

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 607

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, AMENDING CHAPTER 10.15 OF THE BURIEN MUNICIPAL CODE RELATED TO VEHICLE PARKING, STANDING AND STOPPING AND AMENDING CHAPTER 10.12 OF THE BURIEN MUNICIPAL CODE RELATED TO VEHICLE IMPOUNDMENT.

WHEREAS, Chapter 10.15 of the Burien Municipal Code currently provides several vehicle parking, standing and stopping restrictions; and

WHEREAS, for all other parking violations in Burien, the City relies on violations outlined in the Washington Model Traffic Ordinance, Chapter 308-330 WAC, as adopted by reference pursuant to BMC 10.05.040; and

WHEREAS, the King County District Court administration has recently asked the City to cite all parking violations under the Burien Municipal Code rather than the Revised Code of Washington, as a result of changes to the Court's administrative system; and

WHEREAS, Chapter 10.12 of the Burien Municipal Code currently provides only a few of the necessary grounds for impoundment of vehicles, as authorized under RCW 46.55.240; and

WHEREAS, the Police Department has recently asked the City to adopt additional grounds that are necessary for the impoundment of vehicles in the interest of public safety; and

WHEREAS, the City Council finds that it is in the best interests of the health, safety, and welfare of the citizens to establish and include all necessary City parking and vehicle impoundment regulations in the Burien Municipal Code;

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

Section 1. Chapter 10.15 BMC, Amended. Chapter 10.15 of the Burien Municipal Code, entitled "Parking, Standing and Stopping," is hereby amended as set forth in the attached Exhibit A.

Section 2. Chapter 10.12 BMC, Amended. Chapter 10.12 of the Burien Municipal Code, entitled "Vehicle Impoundment," is hereby amended as set forth in the attached Exhibit B.

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. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City and shall take effect five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 13TH DAY OF OCTOBER, 2014, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 13TH DAY OF OCTOBER, 2014.

CITY OF BURIEN

/s/ Lucy Krakowiak, Mayor

ATTEST/AUTHENTICATED:

/s/ Monica Lusk, City Clerk

Approved as to form:

/s/ Craig D. Knutson, City Attorney

Filed with the City Clerk: October 1, 2014, 2014

Passed by the City Council: October 13, 2014

Ordinance No. 607

Date of Publication: October 16, 2014

EXHIBIT A

Chapter 10.15 PARKING, STANDING, AND STOPPING

Sections:

10.15.010 Purpose.

10.15.020 Policy.

10.15.030 City manager – Authority.

10.15.040 Parking restriction adoption process.

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10.15.050 Standing vehicle in freight curb loading zone.

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10.15.075 Obstructing fire lanes prohibited.

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10.15.130 Chalk mark identifications.

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10.15.140 Penalties.

10.15.150 Applicability to other code sections.

10.15.010 Purpose.

The provisions of this chapter regulate parking, standing and stopping of vehicles upon streets and ways open to the public within the city of Burien. [Ord. 262 § 1, 1999]

10.15.020 Policy.

The city of Burien wishes to preserve and protect both residential and commercial areas within the community. To accomplish this goal, the city has the authority to adopt regulations needed to ensure that the physical character is maintained and that unsafe or incompatible uses, activities and nuisances are prohibited.

To achieve this objective, the city may establish parking restrictions on portions of certain specified streets, including establishing residential parking zones which restrict parking of vehicles on certain streets at certain times except by permit. The decision whether or not to establish a parking restrictions on a specific street or location shall be made by the city manager or his/her designee following a determination that a specific condition warrants such a parking restriction.

Primary public safety decisions, such as the promulgation of restrictions to prevent view obstructions, are the responsibility of the city manager's designated traffic engineer. Such regulations will be instituted and notice given through proper signage being erected and/or street painting.

Some parking restrictions may be considered where the purpose is not primarily a public safety concern. For example, a regulation to ensure the proper flow of traffic, the encouragement of commerce, or to allow residents the use of abutting streets for parking. The imposition of such parking restrictions shall occur following notification to abutting property and business owners and after consideration of public input. The abutting property and business owners will be notified in writing of the city manager's decision whether or not to impose the parking restriction. [Ord. 262 § 2, 1999]

10.15.030 City manager – Authority.

(1) The city manager or his/her designee is authorized to exercise the powers and duties of traffic engineer as authorized pursuant to Washington Administrative Code (WAC) 308-330-265 and 308-330-270, as now or hereafter amended. The city manager or his/her designee is authorized to establish regulations governing the parking of vehicles on city streets and other public ways, including, but not limited to, regulations:

- (a) Designating either or both sides of any street or public way, or any portion thereof, as a “no parking zone”;
- (b) Prescribing limits on the length of time any vehicle may be parked on any street or public way, or any portion thereof;
- (c) Determining upon which streets or portions thereof vehicles shall be angle parked, as distinguished from parallel parked, and the direction in which vehicles shall be so angle parked; and
- (d) Establishing the issuance of permits for residential parking.

(2) Whenever the city manager or his/her designee shall exercise any authority under subsection (1) of this section, the city manager or his/her designee shall erect signs, place markings upon the pavement or curb, or in other appropriate manner give notice that the area has been designated a no-parking, time-limited parking, or angle-parking-only zone.

~~(3) When official signs, markings or other devices are erected or placed upon any streets or public ways, or any portions thereof, regulating parking by vehicles, no person shall park a vehicle or cause a vehicle to remain on any such street or public way in violation of any such signs, marking or other device.~~

(4) Any regulations promulgated by the city manager or his/her designee pursuant to this chapter shall be made consistent with the policy established in BMC 10.15.020. [Ord. 262 § 3, 1999]

10.15.040 Parking restriction adoption process.

When a parking restriction to address a problem not primarily a public safety concern is being considered, the following procedure and appeals process will be followed:

- (1) Complaint or suggestion is received by city;
- (2) Review by public works and police;
- (3) Recommendation is made to the city manager;
- (4) City manager decides whether or not the proposed restriction will go forward;
- (5) If it is decided the proposed parking restriction will go forward, a public meeting will be held by the city manager. Notice of the public meeting will be sent to city council, abutting property and business owners;
- (6) Taking into account the public input, the city manager decides whether the proposed parking restriction will (a) go forward with no modifications, (b) go forward with modifications, or (c) not go forward;
- (7) If it is decided to go forward, the proposed parking restriction will be put into final form, and sent to the abutting property and business owners. The city manager's decision may be appealed to the hearing examiner within 30 days;
- (8) If there is no appeal within 30 days, the proposed parking restriction goes into effect. [Ord. 262 § 4, 1999]

10.15.045 Parking, standing, or stopping prohibited in specified places.

(1) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall:

(a) Park, stand, or stop a vehicle:

(i) On the roadway side of any vehicle stopped or parked at the edge or curb of a street except while angle parking;

(ii) On a sidewalk or street planting strip;

(iii) Within an intersection;

(iv) On a crosswalk;

(v) Upon any bridge or other elevated structure upon a street or within a highway tunnel;

(vi) In front of, adjacent to, or in such proximity to any mail box, postal drop box, or other similar postal receptacle so as to interfere with delivery of mail by the United States Postal Service;

(vii) At any place for longer than the designated time limit; or

(vii) At any time or place where official signs prohibit stopping.

(b) Park or stand a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(i) In front of a public or private driveway or within 5 feet of the end of the curb radius leading thereto;

(ii) Within 15 feet of a fire hydrant;

(iii) Within 20 feet of a crosswalk;

(iv) Within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or traffic control signal located at the side of a roadway;

(v) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signposted;

(vi) In a bus stop, except authorized buses in a zone established for such specific use and taxicabs in a taxicab stand when any such stop or stand has been officially designated and appropriately signed;

(vii) Directly adjacent to a curbside, next to clearly visible residential mail boxes between 9:00 a.m. and 6:00 p.m. on any day of scheduled mail delivery by the United States Postal Service; or

(viii) At any time or place where official signs prohibit parking, standing, or stopping a vehicle.

(2) Parking or standing shall be permitted in the manner provided by law at all other places except as otherwise restricted by city ordinance.

(3) No person shall move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as is unlawful.

(4) It shall be unlawful for any person to reserve or attempt to reserve any portion of a

street for the purpose of parking, standing, or stopping to the exclusion of any other like person, nor shall any person be granted such right.

10.15.050 Parking, Sstanding, or stopping vehicle in freight curb loading zone.

(1) No person shall stoppark, stand, or parkstop a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pick-up and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zone are in effect. In no case shall the stop for loading and unloading of materials exceed 30 minutes.

(2) The operator of a passenger vehicle may stop temporarily at a place marked as a freight curb loading zone, for the purpose of receiving or discharging passengers, when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter, or about to enter, such a zone. [Ord. 262 § 5, 1999]

10.15.060 Parking trucks on highwaystreet or in right-of-way prohibited.

No truck, motor truck, truck tractor, tractor trailer or tractor exceeding 6,000 pounds empty scale weight may be parked on a public highwaystreet or in the public right-of-way. This section shall not apply to recreational vehicles. [Ord. 262 § 6, 1999]

10.15.070 Obstructing traffic/pedestrians.

No person shall park, stand, or stop any vehicle upon any street or sidewalk in a manner which obstructs or otherwise interferes with traffic upon the traveled portion of the roadway, or obstructs or interferes with the movement of pedestrians on sidewalks. [Ord. 262 § 7, 1999]

10.15.075 Obstructing fire lanes prohibited.

(1) The obstruction of a designated fire lane by a parked vehicle or any other object is prohibited and shall be considered a traffic hazard as defined in state law and an immediate hazard to life and property.

(2) Violation. Any person who owns, manages, or is in control of commercial property and fails to mark or maintain the marking of a designated fire lane as prescribed in this chapter, or who parks a vehicle in, allows the parking of a vehicle in, obstructs, or allows the obstruction of a designated fire lane commits a civil infraction to which BMC 1.15.090 shall apply. The penalty for failing to mark or maintain the marking of a designated fire lane shall be \$150.00. The penalty for parking a vehicle in, allowing the parking of a vehicle in, obstructing, or allowing the obstruction of, a designated fire lane shall be \$50.00 dollars.

10.15.080 Parking over 24 hours prohibited.

No person shall park or stand any vehicle upon any street or public right-of-way for a period exceeding 24 hours, regardless of any other regulation then in effect. When any vehicle is parked or stands for a period exceeding 24 hours, the vehicle shall be deemed to constitute a hazard or obstruction to traffic or an abandoned vehicle and may be impounded. [Ord. 262 § 8, 1999]

10.15.085 Additional parking regulations.

(1) Except as otherwise provided by City ordinance, every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within 12 inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.

(2) Except when otherwise provided by ordinance, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within 12 inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.

10.15.090 Parking in alleys.

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than eight feet of the width of the roadway for the free movement of vehicular traffic. No person shall stop, stand, or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. [Ord. 262 § 9, 1999]

10.15.100 Parking for certain purposes prohibited.

No persons shall park a vehicle upon a roadway for the principal purpose of:

- (1) Displaying the vehicle for sale or for advertising services for vehicles; or
- (2) Washing, greasing, or repairing the vehicle, except repairs necessitated by an emergency. [Ord. 262 § 10, 1999]

10.15.110 Presumption of ownership.

In any prosecution charging a violation of any law or regulation governing the stopping, standing, or parking of a vehicle, proof that the particular vehicle described in the complaint was stopping, standing, or parking in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such violation the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred. [Ord. 262 § 11, 1999]

10.15.120 Authority to issue notices.

All city of Burien employees appointed as parking control officers, or any employee of the city assigned by the city manager or his/her designee to perform the duties of a parking control officer, are authorized to issue notices of traffic infraction for violations of city parking ordinances. Such notices also may be issued by any police officer. All such notices shall be issued in accordance with procedures established by RCW Title 46, Supreme Court and local court rules, and applicable city ordinances. For the purpose of issuing notices of traffic infraction for violations of city parking ordinances, and for this purpose only, parking control officers are designated law enforcement officers, in order to conform to the requirements of RCW [46.63.030](#) and Supreme Court rules adopted pursuant to Chapter [46.63](#) RCW; provided, that the authority conferred upon parking control officers by this section shall not vest any such officer with any police civil service or police pension rights. [Ord. 262 § 12, 1999]

10.15.130 Chalk mark identifications.

In checking for overtime parking, police officers, community service inspectors, and parking enforcement officers are authorized to use chalk marks on the tires of parked vehicles, or any other identifying mark that does not deface the vehicle, and it is unlawful for any person to erase, ~~or~~ obliterate, or otherwise change such mark for the purpose of interfering with such checking for overtime parking. It shall be a citable civil infraction, with the same monetary penalty as the parking violation substantiated by the chalk mark, to so erase, obliterate, or otherwise change such mark. [Ord. 262 § 13, 1999]

10.15.135 Special parking privileges for persons with disabilities.

(1) Unauthorized use. Any unauthorized use of the special placard, special license plate, or identification card issued under chapter 46.19 RCW is a parking infraction with a monetary penalty of \$250.00. In addition to any penalty or fine imposed under this subsection, \$200.00 must be assessed.

(2) Inaccessible access. It is a parking infraction, with a monetary penalty of \$250.00, for a person to park in, block, or otherwise make inaccessible the access aisle located next to a space reserved for persons with physical disabilities. In addition to any penalty or fine imposed under this subsection, \$200.00 must be assessed. The clerk of the court shall report all violations related to this subsection to the Washington State Department of Licensing.

(3) Parking without placard/plate. It is a parking infraction, with a monetary penalty of \$250.00, for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for persons with physical disabilities without a placard or special license plate issued under Chapter 46.19 RCW. In addition to any penalty or fine imposed under this subsection, \$200.00 must be assessed. If a person is charged with a violation, the person will not be determined to have committed an infraction if the person produces in court or before the court appearance the placard or special license plate issued under Chapter 46.19 RCW.

(4) A parking space or stall for a person with a disability shall be indicated by a vertical sign with the international symbol of access. The symbol shall be white on a blue background, as set forth in RCW 70.92.120. The sign may include additional language such as, but not limited to, an indication of the amount of the monetary penalty for parking in the space without a valid permit.

(5) Failure to erect or maintain disabled parking space. Failure of the person owning or controlling the property where required parking spaces are located to erect and maintain the sign is a class 2 civil infraction under BMC 1.15.090 for each parking space that should be so designated. The person owning or controlling the property where the required parking spaces are located shall ensure that the parking spaces are not blocked or made inaccessible, and failure to do so is a class 2 civil infraction.

10.15.140 Penalties.

Except as otherwise provided by this chapter, failure to comply with any parking restriction adopted pursuant to this chapter is an infraction and shall be cited under the applicable section of this chapter.

(1) Violators are required to respond within 15 days of the date of the issuance of the notice of infraction by:

- (a) Paying a penalty of \$50.00, or other amount as provided in this chapter, for each infraction cited on the notice of infraction; or
- (b) Requesting a hearing in the manner described in the notice of infraction.

(2) If no response or payment is made within 15 calendar days of the date of the issuance of the notice of infraction, the court shall mail a delinquency notice to the registered owner of the vehicle to which the notice was affixed, informing him/her of the violation.

If no response or payment is made within 10 calendar days of the date of mailing of the delinquency notice, the court may attach additional penalties to the infraction including a notice to the Washington State Department of Licensing, and the city may pursue such other remedies as provided by ordinance.

EXHIBIT B

Chapter 10.12 VEHICLE IMPOUNDMENT

Sections:

10.12.010 Appointment of King County as agent for the city.

10.12.020 Impoundment authorized without prior notice.

10.12.030 Impoundment after notice.

10.12.040 Impound procedure.

10.12.0450 Owner of impounded vehicle to be notified.

10.12.0360 Administrative fee.

10.12.0570 Redemption of impounded vehicles.

10.12.0680 Post-impoundment hearing procedure.

10.12.090 Sale of unclaimed vehicles.

10.12.1070 Contracts for towing and storage.

10.12.110 Additional towing contractor duties and records.

10.12.010 Appointment of King County as agent for the city.

King County and the King County sheriff's office and/or its designees are appointed and authorized to act as agent of the city in regard to all impoundments and actions permitted by this chapter. [Ord. 288 § 3, 2000]

10.12.020 Impoundment authorized without prior notice.

(1) If a vehicle is impounded because the driver is arrested for a violation of driving while license suspended ("DWLS") in the third degree, as defined in RCW 46.20.342, as now or hereafter amended, or if the driver is arrested for driving with a license suspended in another state, the vehicle ~~shall~~may be impounded.

(2) If a vehicle is impounded because the driver is arrested for a violation of DWLS second degree, as defined in RCW 46.20.342, as now or hereafter amended, the vehicle ~~shall~~may be impounded for 30 days.

(3) If a vehicle is impounded because the driver is arrested for a violation of DWLS first degree, as defined in RCW 46.20.342, as now or hereafter amended, the vehicle ~~shall~~may be impounded for 30 days.

(4) If a driver is arrested for a violation of RCW 46.61.502, driving under the influence, or RCW 46.61.504, physical control of vehicle under the influence, the vehicle shall be impounded in accordance with the provisions of RCW 46.55.360. [Ord. 392 § 1, 2003; Ord. 288 § 4, 2000]

(5) A vehicle may be impounded with or without citation under the following circumstances:

- (a) The vehicle is impeding or is likely to impede the normal flow of vehicular or pedestrian traffic;
- (b) The vehicle is illegally parked in a posted restricted zone where parking is limited to designated classes of vehicles, or is prohibited during certain hours, or on designated days, or at any time when the vehicle is interfering, or likely to interfere with, the intended use of such a restricted zone;
- (c) The vehicle is obstructing a designated fire lane;
- (d) The vehicle poses an immediate danger to the public safety;
- (e) A police officer has information sufficient to form a reasonable belief that the vehicle is stolen;
- (f) A police officer has information sufficient to form a reasonable belief that the vehicle constitutes evidence of a crime or contains evidence of a crime, if impoundment is reasonably necessary to obtain or preserve such evidence;
- (g) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable, or too intoxicated, to rationally decide upon steps to be taken to protect his or her property;
- (h) Whenever a vehicle without a special license plate, card, or decal indicating that the vehicle is being used to transport a disabled person pursuant to RCW 46.16.381 is parked in a stall or space properly marked, as required by RCW 46.61.581, which space is provided on private property without charge or is on public property;
- (i) Whenever a mobile home is subject to removal from a mobile home park pursuant to a writ of restitution, provided such writ is attached to a King County sheriff's office impound report;
- (j) When a vehicle with an expired registration of more than forty-five (45) days is parked on a public street.

10.12.030 Impoundment after notice.

A vehicle not subject to impoundment under BMC 10.12.020 may be impounded after notice of such proposed impoundment has been securely attached to and conspicuously displayed on the vehicle for a period of twenty-four (24) hours prior to such impoundment if such vehicle is parked and/or used in violation of any law, ordinance or regulation; provided that if the vehicle has current vehicle license and tabs, an officer or authorized

agent of the King County sheriff's office shall check the computer records to ascertain the identity of the last owner of record of the vehicle and shall make a reasonable effort to contact the owner in person or by telephone in order to notify the owner of the proposed impoundment.

10.12.040 Impound procedure.

When impoundment is authorized by this chapter, a vehicle may be impounded by a towing contractor acting at the request of a police officer. Such officer shall provide to the towing contractor a signed authorization for the tow and the impound before the towing contractor may proceed with the impound.

10.12.0450 Owner of impounded vehicle to be notified.

(1) Not more than 24 hours after impoundment of any vehicle pursuant to BMC 10.12.020, the tow truck operator shall mail a notice by first class mail to the last known address of the legal and registered owner(s) of the vehicle, as may be disclosed by the vehicle identification number, and as provided by the Washington State Department of Licensing. The notice shall include the name of the impounding tow firm, its address, and telephone number. The notice shall include the location and time of the impound, and by whose authority the vehicle was impounded. The notice also shall include written notice of the right of redemption and opportunity for a hearing to contest the validity of the impound or the amount of towing and storage charges pursuant to this chapter, as set forth on a form provided by the King County sheriff's office. The notice shall state the mandatory length of the impound. The notice shall state that a person who desires to redeem an impounded vehicle at the end of the mandatory period, must within seven days of the impound including Saturdays, Sundays and holidays, at the request of the tow truck operator, pay a security deposit to the tow truck operator of not more than one-half of the applicable impound storage rate for each day of the proposed suspended license impound to ensure payment of the costs of the removal, towing, and storage of the vehicle pursuant to RCW 46.55.120(1)(b). The notification shall state that if the security deposit is not posted within seven days of the impound including Saturdays, Sundays and holidays, the vehicle will be processed and sold at auction as an abandoned vehicle pursuant to RCW 46.55.130. The notice shall set forth the requirements of BMC 10.12.050 regarding the payment of the costs of removal, towing, and storage as well as providing proof of payment of the administrative fee and proof of satisfaction of any penalties, fines, or forfeitures before redemption. The notice must also state that the registered owner is ineligible to purchase the vehicle at the abandoned vehicle auction, if held.

(2) Notwithstanding subsection (1) of this section, a rental car business may immediately redeem a rented vehicle it owns by payment of the costs of removal, towing, and storage, whereupon the vehicle will not be held for impound. The officer directing the impound shall notify the rental car business as soon as practicable of the impound.

(3) If the date on which a notice required by subsection (1) of this section is to be mailed falls upon a Saturday, Sunday, or postal holiday, the notice may be mailed on the next day that is neither a Saturday, Sunday, nor a postal holiday.

(4) Similar notice shall be given to each person who seeks to redeem an impounded vehicle, except that if a vehicle is redeemed prior to the mailing of notice, then notice need not be mailed. The tow truck operator shall maintain a record evidenced by the redeeming person's signature that the notification was provided. [Ord. 392 § 2, 2003; Ord. 288 § 6, 2000]

10.12.0360 Administrative fee.

If a vehicle is impounded pursuant to the provisions of this chapter, an administrative fee of \$100.00 shall be paid to the city of Burien, prior to redemption of the vehicle as provided by this chapter. The administrative fee shall be for the purpose of offsetting, to the extent practicable, the cost to the city of implementing, enforcing and administering this chapter and must be deposited in an appropriate account. [Ord. 288 § 5, 2000]

10.12.0570 Redemption of impounded vehicles.

Vehicles impounded pursuant to this chapter shall be redeemed only under the following circumstances, and pursuant to agreement between the city and the King County sheriff's office:

(1) Only the registered owner, a person authorized by the registered owner, or one who has purchased the vehicle from the registered owner, who produces ownership or authorization and signs a receipt therefor, may redeem an impounded vehicle. A person redeeming a vehicle impounded pursuant to this chapter must, prior to redemption, establish that he or she has a valid driver's license and insurance.

(2) Any person so redeeming a vehicle impounded under this chapter shall pay the tow truck operator for costs of impoundment (removal, towing, and storage) and the administrative fee prior to redeeming such vehicle. The tow truck operator shall accept payment as provided in RCW [46.55.120\(1\)\(e\)](#), as now or hereafter amended. If the vehicle was impounded pursuant to this chapter and was being operated by the registered owner when it was impounded, it may not be released to any person until all penalties, fines, or forfeitures owed by the registered owner have been satisfied. A vehicle impounded pursuant to this chapter can be released only pursuant to written order from the King County sheriff's office or a court.

(3) The King County sheriff's office shall assign an administrative hearings officer(s) to conduct post-impoundment hearings pursuant to this chapter. Any person seeking to redeem a vehicle impounded pursuant to this chapter has a right to a hearing before an administrative hearings officer to contest the validity of an impoundment or the amount of removal, towing and storage charges or administrative fee. Any request for a hearing shall be made in writing, on a form provided by the King County sheriff's office and signed by

such person, and received by the King County sheriff's office within 10 days (including Saturdays, Sundays and holidays) of the latter of the date the notice of right of redemption and opportunity for hearing was mailed to the person or the date the notice was given to the person by the tow truck operator. Such hearing shall be provided as follows:

(a) If all of the requirements to redeem the vehicle, including expiration of any period of impoundment under BMC [10.12.020](#) have been satisfied, then the impounded vehicle shall be released immediately and a hearing shall be held within 90 days of the written request for hearing.

(b) If all of the requirements to redeem the vehicle, including expiration of any period of impoundment under BMC [10.12.020](#), have not been satisfied, then the impounded vehicle shall not be released until after the hearing which shall be held within two business days

(excluding Saturdays, Sundays, and holidays) of the written request for hearing.

(c) Any person seeking a hearing who has failed to request such hearing within the time specified in this section may petition the King County sheriff's office for an extension to file a request for hearing. Such extension shall only be granted upon the demonstration of good cause as to the reason(s) the request for hearing was not timely filed. For the purpose of this section, good cause shall be defined as circumstances beyond the control of the person seeking the hearing that prevented such person from filing a timely request for hearing. In the event such extension is granted, the person receiving such extension shall be granted a hearing in accordance with this chapter.

(d) If a person fails to file a timely request for hearing and no extension to file such a request has been granted, the right to a hearing is waived, the impoundment and the associated costs of impoundment are deemed to be proper, and neither the city or county shall be liable for removal, towing and storage charges arising from the impoundment.

(4) The Burien police chief, or designee, is authorized to release a vehicle impounded pursuant to this chapter prior to the expiration of any period of impoundment upon petition of the spouse or domestic partner of the registered owner of the vehicle, based on economic or personal hardship to such spouse or domestic partner resulting from the unavailability of the vehicle and after consideration of the threat to public safety that may result from the release of the vehicle, including, but not limited to, the driver's criminal history, driving record, license status and access to the vehicle. If such release is authorized, the person redeeming the vehicle must satisfy the requirements of subsections (1) and (2) of this section, with the exception of payment of the penalties, fines, or forfeitures owed by the driver, and with the exception of the administrative fee.

(5) The Burien police chief, or designee, is authorized to release a vehicle impounded pursuant to this chapter prior to the expiration of any period of impoundment upon the petition of the registered owner of the vehicle based upon economic or personal hardship or equity, provided the registered owner was not the operator of the vehicle at the time of the impound. If such release is authorized, the registered owner must satisfy the requirements of subsections (1) and (2) of this section, with the exception of the administrative fee, in order to redeem the vehicle. [Ord. 288 § 7, 2000]

10.12.0680 Post-impoundment hearing procedure.

Hearings requested pursuant to BMC [10.12.050](#) shall be held by an administrative hearings officer who shall determine whether the impoundment was proper and whether the associated towing and storage and administrative fees charged were proper.

(1) At the hearing, the King County sheriff's office may produce any relevant evidence to show that either the impound or fees, or both, were proper. An abstract of the driver's driving record is admissible without further evidentiary foundation and is prima facie evidence of the status of the driver's license, permit or privilege to drive and that the driver was convicted of each offense shown on the abstract. In addition, a certified vehicle registration of the impounded vehicle is admissible without further evidentiary foundation and is prima facie evidence of the identity of the registered owner of the vehicle.

(2) At the hearing, the person who requested the hearing may produce any relevant evidence to show that either the impound or fees or both were not proper.

(3) If the impoundment is found to be proper, the administrative hearings officer shall enter an order so stating. In the event that the costs of impoundment (removal, towing, storage, and administrative fees) have not been paid or any other applicable requirements of BMC [10.12.050](#)(1) and (2) satisfied, or any period of impoundment has not expired, the administrative hearings officer's order shall also provide that the impounded vehicle shall be released only after payment of any fines imposed on any underlying traffic violations.

(4) If the impoundment is found to be improper, the administrative hearings officer shall enter an order so stating and order the immediate release of the vehicle. If the costs of impoundment have already been paid, the administrative hearings officer shall enter judgment against the county and in favor of the person who has paid the costs of impoundment in the amount of the costs of the impoundment, which are removal, towing, storage and administrative fees, plus interest at the rate of 12 percent per year from the date that person paid the costs, and the county shall comply with the order. If the costs of impoundment, which are removal, towing and storage, have not been paid, the hearings officer shall enter an order directing the county to pay the costs to the tow truck operator, and the county shall comply with the order. The county and city are not liable for damages if the police officer who ordered the impound relied, in good faith and without gross negligence, on the records of the department of licensing in ascertaining whether the operator of the vehicle had a suspended or revoked driver's license.

(5) In the event that the administrative hearings officer finds that the impound was proper, but that the removal, towing or storage fees charged for the impoundment were improper, the administrative hearings officer shall determine the correct fees to be charged. If the costs of impoundment have been paid, the administrative hearings officer shall enter a judgment against the county and in favor of the person who has paid the costs of impoundment for the amount of the overpayment plus interest at the rate of 12 percent per year on the overpayment from the date that person paid the costs, and the county shall comply with the order. The tow truck operator is liable to the county for the amount of the overpayment and interest at the rate of 12 percent per year. The tow truck operator shall make the payment to the county no later than 60 days after the tow truck operator receives notice of the requirement to pay. The county may bring an action in the King County district court against the tow truck operator to recover the overpayment plus interest at the rate of 12 percent per year.

(6) No determination of facts made at a hearing under this section shall have any collateral estoppel effect on a subsequent criminal prosecution and shall not preclude litigation of those same facts in a subsequent criminal prosecution.

(7) An appeal of the administrative hearings officer's decision shall be conducted according to, and is subject to the procedures of this section. In accordance with RCW [46.55.240\(1\)\(d\)](#), a decision made by an administrative hearings officer may be appealed to the King County district court for final judgment. The hearing on the appeal under this subsection shall be de novo. A person appealing such a decision must file a request for an appeal in district court within 15 days after the decision of the administrative hearings officer and must pay a filing fee in the same amount required for the filing of a suit in district court. If a person fails to file a request for an appeal within the time specified by this section or does not pay the filing fee, the right to an appeal is waived and the administrative hearings officer's decision is final. [Ord. 288 § 8, 2000]

10.12.090 Sale of unclaimed vehicles.

A. Any impounded vehicle not redeemed within fifteen (15) days of mailing of the notice required by BMC 10.12.050 and not listed as a stolen vehicle, shall be deemed unclaimed and shall be sold at a public auction in accordance with the provisions and subject to all conditions of RCW 46.55.130; provided that, in the case of a vehicle impounded and held pursuant to order of a police officer as authorized by BMC 10.12.020(5)(d) or (e), the fifteen (15) days shall not begin until forty-eight (48) hours after the King County sheriff's office shall have notified both the owner and towing contractor that it has authorized the release of the vehicle; provided further that when a timely request for a post-impound hearing has been made pursuant to BMC 10.12.080, the sale of the vehicle at public auction shall not take place until after the hearing has been conducted and the hearing officer has entered an order. Prior to sale at public auction, the towing contractor shall confirm with the King County sheriff's office that no hearing is pending.

B. When an unclaimed vehicle is sold at public auction pursuant to subsection A of this section, the towing contractor may recover its towing and storage charges from the proceeds of sale. Such towing and storage charges shall be limited to the contract rates established pursuant to BMC 10.12.100.

10.12.1070 Contracts for towing and storage.

The King County sheriff's office, and the city manager and/or designees are authorized and directed to enter into appropriate agreements and to promulgate rules and regulations to provide for the fair and efficient administration of any contract(s) awarded to registered tow truck operators pursuant to this chapter. Such contracts shall be at no cost to the county and the city and shall provide that the tow truck operator may recover the costs of towing and storage only from the person seeking to redeem the impounded vehicle, or from the proceeds of sale of an unclaimed vehicle pursuant to RCW 46.55.130, and that the county and city shall not be responsible for payment of such costs except upon order of the administrative hearing officer pursuant to BMC 10.12.060. [Ord. 288 § 9, 2000]

10.12.110 Additional towing contractor duties and records.

Each towing contractor, in addition to fully complying with the standards set by the King County sheriff's office must:

A. File its towing and storage rates with the King County sheriff's office; and

B. Maintain all vehicle transaction files for three (3) years.