibility for protection of environmentally sensitive areas (e.g., variable terrain, open spaces) through the Comprehensive Plan, Critical Areas Ordinance, Stormwater Management Plan, and other local, regional, and state guidelines. For example:

- The City will assume responsibility for provision and management of capital facilities (e.g., roadways, parks/recreation areas). Acquisitions and improvements will be identified by means of a priority listing which reflects both necessity (i.e., public health, welfare and safety) and the interests of the citizens.
- The City will assume responsibility for providing police services through a contract with the King County Sheriff Department.
- The City will assume responsibility for providing fire/emergency services to the North Highline properties through a contract based upon the adopted Memorandum of Understanding with Fire Protection District No. 2 and with Fire Protection District No. 11.
- Roadways (including streets, storm water drains, and other right of way features) are generally fully operational. Funding is planned from various existing taxes and fees as well as anticipated sources (e.g., grants, development impact fees) for routine upgrades and maintenance and for future upgrades to facilities.
- Valley View District and Southwest Suburban Sewer District will continue to provide wastewater treatment services to the North Highline Area "X."
- King County Water District No. 20 and Seattle Public Utilities will continue to provide water services to the North Highline Area.
- Human services and law and justice services would be available to the citizens of the North Highline Area "X."
- City parks, recreation facilities, libraries and other community services would be available to the citizens of the North Highline Area "X."
- Children would continue to attend schools in the Highline School District or the Tukwila School District.

City officials have demonstrated that public services to the North Highline Area "X" would be improved by placing the entire area under a single municipal jurisdiction. Synchronized services and facilities (e.g., emergency services, water service, storm water and surface water management systems, wastewater treatment) will promote protection of the built environment and the natural environments.

King County strongly supports annexation of unincorporated urban areas like the North Highline Area "X" to provide citizens with more effective, efficient governance. Countywide Planning policies encourage cities to annex (and provide services to) territory within their designated potential annexation area. Other policies establish cities as the appropriate units to govern, develop, and serve Urban Areas. The County lacks sufficient resources to manage land uses or serve properties in these urban areas.

The State Growth Management Act identifies cities as the logical providers of local governance and urban services.

The Board finds that annexation of North Highline Area "X" into the City of Burien will advance the creation and preservation of logical service areas.

RCW 36.93.180 (4) PREVENTION OF ABNORMALLY IRREGULAR BOUNDARIES

The evidence shows that incorporation of the North Highline Area "X" would provide a reasonable and regular boundary consistent with the Burien Comprehensive Plan Annexation Element. The proposed boundaries of the North Highline Area "X" are generally geometric in form. Similarly, the North Highline Area "X" boundaries coincide with the established Urban Growth Area and with the boundaries of the City of Burien.

Further, under the King County Comprehensive Plan and the State Growth Management Act, the North Highline Area "X", as an unincorporated urban community, is encouraged to annex to a local jurisdiction. The North Highline Area, as an unincorporated community, does not benefit from effective governance.

The Board finds that annexation of North Highline Area "X" to Burien is consistent with the intent of this criterion to achieve the boundaries necessary to facilitate coordinated land uses and provide for more effective, efficient services to the community.

RCW 36.93.180 (5) DISCOURAGEMENT OF MULTIPLE INCORPORATIONS

The Board finds that both the State Growth Management Act and the King County Comprehensive Plan encourage governance of urban areas by local jurisdictions. Annexation to achieve local governance is preferred over incorporation of new communities. Annexation of North Highline to the City of Burien would, therefore, be consistent with RCW 36.93.180 (5).

RCW 36.93.180 (6) DISSOLUTION OF INACTIVE SPECIAL PURPOSE DISTRICTS

RCW 36.93.180 (6) is not applicable to File No. 2290.

RCW 36.93.180 (7) ADJUSTMENT OF IMPRACTICAL BOUNDARIES

The Board finds that the proposed North Highline Area "X" comprises a substantial area of unincorporated land. Annexation of North Highline Area "X" to the City of Burien would create more reasonable and practical boundaries necessary to achieve the preservation and coordinated governance of the community. Specifically, upon annexation, North Highline Area "X" – including the built environment and linked natural environment – will be placed under City jurisdiction, thus creating more practical boundaries for the effective local governance, directed planning activities (e.g., establishment of uniform land uses and development standards); preservation of environmentally sensitive areas; and the provision of coordinated public facilities and services.

RCW 36.93.180 (8) INCORPORATION AS CITIES OR ANNEXATION TO CITIES OF UNINCORPORATED AREAS WHICH ARE URBAN IN CHARACTER

The Board finds that annexation of the North Highline Area "X" into the City of Burien is based upon the location of this territory within the Urban Growth Area established by the King County Comprehensive Plan. The "Urban" designation established for the North Highline Area "X" is also supported by the State Growth Management Act.

The City of Burien annexation of the North Highline Area "X" will promote uniform governance, development, and services appropriate for this urban territory. Coordinated governance and services should immediately benefit North Highline Area "X" citizens. At annexation, North Highline Area "X" citizens will be notified of – and invited to participate in the planning of – future improvements to the community.

RCW 36.93.180 (9) PROTECTION OF AGRICULTURAL AND RURAL LANDS FOR LONG TERM PRODUCTIVE AGRICULTURAL/RESOURCE USE

RCW 36.93.180 (9) is not applicable to File No. 2290 as the North Highline Area "X" lies in the Urban Growth Area as established for King County.

III. BOUNDARY REVIEW BOARD FINDINGS AND DECISIONS

The Boundary Review Board conducted review and deliberation of File No. 2290 based upon the record of written documents and oral testimony, in keeping with applicable state, regional and local regulations. The Board focused upon RCW 36.93 (Boundary Review Board Enabling Act); RCW 36.70A (Growth Management Act); King County Comprehensive Plan/Countywide Policies; City of Burien Comprehensive Plans, RCW 35.13 (Annexation of Cities); and other relevant regulations and guidelines. As prescribed by statutory mandate, the Boundary Review Board considered the following options:

- North Highline Area "X" Annexation could be approved as submitted by the City of Burien, if this action advances the provisions of RCW 36.93 and other applicable regulations (e.g., State Growth Management Act, King County Comprehensive Plan, Burien Comprehensive Plan).
- North Highline Area "X" Annexation could be modified, if this action advances the provisions of RCW 36.93 and other applicable regulations (e.g., State Growth Management Act, King County Comprehensive Plan, Burien Comprehensive Plan).
- North Highline Area "X" Annexation could be denied in its entirety if annexation is found to be inconsistent with RCW 36.93 and other applicable regulations (e.g., Chapter 36.70A RCW, King County Comprehensive Plan, City of Burien Comprehensive Plan).

The Board finds that the record for File No. 2290 is detailed and extensive. Affected parties have provided considerable materials supporting their positions. The Board reviewed the entire record to reach its decision for the proposed North Highline Area "X" Annexation. The Board finds that the City of Burien's proposed annexation of the North Highline Area "X" is consistent with the provisions of Chapter 36.93 RCW. By way of example, but not limitation:

- The North Highline Area "X" Annexation addresses criteria established in RCW 36.93.170 with respect to population, territory, comprehensive planning, land uses, natural environment, service needs and service capacity, and mutual social and economic needs.
- Additionally, the proposed North Highline Area "X" was evaluated according to the criteria established in RCW 36.93.180 as follows:

RCW 36.93	NORTH HIGHLINE AREA "X" (1680 ACRES)
OBJECTIVE 1 - PRESERVATION OF NATURAL NEIGHBORHOODS AND COMMUNITIES	ADVANCES CRITERION AS ANNEXATION INCLUDES PROPERTIES IN A NATURAL COMMUNITY
OBJECTIVE 2 - USE OF PHYSICAL BOUNDARIES	ADVANCES CRITERION AS ANNEXATION IS CONSISTENT WITH ESTABLISHED BOUNDARIES
OBJECTIVE 3 - CREATION AND PRESERVATION OF LOGICAL SERVICE AREAS	ADVANCES CRITERION AS BURIEN CAN SERVE ENTIRE AREA TO PROTECT PUBLIC WELFARE.
OBJECTIVE 4 - PREVENTION OF ABNORMALLY IRREGULAR BOUNDARIES	ADVANCES CRITERION AS REGULAR BOUNDARIES SUPPORT A UNIFIED COMMUNITY AND STREAMLINE SERVICE PROVISION
OBJECTIVE 5 - DISCOURAGEMENT OF MULTIPLE INCORPORATIONS	DOES NOT APPLY

RCW 36.93	NORTH HIGHLINE AREA "X" (1680 ACRES)
OBJECTIVE 6 – DISSOLUTION OF INACTIVE SPECIAL PURPOSE DISTRICTS	DOES NOT APPLY
OBJECTIVE 7 – ADJUSTMENT OF IMPRACTICAL BOUNDARIES	ADVANCES CRITERION AS PRACTICAL BOUNDARIES ARE CREATED TO SUPPORT A UNIFIED COMMUNITY AND TO STREAMLINE SERVICE PROVISION
OBJECTIVE 8 – INCORPORATION ...OR ANNEXATION TO CITIES OF UNINCORPORATED URBAN AREAS	ADVANCES CRITERION AS THE ENTIRE DESIGNATED URBAN AREA WILL BE INCORPORATED INTO A LOCAL JURISDICTION
OBJECTIVE 9 – PROTECTION OF AGRICULTURAL AND RURAL LANDS ...	DOES NOT APPLY

- State Growth Management Act (Chapter 36.70A RCW) policies call for logical and orderly growth. The Board finds that annexation of North Highline Area "X" advances the provisions of the RCW 36.70A by providing for effective local governance.
- The King County Comprehensive Plan/Countywide Policies and the Burien Comprehensive Plan also contemplate logical and orderly growth of communities. These County and City plans support local governance to assure balanced, sound, cost-effective governance for this community.

The Board finds that the proposed North Highline Area "X" Annexation achieves the provisions of the King County Comprehensive Plan/Countywide Policies and the City of Burien Comprehensive Plan. Annexation of the North Highline Area "X" would accomplish that balance that the County and the City seek from annexation of urban areas into local communities.

IV. CONCLUSION

The Boundary Review Board finds that approval of the North Highline Area "X" Annexation to the City of Burien advances the standards established in the Growth Management Act, King County Comprehensive Plan, the City of Burien's Comprehensive Plan, RCW 36.93, and other state and local guidelines for incorporation of urban areas.

The Boundary Review Board finds that approval of the City of Burien Notice of Intention to annex the North Highline Area "X" is timely based upon the City of Burien's current and historical commitment to guide development and provide municipal services to this area.

The North Highline Area "X" Annexation will enable the City of Burien to provide a harmonious efficient plan for the governance of the built community, preservation of the environment, and protection of the public health and safety of the citizens.

(Note: Under state law, the City of Burien must adopt an Ordinance or Resolution affirming the North Highline Area "X" Annexation following action by the Boundary Review Board and agreement by a vote of the citizens. Under state law, the City must confirm the action as approved by the Boundary Review Board. Alternatively, the Council may decide not to pursue the action. However, the City cannot modify the boundaries that have been approved by the Boundary Review Board.)

NOW, THEREFORE,

BE IT RESOLVED BY THE WASHINGTON STATE BOUNDARY REVIEW BOARD FOR KING COUNTY THAT, for the above reasons, the action proposed in the Notice of Intention contained in said File No. 2290 be, and the same is, hereby approved as described in Exhibits attached hereto and incorporated herein by reference.

ADOPTED BY SAID WASHINGTON STATE BOUNDARY REVIEW BOARD FOR KING COUNTY by a vote of 9 in favor, 0 in opposition, and 0 abstentions, on this 16 day of April, 2009, and signed by me in authentication of its said adoption on said date.

WASHINGTON STATE BOUNDARY REVIEW BOARD FOR KING COUNTY

Claudia Hirsche
Claudia Hirschey, Chair

FILED this 17 day of April, 2009 BY:
Lenora Blauman
Lenora Blauman, Executive Secretary

EXHIBITS

EXHIBIT I CITY OF BURIEN NORTH HIGHLINE AREA "X": LEGAL DESCRIPTION OF ANNEXATION AREA BOUNDARIES

EXHIBIT II CITY OF BURIEN NORTH HIGHLINE AREA "X": MAP OF ANNEXATION AREA BOUNDARIES

RECEIVED

EXHIBIT I

MAR 9 2009

EXHIBIT A

WA State Boundary Review
Board For King Co.

BOUNDARIES OF THE PROPOSED NORTH HIGHLINE ANNEXATION AREA

The legal description of the boundaries of the proposed North Highline Annexation Area, located in Section 12, Township 23 North, Range 3 East, W.M. and in Sections 4, 5, 7, 8 and 9, Township 23 North, Range 4 East, W.M. and, all in King County, Washington, more particularly described as follows:

Beginning at the northeast corner of existing City of Burien as established by King County Ordinance 10236, said corner also being the intersection of the west margin of Des Moines Memorial Drive South (Des Moines Way South) with the north margin of South 128th Street said point being also on the city limits of SeaTac as established by King County Ordinance 8820 and situated in the Southwest quarter of Section 9, Township 23 North, Range 4 East, W.M., King County, Washington;

Thence easterly along said north margin of South 128th Street and said city limits of SeaTac to the east margin of Military Road South and an angle point in said north margin of South 128th Street and the city limits of Tukwila as established by City of Tukwila Ordinance 1574;

Thence continuing along said north margin of South 128th Street and said city limits of Tukwila to the intersection with the south line of Section 9, Township 23 North, Range 4 East, W.M.;

Thence east along the south line of said Section 9 to the intersection with a line lying 250 feet (measured perpendicular to) westerly of and parallel with the centerline of Pacific Highway South;

Thence northerly along said parallel line to the south line of the north 34 feet of the North half of the South half of the Southeast quarter of the Southeast quarter of said Section 9;

Thence continuing northerly along said parallel line which lies 250 feet westerly of and parallel with the centerline of Pacific Highway South a distance of 5 feet more or less to a point located opposite Highway Engineers Station PT.527 + 88.4 on said centerline;

Thence continuing northerly along said line, North 12°21'28" West a distance of 200.30 feet to the south line of the north half of the north half of the south half of the southeast quarter of the southeast quarter of said Section 9;

Thence along said south line, South 88°56'52" West to a point which lies 564.93 feet westerly of the west margin of Pacific Highway South when measured along said line;

March 6, 2009

Page 1 of 4

EXHIBIT I

Thence North 00°05'43" East to a point on the north line of the south half of the north half of the southeast quarter of the southeast quarter, said point being 453.07 feet westerly from the west margin of Pacific Highway South when measured along said line;

Thence westerly along said north line to a point which lies 609.72 feet east of the west line of the Southeast quarter of the Southeast quarter of said Section 9, said point also being the southwest corner of Lot "A" of City of Tukwila Boundary Line Adjustment No. L98-0033 recorded under Recorder's Number 9810059013, records of King County, Washington;

Thence northerly along the west line of said Lot "A" to a point on the north line of the southeast quarter of the southeast quarter of said Section 9 which is located 614.26 feet east of the northwest corner thereof, said point also being an angle point on the westerly line of said Lot "A";

Thence easterly along said north line to a point located 300 feet westerly of the west margin of Pacific Highway South when measured along said north line, said point also being an angle point in the westerly line of said Lot "A";

Thence northwesterly along the westerly line of Lots "A", "B", "C", and "D" of said City of Tukwila Boundary Line Adjustment to a point on the north line of the northeast quarter of the southeast quarter of Section 9 which is located 100 feet east of the northwest corner thereof, said point also being the northwest corner of said Lot "D";

Thence easterly along said north line to the westerly limited access line of PSH No. 1 (SR-99);

Thence generally northerly along said westerly limited access line to its intersection with the north margin of South 116th Way (South 116th Place);

Thence northwesterly along said north margin of South 116th Way to the new westerly right-of-way line and limited access line for Primary State Highway No. 1 (S.R. 99) as approved 7-23-57 and shown on Sheets 1 & 2 of 7;

Thence northerly along said new westerly right-of-way line to the intersection with the south margin of South 108th Street;

Thence departing from said city limits of Tukwila westerly along said south margin of South 108th Street to the intersection with the east line of the Southwest quarter of the Southwest quarter of Section 4, Township 23 North, Range 4 East, W.M.;

Thence north 30 feet along said east line to the southeast corner of the Northwest quarter of the Southwest quarter of said Section 4;

Thence west 30 feet along the south line of the Northwest quarter of the Southwest quarter of said Section 4 to the west margin of 20th Avenue South;

Thence northerly along said west margin of 20th Avenue South to the north line of the south 136 feet of the Northwest quarter of the Southwest quarter of said Section 4;

Thence westerly along the north line of the south 136 feet of the Northwest quarter of the Southwest quarter of said Section 4 to the intersection with the west line of said Section 4;

Thence southerly along the west line of said Section 4 to the north margin of South 112th Street;

Thence westerly along said north margin of South 112th Street to intersection with the north line of said Section 8;

Thence westerly along said north line to the intersection with the east margin of State Route 509;

Thence southerly along said east margin of State Route 509 to the north margin of South 116th Street;

Thence westerly along said north margin of South 116th Street and Southwest 116th Street to the west margin of 10th Avenue Southwest;

Thence northerly along said west margin of 10th Avenue Southwest to the north margin of Southwest 114th Street;

Thence westerly along said north margin of Southwest 114th Street to the east margin of 15th Avenue Southwest;

Thence northerly along said east margin of 15th Avenue Southwest to the south margin of Southwest 112th Street.

Thence westerly along said south margin of Southwest 112th Street to the east margin of Seola Beach Drive Southwest;

Thence southerly along said east margin of Seola Beach Drive Southwest to the intersection with the north line of Government Lot 3, Section 12, Township 23 North, Range 3 East, W.M. said point being the northwest corner of the existing City of Burien;

Thence easterly along said north line and the boundary of said existing City of Burien as established by King County Ordinance 10236 to the west margin of 30th Avenue Southwest;

Thence north 30 feet to the north margin of Southwest 116th Street;

Thence easterly along the north margin of Southwest 116th Street to the intersection with the east margin of 12th Avenue Southwest;

Thence southerly along said east margin of 12th Avenue Southwest to the east margin of Ambaum Boulevard Southwest;

Thence southerly along said east margin of Ambaum Boulevard Southwest to the intersection with the north margin of Southwest 128th Street;

Thence easterly along said north margin of Southwest 128th Street and South 128th Street, also being the Burien City Limits as established by King County Ordinance 10236, to the intersection with the west margin of Des Moines Memorial Drive South (Des Moines Way South) and the Point of Beginning.

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Review of Council Proposed Agenda Schedule		Meeting Date: March 19, 2012
Department: City Manager	Attachments: Proposed Meeting Schedule	Fund Source: N/A Activity Cost: N/A Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Contact: Monica Lusk, City Clerk		
Telephone: (206) 248-5517		
Adopted Initiative: Yes No <input checked="" type="checkbox"/> X	Initiative Description: N/A	
PURPOSE/REQUIRED ACTION:		
The purpose of this agenda item is for Council to review the proposed City Council meeting schedule. New items or items that have been rescheduled are in bold.		
 BACKGROUND (Include prior Council action & discussion):		
According to City Council policies, the proposed meeting schedule is reviewed during the last meeting of each month.		
 OPTIONS (Including fiscal impacts):		
<ol style="list-style-type: none"> 1. Review the schedule, and add, delete, or move items. 2. Review the schedule and make no modifications. 		
Administrative Recommendation: Review the schedule and provide direction to staff.		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motion: None required.		
Submitted by: Monica Lusk Administration _____	Mike Martin City Manager _____	
Today's Date: March 12, 2012	File Code: R:/CC/AgendaBill2012/031912cm-3 proposedagendareview.doc	

**CITY OF BURIEN
PROPOSED COUNCIL AGENDA SCHEDULE
2012**

March 26, 7:00 p.m. Council Study session

Protocol for Study Sessions.

(City Manager)

Discussion on Kids and Cops Initiative.

(City Manager)

April/May

1. Presentation on Seattle City Light's Strategic Plan.
(City Manager)
2. **Presentation of Annual Report by Discover Burien.**
(City Manager)
3. **Presentation of the Draft Transportation Master Plan (TMP).**
(Community Development – Rescheduled from 3/19)
4. Review of Proposed Council Agenda Schedule.
(City Manager)
5. City Business.
(City Manager)
6. Discussion on and Possible Motion to Adopt Transportation Master Plan (TMP).
(Community Development)
7. Discussion on the Motion to Approve the Submittal of the 2013 Community Development Block Grant (CDBG) Application.
(Finance)
8. Review of Proposed Council Agenda Schedule.
(City Manager)
9. City Business.
(City Manager)
10. Motion to Approve the Submittal of the 2013 Community Development Block Grant (CDBG) Application.
(Finance)
11. Review of Proposed Council Agenda Schedule.
(City Manager)
12. City Business.



Burien

Washington, USA

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

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www.burienwa.gov

MEMORANDUM

TO: Honorable Mayor and Members of the City Council
FROM: Mike Martin, City Manager
DATE: March 19, 2012
SUBJECT: City Manager's Report

I. INTERNAL CITY INFORMATION

A. Contracts Over \$25,000 Signed by City

Here is a list of budgeted contracts over \$25,000 that have been signed by the City since September 2011:

- Shiels Obletz Johnsen (SOJ) for 2011-2012 Public Works Department Best Practices Assessment and 1st Ave. S. Services for \$232,500
- Army Corps of Engineers Project Partnership Agreement for Seahurst Park Phase II Ecosystem Restoration Project.
- Perteet, Inc. for Construction Administration Services for 1st Ave. S., Phase 2 for \$814,536
- City of Normandy Park for Interlocal Agreement for Cost Overruns on the Sylvester Road Bridge Replacement Project for \$100,000
- DPK, Inc. for Construction services for 1st Ave. S. Phase 2 project for \$5,861,837
- Mike Doubleday for 2012 State Lobbying Services for \$40,800
- Puget Sound Access for 2012 Videographer Services for \$30,000
- Seitel Leeds & Associates for 2012 Information Systems Management services for \$49,000
- King County Water & Land Resources for 2012 Miller and Walker Creek Basin Stewardship Technical Services Agreement for \$58,540
- TruGreen LandCare for 2012-2014 Parks Maintenance and Landscaping Services for \$419,395
- Microflex for 2012 Business License, B&O Tax, and Sales Tax Services for \$79,629

B. The Old Switcheroo Update

Making big lifestyle changes can be tough. Whether it is trying to exercise thirty minutes per day, drinking more water, or remembering to floss your teeth, changing lifestyle habits that have been in place for years is daunting. The Old Switcheroo, a wellness campaign conducted throughout the month of February, challenged employees to shift their focus away from big lifestyle changes and, instead, make small, everyday changes. Participants were asked to swap two not-so-healthy habits (like watching television) for two healthier habits (like walking ten minutes per day). 20 employees completed the program successfully. In addition, 20 of the 27 participants indicated that they are continuing a behavior that they began during the campaign.

C. Recruitment and Hiring Efforts

During March, the City has recruited for three temporary Public Works Maintenance positions, six temporary summer day camp leaders, and one Executive Assistant. A number of qualified applicants have submitted applications and staff is either in the process of reviewing applications, interviewing candidates, performing background checks, or negotiating job offers for these positions. We hope to have all of these positions filled by the end of the month.

D. Employee Health Screening Scheduled

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, will host a free on-site health screening for employees and their spouses/domestic partners covered under the AWC medical insurance plan on May 9th. 23 Screenings will include measurements for height, weight, blood pressure, glucose, cholesterol (HDL and LDL), and triglycerides. Screening results will be available immediately and reviewed privately and confidentially with participants by a healthcare professional. Participants will be encouraged to seek follow up care for any elevated readings.

E. How Many Electric Charging Vehicle Stations are in Burien?

The Department of Energy has published the locations of alternative fuel stations, including electric vehicle charging stations in the U.S. The list is interactive and is available at <http://www.afdc.energy.gov/afdc/locator/stations/>. There are two stations in Burien: the Burien Transit Center and Burien Nissan.

F. Permit Update

A Certificate of Occupancy was issued for Curiosity Corner Day Care on March 1, 2012. Extensive work was done to add fire sprinklers and alarms as well as upgrades to the building in order for the use to be changed from office to Day Care. Their new location is 15525 1st Ave S.

Construction permits were issued for four 2,500 square foot homes with attached garage in the Chestnut Hills development located on 5th Pl. S. off of 138th Ave S. These are the final four homes to be constructed in this development.

G. Burien Parks to Use Group Purchasing Organization (GPO) to Lower Costs

The Burien Parks, Recreation & Cultural Services (PaRCS) Department has become a member of The Cooperative Purchasing Network. The purpose of a GPO is to allow its members to join together to leverage purchases in order to acquire goods and services at lower prices. GPO's are not resellers, but rather contract negotiators. End users are entitled to purchase through these negotiated contracts at the price and terms so specified. GPO's assists public agencies in reducing the cost of goods and services through pooling the purchasing power of public agencies nationwide. This is accomplished through competitively solicited contracts for quality products through lead public agencies. The advantages of participating with a GPO include most favorable public agency pricing, no cost to participate and a broad range of high quality products.

H. PaRCS Staff Coordinates WRPA Training

Recreation Specialist Rachel Gilbert coordinated the annual "Facilities Services Workshop" on March 3 at the South Bellevue Community Center. An especially-well-received session was entitled "Upselling", which coached staff how to sell programs of similar interest to existing registrants. All of Burien PaRC's front desk and rental staff attended the full-day workshop. Rachel is the incoming chairperson for next year's Facilities Services section in the Washington Recreation & Parks Association (WRPA).

I. Family Gym Jam Program Takes Seattle Aquarium Field Trip

In partnership with the Environmental Science Center (ESC), PaRCS staff organized an evening trip to the Aquarium on March 8 for families who attend its 'Gym Jam' nights at Cedarhurst and Hazel Valley schools. Hands-on science projects, experiences with sea animals, games, and refreshments were provided. ESC also invited local Burien groups New Futures and Para los Niños to participate. Approximately 800 Burien families were in attendance.

J. Future Leaders of Tomorrow Meet at Community Center

Burien PaRCS hosted the Seamount Association of Student Councils (SASC) Conference at the Burien Community Center on March 8. SASC represents five public high schools in the south King County area, including Highline High School. Approximately 70 high school youth discussed how they might collaborate on a joint service project and other community engagement activities.

II. COUNCIL UPDATES/REPORTS

A. Letter Sent to Governor Gregoire Urging Signing of Supplemental Transportation Budget (Pg. 219)

Mayor Brian Bennett sent a letter on behalf of the City of Burien to Governor Gregoire, asking her to sign the supplemental transportation budget, ESHB 2190, into law. If signed, the bill would provide money for the planning of an off-ramp for SR 518 that will greatly improve access to the Northeast Redevelopment Area.

B. Follow-Up Regarding Seattle City Light Franchise Fee

As a follow-up to Councilmember Block's request on March 5, 2012, the Seattle City Light Franchise Fee is 6% of the amount of revenue derived from the power portion of SCL service to customers in the City. The distribution portion of the rate is excluded from the franchise fee calculation. In 2011, the power portion of the rate comprised 44% of Seattle City Light revenues for Burien customers. The franchise fee for 2011 was \$793,241. This amount includes \$153,927 of the \$249,708 received from Seattle City Light for the North Burien customers. The balance of the additional payment (\$95,781) reported to Council on March 5 was an adjustment for 2010.

C. Proclamation for the Northwest Symphony Orchestra (Pg. 221)

Deputy Mayor Clark has proposed issuing a proclamation of the City Council, honoring the Northwest Symphony Orchestra for their significant contribution to the City of Burien and the Pacific Northwest region. The Symphony's mission is to be a premier orchestra in performing and promoting the music of contemporary Northwest composers while also performing and educating the public in the full spectrum of classical music. A simple majority approval by Council is requested to move this request forward.

D. Permitting Reports (Pg. 223)

Staff has provided the attached reports of Permit Applications Received and Permits Issued for February 2012.

E. Citizen Action Report (Pg. 225)

Staff has provided Council with the attached February 2012 Citizen Action Report.



Burien

Washington, USA

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www.burienwa.gov

March 14, 2012

The Honorable Christine Gregoire
Governor
State of Washington
PO Box 40002
Olympia, WA 98504-0002

RE: ESHB 2190

Dear Governor Gregoire:

On behalf of the City of Burien, I am writing to ask that you sign the supplemental transportation budget, **ESHB 2190**, into law.

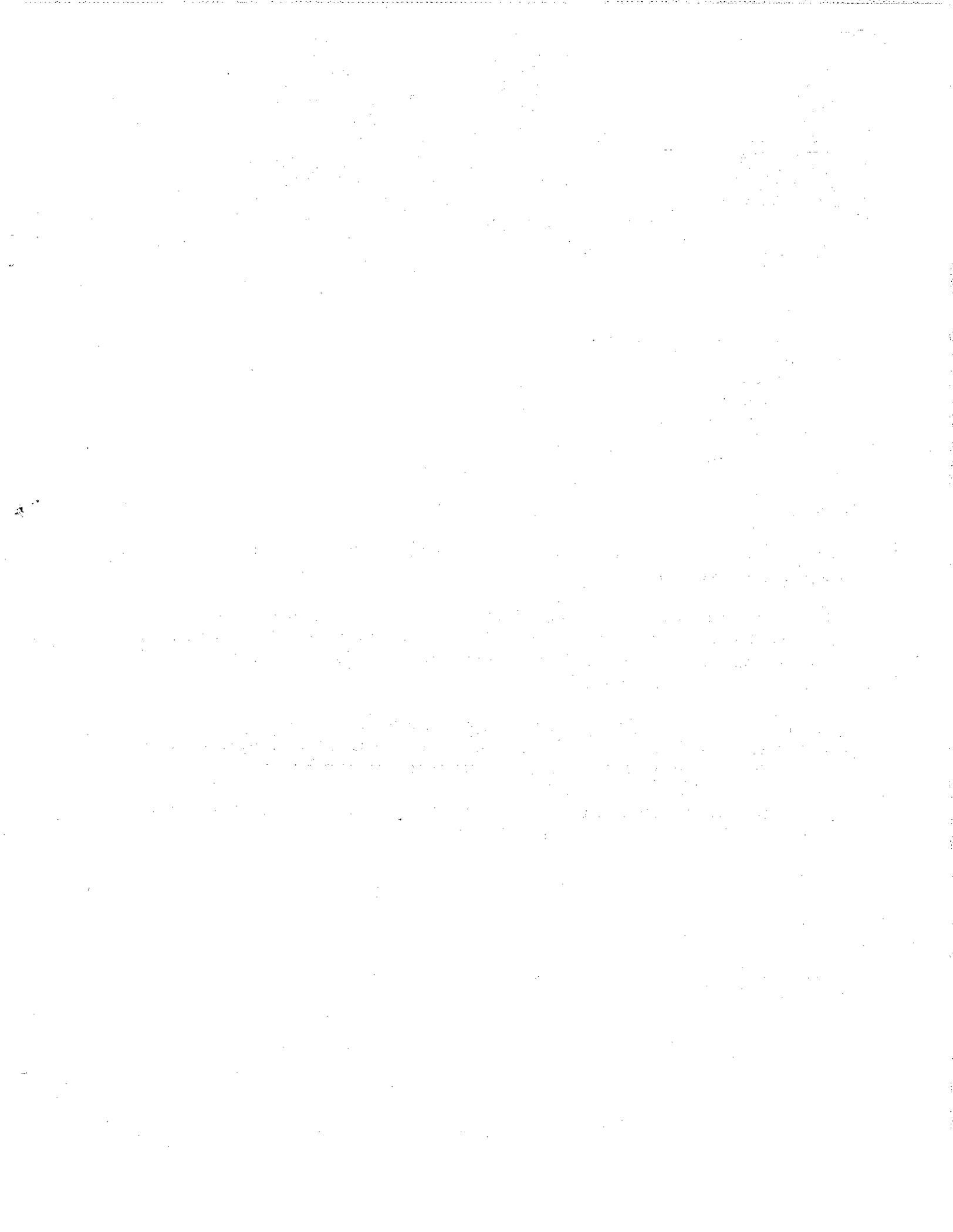
ESHB 2190 contains a \$250,000 appropriation to DOT to begin work on the State Route 518/ Des Moines Memorial Drive project in Burien. This very important funding will begin planning for an off-ramp from SR-518 that will greatly improve access to what the City of Burien calls the Northeast Redevelopment Area (NERA).

Burien is working collaboratively with the business community and the Port of Seattle to redevelop this airport-impacted area. This is the first step in a process that we expect will create jobs through the development of a vibrant, new, commercial district in Burien.

Your support of this supplemental budget and this project for Burien is most important to our future success. We urge you to sign **ESHB 2190**.

Sincerely,

Brian Bennett, Mayor
City of Burien





**PROCLAMATION
OF THE CITY OF BURIEN
Washington**

A PROCLAMATION OF THE BURIEN CITY COUNCIL OF THE CITY OF BURIEN,
WASHINGTON, HONORING

THE NORTHWEST SYMPHONY ORCHESTRA

Whereas, THE NORTHWEST SYMPHONY ORCHESTRA was founded in 1987, and has been performing at the Highline Performing Arts Center since 1996; and

Whereas, THE NORTHWEST SYMPHONY ORCHESTRA's mission is to be "a premier orchestra in performing and promoting the music of contemporary Northwest composers while also performing and educating the public in the full spectrum of classical music"; and

Whereas, THE NORTHWEST SYMPHONY ORCHESTRA demonstrates a firm commitment to the Pacific Northwest composers and the community by performing over 100 works by local composers and by providing music education to the Highline Public School District; and

Whereas, THE NORTHWEST SYMPHONY ORCHESTRA has garnered seven national American Society of Composers Authors and Publishers awards for "Programming of Contemporary Music."

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON,
DOES HEREBY ASK ALL BURIEN CITIZENS TO JOIN TOGETHER TO HONOR

THE NORTHWEST SYMPHONY ORCHESTRA

and recognize the organization for its significant contributions to the City of Burien and the community.

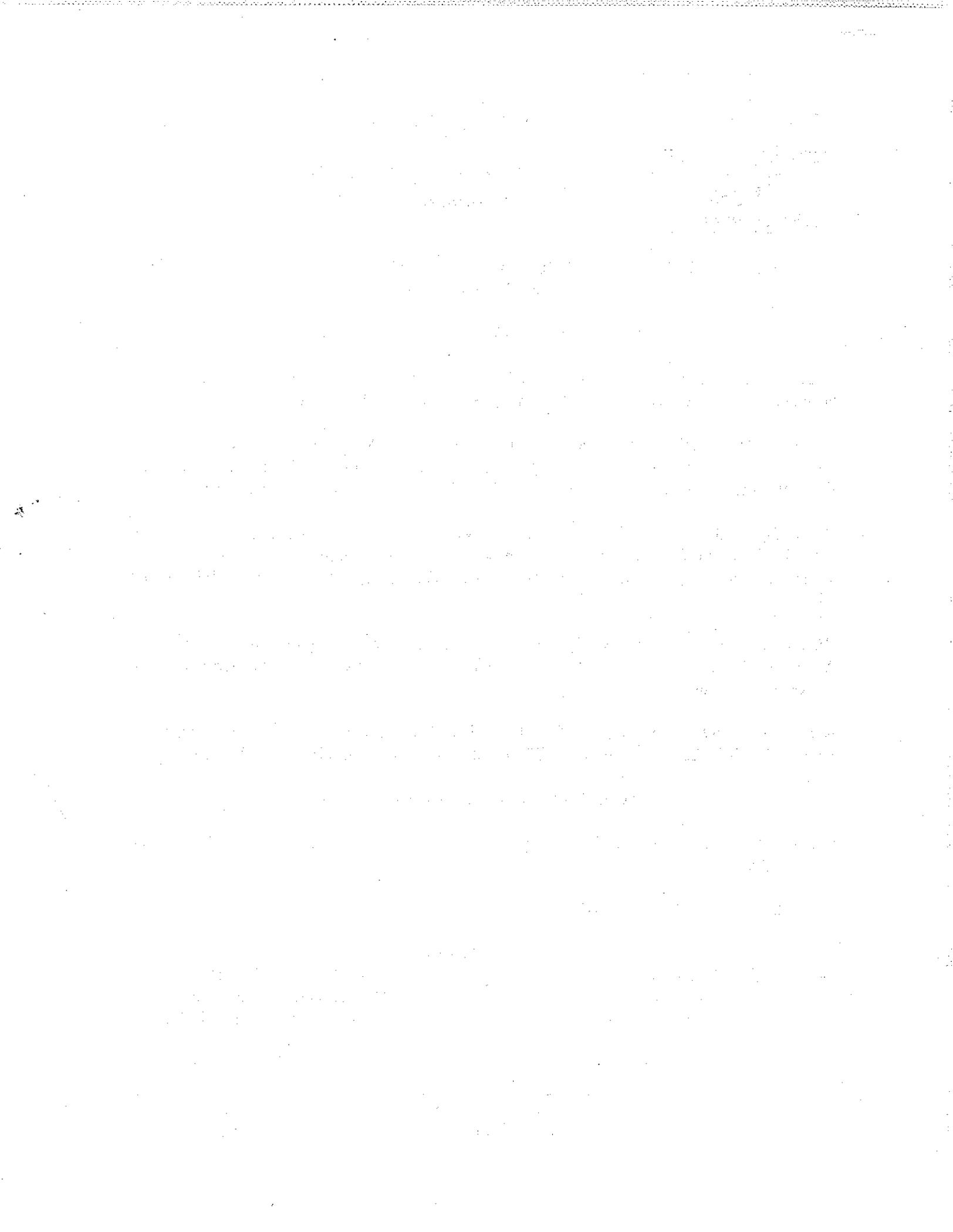
Dated this 16th Day of April, 2012

Mayor Brian Bennett

Deputy Mayor Rose Clark
Councilmember Bob Edgar
Councilmember Joan McGilton

Councilmember Jack Block, Jr.
Councilmember Lucy Krakowiak
Councilmember Gerald Robison

City of Burien Mayor





Burien

Washington, USA

Summary of Permit Applications Received – February 2012

Type Permit	Count	Valuation
Building	31	\$ 6,351,936
Damage	1	
Demolition	2	
Electrical	89	\$ 106,930
Fire Protection	15	\$ 110,295
Mechanical	25	\$ 749,028
Plumbing	9	\$ 461,000
Right of Way	36	
Sign	10	\$ 29,030
Totals :	218	\$ 7,918,219



Burien

Washington, USA

Summary of Permits Issued

Start Date: 02/01/2012

End Date: 02/29/2012

TypePermit	Count	Valuation
Building	14	\$778,620.95
Damage	1	
Demolition	3	
Electrical	87	\$174,964.00
Fire Protection	9	\$54,700.00
Mechanical	23	\$347,250.00
Plumbing	8	\$33,000.00
Right of Way	30	
Sign	6	\$18,050.00
Totals :	181	\$1,406,584.95



Burien

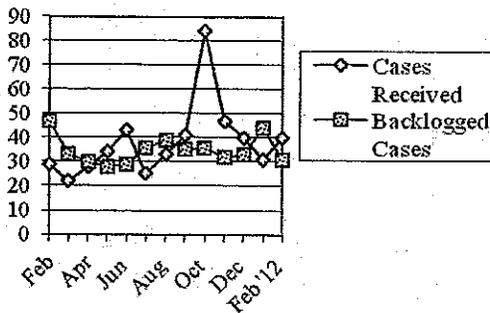
Washington, USA

CITY OF BURIEN MEMORANDUM

DATE: March 6, 2012
TO: Mike Martin, City Manager
FROM: Cynthia Schaff, Paralegal
RE: February 2012 Citizen Action Report

This report reflects the caseload for February and includes all backlog cases open as of February 29, 2012. As of that date, there were 54 open cases. 31 of the open cases are more than five weeks old and are considered backlog. There were 40 cases opened during the month of February; 10 cases initiated by staff/police/fire, and 30 cases initiated by residents.

Citizen Action Case Status



	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan '12	Feb '12
Cases Received	29	22	28	34	43	25	33	41	84	47	40	31	40
Backlogged Cases	47	33	30	28	29	36	39	35	36	32	33	44	31
Total Open Cases	72	47	48	50	66	59	66	62	72	71	60	67	54
% of Backlog	65%	70%	63%	56%	44%	61%	59%	56%	50%	45%	55%	66%	57%

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 Michael Lafreniere, Parks Director
 Jim Bibby, Code Compliance Officer Jan Vogee, Building Official
 Henry McLauchlan, Administrative Sergeant Maiya Andrews, Public Works Director
 Craig Knutson, City Attorney



Monthly Report to the City Manager

Citizen Action Request Case Status

Report Date: 03/05/2012

Days Old	Department	CAR #	Date Received	Nature of Request	Complaint Information	Last Action	Date	Status
693	Building	CAR-10-0132	04/12/2010	Building	10826 ROSEBERG AV S Building, Hernandez	NOV Issued	02/21/2012	Open
693	Code Enforcement	CAR-10-0161	04/12/2010	Nuisance	12663 16TH AV S Nuisance-Johnson	Phone Call	03/14/2011	Open
685	Public Works	CAR-10-0208	04/20/2010	Planning / Zoning	804 SW 122ND ST Zoning-Puloka-Zone 1	Enforcement Letter 1	12/22/2011	Open
307	Code Enforcement	CAR-11-0174	05/03/2011	Nuisance	12411 DES MOINES MEMORIAL DR S Nuisance, Garbage, Vehicles-Souffront-Zone 2	NOV Issued	12/09/2011	Open
291	Fire Department	CAR-11-0206	05/19/2011	Fire Department Issue	1223 SW 128TH ST Fire Dept.-Amber Glo-Zone 1	Case Received	05/19/2011	Open
270	Code Enforcement	CAR-11-0213	06/09/2011	Nuisance	18460 4TH AV S Nuisance-Martinez-Zone 4	Other - See Notes	02/03/2012	Open
265	Code Enforcement	CAR-11-0287	06/14/2011	Nuisance	318 SW 126TH ST Nuisance-Beltran-Zone 1	Enforcement Letter 1	11/16/2011	Open
257	Fire Department	CAR-11-0233	06/22/2011	Fire Department Issue	Fire Alarm System-HiPointer Condos-Zone 4	Case Received	06/22/2011	Open
234	Code Enforcement	CAR-11-0269	07/15/2011	Nuisance	11860 12TH AV S Vegetation/Trash/Vacant-Fannie Mae-Zone 1	Case Received	07/15/2011	Open
208	Building	CAR-11-0304	08/10/2011	Other	13825 DES MOINES MEMORIAL DR S Grading Permit-Haberzettl-Zone 4	Site Investigation	02/07/2012	Open
189	Code Enforcement	CAR-11-0318	08/29/2011	Nuisance	14230 8TH AV S Nuisance-Singh-Zone 4	Case Closed	02/27/2012	Open

Days Old	Department	CAR #	Date Received	Nature of Request	Complaint Information	Last Action	Date	Status
143	Building	CAR-11-0399	10/14/2011	Critical Area Concerns	16705 MAPLEWILD AV SW Critical Area House-Johnson/Justin-Zone 3	Enforcement Letter 1	02/07/2012	Open
143	Fire Department	CAR-11-0536	10/14/2011	Fire Department Issue	12311 AMBAUM BL SW Manuel Fire Alarm-View Ridge Park Villa Apts-Zone 1	Phone Call	12/14/2011	Open
140	Code Enforcement	CAR-11-0439	10/17/2011	Business License	12000 DES MOINES MEMORIAL DR S Business License-The Pizza Source-Zone 2	Case Received	10/27/2011	Open
131	Code Enforcement	CAR-11-0428	10/26/2011	Housing Concerns	638 S 159TH ST Housing, Electrical-Boteler-Zone 4	Phone Call	11/16/2011	Open
116	Code Enforcement	CAR-11-0486	11/10/2011	Nuisance	16331 MAPLEWILD AV SW Nuisance-Golka-Zone 3	Enforcement Letter 2	02/10/2012	Open
113	Code Enforcement	CAR-11-0496	11/13/2011	Business License	209 SW 152ND ST Business License-La Preciosa Boutique-Zone 3	Case Received	11/13/2011	Open
109	Code Enforcement	CAR-11-0506	11/17/2011	Nuisance	451 SW 142ND ST Nuisance, Junk Vehicles & Boats-Goebel-Zone 1	Phone Call	12/22/2011	Open
95	Code Enforcement	CAR-11-0516	12/01/2011	Nuisance	12241 5TH AV S Nuisance debris/vehicles-Poelzer-Zone 2	Phone Call	12/29/2012	Open
81	Code Enforcement	CAR-11-0537	12/15/2011	Fire Department Issue	1050 SW 151ST ST Fire Alarm System-Royal Arms Apts-Zone3	Case Received	12/15/2011	Open
76	Code Enforcement	CAR-11-0544	12/20/2011	Sign Violation	127 SW 153RD ST Abandoned Sign-EI Trapiche-Zone 3	Case Received	12/20/2011	Open
76	Code Enforcement	CAR-11-0546	12/20/2011	Sign Violation	137 SW 160TH ST Abandoned Sign-King Buffet-Zone 3	Case Received	12/20/2011	Open

Days Old	Department	CAR #	Date Received	Nature of Request	Complaint Information	Last Action	Date	Status
75	Code Enforcement	CAR-11-0552	12/21/2011	Nuisance	11813 ROSEBERG AV S Nuisance Junk Vehicles-Teem-Zone 2	Case Received	12/22/2011	Open
74	Code Enforcement	CAR-11-0549	12/22/2011	Sign Violation	148 SW 153RD ST Abandoned sign-Impexsa-Zone 3	Case Received		
74	Code Enforcement	CAR-11-0550	12/22/2011	Sign Violation	13409 AMBAUM BL SW Abandoned sign & Graffiti-Donatelli's-Zone 1	Case Received	12/22/2011	Open
74	Code Enforcement	CAR-11-0551	12/22/2011	Sign Violation	110 SW 148TH ST Abandoned Sign-Piranha Joe's-Zone 3	Case Received	12/22/2011	Open
55	Code Enforcement	CAR-12-0011	01/10/2012	Drainage - ROW	2003 SW 120TH ST Drainage, Private-Nguyen-Zone 1	Case Closed	02/06/2012	Open
53	Code Enforcement	CAR-12-0018	01/12/2012	Nuisance	811 SW 146TH ST Nuisance-Millenium Ford-Zone 3	Site Investigation	02/21/2012	Open
48	Code Enforcement	CAR-12-0021	01/17/2012	Nuisance	17433 SYLVESTER RD SW Nuisance, Drainage-Hasanoglu-Zone 3	Case Received	01/17/2012	Open
42	Code Enforcement	CAR-12-0030	01/23/2012	Nuisance	12044 DES MOINES MEMORIAL DR S Nuisance, Junk Vehicles-Pederson-Zone 2	Case Received	01/23/2012	Open
38	Code Enforcement	CAR-12-0034	01/27/2012	Housing Concerns	15325 1ST AV S Housing-Cheng-Zone 3	Enforcement Letter 1	01/31/2012	Open
35	Code Enforcement	CAR-12-0038	01/30/2012	Nuisance	12849 7TH AV S Nuisance, garbage-Lingen-Zone 2	Case Received	01/30/2012	Open
32	Code Enforcement	CAR-12-0056	02/02/2012	Business License	Business License, Parking-Ohrt-Zone 4	Other - See Notes	02/15/2012	Open
31	Code Enforcement	CAR-12-0042	02/03/2012	Sign Violation	Sign, ABS-Dunn Lumber-Zone 2	Case Received	02/03/2012	Open

Days Old	Department	CAR #	Date Received	Nature of Request	Complaint Information	Last Action	Date	Status
28	Code Enforcement	CAR-12-0043	02/06/2012	Nuisance	11842 24TH AV S Nuisance Trash, Vehicles-Reyes-Zone 2	Case Received	02/06/2012	Open
24	Code Enforcement	CAR-12-0049	02/10/2012	Sign Violation	14257 DES MOINES MEMORIAL DR S Sign Maint-757-Zone 4	Case Received	02/10/2012	Open
21	Code Enforcement	CAR-12-0052	02/13/2012	Nuisance	11833 3RD AV S Nuisance Vehicles-Tran-Zone 2	Case Received	02/13/2012	Open
20	Code Enforcement	CAR-12-0068	02/14/2012	Nuisance	12013 12TH AV S Nuisance-Voring-Zone 2	Case Received	02/27/2012	Open
19	Code Enforcement	CAR-12-0057	02/15/2012	Nuisance	Nuisance,Vehicles-Miles-Zone 1	Case Received	02/15/2012	Open
13	Code Enforcement	CAR-12-0059	02/21/2012	Nuisance	234 SW 137TH ST Garbage/Debris-Smith - Zone 1	Case Received	02/21/2012	Open
13	Code Enforcement	CAR-12-0061	02/21/2012	Tree Cutting - Private	2610 SW 152ND ST Tree Cutting Critical-Lyon-Zone 3	Phone Call	02/27/2012	Open
13	Code Enforcement	CAR-12-0062	02/21/2012	Nuisance	430 SW 122ND ST Vacant House-Fannie Mae - Zone 1	Case Received	02/21/2012	Open
11	Code Enforcement	CAR-12-0063	02/23/2012	Church Issue	15106 10TH AV SW Business License-Caivery Lutheran Office-Zone 3	Case Received	02/23/2012	Open
10	Code Enforcement	CAR-12-0064	02/24/2012	Rental Housing License	14608 11TH AV SW Rental Housing License-Baker-Zone 3	Case Received	02/24/2012	Open
10	Code Enforcement	CAR-12-0065	02/24/2012	Planning / Zoning	14322 11TH AV SW Set Back Violation-Miller-Zone 1	Case Received	02/26/2012	Open
10	Code Enforcement	CAR-12-0067	02/24/2012	Home Occupation	11624 OCCIDENTAL AV S Home Occupation-Tenants-Zone 2	Case Received	02/24/2012	Open

Days Old	Department	CAR #	Date Received	Nature of Request	Complaint Information	Last Action	Date	Status
8	Building	CAR-12-0070	02/26/2012	Building	220 S 152ND ST Building-Village Lane Apts-Zone 4	Case Received	02/29/2012	Open
6	Code Enforcement	CAR-12-0069	02/28/2012	Rental Housing License	122 SW 156TH ST Rental Housing-Del Bianco-Zone 3	Case Received	02/28/2012	Open
6	Code Enforcement	CAR-12-0075	02/28/2012	Business License	809 SW 148TH ST Business License & Sign Permit-Lowe-Zone 3	Case Received	02/28/2012	Open
6	Code Enforcement	CAR-12-0082	02/28/2012	Graffiti	14232 4TH AV SW Graffiti-BAC Home-Zone 1	Case Received	02/28/2012	Open
5	Code Enforcement	CAR-12-0072	02/29/2012	Rental Housing License	648 S 152ND ST Rental Housing License-Sunnydale Apts-Zone 4	Case Received	02/29/2012	Open
5	Code Enforcement	CAR-12-0073	02/29/2012	Rental Housing License	857 SW 134TH ST Rental Housing License-Graham-Zone 1	Case Received	02/29/2012	Open
5	Code Enforcement	CAR-12-0074	02/29/2012	Rental Housing License	132 SW 154TH ST Rental Housing License-Walker-Zone 3	Case Received	02/29/2012	Open
5	Code Enforcement	CAR-12-0077	02/29/2012	Planning / Zoning	613 SW 122ND ST ADU-Sochenda-Zone 1	Case Received	03/01/2012	Open