

**CITY OF BURIEN, WASHINGTON**

**ORDINANCE NO. 564**

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**AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON,  
AMENDING CHAPTER 5.10 OF THE BURIEN MUNICIPAL CODE  
RELATING TO LICENSES AND REGULATIONS FOR PEDDLERS  
AND SOLICITORS**

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WHEREAS, under the current version of Chapter 5.10 of the Burien Municipal Code, door-to-door transient sales and personal solicitation in public streets and places are generally prohibited; and

WHEREAS, federal court decisions have held that such general prohibitions of door-to-door transient sales and personal solicitation in public streets and places are unconstitutional, and accordingly such general prohibitions should be repealed; and

WHEREAS, it is in the public interest to regulate transient sales and personal solicitations in public streets and places in a manner that protects the health, safety, and welfare of City residents as well as the constitutional rights of those engaging in such sales or solicitations; and

WHEREAS, the City's criminal code, BMC 9.80.400, makes it a misdemeanor to engage in aggressive begging in any public place in the City with the intent of intimidating another person into giving money or goods, and this code provision is a reasonable means of regulating begging in public places without generally prohibiting it; and

WHEREAS, the code provisions referenced above and set forth below establish reasonable restrictions on transient sales activities to protect and promote public safety, privacy, and welfare and are intended to be reasonable time, place, and manner restrictions and not to infringe on any constitutionally protected right;

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

Section 1. BMC 5.10.010 Amended. Section 5.10.010 of the Burien Municipal Code (Definitions) is hereby amended to read as follows:

**5.10.010 Definitions.**

For the purposes of this chapter, the following definitions shall apply:

(1) "Amusement device" means any coin-operated or remote-controlled machine, device, contrivance, apparatus or appliance, mechanical, electrical or hand-propelled, designed to be used in whole or in part as an instrument or

instrumentally for engaging in the use and exercise of skill by one or more persons in playing a game for the amusement and entertainment of the player or players and which is maintained commercially for such purpose.

(2) “Amusement device place” means any place offering amusement devices for play or entertainment.

(3) “Amusement place” means an amusement, diversion, entertainment, show, performance, exhibition, display or like activities, for the use or benefit of a member or members of the public, held, conducted, operated or maintained for a profit, direct or indirect. By way of illustration and not limitation, “public places of amusement” include live entertainment, music (other than mechanical), boxing or wrestling, exhibition skating, bowling alleys, amusement parks, and carnivals.

(4) “Billiard or pool table place” means any establishment engaged primarily in the business of offering the use of pool or billiard tables for a commercial purpose.

(5) “Billiard Table” is a raised oblong felt-covered table with raised cushioned edges, or any substantially similar device on which is played the game known as billiards or pool involving the use of a long tapering stick called a cue to propel pool or billiard balls.

(6) “Charitable” means and includes the words patriotic, philanthropic, social service, welfare, benevolent, educational, civic or fraternal, either actual or purported; provided, such term shall not include “religious” and “religion,” which terms shall be given their commonly accepted definitions.

(7) “Contributions” means and includes alms, food, clothing, money, credit, subscription, property, financial assistance or other thing of value and including any donations under the guise of a loan of money or property.

(8) “Direct gift” means and includes an outright contribution of food, clothing, money, credit, property, financial assistance or other thing of value to be used for a charitable or religious purpose and for which the donor receives no consideration or thing of value in return.

(9) “Endorsement” shall mean the licensing approval given to one activity.

(10) “Ice cream ~~product~~ vendor” means all persons, both principals and agents, as well as employers and employees, who shall sell, offer for or expose for sale ice cream products in the city of Burien by going up and down residential or commercial streets or from place to place.

(11) “Outdoor musical entertainment” means an entertainment, amusement, or assembly of persons wherein the primary purpose will be the presentation of

outdoor, live or recorded musical entertainment or other entertainment which the person, persons, or corporation, organization, landowner or lessor believes or has reason to believe will attract 250 or more persons and where a charge or contribution is required for admission.

(12) “Pawnbroker” means and includes every person who takes or receives by way of pledge, pawn, or exchange goods, wares, or merchandise or any kind of personal property whatsoever, for the repayment of security of any money loaned thereon, or to loan money on deposit of personal property, or who makes a public display of any sign indicating that he has money to loan on personal property on deposit or pledge.

(13) “Pawnshop” means every place at which the business of a pawnbroker is being carried on.

(14) “Peddler” or “transient sales representative business,” unless otherwise exempt under the provisions of this chapter, shall be defined as follows:

- (a) All persons, both principals and agents, as well as employers and employees, who shall sell, offer for or expose for sale, or who shall trade, deal or traffic in any personal property or services in the city by going from house to house or from place to place or by indiscriminately approaching individuals.
- (b) Sales by sample or for future delivery, and executory contracts of sale by solicitors or peddlers are embraced within the preceding subsection; provided, however, that this chapter is not applicable to any salesperson or canvasser who solicits trade from wholesale or retail dealers within the city.
- (c) Any person, both principals and agents, as well as employers and employees, who, while selling or offering for sale any goods, wares, merchandise or anything of value, stands in a doorway or any unenclosed vacant lot, parcel of land or in any other place not used by such person as a permanent place of business.

(15) “Person” means any individual, firm, partnership, corporation, company, association or joint stock association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

(16) “Pool table” is a billiard table with a pocket in each corner and at the middle of both sides, used for playing pool, the game wherein numbered balls are propelled into the pockets by persons using a cue.

(17) “Promoter” means any person who promotes, manages, supervises, organizes or attempts to promote, manage, supervise or organize a campaign of solicitation, but shall not include either a bona fide full-time salaried officer or employee of a charitable organization whose salary or other compensation is not computed on funds raised or to be raised, or a temporary employee who is employed to contact volunteer workers by telephone but who may not himself solicit contributors directly.

(18) “Public dance” means any dance which is open to the public and which is held and conducted for a profit, direct or indirect.

(19) “Public dance place” means any place where a public dance is conducted, operated or maintained and any and all areas attached to or adjacent to such premises including, but not limited to, all parking areas, hallways, bathrooms and all adjoining areas on the premises accessible to the public during the dance.

(20) “Public youth dance” means any public dance that is readily accessible to the public and which permits the entry of any persons under the age of 18 years. For the purposes of this chapter, the term “public dance” shall be construed so as to include all public youth dances except where specifically indicated otherwise.

(21) “Sale and benefit affair” means and includes, but is not limited to, athletic or sports event, bazaar, benefit, campaign, circus, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale, social gathering, theater, or variety show, which the public is requested to patronize or attend or to which the public is requested to make a contribution for any charitable or religious purpose connected therewith.

(22) “Secondhand dealer” means any person who as a business engages in the purchase, sale, trade, barter, auction, sale on consignment, or otherwise exchanges secondhand goods, or who keeps a store, shop, room or other place where secondhand goods of any kind or description are bought, sold, traded, bartered, pledged, pawned, auctioned, sold on consignment, or otherwise exchanged, including persons conducting garage sales lasting more than two days at their residence more than four times per year.

(23) “Secondhand goods” means and includes any and all used, remanufactured, or secondhand goods purchased or kept for sale by a dealer in secondhand goods. Such term shall not be construed to include secondhand motor vehicles or boats.

(24) “Solicit” and “solicitation” means the request within the city directly or indirectly of money, credit, property, financial assistance or other thing of value on the plea or representation that such money, credit, property, financial assistance or other thing of value will be used for a charitable or religious purpose, and includes:

- (a) Any oral or written request;
- (b) The distribution, circulation, mailing, posting or publishing of any handbill, written advertisement or publication;
- (c) The making of any announcement to the press, by radio or television, by telephone or telegraph concerning an appeal, assemblage, athletic or sports event, bazaar, benefit, campaign, circus, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale, social gathering, theater or variety show, which the public is requested to patronize or to which the public is requested to make a contribution for any charitable or religious purpose connected therewith;
- (d) The sale of, offer or attempt to sell any advertisement, advertising space, book, card, chance, coupon, device, magazine, membership, subscription, ticket, admission, article or other thing in connection with which any appeal is made for any charitable or religious purpose, or where the name of any charitable or religious organization, association or person is used or referred to in any such appeal or where in connection with any such sale any statement is made that the whole or any part of the proceeds from any such sale will go or be donated to any charitable or religious purpose.

A “solicitation” shall be deemed completed when made, whether or not the person making the same received any contribution or makes any sale referred to in this chapter. [Ord. 367 § 3, 2002]

Section 2. BMC 5.10.020 Amended. Section 5.10.020 of the Burien Municipal Code (Prohibited activities – Exemptions) is hereby amended to read as follows:

**5.10.020 Prohibited activities – Exemptions.**

(1) Peddlers and Transient sales representatives, as defined in BMC 5.10.010, are prohibited within the city limits unless they comply with the licensing requirements and other regulations in BMC 5.10.100, except that the following activities are not prohibited and are not required to comply with said ~~the~~ licensing requirements and other regulations ~~of this chapter~~:

- (a) Farmers who peddle agricultural, horticultural, or farm products which they have actually grown, harvested or produced;

- (b) Any person who is specifically requested by a potential buyer to visit or call for the purpose of displaying or purchasing goods, literature or giving information about any article, service or product;
- (c) Charitable, religious or nonprofit organizations or corporations which have received tax exempt status under 26 U.S.C. 501(c)(3) or other similar civic, charitable or nonprofit organizations;
- (d) Newspaper carriers;
- (e) Peddlers operating at any city-sponsored or authorized civic event for a time period not to exceed five consecutive days, so long as each peddler's name, address and telephone number is submitted to the city, in advance of the civic event, to be maintained in the city records;
- (f) Peddlers operating at a Saturday market or other city-sponsored or approved activity so long as the activity does not occur more than one time per week for more than five months of each calendar year; and provided further, that the name, address and telephone number of each peddler is provided in advance to the city of Burien to be maintained in the city records;
- (g) Sales conducted as "fund-raisers" for youth athletic, scouting, or educational organizations. By way of illustration and not limitation, these organizations may include Boy Scouts and Girl Scouts, youth soccer, basketball, football, softball, and other youth athletic organizations.

Section 3. BMC 5.10.030 Amended. Section 5.10.030 of the Burien Municipal Code (Application and fees required) is hereby amended to read as follows:

**5.10.030 Application and fees required.**

(1) Any person desiring to establish or conduct the following enterprises, businesses, or undertakings within the corporate limits of the city shall first apply to the city for a license or permit to conduct such activity:

- (a) Amusement places;
- (b) Pool and billiard table places;
- (c) Public dance places, except that the provisions of this chapter shall not apply to public youth dances provided by charitable, religious or nonprofit organizations or corporations which have received tax exempt status under 26 U.S.C. 501(c)(3);
- (d) Pawnbrokers, except that the requirements of this chapter do not apply to the following:

- (i) Dealers of prepackaged rebuilt automotive parts;
- (ii) Persons exempted from the regulations set forth in Chapter [46.70 RCW](#), relating to the sale of used automobiles, and Chapter [46.80 RCW](#), relating to auto wrecking;
- (iii) Those persons engaged in the purchase and/or sale of bottles, cans, or paper as part of the process of recycling such bottles, cans or paper;
- (iv) Those persons conducting a sale of secondhand goods under any legal forfeiture, foreclosure, liquidation, or any repossession pursuant to any terms of any contract or sale or incidental to any legal action;
- (e) Charitable solicitations, except the requirements of this chapter shall not apply to the following:
  - (i) Solicitations by any organization operated exclusively for religious or charitable purposes and not operated for the pecuniary profit of any person, if the solicitations by such organization are conducted among the members thereof by other members or officers thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies, meetings or services of any such organization;
  - (ii) Any charitable organization which does not solicit and collect contributions in Burien in excess of \$2,500 in any one-year period and where all of such fund-raising functions are carried on by persons who are unpaid for their services;
- (f) Outdoor musical entertainment;
- (g) Special Events;
- (h) Street use activities (see Chapter [12.10 BMC](#)); ~~and~~
- (i) Ice cream vendors; ~~and~~
- (j) Peddlers/transient sales representatives.

(2) The application shall be upon a form furnished by the city.

(3) The application must be accompanied by a check, cash or money order for the amount of the license fee. The base fee for a single endorsement (except for street use activities) shall be \$100.00. For street use activities, see BMC [12.10.070](#). The city manager may, in his or her discretion, waive permit fees for activities that the city manager deems provide a significant public or community benefit and that are “nonprofit” activities as defined in the IRS Code Section 501(c)(3).

Section 4. BMC 5.10.080 Amended. Section 5.10.080 of the Burien Municipal Code (Regulations – Charitable Solicitations) is hereby amended to read as follows:

### 5.10.080 Regulations - Charitable Solicitations.

- (1) ~~Soliciting for private needs prohibited.~~ No person shall solicit contributions for himself in or upon any public street or public place in the City of Burien.
- (12) Credentials. All persons to whom charitable solicitation permits have been issued shall furnish to each of their agents and solicitors credentials approved as to form by the City Manager or his designee. Such credentials shall include the permit number, the name and telephone number of the permit holder, the purpose of the solicitation, the signature of the applicant, and the name, address and signature of the solicitor to whom such credentials are issued, and the period of time during which the solicitor is authorized to solicit on behalf of the permit holder. The City Manager or his designee may authorize the use of the identification approved by the Director of the Department of Motor Vehicles for the State of Washington for any person or organization validly registered under the charitable solicitation law; provided the above information appears thereon. It is unlawful for any person to solicit under any such charitable solicitation permit without having in his possession the credentials required by this section. The credentials must be shown, upon request, to all persons solicited or to any Burien police officer or agent of the City Manager or his designee.
- (23) Written receipts required. Any person receiving money or anything having a value of one dollar or more from any contributor under a solicitation made pursuant to a charitable solicitation permit shall, upon request, give to the contributor a written receipt signed by the solicitor showing plainly the name and permit number of the person under whose permit the solicitation is conducted, the date and the amount received; provided, however, that this section shall not apply to any contributions collected by means of a closed box or receptacle used in solicitation with the express approval of the City Manager or his designee.
- (34) Repealed by Ord. 450.
- (45) Repealed by Ord. 450.
- (56) Religious solicitations - Certificate of registration - Required.
- (a) No person shall solicit contributions for any religious purpose within the City of Burien without a certificate of registration issued by the City Manager or his designee; provided, however, that the provisions of this subsection shall not apply to solicitations by any religious organization conducted among the members thereof by other officers or members voluntarily and without remuneration for making such solicitations, or

to solicitations for or collections of contributions at the regular assemblies, meetings or services of such organizations. Application for a certificate shall be made to the City Manager or his designee upon forms provided by him. Such application shall be sworn to or affirmed, and shall contain the following information, or in lieu thereof, a statement of the reason or reasons why such information cannot be furnished:

- (i) The name and local address or headquarters of the person applying for the certificate;
  - (ii) If applicant is not an individual, the names and addresses of the applicant's principal officers and managers and a copy of the resolution, if any, authorizing such solicitation, certified to as a true and correct copy of the original by the officer having charge of applicant's records;
  - (iii) The purpose for which such solicitation is to be made, the total amount of funds proposed to be raised thereby, and the use or disposition to be made of any receipts there from;
  - (iv) The name and address of the person or persons by whom the receipts of such solicitation shall be disbursed;
  - (v) The name and address of the person or persons who will be in direct charge of conducting the solicitation and the names of all promoters connected or to be connected with the proposed solicitation;
  - (vi) The method to be used in conducting the solicitation;
  - (vii) The time when such solicitation shall be made, giving the dates for the beginning and ending of such solicitations;
  - (viii) The estimated cost of the solicitation;
  - (ix) The amount of any wages, fees, commissions, expenses or emoluments to be expended or paid to any person in connection with such solicitations, and the names and addresses of all such persons;
  - (x) A financial statement for the last preceding fiscal year of any funds solicited by the applicant for religious purposes from the public pursuant to a certificate of registration hereunder, said statements giving the amount of money so raised, together with the cost of raising it, and final distribution thereof;
  - (xi) A detailed statement of the religious work being done by the applicant within Burien;
  - (xii) A statement to the effect that the certificate will not be used or represented in any way as an endorsement by the City of Burien or by any department or officer thereof.
- (b) If, while any application is pending or during the term of any certificate granted thereon, there is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the City Manager or his designee in writing thereof within twenty-four hours after such change.

~~(67)~~ Religious solicitations - Certificate of registration - Regulations. Upon receipt of such application, the City Manager or his designee shall issue the applicant a certificate of registration. The certificate shall remain in force and effect for a period of six months after the issuance thereof, and shall be

renewed upon the expiration of this period upon the filing of a new application as provided for in Section 5A6 and 5C. Certificates of registration shall bear the name and address of the person by whom the solicitation is to be made, the number of the certificate, the date issued and a statement that the certificate does not constitute an endorsement by the City of Burien or by any of its departments or officers of the purpose or the person conducting the solicitation. All persons to whom certificates of registration have been issued shall furnish credentials to their agents and solicitors in the same manner and subject to the same conditions as set forth in Section 6D2 relating to credentials to solicit for charitable purposes. No person shall solicit under any such certificate of registration without such credentials in his possession, and such person shall, upon demand, present these credentials to any person solicited or to the City Manager or his designee or to any police officer of Burien.

- (78) Fraudulent misrepresentation and misstatements prohibited. It is unlawful for any person to directly or indirectly solicit contributions for any purpose by misrepresentation of his name, occupation, financial condition, social condition or residence, and no person shall make or perpetrate any other misstatement, misrepresentation, deception or fraud in connection with any solicitation of any contribution for any purpose in the City of Burien or in any application or report filed in connection therewith.

Section 5. BMC 5.10.100 Amended. Section 5.10.030 of the Burien Municipal Code (Regulations – Ice Cream Vendors) is hereby amended to read as follows:

**5.10.100 Regulations – Peddlers/Transient Sales Representatives and Ice Cream Vendors.**

(1) Generally.

- (a) Applicants for a license under this chapter must file with the city clerk's office a sworn application in writing on a form to be furnished by the city.
- (b) All applications shall provide the following information on the application, with sufficient proof of identification:
  - (i) Name, date of birth and description of the applicant;
  - (ii) Address and telephone number;
  - (iii) A brief description of the business and the goods to be sold;
  - (iv) If employed or acting as an agent, the name and address of the employer or principal, together with the description of the exact relationship with the principal or employer;
  - (v) A description of vehicle including the license number;

- (vi) A photograph of the applicant, taken within 60 days immediately prior to the date of filing the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
  - (vii) A statement as to whether or not the applicant has been convicted of any crime within the last 10 years, including misdemeanors, gross misdemeanors, or violations of any municipal ordinance, the nature of the offense, and punishment or penalty assessed therefor;
  - (viii) Such other information as may be required by the city.
- (c) Any individual, corporation, partnership or other organization which acts as the principal or employer for individual peddlers/transient sales representatives or ice cream vendors shall obtain a permit as provided herein and shall provide the following information on the application in addition to any information required as set forth above:
- (i) The applicant's name, address and telephone number and names and addresses of all individuals who are employed by or acting as an agent for the applicant;
  - (ii) If a corporation, the names, addresses and telephone numbers of the corporation's board of directors, principal officers and registered agent; provided, however, that the city manager or his designee may waive any portion of this requirement when disclosure would be unduly burdensome;
  - (iii) If a partnership, the names, addresses and telephone numbers of the partners;
  - (iv) A list of any criminal convictions during the past 10 years for the applicant, any owners of the business, and if a corporation, the board of directors and officers;
  - (v) Name, address and telephone numbers (business and home) of the individual, if applicable, acting as the manager for the applicants;
  - (vi) A list of all other cities, towns and counties where the applicant has obtained a peddler/transient sales or ice cream vendor's license or permit or similar license or permit within the past five years; and
  - (vii) Such other information as may be required by the city.

(2) Investigation of Applicant – Issuance and Denial of Permit.

- (a) The city clerk shall refer the application to the police department which shall determine the accuracy of the information contained in the application and conduct a criminal history background investigation of the applicant. Upon completion, the police department shall forward a recommendation for approval or denial to the finance department.
  - (b) If, as a result of the investigation, the character and business responsibility of the applicant are found to be satisfactory, the city clerk shall issue the permit to the applicant. The city clerk shall deny the applicant the permit if the applicant has:
    - (i) Committed any criminal act consisting of fraud or misrepresentations;
    - (ii) Committed any criminal act which, if committed by a permit holder, would be grounds for suspension or revocation of a permit;
    - (iii) Within the previous 10 years, been convicted of a misdemeanor or felony directly relating to the occupation of peddler/transient sales representative or ice cream vendor, including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation;
    - (iv) Been refused a permit under the provisions of this chapter; providing, however, that any applicant denied a permit under the provisions of this chapter may reapply if and when the reasons for denial no longer exist; or
    - (v) Made any false or misleading statement in the application.
  - (c) The denial of a permit to an individual, corporation, partnership or other organization, which serves as the employer or principal for individual peddlers/transient sales representatives or ice cream vendors, shall be a sufficient basis to deny a permit to the individual applicants who are employed by or acting as an agent for the applicant.
- (3) Use of Streets. No peddler, transient sales representative, or ice cream vendor shall have any exclusive right to any location in the public streets, nor be permitted a stationary location, nor be permitted to operate in any congested area where operations might impede or inconvenience the public. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be conclusive as to whether the area is congested or the public impeded or inconvenienced.

(4) Hours and Notice.

(a) No person shall engage in the business of ice cream vending between the hours of 8:00 p.m. and 10:00 a.m.

(b) No person shall engage in the business of peddling or transient sales between the hours of 7:00 p.m. and 10:00 a.m. or at any residence or business that has a clearly posted sign stating “No Peddlers”, “No Solicitors”, or words to that effect.

Section 6. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 7. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 20<sup>TH</sup> DAY OF AUGUST 2012, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 20<sup>TH</sup> DAY OF AUGUST, 2012.**

CITY OF BURIEN

/s/ Brian Bennett, Mayor

ATTEST/AUTHENTICATED:

/s/ Monica Lusk, City Clerk

Approved as to form:

/s/ Craig D. Knutson, City Attorney

Filed with the City Clerk: August 1, 2012

Passed by the City Council: August 20, 2012

Ordinance No. 564

Date of Publication: August 23, 2012