



Burien
WASHINGTON

CITY COUNCIL MEETING AGENDA

February 1, 2010

7:00 p.m.

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

PAGE NO.

- | | | | |
|---|---|---------------------|-----|
| 1. CALL TO ORDER | 2. PLEDGE OF ALLEGIANCE | 3. ROLL CALL | |
| 4. AGENDA CONFIRMATION | | | |
| 5. PUBLIC COMMENT | To receive comments on <i>topics other than public hearing topics</i> . Individual will please limit their comments to three minutes, and groups to five minutes. | | |
| 6. CORRESPONDENCE FOR THE RECORD | a. Response from Larry R. Blanchard, Public Works Director, to Letter Dated November 4, 2009, from Paul A. Butrim and Judy Kipper Butrim, Owners, Regarding the Access to their Property. | | 3. |
| | b. Letter Dated January 15, 2010, from Dow Constantine, King County Executive, Transmitting Response to Council Budget Proviso. | | 11. |
| | c. Letter Dated January 19, 2010, from Kenny Pittman, City of Seattle Senior Policy Advisor, Regarding Seattle's Intentions Concerning the Annexation of Unincorporated White Center Neighborhoods. | | 23. |
| | d. Letter Dated January 21, 2010, from Carol Jacobson Regarding the Proposed Shoreline Management Plan. | | 25. |
| | e. Response from David Johanson, Senior Planner, to Email Dated January 22, 2010, from Sean Wittmer and Julie Allen Regarding the Proposed Shoreline Management Plan. | | 27. |
| | f. Letter Dated January 25, 2010, from Carol Jacobson Regarding the Proposed Shoreline Management Program. | | 29. |
| | g. Letter Dated January 25, 2010, from Mark and Maria Ottolino Regarding Proposed Shoreline Management Plan. | | 31. |
| | h. Written Public Comments for January 25, 2010, Council Meeting from Chestine Edgar Regarding Lake Burien and the Shoreline Master Plan Document. | | 33. |
| | i. Written Public Comments for January 25, 2010, Council Meeting from Bob Edgar Regarding Annexation Outreach Plan. | | 39. |

COUNCILMEMBERS

Joan McGilton, Mayor
Jack Block, Jr. Kathy Keene

Rose Clark, Deputy Mayor
Lucy Krakowiak

Brian Bennett
Gordon Shaw

CITY COUNCIL MEETING AGENDA

February 1, 2010

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6. CORRESPONDENCE FOR THE RECORD (cont'd.)	j. Email Dated January 26, 2010, from Marco Milanese, Seattle-Tacoma International Airport Community Relations Manager, Regarding Highline Forum Part 150 Study Update.	45.
	k. Letter Dated January 29, 2010, from Mike Hart Regarding the Proposed Shoreline Master Program.	47.
7. CONSENT AGENDA	a. Approval of Minutes: Council Meeting, January 25, 2010.	51.
8. BUSINESS AGENDA	a. City Manager's Report.	55.
	b. Motion to Approve Burien City Council Appointments for 2010.	63.
	c. Motion to Adopt Proposed Ordinance No. 533, Approving Interim Zoning Designations for North Highline South Annexation Area and Amending the Burien Zoning Code and Zoning Map.	69.
	d. Continued Discussion on Compliance with National Pollution Discharge Elimination System Permit Issued January 15, 2007.	91.
9. COUNCIL REPORTS		
10. ADJOURNMENT		



Burien

Washington, USA

400 SW 152nd Street • Suite 300 • Burien, WA 98166

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

www.burienwa.gov

25 January 2010

Kipper Properties
Attn: Paul A. Butrim/Judy Kipper Butrim
17159 NE 5th Street
Bellevue, WA 98008

Subject: Traffic Configuration: SW 146th Street at 1st Avenue South, Burien

Dear Mr. and Ms. Butrim:

This letter is in reference to your letters of 9 September 2009 and 4 November 2009.

On the afternoon of 14 January 2010, I met with you to review your concerns over access to the commercial property located at the SW quadrant of the 1st Avenue South/SW 146th Street intersection. This letter serves as a confirmation of our discussion at that meeting.

The 1st Avenue South Roadway Improvement Project was driven, in great part, by a requirement to improve traffic safety for the entire corridor. The C-curb installation between SW 146th and SW 148th Street was constructed to accommodate southbound left-turn queues within the limited space available. Additionally, the C-curb is necessary between the two intersections in order to provide separation between southbound left-turn queues at SW 148th Street and northbound left-turn queues at SW 146th Street.

We have reviewed the design to determine if there are alternatives that would allow additional commercial left-turn access by removing all or portions of the C-curb. It is our opinion that the C-curb channelization functions as intended in meeting the safety goals for the project. Any removal of the C-curb is likely to result in a higher accident rate as left-turning vehicles from a number of access points would be forced to compete for the same congested space. As a side note, preliminary accident data indicate that we have experienced a 45 percent reduction in accidents for the area included in the project. This is significant and is in keeping with the goals that established the initial project requirements.

At your request, we have also looked at the feasibility of providing a northbound to southbound U-turn movement at SW 146th Street to improve business access on the west side of 1st Avenue South. An improvement to meet the U-turn dimensions would require shifting the back of the sidewalk approximately 20 feet to the west and acquisition of an additional 10 feet of right-of-way. These revisions would likely affect the existing fuel tank and fuel pump bay on the parcel.

Enclosed is a drawing roughly indicating the dimensions discussed above. If you wish to consider this as a possible acceptable solution, we could perform a preliminary design and determine budget costs for inclusion in a future transportation improvement project.

Please contact me at 206/248-5521 if you have further questions.

Sincerely,

Larry R. Blanchard
Public Works Director

Encl: a/s

SW 146TH ST

DESIGN
MINIMUM
54' FOR
U-TURN

S 146TH ST

ADDITIONAL
ROW
REQ'D

1ST AVE S

0 5 10 20
Feet

THE CITY OF BURIEN DISCLAIMS ANY WARRANTY OF FITNESS OF USE FOR PARTICULAR PURPOSE, EXPRESS OR IMPLIED, WITH RESPECT TO THIS PRODUCT.

SW 146TH ST

EXISTING
Now

S 146TH ST

RIGHT OF WAY

1ST AVE S

0 5 10 20
Feet

THE CITY OF BURIEI DISCLAIMS ANY WARRANTY OF FITNESS OF USE FOR PARTICULAR PURPOSE, EXPRESS OR IMPLIED, WITH RESPECT TO THIS PRODUCT.

RECEIVED

NOV 11 2009

KIPPER PROPERTIES
17159 N.E. 5TH STREET
BELEVUE, WA 98008
425-746-9803

November 4, 2009

City of Burien
Attn: Mayor and City Council
400 S. W. 152nd, Suite 300
Burien, WA 98166

On September 9, 2009 we sent a letter to Stephen R. Clark, Public Works Director, regarding the access to our property on the corner of 146th and 1st Avenue South. It has been almost two months and he has not responded to our letter so we are sending a copy of it to you. As a result of the City of Burien cutting off access to our property Northbound our tenant in the service station has gone out of business and our other tenants are suffering. It is not convenient to get into our property going north on 1st Avenue South as there is no break in the barrier and you have to wait for the left hand turn light. When it finally turns green, the traffic backs up on 146th so you can't get into the property and have to go into the Safeway shopping center and turn around and come back. The station operator said that the traffic they used to get from the airport completely went away when the barrier was installed. He also said that there were now accidents where there had been none before on that corner when people tried to make a u-turn. Please read our letter and let us know how we can work this out.

Sincerely,



Paul A. Butrim and Judy Kipper Butrim, Owners

Enclosure

CFTR: 02/01/10

CC: Larry Blanchard, Public Works Director, for response

PC: 11/9/09

KIPPER PROPERTIES
17159 NE 5TH STREET
BELLEVUE, WA 98008
425-746-9803

September 9, 2009

City of Burien
Public Works Department
Attn: Stephen R. Clark, Public Works Director
415 S. W. 150th Street
Burien, WA 98166

RE: Blockage of Access to Businesses at S.W. 146th Street and 1st Avenue South

Dear Mr. Clark:

Last year we talked to you at City Hall regarding access to the Shell Station, Pho Lily Restaurant, and other businesses located in the Southwest corner of the above referenced intersection and you said you would look into it and get back to us. But, we never did get a response from you.

Our tenants at the Shell station, Pho Lily and other business in our building endured three years of construction and nightly road closures of 1st Avenue South with the promise that things would improve and be much better once construction was completed. However, as final work on the LID came to an end, access to the property via a left hand turn from Northbound 1st Avenue South traffic through a break in the centerline curb was eliminated when the Southbound left hand turn lane to S.W. 148th Street was extended North. Closing this left hand turn option to our property and the businesses located there made things worse not better as promised. The LID, which we are paying a substantial amount of money for has been devastating to our tenants. They have complained to us of a loss in business amounting to 40-45%. They have also indicated that there have been more accidents at that intersection from people trying to make what amounts to an illegal u-turn to access our property.

We have experienced the problems caused by this limited access ourselves. The only way to access our property coming off the freeway and going North on 1st Avenue South from S.W. 148th, is to make a left hand turn at the light onto S.W. 146th and enter the Shell station from S.W. 146th. However, our experience has been that, since the left hand turn signal activates at the end of the green light rather than at the beginning, traffic backs up Eastbound on S.W. 146th beyond the entrance to the station and we have to

continue on 146th and pull into the Safeway parking area to make a u-turn to come back to the station. It is no wonder that business has dropped off by at least 40%.

You said you would study the intersection and get back to us but apparently that was just a ruse to get rid of us. As long time property owners and taxpayers in the City of Burien, we expected better. We have studied the intersection and see no reason why the old centerline curb cut can't be re-established to solve the access problem and return things to normal. As an alternate, the intersection could be reconfigured to provide room for a u-turn at the intersection, which would allow people access to our property after making the u-turn. The best solution to improve access to our property, of course, is to re-establish the left hand turn break in the centerline curbing like it used to be. However, if this can't be done, the u-turn configuration would give us some relief but not nearly as much as the centerline curb cut.

If nothing is done to solve this problem soon, we will be forced to take legal action to resolve this problem because the value of our property and the businesses located there have been damaged severely.

Sincerely,

The image shows two handwritten signatures in black ink. The signature on the left is 'Paul A. Butrim' and the signature on the right is 'Judy Kipper Butrim'. Both signatures are written in a cursive, flowing style.

Paul A. Butrim and Judy Kipper Butrim, Owners



King County

Dow Constantine

King County Executive
401 Fifth Avenue, Suite 800
Seattle, WA 98104-1818

206-263-9600 Fax 206-296-0194
TTY Relay: 711
www.kingcounty.gov

January 15, 2010

RECEIVED
JAN 2 2010
CITY OF BURien

The Honorable Joan McGilton
Mayor, City of Burien
415 SW 150th Street
Burien, WA 98166-1957

Dear Mayor McGilton:

I am pleased to provide you with a copy of a proviso response on regional jail planning that I transmitted to the King County Council on January 11, 2010.

This proviso response outlines my strategy for resumption of county participation in regional jail planning efforts. As you will see in this document, a key component of my strategy is engaging the cities in a new round of discussions regarding extending the contract for jail beds at least through 2016 to allow more time for the county and the cities to continue their collaborative approach to regional jail bed expansion efforts.

I look forward to working with the cities to find long term solutions for the jail capacity needs of our region.

If you have any questions, please contact the Director of the Department of Adult and Juvenile Detention, Kathy Van Olst, at 206-296-1268.

Sincerely,

Dow Constantine
King County Executive

- cc: King County Councilmembers
 - ATTN: Tom Bristow, Chief of Staff
 - Anne Noris, Clerk of the Council
 - Fred Jarrett, Deputy County Executive, King County Executive Office
 - Rhonda Berry, Assistant Deputy County Executive, King County Executive Office
 - Joe Woods, Council Relations, King County Executive Office
 - Frank Abe, Director of Communications, King County Executive Office

CFTR: 02/01/10



SungYang, Government Affairs Director, King County Executive Office
Carrie Cihak, Strategic Initiatives Director, King County Executive Office
De'Sean Quinn, Regional Relations Director, King County Executive Office
Kathy Van Olst, Director, Department of Adult and Juvenile Detention Office
Kathy Brown, Director, Facilities Management Division
Toni Rezab, Interim Director, Office of Management and Budget
Elissa Benson, Deputy Director, Office of Strategic Planning and Performance
Management
Krista Camenzind, Budget Supervisor, Office of Management and Budget
Diane Carlson, Jail Administration Group
Charles Balanos, Coordinator, Jail Administration Group



King County

Dow Constantine
King County Executive
401 Fifth Avenue, Suite 800
Seattle, WA 98104-1818
206-263-9600 Fax 206-296-0194
TTY Relay: 711
www.kingcounty.gov

RECEIVED
2010 JAN 11 PM 4:22
CLERK
KING COUNTY COUNCIL

January 11, 2010

The Honorable Bob Ferguson
Chair, King County Council
Room 1200
COURTHOUSE

Dear Councilmember Ferguson:

The King County Council in the Green River flood supplemental (Ordinance 16680) adopted the following proviso:

Of this appropriation, \$25,000 shall not be expended or encumbered until the executive transmits to the council by January 11, 2010, a report outlining a strategy for resumption of the ongoing regional jail expansion planning, unless the region is facing imminent flooding.

The attached report outlines a strategy for resuming jail planning efforts by the county. The strategy includes four elements: (1) continuing discussions with the cities regarding extending the contract for jail beds at least through 2016 which will allow more time for the county and cities to continue their collaborative approach to regional jail bed expansion efforts; (2) developing a policy statement regarding the county's role as a regional partner in the area of jail planning with the advice of the County Council and the cities; (3) continuing the county's internal planning efforts; and (4) completing the Community Corrections Division operational master plan in 2010.

This strategy recognizes that jail planning efforts must be considered in the larger context of multiple criminal justice facility needs and the county's ability to fund them. The 2009 and 2010 budgets closed a cumulative deficit of \$149 million in the General Fund. Preliminary projected deficits of \$60 million and \$35 million are projected for 2011 and 2012, respectively. Given the structural nature of the General Fund deficit, operating reductions will be needed to balance the budget for the foreseeable future, unless significant revenue relief is identified. These deficits make planning for facility expansions and their associated operating costs challenging.

The Honorable Bob Ferguson
January 11, 2010
Page 2

Thank you for your review of the attached proviso. I will update Council on a regular basis as to our progress and to seek your advice.

If you have any questions or concerns regarding this report, please contact Kathy Van Olst, Director of the Department of Adult and Juvenile Detention, at 206-296-1268.

Sincerely,



Dow Constantine
King County Executive

Enclosure

cc: King County Councilmembers
 ATTN: Tom Bristow, Chief of Staff
 Anne Noris, Clerk of the Council
Fred Jarrett, Deputy County Executive, King County Executive Office
Rhonda Berry, Assistant Deputy County Executive, King County Executive Office
Joe Woods, Council Relations, King County Executive Office
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De'Sean Quinn, Regional Relations Director, King County Executive Office
Kathy Van Olst, Director, Department of Adult and Juvenile Detention Office
Kathy Brown, Director, Facilities Management Division
Toni Rezab, Deputy Director, Office of Management and Budget
Elissa Benson, Deputy Director, Office of Strategic Planning and Performance
 Management
Krista Camenzind, Budget Supervisor, Office of Management and Budget

Jail Planning Proviso Response

Executive Summary

This report responds to a proviso in the Green River flood supplemental (Ordinance 16680), requesting that the King County Executive provide a report outlining a strategy for the resumption of regional jail expansion planning.

P14 PROVIDED FURTHER THAT:

Of this appropriation, \$25,000 shall not be expended or encumbered until the executive transmits to the council by January 11, 2010, a report outlining a strategy for resumption of the ongoing regional jail expansion planning, unless the region is facing imminent flooding.

The report shall be transmitted in the form of 14 copies with the clerk of the council, who shall retain the original, and distribute a copy to all councilmembers, the council chief of staff, the council director of strategic policy initiatives, the lead staff to the budget and fiscal management committee and the lead staff to the government accountability and oversight committee, or their successors.

In September, former King County Executive Kurt Triplett decided to pause several aspects of jail planning in order to devote financial and staffing resources to the Green River valley flood planning effort. Until that time, King County had been in the midst of several complex and inter-related jail planning efforts including working extensively with the cities of King County on assessing potential future expansion of secure jail beds and negotiating a contract for city use of the county jail services.

This proviso, and my new tenure as King County Executive, have provided an opportunity to step back and take a big-picture look at the existing jail planning efforts, particularly in light of the fiscal crisis in the General Fund, and to consider next steps for moving forward.

Accordingly, as King County Executive, I intend resume jail expansion planning by undertaking the following strategy:

- First, within the first six months of 2010, the Executive Branch will resume discussions with the cities with regard to extending the contract for jail beds at least through 2016, which will allow more time for the county and cities to continue their collaborative approach to regional jail bed expansion efforts.
- Second, with the advice of the County Council and the cities through the current Jail Advisory Group, the Executive Branch will develop a policy statement regarding the county's role as a regional partner in the area of jail planning.
- Third, the Executive Branch will continue its ongoing internal planning efforts related to potential jail bed expansion, including revisiting an assessment of secure and non-secure population projections and all inter-related facility needs.
- Fourth, the Executive Branch will complete the Community Corrections Division operational master plan, addressing operational and programmatic improvements in the division, during 2010.

Background

King County has been engaged in several complex and inter-related jail planning efforts. The efforts have several facets:

- 1) Regional jail expansion planning, which includes negotiations with all cities of King County for an extension of the current jail services contract, and planning with the North/East Cities (NEC) Consortium to explore the feasibility of a possible Jail Annex to the existing King County Correctional Facility in Seattle;
- 2) Jail capacity planning, to include secure/non-secure detention forecasting and operational planning for community corrections; and
- 3) Maleng Regional Justice Center (MRJC) detention build-out planning. This effort is part of an integrated Law, Safety, and Justice (LS&J) Facility Master Plan (FMP) that was under development but also paused.

In light of the potential flooding in the Green River valley and the ongoing financial crisis in the General Fund, King County paused further investment in Jail Annex planning and detention expansion at the MRJC. On September 17, 2009, former Executive Kurt Triplett informed the King County Council of this decision. Specifically, he stated:

“the situation with the dam is a game changing event that alters all of our planning for criminal justice and public health operations. Faced with the potential flooding impacts on the MRJC and the shift in operations to the King County CF and the Courthouse, King County must refocus our resources on preparations and alternatives for our existing facilities. Because this uncertainty in the Green River valley may be with us for the next 3 to 5 years, and because the additional financial burdens that this situation places on the county’s already strained budget, we simply do not have the capacity to respond to the flood and adequately plan and implement new jail construction projects, such as expanding at the MRJC or expansion of the King County Correctional Facility in the short term. Many of the same staff resources that are diligently working on our flood planning and mitigation efforts are the same staff that are tasked with jail expansion planning. The public would also legitimately question why King County would simultaneously plan to expand the MRJC while also spending millions of dollars preparing to evacuate it.”

Compounding the immediate concerns of flood planning in the Green River valley are the ongoing deficits in the General Fund. The 2009 and 2010 budgets closed a cumulative deficit of \$149 million. Preliminary projected deficits of \$60 million and \$35 million are projected for 2011 and 2012, respectively. The magnitude and structural nature of these deficits means that the county may not be able to maintain its current jail operations in the future. Any future facility expansions, and their concurrent operating costs, must be evaluated carefully in this context.

The following section provides a brief description of the work done and current status of each of the jail planning efforts.

Regional jail planning with the cities of King County

County and city staffs have shared information related to their current jail populations and have gained a better understanding of the various components of jail planning and operations. The ongoing discussions with the cities have provided the foundation for continued cooperative working relationships to identify shared options and solutions to address regional jail capacity in King County. The status of each of these projects is:

Negotiated an Extension to the Jail Services Agreement through 2015 – completed

The extension to the existing jail services agreement was negotiated with the cities and approved by the King County Council in Ordinance 16716. The extension is offered to all 39 cities currently receiving jail services from King County under the 2002 jail services interlocal agreement. The existing 2002 agreement expires December 31, 2012. The extension provides an additional three years of jail services to any city that signs it, extending the current contract through December 31, 2015. In addition, the cities have asked for an additional extension to 2016, which the Department of Adult and Juvenile Detention (DAJD) has agreed to discuss in 2010.

Joint planning of a possible Jail Annex (Goat Hill) – paused

In November 2008, King County and the cities of Seattle, Redmond, Bellevue, Shoreline, and Kirkland signed a Memorandum of Understanding (MOU) that allowed the NEC Consortium to include the county-owned vacant site located at the southeast corner of the intersection of Fifth Avenue and Jefferson Street in downtown Seattle (commonly referred to as the Goat Hill Jail Annex site) as one of six sites to be studied as possible locations for a new jail to meet the cities' long-term city misdemeanor jail bed needs.

Pursuant to the signed MOU, the county and staff from the five lead NEC cities and their consultants met extensively to build a preliminary program plan for a possible Jail Annex on Goat Hill. This work was undertaken in order to meet the cities' Environmental Impact Study timeline for its project while also preserving the county's interest in maximizing the site for its interests. Important elements of that work included:

- Preliminary identification of possible Jail Annex uses of county space;
- Consulting and review of potential building design drawings;
- Based on program design, NEC's consultant estimated capital costs for the Jail Annex;
- The Facilities Management Division (FMD) reviewed the capital cost estimates for comment; and
- DAJD/Office of Management and Budget (OMB)/Public Health provided an estimate of detention and medical operating costs for the Jail Annex if it opened for operation in 2016.

On November 3, 2009, former Executive Triplett informed the cities of Seattle, Redmond, Shoreline, Bellevue and Kirkland by letter "of King County's need to temporarily pause our facilities planning work associated with the NEC jail planning efforts due to the need to dedicate

resources to flood planning for the Green River valley.” Former Executive Triplett acknowledged the difficulty of the decision and committed the county to working collaboratively with the cities, including directing DAJD to update the secure bed forecast at regular intervals and to provide that information to the county’s city partners, as was discussed and agreed to through the jail extension negotiations.

County jail capacity planning including secure/non-secure detention forecasting and operational planning for community corrections - paused

In the summer of 2008, the Executive transmitted and the County Council accepted by motions 12802 and 12803 two proviso responses related to community corrections. The first proviso response developed a mission, vision and guiding principles for the use of community corrections and alternatives to incarceration in King County. It also identified three changes for immediate implementation and recommended further exploration of possible changes in three areas: 1) making changes to the existing structure and programs of the community corrections division; 2) exploring the implementation of capacity changes to community corrections programs and alternatives; and 3) exploring the implementation of new models and practices within community corrections. The second proviso response reviewed existing forecasts and projected when each community corrections alternative would likely reach capacity. Both identified a next steps work plan for moving forward.

As these work plans were implemented, it became apparent that all of the proviso-related work was inter-related and constituted an operational master plan. In the summer of 2009, planning for a Community Corrections Division (CCD) operational master plan (OMP) began. The OMP will draw heavily on existing reports and analysis to suggest operational changes to maximize use of King County’s community corrections alternatives. The OMP will also include updated workload forecasts and recommendations for capacity expansion. As there has already been significant review of the county’s community corrections alternatives, the OMP will be done on an expedited schedule and completed by mid-2010 (pending funding for consultant resources).

Maleng Regional Justice Center detention build-out planning – paused

On July 8, 2008, the council adopted Ordinance 16200, which stated:

SECTION 2. “The executive shall prepare a proposal which would result in the rapid development of additional detention capacity at the Maleng Regional Justice Center (“RJC”). This proposal shall include the Maleng RJC Site Master Plan and a 2009 capital improvement project request. The 2009 capital project request shall combine the pre-design analysis recommended by the council auditor for major projects and a preliminary design. The proposal shall be submitted to the council by October 1, 2008 for council review and consideration in the 2009 budget process.”

SECTION 3. “It is the intent of the council that the executive also negotiate with both the state and the cities seeking their immediate participation in the capital planning and construction of additional capacity for both secure detention and community corrections programs.”

In 2009, the County Council approved a Capital Improvement Project (CIP) project to begin the expansion of the MRJC. This project included a supplemental EIS to expand the county's jail capacity at the MRJC. At the same time, the NEC began a process to select a location for their jail that included the county-owned Jail Annex site. While working with the NEC on the Jail Annex site, it became clear that the county also needed to undertake an alternative siting analysis for the county portions of the potential Jail Annex project. This additional alternatives analysis was integrated into the scope of work for the MRJC expansion by the inclusion of a comprehensive Capital Improvement Plan for the county's LS&J agencies. The original schedule to complete this plan and associated SEPA analysis was to coincide with the NEC SEPA process. The RFP for the MRJC expansion and the Capital Improvement Plan was issued in July 2009 with the intention of completion within the NEC timelines. In November 2009, this project was paused due to flood planning efforts.

Additionally, much work was underway before the pause on an Integrated Law Safety and Justice FMP, including evaluation of the site capacity and development options for the MRJC for all LS&J functions (courts as well as jail), evaluation of potential uses of the Goat Hill site for non-jail purposes, and the interrelationships between these projects and the Superior Court Targeted FMP and potential future Alder replacement project.

Strategy for Resumption of Ongoing Regional Jail Expansion Planning

Underlying the county's regional jail planning efforts is the realization that the county faces significant ongoing deficits. The structural nature of the deficits means that the county will face repeated fiscal crises into the foreseeable future, even after the economy recovers from the current downturn, unless revenue relief is forthcoming from the state or the voters. Even if such relief becomes available, it will always be incumbent on the county to exercise fiscal restraint in facilities planning to ensure that the taxpayers' dollars are put to the best use possible.

In light of the extensive and collaborative work done in regional jail planning and being ever mindful of the county's significant fiscal restraints, King County's strategy to resume the regional jail expansion will include:

First, within the first six months of 2010, the Executive Branch will resume discussions with the cities with regard to extending the contract for jail beds at least through 2016, which will allow more time for the county and cities to continue their collaborative approach to regional jail bed expansion efforts.

The NEC consortium has requested an additional one-year extension to the jail services agreement through 2016. The NEC's current planning horizon for having new NEC jail bed capacity on line is for mid-to-late 2015. Negotiating an extension through 2016 provides the NEC and the county time to continue open, collaborative discussions regarding jail capacity and provide the NEC with more time to complete its planning efforts. King County will start these negotiations within the first six months of 2010.

Second, with the advice of the County Council and the cities through the current Jail Advisory Group, the Executive Branch will develop a policy statement regarding the county's role as a regional partner in the area of jail planning.

The regional detention system is complex, comprising city, county, state, and other jurisdictions. No single person or agency controls the many system components. Rather, these components are bound together by a web of legal directives that set out areas of responsibility and authority. Jail planning, by necessity, includes jointly assessing the forecasted needs of each entity's jail bed populations, reviewing the economics of providing secure and non-secure corrections programs on a regional level, and investigating possible options for integrating information systems and transportation systems to make it easy for inmates housed in city and county facilities to be identified and transported for necessary court dates for the efficient processing of court cases. Defining the county's role within this system is a critical decision point for the county. A policy statement regarding the county's role will assist in defining expectations and guide decision making.

Third, the Executive Branch will continue its ongoing internal planning efforts related to potential jail bed expansion, including revisiting an assessment of secure and non-secure population projections and all inter-related facility needs.

Since late in the third quarter of 2007, there has been a divergence between the jail population forecast and the actual number of inmates in the county's secure detention facilities. Upon further review, the primary driver appears to be a decrease in felony drug bookings (mainly originating from the City of Seattle).

County DAJD and City of Seattle staffs have been in frequent communication to understand the reasons for the decline in bookings. At this juncture, there is a shared understanding that the declining trend in bookings will eventually reverse itself and population will begin to increase. The challenge is to know when that increase will happen and whether other policy changes at the local, state or federal levels will impact the secure population. Forecasting is part art and part science. Given the divergence between population forecasts and the actual inmate population in county facilities, the existing projections will be revisited. The result of this effort will form the foundation for decision making regarding the need for future county detention facilities and the ability of the county to contract with cities for jail beds.

Fourth, the Executive Branch will complete the Community Corrections Division operational master plan, addressing operational and programmatic improvements in the Division, during 2010.

As noted above, the OMP will draw heavily on existing reports and analysis to suggest operational changes to maximize the use of King County's community corrections alternatives. The OMP will also include updated workload forecasts, an evaluation of possible city interest in the county community corrections programs, and recommendations for capacity expansion. As there has already been significant review of the county's community corrections alternatives, the OMP will be done on an expedited schedule and completed by mid-2010.

Conclusion

This proviso in conjunction with my new tenure as the King County Executive and the pause in planning due to the potential flooding in the Green River valley created an opportunity for the county to assess the inter-related nature of the multiple jail planning efforts underway and to assess those efforts in light of the county's financial status. The next stage of work, as outlined in this report, will build upon the work of county and city staff in the last several years. The successful negotiation of the jail contract extension and the information exchanged through the Jail Annex planning process, in particular, provide a solid basis for continuing the collaborative work of the cities and the county.

The resumption of planning work is, of course, contingent on the absence of a flood this winter. Should a flood occur, the county will need to re-evaluate this plan so as to dedicate necessary resources to flood response and recovery efforts.



City of Seattle
Office of the Mayor

RECEIVED
JAN 20 2010
CITY OF BURIEN

January 19, 2010

The Honorable Eileen Cody
Washington State Representative
337 John L. O'Brien Bldg
P.O. Box 40600
Olympia, WA 98504-0600

The Honorable Ross Hunter
Washington State Representative
330 John L. O'Brien Bldg
P.O. Box 40600
Olympia, WA 98504-0600

The Honorable Joan McGilton
Mayor, City of Burien
400 SW 152nd - Suite 300
Burien, WA 98166

Dear Representatives Cody, Hunter and Mayor McGilton:

Thank you for your letter to Mayor McGinn requesting clarification of the City of Seattle's intentions concerning the annexation of the unincorporated White Center neighborhoods. The Mayor's Office has asked me to respond on his behalf.

Throughout the campaign, Mayor McGinn's position has been that the choice of annexation lies with the people of unincorporated White center. If they choose the city of Seattle, they would be welcomed and we would work with the Seattle City Council and the White Center community to make it happen. In that regards, we will work with the Seattle City Council to initiate the annexation process for the unincorporated White Center neighborhoods in the first quarter of 2010. It is our goal to put the question of annexation before the voters of the unincorporated White Center neighborhoods at the November 2010 general elections.

Do not hesitate to contact me if you have any questions regarding Seattle's position or the timeline for our annexation effort at (206) 684-8364 or at kenny.pittman@seattle.gov.

Sincerely,

Kenny Pittman
Senior Policy Advisor

cc: Mike Martin, Burien City Manager

Office of the Mayor
Seattle City Hall, 7th Floor
600 Fourth Avenue, PO Box 94749
Seattle, WA 98124-4749

Tel (206)684-8364
Fax (206) 233-0085
kenny.pittman@seattle.gov

CFTR: 02/01/10

RECEIVED

JAN 21 2010

CITY OF BURIEN

January 21, 2010

To: Burien City Council
Burien Planning Commission

Re: Proposed Shoreline Management Plan

To Whom It May Concern:

I am a property owner, resident, and tax-payer on SW 172nd St. I am writing to express my concerns about the proposed Shoreline Management Plan. Since the plan directly references and impacts Lake Burien and the Three Tree Point area, residents of those areas are understandably concerned about any plan that involves changes that could negatively impact private property or the safety of residents. While everyone agrees that protection of the shoreline's ecology is a worthy goal, there are concerns about the potential negative impact that increasing public access to these shorelines may have.

One of my objections to the document is that there is no assurance that the people directly affected by this plan will be involved in decisions and/or changes that occur as a result of the SMP. There needs to be language in the document that specifically assures that the residents directly affected by this plan (Lake Burien and Three Tree Point residents) will be involved in decision making and implementation of any changes that occur in their communities because of the SMP. This means that the City of Burien needs to provide multiple opportunities for residents to get their concerns on the public record and to be directly involved in decision-making about issues that may affect their welfare, safety, and property rights. In addition, there needs to be some language in the document that assures that restrictions placed on property owners related to building or construction in the affected areas also apply equally to the City. If indeed the restrictions are in place for the good of the shoreline, then they apply to everyone, including the City of Burien.

Thank you for your consideration of my concerns.



Carol Jacobson
3324 SW 172nd St.
Burien, WA 98166
(206) 246-8700

CFTR: 02/01/10

Lisa Clausen

From: David Johanson
Sent: Monday, January 25, 2010 2:24 PM
To: seanwittmer@yahoo.com
Cc: Council Members; Scott Greenberg; Lisa Clausen
Subject: RE: Shoreline Management Plan

Dear Mr. Wittmer and Ms. Allen

Thank you for your inquiry regarding Burien's Shoreline Master Program update process. Your e-mail was directed to the Department of Community Development for response. The City is considering Washington State mandated updates to its shoreline master program. Currently the Planning Commission is considering the draft SMP that was developed by our Shoreline Advisory Committee. The Planning Commission held a public hearing on January 12, 2010 and will be discussing the document and formulating a recommendation to the City Council in the next 1-2 months (2-3 meetings, more if necessary). For your reference the Shoreline Advisory Committee recommended draft Shoreline Master Program is available for review on the City website. Please visit www.burienwa.gov.

The City Council will then conduct a public hearing and consider the recommendations of the Planning Commission to prepare a final submittal to the Washington State Department of Ecology (DOE). The specific dates that the City Council will hold its meetings is dependent on the Planning Commission schedule and when it completes the formal recommendation process. It is preferred that comments are provided during one of the formal the public hearings. Please continue to check the City website for updated information on Planning Commission and City Council meeting dates and agendas. Following the City Council hearing and deliberations, it is anticipated that DOE will receive the recommended document in late spring or early summer, again dependent on scheduling. It too, will conduct a public hearing on the proposed updates.

At this time you may submit written comments to the Planning Commission for consideration; however, since it has held its public hearing it may be more challenging to address them specifically, but your comments will certainly forwarded for consideration. At any time I would be more than happy to speak with you about the update process and answer any questions you may have regarding the current draft shoreline master program.

Again thank you for your interest. Please feel free to contact me if you have any questions.

Sincerely

David Johanson, AICP
Senior Planner

From: Council
Sent: Monday, January 25, 2010 11:53 AM
To: 'sean wittmer'
Subject: RE: Shoreline Management Plan

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

L. Clausen

CFTR: 02/01/10
CC: Community Development

City Manager's Office

From: sean wittmer [mailto:seanwittmer@yahoo.com]
Sent: Friday, January 22, 2010 11:27 AM
To: Council; Council
Subject: Shoreline Management Plan

January 22, 2010

To: Burien City Council

Re: Proposed Shoreline Management Plan

To Whom It May Concern:

I moved from the city of Seattle to Burien in 2009. In the eleven years that I lived in West Seattle, I enjoyed the small town feel. However, when the opportunity presented for me to purchase a home in the Three Tree Point neighborhood, I jumped at it. In the year that I have proudly called Burien home, I've felt that this is my hometown. A sense of community is present both in the city and our neighborhood. This year, I participated in the annual bicycle race and enjoyed the festivities on the Fourth of July. I stay at home on Halloween to enjoy all the trick-or-treaters. I actually know my neighbors. My girlfriend has moved in as we are continuing our life together. A lot of good things have come into my life since I've moved to Burien. I only look forward to our future here.

I was recently informed that the city was proposing a Shoreline Management Plan. It appears that this plan could have direct impact in the Three Tree Point and Lake Burien neighborhoods. I've concerns as I am a property owner on SW 172nd St. A few of these concerns are privacy, parking, noise, safety and decreased property values. Please allow us to voice our concerns and be a part of the decision making process.

I feel that we are very fortunate to live in such a unique area and would be saddened to see any major changes.

Sincerely,

Sean Wittmer
Julie Allen
3328 SW 172nd St
Burien, WA 98166
206-595-6150

January 25, 2010

To: Burien Planning Commission

From: Carol Jacobson
3324 SW 172nd St
Burien, WA 98166

RECEIVED

JAN 26 2010

Re: Shoreline Management Program

CITY OF BURIEN

I live on SW 172nd St. and my major concerns about the proposed Shoreline Management Program relate to public access issues and the negative impact that would surely have on our community. No one disagrees with the overall concept of preserving the shoreline ecology, and no one cares more about that than the people who actually live on the shoreline. However, we all share the same concerns about the negative effects that increased public access would have on this area. I am sure that the residents of Lake Burien have the same concerns for their community.

We live here for a reason: we love the peace and quiet and the beauty of this area. We don't want to see our community turned into anything that even remotely resembles Alki or Redondo or Greenlake. If we wanted to live in an area like that we would not have moved here. We have worked hard all our lives to be able to purchase a house in the Three Tree Point community, and we continue to pay an ungodly amount of taxes for the privilege of living here. It is not OK for this shoreline program or any other plan to result in anything that destroys the character of our community, lowers our property values, increases property damage and other crime, or decreases the safety of the residents who live here.

Increasing public access is contradictory to the stated purpose of shoreline management, which is protection of the shoreline ecology. More people = more trampling of shoreline, more litter/garbage/ more crime, more private property trespass and damage, and less safety for residents of these communities. Look at Alki, where a constant police presence is required for safety and crime concerns. Consider the cost of maintenance of more public access sites as well as additional police protection needed for public safety, not to mention the negative impact hundreds or thousands of more people will have on the ecology of the beaches. And where would all of these people park? Parking is so limited now that even residents in the community barely have space to park our own cars – and having visitors at your own house requires negotiation with neighbors for parking.

Even with the existing public access, we have people parking on our property with their car radios blaring at high volume, eating lunch at our picnic table, changing their baby diapers on the picnic table, leaving their garbage, throwing our possessions on to the beach, sleeping in their cars overnight parked in our lot, and then urinating in our lot before leaving. Most of these things have happened in the last 2 months and many times before. We have in the past found syringes, needles, and discarded condoms on our property. I have no interest in seeing this type of behavior and activity multiplied hundreds of times over with additional public access. According

CFTR : 2-1-10

CC : Scott Greenberg

PC : 1-27-10

to the maps in this document there are already 4 public access points in the immediate Three Tree Point area, plus Seahurst Park and Eagle Landing Park – how many do we need?

In Chapter IV, page 8, items a, b and c need to be clarified so that existing property along SW 172nd (and anywhere else potentially affected by these items) is not impacted or disturbed in any way in order to provide physical or visual access to the water. Reference to “unused right of way” in item c should be removed from the document. Nothing in the SMP should be allowed to negatively impact property or existing structures that were present before this act is approved, and homes and structures that exist now need to be grandfathered into this document. The same is true regarding the building restrictions that could prevent our ability to rebuild our homes as they now exist if they were damaged or destroyed. Existing homes and their footprints need to be grandfathered in wherever the proposed restrictions would prevent rebuilding as the home now exists .

Finally, this proposed Shoreline Management Program is not a plan. It should serve as the guidelines for any plans that are ultimately developed related to shoreline areas. The City of Burien may have a “plan” for our community, but we have not seen any such plan in writing. There needs to be assurance in the SMP that residents of affected communities (in this case Lake Burien and the Three Tree Point area especially) are involved in the development of any plans that affect us. There needs to be assurance that there is sufficient funding for any such plans and for the ongoing maintenance of public access areas, as well as for additional police protection that may be necessary to maintain the safety of the community. In addition, there needs to be some language that assures that developers and the City of Burien have to live by the same rules, regulations, and restrictions that this program places on private citizens.



Carol Jacobson

RECEIVED

JAN 26 2010

CITY OF BURIEN

January 25, 2010

To: Burien City Council
Burien Planning Commission
Re: Proposed Shoreline Management Plan
To Whom It May Concern:

We are property owners on SW 172nd St (Three Tree Point). We are very concerned about the proposed Shoreline Management Plan and how it would affect Lake Burien and the Three Tree Point area. The "Plan" involves changes that could negatively impact private property or the safety of residents. By increasing traffic ie: public access to the shorelines that are now privately owned, it appears the negatives far outweigh the positives.

We would assume the Shoreline Management Plan's ultimate goal would be to not do anything that puts this area at risk for property destruction, littering, vandalism and other crimes, as well to not jeopardize the integrity of the beach/shoreline. We have been told over and over by local law enforcement personnel that they don't have the manpower to address even the current issues in this community, where will we be when the issues multiply?

The City of Burien already has the large, beautiful, Seahurst Park, Eagles Landing, and at least 3 public access points to the TTP beach area. Why is there a need for more than those? The areas proposed would take large amounts of funding to develop and maintain for the proposed intent. (We are already maintaining and improving the above mentioned existing parks)

We are requesting, as THE TAX-PAYERS on this property affected, that the Shoreline Management Plan include language that assures that before any changes are made that affect our neighborhood communities (Lake Burien and Three Tree Point specifically, since they are at the greatest risk of being destroyed by irresponsible decisions), the residents of those areas must be given:

1. Notice of any specific plans that the City may already have and adequate opportunities to respond and express concerns about the impact of those plans on the community.
2. Opportunity to be involved in decisions affecting our communities BEFORE specific plans are made.
3. Opportunity to offer alternative ideas or suggestions to reduce the impact of any such plans on the residents of affected communities, their private property, and their safety and well-being.

In addition, the document should read clear, assuring that restrictions placed on property owners related to building or construction in the affected areas, apply equally to the City. If indeed the restrictions are in place for the good of the shoreline, then they apply to everyone, including the City of Burien.

Sincerely,
Mark & Maria Ottolino
3130 SW 172nd St.
Burien, WA 98166
(206) 433-1793

QFTR: 02/01/10

To: Burien City Council
From: Chestine Edgar
Subject: Document submitted for the meeting of 1/25/10 concerning future impervious surfaces and land development on Lake Burien and the Shoreline Master Plan Document.

In the materials I submitted to you, I mentioned that I had additional concerns about the update to the Shoreline Master Program (SMP) Document and process used to update the SMP.

In summary they are:

1. The Shoreline Inventory is incomplete. Under WAC 173-26-201 (2) a., relevant parties should be contacted for available information. Lake Burien has had a Lake Steward for over 30 years. The current one was trained by King County. He was not contacted for any information about Lake Burien. There were no site visits to the area. A review of the literature was the methodology for the study. Best Available Science methodology usually involves at least one site visit. As a result, the inventory is inaccurate and incomplete in its discussions about fish and wildlife habitat and migratory species that use the lake. I have eagles daily using my property for perching and feeding (see attached photo). During the spring, summer and fall, I have blue herons using my secondary shore lands for feeding. There is no listing of fish, amphibian, mammals or reptile species present. There is nothing about vegetation in the lake, the wetlands and secondary shore lands that provide food and shelter for the species I previously mentioned as well as the fish species and crustaceans that are present.
2. The Shoreline Inventory considers the current zoning density as low impact on the lake but does not note that the real zoning is for greater impact than the lower impact on Puget Sound and does not include a projection study or make recommendations for a study to determine what will be required to maintain no net loss of ecological functions.
3. The section on Opportunities for Conservation and Restoration does not address the what impact this increased significant amount of impervious surface will have as a result of, storm water input and non-point runoff/pollution nor does it suggest a monitoring or data collection plan to maintain no net loss of ecological functions (See document I prepared on impervious surfaces). There is no discussion of the weir and how it functions or why it exists or how it got to be there.
4. The section on Wetlands shows Lake Burien to be a Category 2 wetland with a buffer width at 100 ft. per City of Burien code. This does not correlate to SMP document that puts the setback at 30' with a 15' buffer. Nothing is mentioned in the Opportunities for Conservation and Restoration Section to explain how this difference in buffer width could come about. Short term and long term impacts have "to be addressed to assure that the end result will not diminish the shoreline resources and the value as they currently exist." Lastly, nowhere is it mentioned that Lake Burien is one of the headwaters/tributaries of Miller Creek which is a salmon bearing creek that could be adversely impacted by increased impervious surface runoff, storm water input and non point runoff/pollution. Nothing is discussed in the Opportunities for Conservation and Restoration section about the relationship between Miller Creek and Lake Burien. There is no discussion about the

current rules that the residents have agreed to that maintains the lake's water quality as "very good" by King County's grading system. This set of rules will need to be maintained if there is to be no net loss of ecological functions. I am requesting that additional scientific information and management recommendations be added to the Shoreline Inventory per WAC 173-26-201, (2)(a)(i-iii).

2. The lot size and reduced buffer size on Lake Burien put the lake at much greater risk for net loss of ecological functions than the lands on Puget Sound per the SMP document. As mentioned previously, there is no explanation about how a Category 2 wetland that is supposed to have a buffer of 100' has a setback of 30' and a buffer of 15' in the SMP document. I have seen no scientific studies or data analysis in the Shoreline Inventory or in the SMP document to support those numbers. I had asked that a provision for this situation be put into the SMP document and was told by David Johanson/COB that it could not be done. Then I asked that something then be done to affect lot size. David Johanson told me that could not be done either as it was the job of the Planning Commission to address the issue. When I took this issue to the Planning Commission, David Johanson told them that this was never really an issue to be considered the SMP document. As I previously stated, the purpose of the SMP is to protect and preserve critical shorelines. If this is not considered, there will be a net loss of ecological functions on Lake Burien. This is an issue that should be addressed per WAC 173-26-221(2)(b) (iv), and (c)(I) And (A),(B),(C),(D) and WAC 173-26-201(2)(e). I am requesting that this issue be addressed in Chapter 4, 20-30-050 of the SMP document or by the Planning Commission as a zoning issue.

3. The SMP Cumulative Analysis is incomplete. It in no way examines the impact of redevelopment in the Lake Burien area due to lot size. Therefore its assumptions about setbacks and future impervious surface and the impact on the lake are incorrect. Additionally, the fact that in excess of 8 public access points could result from redevelopment on this small lake is not discussed in the analysis in the Section 3, "Reasonably Foreseeable Future Development and Use of the Shoreline". This kind of access will result in net loss of ecological functions of the lake. This section currently states that significant damage could happen to the aquifer recharge area if increased amounts of impervious surface were added to it. I am requesting that an improved study of the Lake Burien area be done and added to The SMP Cumulative Analysis to reflect the correct impact that could occur to Lake Burien in the foreseeable future due to development and redevelopment.

4. The Figure 4 in Chapter IV has been altered and Commercial and Office have been deleted from the chart since the SMP committee met and discussed the Figure 4. By consensus of the committee, Commercial and Office were prohibited in all shoreline uses of the table. Figure 4, as currently presented, suggests that these uses were never considered or rejected as uses in the design of the SMP document (see attachments dated Draft September 1, 2009). Additionally, Chapter IV, 20.30.075 which was titled Commercial, Institutional and Office in the September 1, 2009 draft has been stripped out of the November draft. It had been agreed by Shoreline Advisory Committee that this section would be retained in the SMP document with the explanation that this category of

land use was to be prohibited in all areas. The Shoreline Advisory Committee wanted to make clear to future readers and citizens that this category of land use had not been overlooked and to ensure that this type of land use was not open to further interpretation and discussion. I am requesting that Figure 4 be restored to reflect the discussion and consensus decision made on October 21, 2009 or that something be added to the document that reflects the discussion and decision in Meeting Summary #8. Once again I would like to say that the committee elected to prohibit these uses in all areas of Figure 4. The properties being considered are shoreline residential, aquatic and an urban conservancy. David Johanson globally told the Committee that they were not allowed to do that. I recall nothing in the comprehensive plan or zoning plan that shows Lake Burien as land available for three story office buildings or commercial development. I have reviewed the SMP Cumulative Impacts Analysis and Lake Burien currently has no zoning or planning for Office and Commercial. So I don't understand his prohibitive comment. I am requesting that Commercial and Office be included back in the chart and or that the document reflect what was discussed by the committee so that future interpreters of this document do not think these uses were not considered and rejected.

5. The regulations in 20.30.025 Critical Areas of the SMP document do not adequately speak to Critical Freshwater Habitat. I requested that a statement somewhat like the one in section "2.c. Regulations" be added to include the protection of Critical Freshwater Habitats or that they be added to 2.c. I was told that the state did not define Critical Freshwater Habitats and so it could not be added. In addition, I was told by the Chair of the Committee that he did not even know what I was talking about because he had not brought his copy of the Draft to the meeting. This area is addressed in WAC 173-26-221 (iv) Critical freshwater habitats. I am requesting that a statement be added to this section to reflect the protection of Critical Freshwater Habitats as equal to those protections given to Critical Saltwater Habitats.

6. Public Access as defined in spirit and tone in the SMP document is not a match for what is in the WAC 173-26-221(4) (i), "Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety." SMP Pol. ALL 5 does not reflect the idea of protection to private property as stated in the WAC. The SMP uses the term "recognize" which does not imply protection. Also, it does not make clear that increased public access is to be on publicly owned land. Again, it is inconsistent with the WAC. SMP Pol. PA 3 does not reflect the aspect of protecting private property and public safety. The term "minimize potential impacts" does mean the same as to "provide protection". The definition for Public Access and the requirements under the SMP are not clearly stated in Chapter IV, 20.30.035. Public Access refers to publicly owned lands. In addition, there are two types of public access-- either physical or visual access. Either types of access meet the requirements for public access under WAC 173-26-221 and WAC 173-26-201. In the study done by Reid Middleton, they note that there are currently several street areas from which visual access to the lake is present. I am requesting that the wording be changed in these areas of the SMP document to correctly reflect the definition of public access as well as include the requirement for protecting private property and public safety.

7. The wording in Chapter IV, 20.30.035(2)(d) was changed without the approval of the committee on a decision they had come to consensus on. That wording was changed in the November 17, 2009 SMP draft document without approval of the committee. In the September 1, 2009(2)(e) document it read, "Public access shall be required for all new shoreline development and uses, except for water dependent uses and single family residences not part of a development planned for more than four parcels." The committee agreed to keep this number which complies with WAC 173-26-221(4)(C). For some reason, the wording was changed in the November 17 draft (2)(e) to read, "Public access shall be required for all new shoreline development uses, individual single family residences and subdivisions of less than four parcels." I am requesting that the wording be changed back to what the committee agreed on and what is the requirement stated in WAC 173-26-221(4)(C).

8. SMP Pol. REC 3. This should reflect that the recreation facilities in the shoreline area being discussed in this policy are in the "public shoreline" area. I am requesting that the word "public" be inserted to reflect the correct area being discussed.

9. SMP Pol. REC 2. Recreational developments should be required to do more than just minimize adverse impacts on the environmental quality as is currently stated. They should be held to the standard of no net loss of ecological functions as is covered in WAC 173-26-221. I am requesting that the wording be changed to state that, "Favorable consideration should be given to proposals which complement their environment and surrounding land and water uses, and which leave the natural areas with no net loss of ecological functions."

10. SMP Pol. USE 8. Planned densities for single-family development should encourage a lower development potential in areas with development constraints. This policy is in contradiction to the situation that I have described on Lake Burien. I am requesting that this policy be reexamined with regard to Lake Burien.

11. SMP Pol. USE 17. It is unclear to the reader what is meant by "Encourage joint-use activities in proposed shoreline developments." Joint-use activities is not defined. Where else is it cover or fleshed out in the SMP document? Does it mean that private owners have to compete for parking space in front of their own property, if the only parking they have is on the street or a street end? I am requesting that this be better defined some place in this document.

12. SMP Section 20.20.35 Conservation Element. No part of this section mentions that, in critical shoreline areas, the over-lying principle to be followed is no net loss of ecological functions and if there is the possibility of net loss then the steps spelled in WAC 173-26-201(2)(e) be followed. I am requesting that these two items be included in this policy section.

The Shoreline Master Program is a very difficult document to read and interpret. The average citizen will have a hard time trying to use it and understand it. The real spirit of the document should be to protect critical area shorelines and to enhance public access (physical and/or visual) to publicly owned lands while protecting private property rights and public safety. This is not intended as a public take over of privately owned land.

As a citizen, it was difficult to know what the rules were for citizen input to the Shoreline Advisory Committee as well as understanding the entire process. The committee's operating procedures were at times very vague. Some members of the committee were extremely hostile to each other and unpleasant things were said. This should have been covered in the operating rules for the committee so that this did not happen.

The Meeting Summaries did not always completely reflect what had occurred and what had been discussed. They were only distributed right at the start of the meeting so they could not be thoroughly reviewed before they had to be approved. The time between some of the meetings was sometimes as long as 7 months. And once an area of the document was covered, the committee was never allowed to go back and revisit it because of time constraints set by the city. As a group, the Shoreline Advisory Committee never reviewed the final version of the sections they had completed, especially from the last meeting. The committee was formally disbanded at the end of Meeting #9. This means that they did not have an opportunity to check the work they thought they had just completed. Even though I attended many of the meetings up until the end, I never got to see the complete November Draft document until the last open house and I never had access to the Meeting #9 Summary-if one was ever created. The entire draft document was difficult to secure and required a great deal of persistence to even be able to view it in entirety. The November 30 public open house about the document did not provide the needed information for the average citizen to understand the content of the document.

In conclusion, I believe that this may be the reason that there are some inconsistencies in the document. This document needs to have the Shoreline Advisory Committee reconvene to complete the draft process and then it should be passed on to the Planning Commission for review, edits, etc. Then their recommendations will be pass it on to the Burien City Council.

Sincerely,
Chestine Edgar



January 21, 2010 CE

January 11, 2010

Bob Edgar, 12674 Shorewood Dr SW, Burien

The city has taken proactive steps to begin preparing for the annexation which becomes effective on April 1, 2010.

During November and December of 2009, the City of Burien administered an Annexation Outreach Plan Survey in the North Highline-South Annexation Area. The purpose of the survey was to gather input from residents in the annexation area in order to develop an outreach plan to help improve communication with residents as they become part of the City of Burien.

Six recommendations are presented.

In reading through the presentation, I was confused by two of the conclusions since supporting data from the survey was not evident.

Recommendation #4 states:

Of the people who elected to participate in this survey, most were in favor of annexation to Burien. There was a general concern that taxes would go up and the level of services would go down. Consider ways to demonstrate how the City plans to maintain or improve service levels in the area.

The survey question being asked was:

14. Are you a registered voter?

___(1) Yes ask 14a

___(2) No

14a. [If YES] Did you vote on the proposed annexation in the August 18, 2009 Election?

72%__ (1) Yes

28%__ (2) No

I did not see a question asking if the respondent voted as being in favor or not being in favor of annexation. So it is difficult to determine from the question on this survey how many respondents were actually in favor of annexation. Unless the question was omitted from the presentation, the City should be cautious about using this conclusion in public statements until clarified.

Recommendation #6 states:

6. A significant number of respondents, 41%, were interested in helping the City of Burien develop a communication plan. City staff should consider ways to involve these residents in annexation communications and activities.

The survey question being asked was:

11. Would you be interested in participating in further efforts to help Burien develop a successful communication plan?

41% (1) Yes – Ask for the contact information in the table below.

59% (2) No

The comparison between 41% and 59% would suggest that 59% is more of a significant measure of the responses on this topic than 41%. And a significant number of the responded, 59%, indicated that they would not be interested in participating in further efforts to help Burien develop a successful communication plan. In less there is some information that has not been included in the presentation, this conclusion should be rewritten so that is supported by the data.

It could be that some of the information was inadvertently not included in the presentation. However, before the City of Burien decides to promote the results of the Annexation Outreach Plan Survey, they might want to validate that the data collected from the survey correctly supports your conclusions and recommendations.

You may wish to address this during the presentation of the Annexation Outreach Plan Survey later on this evening's agenda.

Lisa Clausen

From: Milanese, Marco [Milanese.M@portseattle.org]
Sent: Tuesday, January 26, 2010 11:47 AM
To: Beckett, Kurt; Bernie Dorsey - Highline Public Schools; Bev Willison -- City of Tukwila; Sheckler, Bob - City of Des Moines; Marshall, Brenda; Brian Wilson - City of Federal Way; Brooke Lindquist -- City of Federal Way; Gallagher, Clare; Summerhays, Diane; Doug Schulze - Normandy Park; Leavitt, Elizabeth; George Hadley -- City of Normandy Park; Fain, Geraldine - Highline School District; Gordon Shaw; May, Jan - Highline School District; Janet Stallman; Mullet, Steve - City of Tukwila; Joan Hernandez - City of Tukwila; Creighton, John; Kimberly Matej -- City of Tukwila; Sulman, Kym; Ellis, Lesa - City of SeaTac; Kochmar, Linda - City of Federal Way; Lisa Clausen; Hernandez, Marcela; Milanese, Marco; Reis, Mark; Kennedy, Mary Gin; Mary Linder -- City of Normandy Park; Mike Martin; Holland, Robert; Rose Clark; McEvoy, Shawn - City of Normandy Park; Lancaster, Steve - Planning Dir. (Tukwila); Bowman, Sue - City of Des Moines; Anderson, Terry - City of SeaTac Council Member; Todd Cutts - City of SeaTac; Piasecki, Tony - City Manager (Des Moines); Wanda Skoog -- Highline Public Schools
Subject: Highline Forum Part 150 Study Update

Dear Highline Forum Members --

Part 150 Study Status Report

Port staff had planned on briefing you on the Part 150 Study at the January 27th Forum. In the absence of a Forum briefing, here is a brief status report. We welcome your questions, thoughts and comments.

Contract signed and the consultant's scope of work is available

A contract has been signed with Landrum & Brown, the consultants who will manage the Part 150 Study. The Federal Aviation Administration approved (FAA) Scope of Work is available on the Port's website at: <http://www.portseattle.org/downloads/community/environment/Part150-scopeofwork.pdf>. It contains a detailed explanation of all elements of the study, including the public outreach program. The cost of the Part 150 Study is approximately \$1.4 million, with about a third of the amount reserved for the public participation plan.

1st Technical Review Committee Meeting was on January 19th

The first Part 150 Technical Review Committee (TRC) meeting was on January 19. The TRC is comprised of representatives from the airlines, FAA, PSRC, WSDOT, King County, Boeing Field and many of the local jurisdictions' land use planners. They have been asked to provide and review data and reports and offer feedback on all technical documents related to the study.

1st Public Workshop on February 24th

The first Part 150 Public Workshop is scheduled for February 24th at Mount Rainier High School from 5 PM to 7 PM. Up to six additional public workshops will be held throughout the Part 150 Study process. The meeting will introduce and orient the participants to the Part 150 process as well as further "scope" the study itself. In order to do that, the consultants will facilitate small group discussions with the participants to talk about their concerns and what they are hoping to see included in the study. Records of these sessions and the input received will be kept and factored into the study. The Port will soon launch an advertising campaign publicizing the meeting and we will make sure the members of the Forum get additional information. We hope we'll see you on the 24th.

Other Opportunities to Engage

- Public workshops are not the only vehicle that will be used to engage the public. The Port wants to make sure that our community leaders, such as the members of the Highline Forum, and the general public has ample opportunity to review the status of the project and offer their thoughts and recommendations. We will be providing just that at the regular Highline Forum meetings. In addition, if you would like the Part 150 Study team to come to a City Council meeting or meet with the representatives of a specific neighborhood or organization, the Port is

CFTR: 02/01/10

more than willing to accommodate the request. Please feel free to contact me at 206-787-7734 or by e-mail, if you have specific interested parties you would like the Port to engage with.

- There will be a public hearing and comment period at the end of the process. More information will be provided at that time when there is a fully developed set of recommended actions.
- A number of different methods including the airport's community newsletter (Air Mail), press releases, ads in local papers and the Port's web-based email notification list will be employed to keep the public informed about the latest information and upcoming public workshops. A dedicated Part 150 Study website will also be established as the single location for all documentation connected to the study.

We welcome your feedback and truly appreciate your concern and desire for involvement. Our goal is to provide a substantial and inclusive Part 150 Study public process.

Marco Milanese
Community Relations Manager
Seattle-Tacoma International Airport
Office - (206) 787-7734
Cell - (206) 225-6081

January 29, 2010

To: Burien City Council
Burien Planning Commission

Re: Proposed Shoreline Master Program

To Whom It May Concern:

RECEIVED
JAN 26 2010
CITY OF BURIEN

I first moved to Burien about 25 years ago, attracted by its quiet out of the way bedroom community feel where neighbors were more likely to see their neighbors than anywhere else. Burien seemed unharmed by the growth, noise, traffic, crime, and natural environmental destruction that accompanied growth in other nearby communities to the north and east where they are overrun with population and its impacts, but with a more functional community feel than our neighbors to the south. During most of almost any day in the neighborhood, we were more likely to see people out working or recreating in their yards, walking alone or with family or friends, with or without dogs, jogging, or riding bicycles on streets that by virtue of a lack of car traffic were safe for foot traffic without the need for the increased pavement and its costs caused by vehicular traffic.

Fortunately, in my 25 years here, spread across 3 homes in differing communities, I have continued to appreciate my community for what it still is, an out of the way quiet bedroom community which has been self preserved by the residents in the quest to preserve the qualities they moved here for: safety; privacy; low population density; minimal traffic in the neighborhood; natural beauty (if even only in ours and our neighbor's yards); and proximity to plenty of places to safely walk, run, or ride a bicycle where we could enjoy rather peaceful and quiet public access to the more or less intact northwest outdoor experience, even while in the heart of the populated county and mere minutes from Seattle. Over the years, I turned each property where I lived into a more natural, clean, quiet place where people and nature could exist hand in hand to the betterment of each other, making each property better off than I found it from a preservation perspective, and in the sort of condition anyone from the future would consider a place where nature was respected and preserved even though someone did have the footprint of a home and human existence on it.

Recently, I became aware of the Burien Shoreline Master Program related documents, documents whose framework should serve as a guide for preserving our natural environment and quality of life, just as many Burien citizens have striven to do with their own private properties, but on a public scale. Comments I have seen in response to the document demonstrate that many Burien residents value preservation, understand the effort and priority it requires, and the reward to be found in preservation of the communities we moved to because of what they were, not because of what someone from outside thought they could be or they could profit from.

CFTR: 2-1-10
CC: Scott Greenberg
PC: 1-27-10

The documents start off well, stating that it should establish a comprehensive vision of how the shoreline areas will be used and developed over time, and goes on to state that the program would indeed be the guideline for that comprehensive vision of how areas will be used and developed. Unfortunately, the documents are really just a collection of broad direction statements which lack any significant definition and clarity from which a person can discern any clear, real description of how the shoreline areas will be developed and used over time, a set of limitations and procedures for what private citizens can do on their property, environment survey type documents, and a single actual plan for the restoration of Seahurst Park and Eagle Landing. The documents say absolutely nothing about what the city has to do to intake, evaluate, approve, plan, and execute any public projects which it desires to undertake in the spirit of the program (preservation, access, minimizing negative impacts to private property and the environment).

For a program to be a program, it should be a collection of specific definitions, activities, and projects which collectively achieve the goals of the program. There should also be a process spelled out for how such definitions, projects, or activities, both private and public, are brought forth for consideration, considered, brought into the governance mechanisms of the program, planned according to requirements of the program, implemented (including mitigating negative impacts and identifying funding mechanisms), measured for success, and remediated if success was not achieved. Without that additional foundation as it pertains to public projects and activities, this set of documents should not qualify as a program. This program only includes one project, and none of the process definition for how new projects will be added. I sincerely doubt if the intent is to have no more public projects once Seahurst and Eagle Landing restoration are completed. What are those projects? What is the process for adding them? What is the process for clarifying the intent of the overly generalized verbiage used in the direction statements which appear throughout these documents?

Here are examples of overly generalized statements that can easily be misused:

In section 20.30.035 item 2 – Regulations it states “a. Public access provided by shoreline street ends, rights-of-way, and other public lands shall provide, maintain, enhance and preserve visual access to the water and shoreline in accordance with RCW 35.79.035.”

In fact, RCW 35.79.035 has only to do with the “Limitations on vacations of streets abutting bodies of water.”

Statement a. should either be stricken altogether or modified to state that actions to shoreline street ends, rights-of-way, and other public lands shall comply with RCW 35.79.035.

In section 20.30.035 item 2 – Regulations it states “c. If a public road is located within shoreline jurisdiction, any unused right of way shall be dedicated as open space and public access.”

There is no definition of “unused right of way” or how to deal with property owner’s rights to access and use their property through which the road (wherein people pass through their property) passes.

Lastly, I go back to my original reasons for moving to Burien. I'm reminded of the closing of "Field of Dreams". The expression of "build it and they will come" hangs in the air. Darkness settles. An endless line of tightly packed headlights appears in the darkness and stretches for as far as the eye can see. They came from far and wide, some didn't even know why, but they came to find something. End of story. Not quite. Then they were there, no place to park, no facilities, teeming with people, too many in too small of a space. Eventually they would have to leave, and when they did, what did they leave behind - only a mess to be cleaned up and paid for by the very people who had the "vision". What the visionaries had before was gone forever. No more Iowa as they knew it.

Burien has only successfully survived as a desirable place because our individual and public vision has been to preserve our communities through commitment to our neighborhoods and encouraging vast public access only to places where non-residents ought to go - the business districts and organized, containable, maintainable park facilities such as Seahurst. Encouraging a stream of cars circulating through our neighborhoods will be the end of Burien. It will be the antithesis of preservation of what we came here for and of the intent of the program. Let's get this right. Let's get this all defined and clarified so people with ill-conceived or detrimental private or public agendas can't hide behind ambiguous words. Let's save Burien from those outside who have no interest other than taking something from someone who has been preserving it for decades as a bastion of quiet, peaceful, safe, close to nature existence among a sea of ever increasing insatiable appetite for consumption and its associated destruction of even the slightest bit of nature, even if merely through simple overuse with no negative intent. Let's work together to achieve a meaningful program that has a chance of accomplishing what the state intended. Let's make sure that the city fulfills this obligation and corrects this set of documents to actually establish a comprehensive vision with exact wording that portrays true meaning, includes potential public projects and plans and a process for enabling their consideration and implementation, and with full and open inclusion of impacted communities in the process.

Thank you for your consideration of my concerns.



Mike Hart
2660 SW 172nd St.
Burien, WA 98166
(206) 246-5877



CITY COUNCIL MEETING MINUTES

January 25, 2010

SPECIAL MEETING, Miller Creek Conference Room, 3rd Floor

For the purpose of holding an Executive Session to discuss a personnel matter

6:45 p.m.

and

COUNCIL MEETING, 1st Floor

7:00 p.m.

Burien City Hall

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
- Order a DVD of the meeting from the City Clerk, (206) 241-4647

SPECIAL MEETING

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

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

Administrative staff present: Mike Martin, City Manager.

No action was taken.

ADJOURNMENT TO COUNCIL MEETING

The Executive Session was adjourned at 7:03 p.m.

CALL TO ORDER

Mayor McGilton called the meeting of the Burien City Council to order at 7:05 p.m.

PLEDGE OF ALLEGIANCE

Mayor McGilton led the Pledge of Allegiance.

ROLL CALL

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

Administrative staff present: Mike Martin, City Manager; Jenn Ramirez Robson, Management Analyst; Chip Davis, Planner; Larry Blanchard, Public Works Director; and Monica Lusk, City Clerk.

AGENDA CONFIRMATION

Direction/Action

Motion was made by Deputy Mayor Clark, seconded by Councilmember Krakowiak, and passed unanimously to affirm the January 25, 2010, Agenda.

PUBLIC COMMENT

Chestine Edgar, 1811 SW 152nd Street, Burien

Ms. Edgar voiced additional concerns about the update to the Shoreline Master Program document and the update process.

Milo Mateer, 3717 SW 171st Street, Burien

He supported Ms. Edgar's comments.

Stan Lemmel, 3138 SW 172nd Street, Burien

Mr. Lemmel stated that the residents on SW 172nd Street and Maplewild Avenue SW have not had appropriate input and have had a hard time getting copies of the plan.

Bob Edgar, 12674 Shorewood Drive SW, Burien

Mr. Edgar spoke to validating the data collected from the Annexation Outreach Plan Survey held in November and December of 2009 to correctly support conclusions and recommendations.

CORRESPONDENCE FOR THE RECORD

- a. Response from Samir Basmeh, Maintenance Manager, to Email Dated December 22, 2009, from Douglas Baldrige Regarding the Wall.
- b. Response from Dick Loman, Economic Development Manager, to Letter Dated January 4, 2010, from Ted and Helen Fosberg Regarding Multiplex Cinema in Town Square.
- c. Letter Dated January 11, 2010, from Rachael Levine, White Center Library Guild President, Regarding Puget Sound Park and Neighborhood Libraries.
- d. Letter Dated January 12, 2010, from Chestine Edgar Regarding Shoreline Master Program Update Document.

CONSENT AGENDA

- a. Approval of Vouchers: Approval of Vouchers: Numbers 23989 - 24086 in the Amount of \$520,400.89.
- b. Approval of Minutes: Council Meeting, January 11, 2010.

Direction/Action

Motion was made by Deputy Mayor Clark, seconded by Councilmember Krakowiak, and passed unanimously to approve the January 25, 2010, Consent Agenda.

BUSINESS AGENDA

City Manager's Report

Direction/Action

Councilmember Block, Jr. requested that legislation be considered requiring gas stations to have generators on site.

Follow-up

Staff will provide information on how the Shoreline Master Plan meetings were advertised, provide semi-monthly updates on the Shoreline Master Plan process, and schedule a discussion on the King County Sheriff's contract.

Report and Discussion on the Annexation Outreach Plan Survey

Jenn Ramirez Robson, Management Analyst, reviewed the Annexation Outreach Plan Survey in the North Highline-South Annexation Area held during November and December of 2009. The purpose of the survey was to gather input from residents in the voter-approved annexation area in order to develop an outreach plan to help improve communication with residents as they become part of the City. The information gathered from this survey will be used to develop an outreach plan specific to the annexation area.

Update on Fire District 2 Headquarters Location

Fire Chief Mike Marrs noted that the Fire District has purchased the Bonney-Watson Funeral Home on 9th Avenue SW and SW 146th Street. Preliminary design work has begun and the District will take possession in early February. Once the Department takes possession of site, open houses will be held to hear neighborhood concerns.

Review of Council Proposed Agenda Schedule

Direction/Action

Councilmembers requested a discussion be scheduled on the overlay program.

Approval of the Right-of-Way Property Acquisition Policy for Transportation, Drainage, and Utility Work in Burien

Direction/Action

Motion was made by Deputy Mayor Clark, seconded by Councilmember Krakowiak, and passed unanimously to approve the Right-of-Way Property Acquisition Policy for Transportation, Drainage, and Utility Work in Burien.

Councilmember Block, Jr. left the dais at 8:02 p.m. and returned at 8:04 p.m.

Discussion on Proposed Ordinance No. 533, Approving Interim Zoning Designations for the North Highline South Annexation Area and Amending the Burien Zoning Code and Zoning Map

Direction/Action

Councilmembers requested placing Ordinance No. 533, Approving Interim Zoning Designations for the North Highline South Annexation Area and Amending the Burien Zoning Code and Zoning Map on the February 1, 2010, Business Agenda.

COUNCIL REPORTS

Deputy Mayor Clark reported on the Highline Relay for Life kick off meeting she attended.

Councilmember Krakowiak reported on the Suburban Cities Association Board retreat and meeting she attended.

Councilmember Keene reported on the Suburban Cities Association Public Issues Committee meeting and the King County Library planning meeting she attended.

ADJOURNMENT

Direction/Action

MOTION was made by Deputy Mayor Clark, seconded by Councilmember Krakowiak and passed unanimously to adjourn the meeting at 8:46 p.m.

Joan McGilton, Mayor

Monica Lusk, City Clerk



Burien

Washington, USA

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

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

www.burienwa.gov

MEMORANDUM

TO: Honorable Mayor and Members of the City Council
FROM: Mike Martin, City Manager
DATE: February 1, 2010
SUBJECT: City Manager's Report

I. INTERNAL CITY INFORMATION

A. Burien Red Light Camera Offenders

After having the red light cameras operating for about eight months at the three different intersections in Burien along 1st Avenue South (148th St, 152nd St., and 160th St.), it appears that about 20% of the offenders have cars registered with Burien addresses. Thus, 20% of the red light camera offenders are likely Burien residents and the other 80% are those visiting or working here from other cities. This 20% has been fairly consistent from August through December 2009.

B. City Donates Used Computers to Non Profit Organizations

As a result of our regular city hall computer equipment replacement plan we once again find ourselves with a collection of used computer equipment (13 computers, 2 big monitors, and a bunch of miscellaneous items) that either needs to be taken to the recyclers or offered up for adoption. In the past we've donated these types of items to organizations like Glendale Lutheran School and the Hospitality House shelter for homeless women. This time Ruth Dykeman Children's Center is going to come and take it away.

C. Navos Update

Work was recently completed to add two portable buildings at the old Navos Campus on 146th Street. The portables will provide additional meeting rooms. In the meantime, clear and grade work is continuing at the new Navos Mental Health Clinic Campus on SW 136th Street. The first inspection for temporary erosion and sediment control was approved by the City Building Inspector.

D. Kudos from Public for Parks Maintenance Crew Member (Pg. 61)

The City recently received a very positive citizen comment concerning Jay Powers, a long-time employee of TruGreen, the Parks Department's contractor for parks maintenance (see attached).

E. Volunteers Working in Salmon Creek Park

A group of volunteers have recently been active in Salmon Creek Park. Led by Parks Board member Jean Spohn, the group had a very successful work party in Salmon Creek on Saturday, January 17. Sixteen Shorewood neighbors and volunteers, including a group of 6th graders from Saint Francis School, turned out and cleared ivy from about 35 trees and hauled out lots of trash in a couple of hours. Their efforts were documented in photo essay posted in a local community blog; viewable at <http://tinyurl.com/ycgpulo>.

F. Recreation Staff Meets with Parents of Youngsters

Parks Department staff recently met with parents of youngsters involved with a local "MeetUp" group. Staff discovered that there are several active groups of parents who "meet up" through the social networking site, MeetUp.com. Through the site, these groups schedule get-togethers at various locations for shared play opportunities. Staff are working with members of the group to solicit feedback and ideas regarding the development of programming to serve their recreation needs, such as an indoor playground program, outdoor spring/summer "Toddler Time in the Park" programs, and new recreation classes.

G. Urban Forestry Update

A Vegetative Management Plan (VMP) for Eagle Landing Park and a Habitat Map for Salmon Creek Ravine have been completed which will help staff and volunteers prioritize efforts in an ongoing effort to remove invasive plants and reintroduce and support the establishment of native plant species. The goals of the VMP were to provide an inventory of the vegetative makeup of the parks and very specifically for Eagle Landing, to provide recommendations on how to best manage the resources we currently have and prioritize our efforts within the constraints of time and funding. The results and recommendations of the Plan will be presented at a public meeting on February 3rd, in the Miller Creek Room at City Hall. The project was funded completely through grants from the King Conservation District and the Washington State Department of Natural Resources. The VMP and Map were developed by Earthcorps.

H. Federal Emergency Management Association (FEMA) Reimbursement

The Parks and Public Works Departments have been collaborating to repair a section of trail/service road at Seahurst Park, which washed out during last winter's heavy storms. The repairs were completed in September 2009 and the trail section was reopened, with a total project cost of \$93,366, including staff costs for project management and contractual design and construction costs. The project was coordinated with FEMA and the City will receive a reimbursement of \$73,526, or 79% of the total project cost.

I. City Staff Meetings with Congressional Staff

The City's goals for revitalizing the Northeast Redevelopment Area (NERA, just north of the Sea-Tac third runway) have been the focus of recent meetings between the City's Government Relations Specialist and local staff of members of our Congressional delegation. The goal of these staff-level meetings is to lay the initial groundwork for meetings being scheduled with Senators Murray and Cantwell and Representatives McDermott and Smith in D.C. in March. Meetings with the City's other two

Congressional delegation members' local staff to are expected to occur in the coming weeks.

J. Burien Wellness Cluster Meeting – January 21, 2010

Several important announcements were made at the monthly working Cluster luncheon:

Ray Zombro, Work-based Learning Coordinator, reported that the Health Sciences and Human Services High School (HS3) at the Evergreen campus in North Highline has been included on U.S. News and World Report's 2010 list of "America's Best High Schools". This list annually identifies the country's best performing high schools and is a tremendous step forward for HS3, which is the state's only health sciences oriented high school. Many of the students there aspire to become doctors, nurses, and scientists and the school is an active member of the Wellness Cluster group.

Sue Shields, Principal of Puget Sound Skills Center (PSSC) announced the kick off of the school's first ever Nursing Assistant Certification (NAC) program. Highline Community College is partnering with PSSC on this new high school program and will provide Registered Nurse instructors at PSSC beginning with a NAC introductory summer school session in June.

Kris Mason, Director of the Welcome Back Center at Highline Community College, told the group that her program, which is designed to qualify highly-skilled medical professionals from foreign countries for active practice here, now has 273 participants. These include nurses, doctors, dentists, pharmacists, and physical therapists. Kris is meeting with other Cluster members to explore employment pipelines and other forms of collaboration.

K. City Hosts Blood Drive

City of Burien staff hosted a Puget Sound Blood Center Blood Drive on Monday, January 25, 2010. During the four hour event, a total of 20 donors, 11 of them staff members, rolled up their sleeves and donated blood. Two of the staff members were first time donors. Two additional City-hosted blood drives will be conducted later in 2010.

L. Six-Week Employee Wellness Program in Progress

Making big lifestyle changes can be tough. Whether it is trying to exercise thirty minutes per day or aiming to reduce fat intake, changing lifestyle habits that have been in place for years is daunting. That's why our latest wellness campaign, The Old Switcheroo, challenges employees to shift their focus away from big lifestyle changes and, instead, make small, everyday changes. Thirty employees, 50% of our staff, have signed up for the Old Switcheroo Wellness Campaign and have already successfully completed two weeks. During the campaign, participants swap three not-so-healthy habits (like watching television) for three healthier habits (like walking ten minutes per day). By the end of the program, employees should feel more confident in their ability to improve their health habits, while moving down the road to better health and wellness.

M. Update on Draft Shoreline Master Program

The Planning Commission currently is evaluating the Draft Shoreline Master Program (SMP) in preparation for forwarding a recommendation to the City Council. To date, three meetings have been devoted to the Draft SMP. At the first meeting, the Department of Ecology, the consultant and staff outlined why we are updating our Shoreline Master Program, the contents of the program and the public process. The second meeting was a public hearing receiving comment on the Draft SMP created by the Shoreline Advisory Committee.

The majority of the third meeting, on January 26th, was devoted to receiving additional public comments. Following the public comment, staff presented information requested by the Planning Commission regarding nonconformances, a comparison of existing and proposed buffers and setbacks, and an overview of existing critical area buffers and setbacks that also apply in shoreline areas. At its upcoming Feb. 9th meeting, the Planning Commission will continue evaluating the draft program. Updates on the status of the draft SMP will be provided in the City Manager's Report on a bi-monthly basis as requested by Council.

Council asked about availability of the Draft SMP. The 300-page document is available for free online by section at <http://www.burienwa.gov/index.aspx?NID=851>. Paper copies also are available for reading onsite at the Burien Library and City Hall (both at 400 SW 152nd St.). Copies of the entire document may be purchased for \$42.20 at City Hall.

The Planning Commission public hearing notice was published on December 22, 2009. Additionally, notice was posted on the City of Burien website and on the B-Town Blog. The hearing date was included on the notice for the November open house and on handouts available at the open house outlining the adoption process. The open house notice was mailed to all property owners, based on King County property records, within 200 feet of Puget Sound and Lake Burien. The City also mailed to parties that specifically requested to be on our shorelines mailing list.

II. COUNCIL UPDATES/REPORTS

A. New County Executive Wants to Collaborate with Suburban Cities

Animal control services and Metro Transit service were among the regional issues that King County Executive Dow Constantine touched on in a speech to the Suburban Cities Association (SCA) on Jan. 20, 2010. City Councilmember Kathy Keene and City staff attended the meeting to hear the new County Executive address the SCA for the first time. The Executive asked the SCA members for help in determining who should serve on a new Transit Task Force that is being organized to examine the future of Metro Transit service. If the County does need to cut service, he wants it done in the most fair way. On animal control, he also wants a solution that works for all parties. On jails, he is asking the County Council to re-engage the cities on this issue.

Executive Constantine said he wants to collaborate with the cities and approach the State and Federal governments as partners on a few key needs, such as improving our road infrastructure.

Re: Jay Powers, Burien Pk Custodian

Jan. 4, 2010

We want to compliment Jay Powers for his extraordinary work at Seahurst Park. We have lived by the entrance to the park for thirty-one years. And during that time we have seen many "gate keepers," but Jay goes way beyond all expectations. He is cordial and helpful and friendly. What stands out is his diligence with letting park visitors know when the park will close. He will go to each visitor one by one, if needed, to warn them of potentially being locked in. But there have been scores of people who refuse to heed his message. When the gate closes on time, they are stuck. They yell and swear that they are victims though not having taken the responsibility to leave on time. Their option is to come back the next morning when the gates open or call the towing company which can open the gate for a fee. More often than not, feeling sorry for them, Jay will come back shortly to let them out. Please give him some kind of recognition for doing a SUPER job.

Sincerely,
Fred and Hilva Novota
1612 SW 140th St
Burien, Wa 98166

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Motion to Approve Burien City Council Appointments for 2010		Meeting Date: February 1, 2010
Department: City Manager	Attachments: 1. <u>2009 City Representation List</u> 2. <u>Proposed 2010 City Representation List</u>	Fund Source: N/A Activity Cost: N/A Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Contact: Lisa Clausen, Government Relations Specialist		
Telephone: (206) 248-5515		
Adopted Work Plan Priority: Yes No <input checked="" type="checkbox"/>	Work Plan Item Description:	
PURPOSE/REQUIRED ACTION: The purpose of this agenda item is for the City Council to take action on appointments of Councilmembers to serve on the boards and committees of various organizations in 2010.		
BACKGROUND (Include prior Council action & discussion): The City Council appoints members to a variety of boards and committees each year. The list of appointments the Council made for 2009 is provided as Attachment 1. At its retreat on January 16, 2010, the Council discussed the appointments for 2010 and developed a list of proposed appointments which is found in Attachment . If the Council decides to defer action on these appointments to the next Council meeting the City Council may request that the 2009 representatives continue serving in their positions until the new members are chosen.		
OPTIONS (Including fiscal impacts): <ol style="list-style-type: none"> 1. Take action to approve the proposed appointments. 2. Discuss other possible appointments and defer action on all to a future meeting. 3. Discuss other possible appointments and approve certain ones and defer others for future action. 		
Administrative Recommendation: Appoint Councilmembers to local and regional organizations' boards or committees for 2010, as discussed at the Council Retreat.		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motion: Motion to approve the 2010 City Council appointments to local and regional organizations' boards or committees.		
Submitted by: Lisa Clausen		
Administration _____	City Manager _____	
Today's Date: January 26, 2010	File Code: R:\CC\Agenda Bill 2010\020110cm-1 CouncilAppointments.docx	

**CITY OF BURIEN REPRESENTATION
TO LOCAL AND REGIONAL
GOVERNMENTAL ORGANIZATIONS
(Revised for 2009)**

ORGANIZATION	CITY OF BURIEN REPRESENTATIVE
Burien Teen Leadership Council	Rose Clark
Des Moines Memorial Drive (DMMD) Advisory Committee	Rose Clark
Highline Forum	Member: Gordon Shaw Alternate: Rose Clark
Jail Oversight Assembly	Sally Nelson Alternate (if needed): Kathy Keene
South County Area Transportation Board (SCATBd)	Member: Gordon Shaw Alternate: Lucy Krakowiak
Southwest King County Economic Development Executive Committee	Member: Gordon Shaw Alternate: Kathy Keene
Suburban Cities Association (SCA) Public Issues Committee	Member: Kathy Keene Alternate: Gordon Shaw
Water Resource Inventory Area (WRIA) 9 (Central Puget Sound Watershed Forum)	Member: Joan McGilton Alternate: Rose Clark

NOTE: THE BOARDS AND COMMITTEES BELOW HAVE BURIEN COUNCIL AND STAFF REPRESENTATION AS SPECIFIED.

ORGANIZATION	CITY OF BURIEN REPRESENTATIVE
SCA APPOINTMENTS	
King County (KC) Growth Management Planning Council	Councilmember Lucy Krakowiak
KC Council Regional Transit Committee	Mayor Joan McGilton
KC Solid Waste Advisory Committee	County Executive Appointment: Mayor Joan McGilton
PSRC Executive Board	Councilmember Sally Nelson
SCA Board of Directors	Councilmember Lucy Krakowiak
OTHER REGIONAL APPOINTMENTS	
KC Library System Board of Trustees	Councilmember Lucy Krakowiak (Chair)
KC Metropolitan Solid Waste Management Advisory Committee (MSWMAC)	Mayor Joan McGilton
STATE/NATIONAL	
AWC Housing Policy Group	AWC Appointment: Councilmember Lucy Krakowiak
AWC Legislative Committee	AWC Appointment: Councilmember Kathy Keene
AWC Federal Legis. Subcommittee	AWC Appointment: Councilmember Sally Nelson
NLC City Futures Panel on Equity and Opportunity	Councilmember Sally Nelson
NLC Public Safety and Crime Prevention Steering Committee (PSCP)	NLC Appointment: Councilmember Sally Nelson (Chair)

**Proposed
CITY OF BURIEN REPRESENTATION
TO LOCAL AND REGIONAL
GOVERNMENTAL ORGANIZATIONS
2010**

ORGANIZATION	CITY OF BURIEN REPRESENTATIVE
Burien Teen Leadership Council	Member: Deputy Mayor Rose Clark Alternate: Councilmember Brian Bennett
Des Moines Memorial Drive (DMMD) Advisory Committee	Member: Dep. Mayor Rose Clark
Highline Forum	Member: Councilmember Gordon Shaw Alternate: Dep. Mayor Rose Clark
KC Metropolitan Solid Waste Management Advisory Committee (MSWMAC)	Member: Mayor Joan McGilton Alternate: PW Dir. Larry Blanchard
South Correctional Entity (SCORE)	Member: Councilmember Kathy Keene Alternate: City Mgr. Mike Martin
South County Area Transportation Board (SCATBd)	Member: Councilmember Gordon Shaw Alternate: Councilmember Jack Block, Jr.
Southwest King County Economic Development Executive Committee	Member: Councilmember Gordon Shaw Alternate: Dep. Mayor Rose Clark
Suburban Cities Association (SCA) Public Issues Committee	Member: Councilmember Kathy keene Alt.: Councilmember Brian Bennett
Water Resource Inventory Area (WRIA) 9 (Central Puget Sound Watershed Forum)	Member: Mayor Joan McGilton Alt: Councilmember Brian Bennett

NOTE: THE BOARDS AND COMMITTEES BELOW HAVE CITY OF BURIEN REPRESENTATION AS SPECIFIED.

ORGANIZATION	CITY OF BURIEN REPRESENTATIVE
SCA APPOINTMENTS	
King County Council Regional Transit Committee (RTC)	Mayor Joan McGilton
King County (KC) Growth Management Planning Council (GMPC)	Councilmember Lucy Krakowiak
KC Consortium Joint Recommendations Committee for CDBG (JRC)	Councilmember Kathy Keene
KC Solid Waste Advisory Committee (SWAC)	County Executive Appointment: Mayor Joan McGilton
SCA Board of Directors	Councilmember Lucy Krakowiak
South Central Area Caucus Group	Mayor Joan McGilton
OTHER REGIONAL APPOINTMENTS	
KC Library System Board of Trustees	Councilmember Lucy Krakowiak
STATE APPOINTMENTS	
Association of Washington Cities (AWC) Housing Policy Group	AWC Appointment: Councilmember Lucy Krakowiak
AWC Legislative Committee	AWC Appointment: Councilmember Kathy Keene

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Motion to Adopt Proposed Ordinance No. 533, Approving Interim Zoning Designations for the North Highline South Annexation Area and Amending the Burien Zoning Code and Zoning Map		Meeting Date: February 1, 2010
Department: Community Development	Attachments: <u>1-Proposed Ordinance No. 533</u> <u>2-Proposed Exhibit A, Zoning Code Amendments</u> <u>3-Proposed Exhibit B, Zoning Map</u>	Fund Source: N/A Activity Cost: N/A Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Contact: Charles W. "Chip" Davis, Planner		
Telephone: (206) 248-5501		
Adopted Initiative: <u>Yes</u> No	Initiative Description: North Highline Annexation	
<p>PURPOSE/REQUIRED ACTION: The purpose of this agenda item is for the City Council to consider adoption of an ordinance approving amendments to Burien's Zoning Code and Zoning Map to establish interim zoning designations for the North Highline South Annexation Area.</p> <p>BACKGROUND (Include prior Council action & discussion):</p> <p>Based on City Council comments received at the January 25, 2010 meeting, the "Adult Entertainment" use has been removed from the list of allowed uses in the King County CB-Special District Overlay Zone. The revised CC-2 Zone Use Chart (see Attachment 2) states that the uses permitted in King County Code 21A.38.100, with the exception of Adult Entertainment, are only permitted in the CC-2 zoned area located on both sides of 16th Avenue SW between SW 112th Street and SW 116th Street.</p> <p>Proposed Ordinance No. 533 (see Attachment 1) containing Exhibit A with revised amendments to the Burien Zoning Code (see Attachment 2) and Exhibit B with revisions to the Burien Zoning Map (see Attachment 3) are submitted for your review and approval.</p> <p>OPTIONS (Including fiscal impacts):</p> <ol style="list-style-type: none"> 1. Modify the proposed ordinance, including new supportive findings. 		
Administrative Recommendation: Adopt proposed Ordinance No. 533, granting approval of the Interim Zoning Designations for the North Highline South Annexation Area and amending the Burien Zoning Code and Zoning Map.		
Committee Recommendation: N/A		
Advisory Board Recommendation: The Planning Commission unanimously recommended approval of the proposed ordinance, zoning code and zoning map amendments.		
Suggested Motion: Move to adopt proposed Ordinance No. 533, granting approval of the Interim Zoning Designations for the North Highline South Annexation Area and amending the Burien Zoning Code and Zoning Map.		
Submitted by: Charles W. "Chip" Davis		Mike Martin
Administration _____		City Manager _____
Today's Date: January 26, 2010	File Code: \\File01\records\CC\Agenda Bill 2010\020110cd-1 N Highline Interim Zoning.docx	

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 533

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, PROVIDING FOR INTERIM ZONING OF THE NORTH HIGHLINE SOUTH ANNEXATION AREA; AMENDING TITLE 19 OF THE BURIEN MUNICIPAL CODE RELATED TO ZONING; AMENDING THE BURIEN ZONING MAP; PROVIDING FOR SEVERABILITY; AND, ESTABLISHING AN EFFECTIVE DATE

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 South 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 South Annexation Area is within the City of Burien's Potential Annexation Area adopted pursuant to Burien City Council Ordinance No. 455; and

WHEREAS, on February 2, 2009, the City Council of the City of Burien adopted Resolution No. 288 which directed the City Clerk to file with the King County Boundary Review Board a notice of intent to annex the North Highline South Annexation Area, and

WHEREAS, the Boundary Review Board held a public hearing on the proposed annexation on March 30, 2009, and

WHEREAS, the Boundary Review Board approved the annexation on April 16, 2009 within a modified legal description of the North Highline South 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 Council on April 27, 2009 passed Resolution No. 292 calling for a special election to be held in conjunction with the primary election on August 18, 2009 and to submit the question of annexation as a ballot question as authorized by RCW 35A.14.085, and

WHEREAS, the qualified voters within the North Highline South Annexation Area boundaries voted at the primary election to approve annexation as presented in the ballot question, and

WHEREAS, on January 11, 2010, the City Council of the City of Burien adopted Ordinance No. 527 establishing April 1, 2010 as the effective date for annexation of the North Highline South Annexation Area, and

WHEREAS, public notice was provided and the City of Burien Planning Commission held a public hearing on November 24, 2009 on the proposed amendments to the zoning code and zoning map; and

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

WHEREAS, the City Council held public meetings on January 25, 2010 and February 1, 2010 to discuss the proposed amendments; and

WHEREAS, the City of Burien provided the proposed zoning code and zoning map amendments to the Washington State Department of Commerce on November 10, 2009 and did not receive any comments by the 60-day comment deadline of January 10, 2010; and

WHEREAS, the City intends to adopt an ordinance providing for implementation of interim zoning regulations applicable to the North Highline South Annexation Area upon the effective date of annexation,

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

Section 1. Interim Zoning Established. That the City Council of the City of Burien does hereby establish interim zoning designations for the North Highline South Annexation Area and amends Title 19 of the Burien Municipal Code as described in Exhibit "A", attached hereto and incorporated herein by this reference as if fully set forth herein.

Section 2. Zoning Map Amended. That the City Council of the City of Burien does hereby establish interim zoning designations for the North Highline South Annexation Area and amends the Burien Zoning Map as described in Exhibit "B", attached hereto and incorporated herein by this reference as if fully set forth herein.

Section 3. 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 4. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect at 12:01 am on April 1, 2010.

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

CITY OF BURIEN

Joan McGilton, Mayor

ATTEST/AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Chris Bacha, Interim City Attorney
Kenyon Disend, PLLC

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.: 533
Date of Publication:

EXHIBIT A

NORTH HIGHLINE SOUTH ANNEXATION AREA ZONING AMENDMENTS

1. User Guide--BMC 19.01.005.1. Find your property on the Zoning Map. This map is not included with this Code, but is available for review at the City of Burien Department of Community Development during regular business hours. The property will have one of the following zoning designations:

RS-A	RM-24	CC2	SPA-1	PR
RS-12,000	RM-48	CR	SPA-2	
RS-7,200	CN	O	SPA-3	
RM-12	CI	I	AI-1	
RM-18	CC1	DC	AI-2	

2. BMC 19.15.010 --Multi-Family Residential (RM) Use Zone Chart (see attached)
3. BMC 19.15.035 --Community Commercial (CC) Use Zone Chart (see attached)



Section 19.15.010—MULTI-FAMILY RESIDENTIAL ZONES

PURPOSE AND INTENT: These zones implement the Low and High Density Multifamily Neighborhood Comprehensive Plan designations. The purpose of these zones is to establish areas in which a wide range of single-family and multi-family housing opportunities can be provided, which are compatible with adjacent lower density single-family housing and which protect environmentally sensitive areas. The intent is to provide a variety of stable and attractive, well-designed housing choices that are located near transit, employment, shopping and recreational facilities, and meet the needs of existing and future City residents. Redevelopment of existing housing complexes is encouraged.

ONLY THOSE USES LISTED ON THE FOLLOWING USE ZONE CHARTS MAY BE ALLOWED IN THE RM ZONES, SUBJECT TO MEETING ALL APPLICABLE REQUIREMENTS OF THE ZONING CODE. THE FOLLOWING SPECIAL REGULATIONS APPLY TO ALL USES IN THE MULTI-FAMILY RESIDENTIAL ZONES. 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.

19.15.010.1: SPECIAL REGULATIONS:

A. Repealed, Ord. 529, 2009

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	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				

19.15.010.2 Townhouse Dwelling Unit	Type 1	See Spec. Reg. 1	10'	See Spec Reg. 3	RM-12 & RM-18 zones: 60% RM-24 & RM-48 zone: 70%	85% RM-48 zone: 90%	35' RM-48 zone: 60' See Spec Reg. 6	B	2.0 spaces per unit	1. Minimum <i>lot area</i> per <i>dwelling unit</i> is: a. 3,600 square feet in the RM-12 zone. b. 2,400 square feet in the RM-18 zone. c. 1,800 square feet in the RM-24 zone. d. 900 square feet in the RM-48 zone. 2. Each <i>dwelling unit</i> must be located on its own <i>lot</i> . 3. Minimum interior <i>setback</i> is 5 feet, except interior <i>setback</i> between townhouses may be reduced to zero feet. 4. Chapter 19.17 contains regulations regarding home occupations, and other <i>accessory uses</i> , facilities and activities associated with this use. 5. No <i>lot</i> shall be created less than the minimum <i>lot area</i> except through the application of lot averaging. <i>Lot</i> averaging is permitted through a short plat, subdivision or <i>lot</i> line adjustment. However, no <i>lot</i> shall be created with an area less than 90 percent of the stated minimum <i>lot area</i> . [Ord. 484 § 1, 2008] 6. In 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.
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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> 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	
				Front Setback	Interior Setback	Building Coverage					Impervious Surface Coverage
19.15.010.3 <i>Apartment Dwelling Unit</i>	Type 1 [Ord. 484 § 1, 2008]	5,000 s.f. See Spec. Reg. 1	10'	5'	RM-12 & RM-18 zones: 60% RM-24 & RM-48 zone: 70%	85% RM-48 zone: 90%	35' RM-48 zone: 60' See Spec Reg. 3	B	1.8 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. 2. Chapter 19.17 contains regulations regarding home occupations, and other <i>accessory uses</i> , facilities and activities associated with this use. 3. In 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.	
19.15.010.4 <i>Single Detached Dwelling Unit</i>	None	See Spec. Reg. 1	10'	5'	55%	75%	35'	A	2 spaces per unit	1. Minimum <i>lot area</i> per <i>dwelling unit</i> is: a. 3,600 square feet in the RM-12 zone. b. 2,400 square feet in the RM-18 zone. c. 1,800 square feet in the RM-24 zone. d. 900 square feet in the RM-48 zone. 2. One <i>single detached dwelling unit</i> may be built on a <i>lot</i> that has less than the stated minimum <i>lot area</i> . 3. No <i>lot</i> shall be created less than the minimum <i>lot area</i> except through the application of lot averaging. <i>Lot</i> averaging is permitted through a short plat, subdivision or <i>lot</i> line adjustment. However, no <i>lot</i> shall be created with an area less than 90 percent of the stated minimum <i>lot</i> area. [Ord. 484 § 1, 2008] 4. Chapter 19.17 contains regulations regarding home occupations, and other <i>accessory uses</i> , facilities and activities associated with this use.	

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	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				

19.15.010.5 <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.	
19.15.010.6 <i>Day Care Center</i>	None	5,000 s.f.	10'	5'	RM-12 & RM-18 zones: 60% RM-24 & RM-48 zone: 70%	85% RM-48 zone: 90%	35'	B	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Must provide State certification of safe passenger loading area.
19.15.010.7 <i>Mixed Use</i>	Type I	5,000 s.f.	10'	5'	RM-12 & RM-18 zones: 60% RM-24 & RM-48 zone: 70%	85% RM-48 zone: 90%	35' See Spec. Reg. 5 RM-48 zone: 60' See Spec. Reg. 6	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	<p>1. <i>Mixed use</i> is allowed only in RM-24 and RM-48 zones.</p> <p>2. The proposed development must fit in with the character of the surrounding residential neighborhood.</p> <p>3. No more that 50% of the <i>gross floor area</i> of the structure shall be devoted to <i>office uses</i>. <i>Retail uses</i>, banks, loan companies and similar financial institutions are not permitted.</p> <p>4. Maximum residential density is 24 <i>dwelling units per acre in the RM-24 zone and 48 dwelling units per acre in the RM-48 zone</i>.</p> <p>5. <i>Height</i> may be increased to 60 feet, if: a. At least 25% of the required parking is under or within a <i>building</i> and is fully screened from public view; and b. The landscape type in the prescribed category is increased by one type (for example, Type III is increased to Type II). [Ord. 523 § 1, 2009]</p> <p>6. In 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.</p>

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	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				

19.15.010.8 <i>Public Park and Recreation Facilities</i>	Type 1, if less than 1 acre Otherwise, Type 2	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.
19.15.010.9 <i>Community Residential Facility</i>	Type 3	5,000 s.f.	10'	5'	RM-12 & RM-18 zones: 60% RM-24 & RM-48 zone: 70%	85% RM-48 zone: 90%	35' RM-48 zone: 60' See Spec Reg. 1	B	1 space for every 2 bedrooms	1. In 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.
19.15.010.10 <i>Nursing Home</i>	Type 2	5,000 s.f.	10'	5'	RM-12 & RM-18 zones: 60% RM-24 & RM-48 zone: 70%	85% RM-48 zone: 90%	35' RM-48 zone: 60' See Spec Reg. 1	B	1 space for every 4 beds	1. In 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.
19.15.010.11 <i>Religious Facility</i>	Type 2	5,000 s.f.	30'	30'	60%	85%	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	
19.15.010.12 <i>School</i>	Type 2	5,000 s.f.	30'	30'	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

<div style="border: 1px solid black; padding: 5px; text-align: center;"> RM 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 19.15.010.1 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				
19.15.010.13 <i>Senior Citizen Assisted Dwelling Unit</i>	Type 2	5,000 s.f. See Spec. Reg. 1	10'	5'	RM-12 & RM-18 zones: 60% RM-24 & RM-48 zone: 70%	85% RM-48 zone: 90%	35' RM-48 zone: 60' See Spec Reg. 3	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. 2. Chapter 19.17 contains regulations regarding home occupations, and other <i>accessory uses</i> , facilities and activities associated with this use. 3. In 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.	
19.15.010.14 <i>Essential Public Facility</i>	Type 3	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.		
19.15.010.15 <i>Community, Cultural or Government Facility</i>	Type 3	5,000 s.f.	30'	30'	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

<div style="border: 1px solid black; padding: 5px; text-align: center;"> RM Zones </div> USE ↓	REGULATIONS ↓	MINIMUMS		MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.010.1 and Chapter 19.17, Miscellaneous Use, Development and Performance Standards)		
		Special Review Process (See Ch. 19.65)	<i>Lot Area</i>	SETBACKS		Lot Coverage				<i>Height</i>	
				<i>Front Setback</i>	<i>Interior Setback</i>	<i>Building Coverage</i>					<i>Impervious Surface Coverage</i>
19.15.010.16 <i>Public Utility</i>	Type 3	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										

(1) Amended, Ord. 265, 1999

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



Section 19.15.035 – COMMUNITY COMMERCIAL ZONES

PURPOSE AND INTENT: The Community Commercial (CC) zones implement the Community Commercial Comprehensive Plan designation. To recognize the differences in surrounding neighborhood character and intensity between the designated Community Commercial areas, two CC zones have been established: CC-1 and CC-2. The purpose of these zones are to establish areas for moderate intensity commercial uses that serve the community. The intent is to provide for a variety of goods and services in areas which are designed to encourage pedestrian and transit access, be compatible with adjacent residential neighborhoods, and be consistent with road and utility capacity. The CC-1 zone allows for lower-intensity uses in the Community Commercial-designated areas that are near downtown Burien and along 1st Avenue So. near S. 176th St., that could be compatible with the adjacent single-family and low density multi-family areas. The CC-2 zone allows for higher-intensity uses in the Community Commercial-designated area at Five Corners that could be compatible with the adjacent regional commercial, office, high density multi-family, and single-family areas.

ONLY THOSE USES LISTED ON THE FOLLOWING USE ZONE CHARTS MAY BE ALLOWED IN THE CC ZONE, SUBJECT TO MEETING ALL APPLICABLE REQUIREMENTS OF THE ZONING CODE. THE FOLLOWING SPECIAL REGULATIONS APPLY TO ALL USES IN THE COMMUNITY COMMERCIAL 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.

19.15.035.1: SPECIAL REGULATIONS:

- A. Outdoor storage is limited to *accessory* storage of goods sold at retail on the premises. Outdoor storage areas shall be limited to five feet in *height* and shall not be located in any required landscape area.

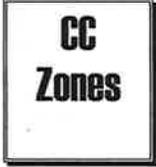
DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

<div style="border: 1px solid black; padding: 5px; display: inline-block;"> 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				
19.15.035.2 <i>Retail</i> <i>Office</i> <i>Recreational Facility</i>	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; <i>theatre</i> ; <i>recycling center</i> ; and <i>self-service storage facility</i> . 2. The following requires Type 1 review: Vehicle repair, except as accessory to service station (permitted); 3. For <i>retail use</i> in the CC-1 zone, maximum <i>gross floor area</i> per <i>building</i> is 25,000 s.f. Up to 30,000 s.f. may be approved through a Type 1 review process. 4. A <i>kennel</i> is allowed as an indoor <i>accessory use</i> to a veterinarian, provided that noise and odor impacts are adequately mitigated. 5. Distribution, wholesaling, repair or manufacturing that support the <i>primary use</i> are allowed as an <i>accessory use</i> . 6. An <i>amusement arcade</i> is allowed as an <i>accessory use</i> . 7. Development of <i>retail use</i> 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 <i>Director</i> 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.	
19.15.035.3 Eating and Drinking Establishment	None	None	10'	0'	80%	85%	35'	C	13 spaces per 1,000 s.f. of dining or lounge area	1. Distribution, wholesaling or manufacturing that support the primary use are allowed as an accessory use. 2. An amusement arcade is allowed as an accessory use.	

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

<div style="border: 1px solid black; padding: 5px; display: inline-block;"> 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				
19.15.035.4 <i>Lodging Facility</i> <i>Cultural Facility</i> <i>Community Facility</i> <i>School</i>	None	None	10'	0'	80%	85%	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]		
19.15.035.5 <i>Family Day Care Home I and II</i>	None	See Special Regulation 1						B		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.	
19.15.035.6 <i>Day Care Center</i>	None	None	10'	0'	80%	85%	35'	B	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Must provide State certification of safe passenger loading area.	

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				
19.15.035.7 <i>Mixed Use</i> <i>Senior Citizen Assisted Dwelling Unit</i> <i>Community Residential Facility</i>	None	None	10'	0'	80%	85%	35'	C	See Sec. 19.20.030. 2 [Ord. 292 § 6, 2000]	1. Maximum residential density in the CC-1 zone is: 18 <i>dwelling units</i> per acre in the CC-1 areas north of SW 152 nd St. and around So. 176 th St; and, 24 <i>dwelling units</i> per acre in the area south of SW 153 rd St. 2. Maximum residential density in the CC-2 zone is 24 <i>dwelling units</i> per acre. 3. Shall provide <i>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. 4. 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> . 5. <i>Senior citizen assisted dwelling unit or community residential facility</i> only allowed as part of a <i>mixed use</i> project.	
19.15.035.8 <i>Public Park and Recreation Facilities</i>	None	None.	10'	0'	80%	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.	
19.15.035.9 Nursing Home	None	None	10'	0'	80%	85%	35'	B	1 space for every 4 beds		
19.15.035.10 Government Facility Private Club Religious Facility Funeral Home	Type 1	None	10'	0'	80%	85%	35'	C	See Sec. 19.20.030. 2 [Ord. 292 § 6, 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 19.15.035.1 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	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 <u>Uses permitted in King County Code (KCC) 21A.38.100 Special District Overlay – Commercial / Industrial, In Effect on 4/1/2010 with exception of Adult Entertainment.</u>	<u>None</u>	<u>None</u>	<u>10'</u>	<u>0'</u>	<u>80%</u>	<u>85%</u>	<u>35'</u>	<u>C</u>	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	<u>1. Uses are only permitted in the CC-2 zoned area located on both sides of 16th Avenue SW between SW 112th Street and SW 116th Street.</u>	

(1) Amended, Ord. 265, 1999

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

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**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Continued Discussion on Compliance with National Pollution Discharge Elimination System Permit Issued January 15, 2007		Meeting Date: February 01, 2010
Department: Public Works	Attachments: 1. NPDES Schedule 2. Summary of changes in 2009 KCSWDM 3. Draft Ordinance No. 534	Fund Source: N/A Activity Cost: N/A Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Contact: Larry Blanchard, Director		
Telephone: (206) 248-5514		
Adopted Work Plan Priority: Yes <input checked="" type="checkbox"/> No	Work Plan Item Description: Revise Existing SWM Ordinance to meet the requirements set forth in the NPDES Permit for Burien	
<p>PURPOSE/REQUIRED ACTION: The purpose of this agenda item is for Council to continue the discussion on the proposed amendments to the Surface Water Management Code and incorporating them into the King County Surface Water Design Manual to be adopted as the Burien Surface Water Design Manual with changes to meet the needs of the Burien community.</p> <p>BACKGROUND (Include prior Council action & discussion): In January of 2007, the State Department of Ecology issued the first National Pollution Discharge Elimination System (NPDES) permit for Phase II communities in Western Washington. The Phase II NPDES permit is intended to implement the Clean Water Act. Certain provisions of the permit must be implemented by the City in August of this year. Although the City already has certain regulations in place that comply with many of the requirements of the Phase II NPDES permit, City staff are updating those regulations to ensure full compliance with the Permit. The attached summary amendments are intended to update the provisions of Chapter 13.10 BMC ("Surface Water Management Code") relating to new runoff regulatory mechanism and will provide for adoption of the King County Surface Water Design Manual ("SWDM") as the Burien SWDM with modifications to meet the needs of the Burien community.</p> <p>The NPDES implementation schedule, summary of changes in 2009 SWDM, and proposed ordinance have been prepared by staff for review of the City Council. In order to meet the deadline for compliance, an ordinance must be effective by no later than February 16, 2010.</p> <p>OPTIONS (Including fiscal impacts): N/A</p>		
Administrative Recommendation: Hold discussion and consider placing the proposed ordinance on the February 08, 2010 Consent Agenda for approval.		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motion: None required.		
Submitted by: Larry Blanchard Administration _____		Mike Martin City Manager _____
Today's Date: January 27, 2010		File Code: R:/CC/Agenda Bill 2010/020110pw-1 NPDES Permit compliance

SUMMARY OF CHANGES IN 2009 SURFACE WATER DESIGN MANUAL TO THE 2005 DESIGN MANUAL

The following is a summary of the most key changes made to the 2005 Surface Water Design Manual (SWDM). In general, there are three types of changes, those required by the Department of Ecology (DOE), those voluntary edits needed to improve standards, and those edits which correct minor errors. The edits required by DOE are intended to bring King County into compliance with the Phase I NPDES Municipal Stormwater Permit condition that requires all permittees including Phase II permit jurisdictions to have a stormwater manual that is equivalent to the latest version of the Stormwater Manual for Western Washington. In addition to the text edits, figures were redrafted using AUTOCAD to improve legibility and ease of use.

Chapter 1

- Drainage review thresholds updated to be equivalent to the DOE manual – they now include replaced impervious surface as well as new impervious surface.
- Thresholds for small project review updated to be equivalent to DOE thresholds.
- Downstream analysis requirement added to Core Requirement #2 to address impacts to identified water quality problems. Seven types of water quality problems are defined, along with mitigation requirements to be applied to specific problem types.
- Core Requirement #3 exemptions revised to be consistent with DOE thresholds and are now based on project area rather than threshold discharge area. Minor changes to the list of direct discharge major receiving waters. Exception to flow control facility requirement for Basic Flow Control Areas in highly urbanized basins eliminated. A minor change was made to the exceptions for Conservation Flow Control Areas and Flood Problem Flow Control Areas related to the cost of facilities to mitigate replaced impervious surface.
- Core Requirement #5 erosion control performance standard made more explicit.
- Core Requirement #8 soil treatment exemption requirements changed to conform to DOE standards. Changed threshold for Enhanced Basic treatment to be consistent with DOE manual. Modified Enhanced Basic water quality exception to allow use of a covenant that restricts future use of exposed metals on the property.
- Adjustment Section revised to include new process for approving and documenting adjustments that require an exception from the criteria for granting an adjustment.

Chapter 2

- Clarified requirements for Downstream Analysis related to water quality problems.
- Added requirement for submittal of electronic plans (CAD, .dwg file) and TIRs.
- Clarified requirements for Construction Stormwater Pollution Prevention (CSWPP) Plans.
- Clarified vertical datum requirement.

Chapter 3

- Minor edits to hydrologic analysis method to comply with DOE requirements.

Chapter 4

- Minor clarification of pipe standards to conform to current American Public Works Association (APWA) and King County Road Standards (KCRS) specifications.

Chapter 5

- Changed requirements to allow flow control orifices to be less than 0.5 inches, added debris protection screen.
- Made bollard spacing consistent with KCRS.
- Added notice of Underground Injection Control (UIC) Well registration requirement.
- Added flexibility in design of infiltration facilities to allow different storage configurations.
- Added means to reduce energy at the inlet to prevent scour in infiltration vault.

Chapter 6

- Stormfilter added to Basic Treatment Menu.
- Stormfilter paired with sand filter added to Sensitive Lake Treatment Menu.
- Stormfilter with ZPG, Stormfilter with CSF and sand filter added to Bog Protection Menu.
- Parking lot washing eliminated from Oil Control options.
- Clarification that new technologies must be approved through the DOE TAPE protocol.
- Eliminated use of SBUH for determining water quality design flow.
- Added vault access requirement when 5 x 10 foot grate is used for access.
- Added planting requirement for certain stormwater wetlands and presettling cells for certain media filters.
- Clarified sand filter design method.
- Updated Stormfilter design language.

Definitions

- Added definitions for commercial project/land use, industrial project/land use, and multifamily project/land use. Added definitions of the types of water quality problems addressed in the manual.

Appendix A

- Minor changes to improve maintenance standards.

Appendix C

- Changed requirement to allow reduced full dispersion flow path with outwash soil.
- Updated reforestation specifications.
- Updated erosion and sediment control requirements to be consistent with DOE manual.

Appendix D

- Minor revisions to regular and small site erosion control requirements to be consistent with DOE manual.

Reference Section

- Added Section 4-E detailing turbidity monitoring requirement and erosion control inspection checklist.
- Added Section 7-C showing Stormfilter Access requirements.
- Added FCBMPs to the list of required easements to TIR Worksheet.
- Added Section 8-Q, leachable metals covenant.

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. ***534

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, RELATING TO SURFACE WATER MANAGEMENT; AMENDING CHAPTER 13.10 OF THE BURIEN MUNICIPAL CODE TO CONFORM TO THE NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT FOR PHASE II COMMUNITIES; AMENDING THE ENFORCEMENT AND PENALTY PROVISIONS THEREOF; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City has adopted certain provisions codified at Chapter 13.10 of the Burien Municipal Code (“BMC”) that provide for a surface water management program within the City of Burien; and

WHEREAS, in January of 2007, the State Department of Ecology issued the first National Pollution Discharge Elimination System (“NPDES”) permit for Phase II communities in Western Washington which permit is intended to implement the Clean Water Act; and

WHEREAS, although the City already has certain regulations in place that comply with many of the requirements of the Phase II NPDES permit, certain amendments, such as the adoption of best management practices set forth in the King County Pollutions Prevention Manual, are necessary in order to ensure that the City is in compliance with provisions of the permit that must be implemented by the City in August of this year; and

WHEREAS, the proposed amendments to Chapter 13.10 of the BMC are consistent in scope and subject matter with the surface water management programs of other jurisdictions; and

WHEREAS, this Ordinance is enacted as an exercise of the authority of the City of Burien to protect and preserve the public health and welfare;

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

Section 1. Repeal and Adoption of New Section 13.10.010 BMC (Definitions). Section 13.10.010 of the Burien Municipal Code is hereby repealed in its entirety and a new Section 13.10.010 of the Burien Municipal Code is adopted to read as follows:

13.10.010 Definitions.

The definitions in this section shall apply in the interpretation and enforcement of this chapter unless the context clearly requires otherwise.

(1) AKART – All Known, Available, and Reasonable methods of prevention, control, and Treatment. *See also* the State Water Pollution Control Act, sections 90.48.010 RCW and 90.48.520 RCW.

(2) “Adjustment” means a Department-approved variation in the application of the requirements of BMC 13.10.140 and the Surface Water Design Manual to a particular project in accordance with BMC 13.10.140(3). “Adjustment” replaces “variance,” which was used in prior editions of the Surface Water Design Manual.

(3) “Applicant” means a property owner or a public agency or public or private utility that owns a right-of-way or other easement or has been adjudicated the right to such an easement under RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.

(4) “Basin” means a geographic area that contains and drains to Miller Creek, Salmon Creek, or Walker Creek, or a geographic area that drains to Lake Burien or Puget Sound.

(5) “Basin plan” means a plan and all implementing regulations and procedures including, but not limited to, capital projects, public education activities and land use management adopted by ordinance for managing surface and storm water within the basin or within individual sub-basins.

(6) “Best management practices (BMPs)” mean schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and structural or managerial practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

(7) “City” means City of Burien.

(8) “Clean Water Act” means 33 U.S.C. 1251 et. seq., as amended.

(9) “Closed depression” means an area greater than 5,000 square feet at an overflow elevation that is low-lying and that has no or such a limited surface water outlet that the area acts as a surface water retention facility.

(10) “Construct or modify” means to install a new drainage pipe or ditch or make improvements to an existing drainage pipe or ditch, for purposes other than maintenance, that either serves to concentrate previously unconcentrated surface and storm water run-off or serves to increase, decrease or redirect the conveyance of surface and storm water run-off. “Construct or modify” does not include installation or maintenance of a driveway culvert installed as part of a single-family residential building permit.

(11) “Conveyance system” means the drainage facilities and features, both natural and constructed, that collect, contain and provide for the flow of storm and surface water from the highest points on the land down to a receiving area. The natural elements of the conveyance system include swales and small drainage courses, streams, rivers, lakes and wetlands. The constructed elements of the conveyance system include gutters, ditches, pipes, channels and most flow control and water quality treatment facilities.

(12) “Department” means the Department of Public Works.

(13) “Developed parcel” means any parcel altered from the natural state by the construction, creation or addition of impervious surfaces.

(14) “Development” means any activity that requires a permit or approval, including, but not limited to, a building permit, grading permit, shoreline substantial development permit, conditional use permit, special use permit, zoning variance, subdivision, short subdivision, urban planned development, binding site plan, development permit or right-of-way use permit.

(15) “Director” means the Director of Public Works, or any duly authorized representative of the Director.

(16) “Discharge” means to throw, drain, release, dump, spill, empty, emit, or pour forth any matter or to cause or allow matter to flow, run or seep from land or be thrown, drained, released, dumped, spilled, emptied, emitted or poured into water.

(17) “Drainage” means the collection, conveyance, containment or discharge, or any combination thereof, of surface and storm water run-off.

(18) “Drainage facility” or “Stormwater facility” means a constructed or engineered feature that collects, conveys, stores or treats storm and surface water run-off. “Drainage facility” includes, but is not limited to, a constructed or engineered stream, pipeline, channel, ditch, gutter, lake, wetland, closed depression, flow control or water quality treatment facility, erosion and sediment control facility and other structures and appurtenances that provides for drainage.

(19) “Drainage review” means an evaluation by City staff of a proposed project’s compliance with the drainage requirements in the Surface Water Design Manual and with all other applicable drainage requirements.

(20) “Effective impervious area” means the portion of actual impervious area that is connected, or has the effect of being connected as defined in the King County Surface Water Design Manual, directly to the surface water drainage system via surface flow or discrete conveyances such as pipes, gutters or ditches.

(21) “Erosion and sediment control” means any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation, and ensure that sediment-laden water does not leave the site or enter into wetlands or aquatic areas.

(22) “Financial guarantee” means a form of financial security posted to do one or more of the following: ensure timely and proper completion of improvements; ensure compliance with the Burien Municipal Code; or provide secured warranty of materials, workmanship of improvements and design. “Financial guarantees” include assignments of funds, cash deposits, surety bonds or other forms of financial security acceptable to the Director. “Performance guarantee,” “maintenance guarantee” and “defect guarantee” are considered sub categories of “financial guarantee.”

(23) “Flood hazard reduction plan” means a plan and all implementing programs, regulations and procedures including, but not limited to, capital projects, public education activities and enforcement programs for reduction of flood hazards and prepared by King County in accordance with RCW 86.12.200.

(24) “Flow control best management practice” means a method or design for dispersing, infiltrating or otherwise reducing or preventing development-related increases in surface and storm water run-off at, or near, the sources of those

increases. “Flow control best management practice” includes the methods and designs specified in the Surface Water Design Manual.

(25) “Flow control facility” means a drainage facility designed to mitigate the impacts of increased surface and storm water run-off generated by site development in accordance with the drainage requirements in this chapter. A “flow control facility” is designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration or infiltration into the ground, or to hold run-off for a short period of time and then release it to the conveyance system.

(26) “High-use site” means a commercial, industrial or road intersection site that generates a higher than average number of vehicle turnovers or has other characteristics that generate the potential for chronic oil accumulation. “High use site” includes:

- (a) A commercial or industrial site subject to:
 - (i) An expected daily traffic count greater than 100 vehicles per 1,000 square feet of gross building area;
 - (ii) Petroleum storage or transfer in excess of 1,000 gallons per year, not including routine fuel oil storage or transfer; or
 - (iii) Use, storage or maintenance of a fleet of 25 or more diesel vehicles each weighing over ten tons; or
- (b) A road intersection with average daily traffic counts of 25,000 vehicles or more on the main roadway and 15,000 or more vehicles on any intersecting roadway, excluding pedestrian or bicycle use improvement projects.

(27) “Historic site conditions” means those that existed on the site prior to any development in the Puget Sound region. For lands not currently submerged (i.e., outside the ordinary high water mark of a lake, wetland, or stream), historic site conditions shall be assumed to be forest cover unless reasonable, historic, site-specific information is provided to demonstrate a different vegetation cover.

(28) “Hydraulically connected” means connected through surface flow or water features such as wetlands or lakes.

(29) “Illicit discharge” means any direct or indirect non-stormwater discharge to the city’s storm drain system, except as expressly allowed by this chapter.

(30) “Illicit connection” means any man-made conveyance that is connected to a municipal separate storm sewer without a permit, excluding roof drains and other similar types of connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate storm sewer system.

(31) “Impervious surface” means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions before development or that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas that are paved, graveled or made of packed or oiled earthen materials, or other surfaces that similarly impede the natural infiltration of surface and storm water. An open

uncovered flow control or water quality treatment facility is not an “impervious surface”.

(32) “Improvement” means a permanent, human-made, physical change to land or real property including, but not limited to, buildings, streets, driveways, sidewalks, crosswalks, parking lots, water mains, sanitary and storm sewers, drainage facilities and landscaping.

(33) “Lake management plan” means a plan describing the lake management recommendations and requirements adopted by public rule for managing water quality within individual lake basins.

(34) “Land disturbing activity” means an activity that results in a change in the existing soil cover, both vegetative and nonvegetative, or to the existing soil topography. “Land disturbing activity” includes, but is not limited to, demolition, construction, clearing, grading, filling, excavation and compaction. “Land disturbing activity” does not include tilling conducted as part of agricultural practices, landscape maintenance or gardening.

(35) “Land use code” means restrictions on the type of development for a specific parcel of land as identified by records maintained by the King County department of assessments as modified or supplemented by information resulting from investigation by the division. Land use codes are preliminary indicators of the extent of impervious surface and are used in the initial analysis to assign an appropriate rate category for a specific parcel.

(36) “Licensed civil engineer” means a person registered with the State of Washington as a professional engineer in civil engineering.

(37) “Maintenance” means those usual activities taken to prevent a decline, lapse, or cessation in the use of currently serviceable structures, facilities (including without limitation drainage facilities), equipment, or systems, if there is no expansion of the structure, facilities, equipment, or system and there are no significant hydrologic impacts. “Maintenance” includes the repair or replacement of nonfunctional facilities or the replacement of existing structures with different types of structures, if the repair or replacement is required by one or more environmental permits or to meet current engineering standards, and the functioning characteristics of the original facility or structure are not changed.

(38) “Master drainage plan” means a comprehensive drainage control plan intended to prevent significant adverse impacts to the natural and constructed drainage system, both on- and off-site.

(39) “Native vegetated surface” means a surface in which the soil conditions, ground cover and species of vegetation are like those of the original native condition for the site, as more specifically set forth in the Surface Water Design Manual.

(40) “Natural discharge location” means the location where run-off leaves the project site under existing site conditions as defined in the Surface Water Design Manual.

(41) “Natural surface water drainage system” means such landscape features as rivers, streams, lakes and wetlands. This system circulates water in a complex hydrological cycle.

(42) “New impervious surface” means the creation of a hard or compacted surface such as a roof, pavement, gravel or dirt or the addition of a more compacted surface such as the paving of existing dirt or gravel.

(43) “New pervious surface” means the conversion of a native vegetated surface or other native surface to a nonnative pervious surface, including, but not limited to, pasture land, grassland, cultivated land, lawn, landscaping or bare soil, or any alteration of existing nonnative pervious surface that results in increased surface and storm water run-off as defined in the Surface Water Design Manual.

(44) “Non-stormwater discharge” means any discharge to the storm drain system that is not composed entirely of stormwater.

(45) “National Pollutant Discharge Elimination System” or “NPDES” means the national program for controlling pollutants from point source discharges directly into waters of the United States under the Clean Water Act.

(46) “Open space” means any parcel, property or portion thereof classified for current use taxation under, or for which the development rights have been sold to, the City of Burien or King County. This definition includes lands which have been classified as open space, agricultural or timber lands under criteria contained in the appropriate City or County code, or Chapter 84.34 RCW.

(47) “Parcel” means the smallest separately segregated unit or plot of land having an identified owner, the boundaries and surface area of which is documented for property tax purposes and given a tax lot number by the King County assessor.

(48) “Person” means any individual, firm, company, association, corporation or governmental agency.

(49) “Pollution-generating impervious surface” means an impervious surface considered to be a significant source of pollutants in surface and storm water run-off. “Pollution-generating impervious surface” includes those surfaces subject to vehicular use or storage of erodible or leachable materials, wastes or chemicals, and that receive direct rainfall or the run-on or blow-in of rainfall. A covered parking area would be included if run-off from uphill could regularly run through it or if rainfall could regularly blow in and wet the pavement surface. Metal roofs are also considered pollution-generating impervious surface unless they are treated to prevent leaching.

(50) “Pollution-generating pervious surface” means a nonimpervious surface considered to be a significant source of pollutants in surface and storm water run-off. “Pollution-generating pervious surfaces” include surfaces subject to the use of pesticides and fertilizers, to the use or storage of erodible or leachable materials, wastes or chemicals, or to the loss of soil. “Pollution-generating pervious surface” includes, but is not limited to, the lawn and landscaped areas of a residential or commercial site, golf course, park sports field, and standard grassed modular grid pavement.

(51) “Premises” means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

(52) “Program” means the surface water management program as set forth in this chapter.

(53) “Project” means any proposed action to alter or develop a site that may also require drainage review.

(54) “Project site” means the portion of a site and any off-site areas subject to proposed project activities, alterations and improvements, including those required by this chapter.

(55) “Rate category” means the classification in this chapter given to a parcel in the service area based upon the type of land use on the parcel and the percentage of impervious surface area contained on the parcel.

(56) “Redevelopment project” means a project that proposes to add, replace or modify impervious surface for purposes other than a residential subdivision or maintenance on a site that:

- (a) Is already substantially developed in a manner that is consistent with its current zoning or with a legal nonconforming use; or
- (b) Has an existing impervious surface coverage of 35 percent or more.

(57) “Replaced impervious surface” means an existing impervious surface proposed to be removed and reestablished as an impervious surface, excluding impervious surface removed for the sole purpose of installing utilities or performing maintenance. For purposes of this definition, “removed” includes the removal of buildings down to bare soil or the removal of Portland cement concrete slabs or pavement, or asphaltic concrete pavement together with any asphalt-treated base.

(58) “Residence” means a building or structure or portion thereof, designed for and used to provide a place of abode for human beings. The term “residence” includes the term “residential” or “residential unit” as referring to the type of intended use of a building or structure.

(59) “Residential parcel” means any parcel which contains no more than three residences or three residential units which are within a single structure and is used primarily for residential purposes.

(60) “Run-off” means that portion of water originating from rainfall and other precipitation that flows over the surface or just below the surface from where it fell and is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, wetlands and shallow groundwater as well as on ground surfaces. For the purpose of this definition, groundwater means all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body surface water, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

(61) “Salmon conservation plan” means a plan and all implementing regulations and procedures including, but not limited to, land use management adopted by ordinance, capital projects, public education activities and enforcement programs for conservation and recovery of salmon within a water resource inventory area designated by the state under WAC 173-500-040.

(62) “Service area” means the incorporated areas of the City of Burien.

(63) “Shared facility” means a drainage facility designed to meet one or more of the requirements of BMC 13.10.140 for two or more separate projects

contained within a basin. Shared facilities usually include shared financial commitments for those drainage facilities.

(64) “Single family residential project” means any project that (a) constructs or modifies a single family dwelling unit, (b) makes improvements (e.g., driveways, roads, outbuildings, play courts, etc.) or clears native vegetation on a lot that contains or will contain a single family dwelling unit, or (c) is a plat, short plat, or boundary line adjustment that creates or adjusts lots that will contain single family dwelling units.

(65) “Site” means a single parcel, or two or more contiguous parcels that are under common ownership or documented legal control, used as a single parcel for a proposed project for purposes of applying for authority from the city to carry out a proposed project. For projects located primarily within dedicated rights-of-way, “site” includes the entire width of right-of-way subject to improvements proposed by the project.

(66) “Stormwater pollution prevention plan” means a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

(67) “Stormwater Pollution Prevention Manual” means the manual, and supporting documentation referenced or incorporated in the manual, describing best management practices and procedures for existing facilities and existing and new activities not covered by the Surface Water Design Manual.

(68) “Surface water compliance plan” means a plan or study and all regulations and procedures that have been adopted by the city or King County to implement the plan or study, including, but not limited to, capital projects, public education activities and enforcement programs for managing surface water quantity and quality discharged from the city’s municipal separate storm sewer system in compliance with the National Pollutant Discharge Elimination System permit program under the Clean Water Act.

(69) “Sub-basin” means a geographic area that:

- a. Drains to a stream or water body named and noted on common maps; and
- b. Is contained within the basin of the stream or water body.

(70) “Surface and storm water” means water originating from rainfall and other precipitation that is found on ground surfaces and in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, wetlands, and shallow ground water.

(71) “Surface and storm water management services” means the services provided by the Department, including but not limited to basin planning, facilities maintenance, regulation, financial administration, public involvement, drainage investigation and enforcement, aquatic resource restoration, surface and storm water quality and environmental monitoring, natural surface water drainage system planning, intergovernmental relations and facility design and construction.

(72) “Surface and storm water management system” means constructed drainage facilities and any natural surface water drainage features that do any

combination of collection, storing, controlling, treating or conveying surface and storm water.

(73) “Surface Water Design Manual” means the manual, and supporting documentation referenced or incorporated in the manual, describing surface and storm water design and analysis requirements, procedures and guidance, and that has been formally adopted by reference in this chapter.

(74) “Undeveloped parcel” means any parcel which has not been altered from its natural state by the construction, creation or addition of impervious surface.

(75) “Water quality treatment facility” means a drainage facility designed to reduce pollutants once they are already contained in surface and storm water run-off. Water quality treatment facilities are the structural component of best management practices. When used singly or in combination, water quality treatment facilities reduce the potential for contamination of either surface or ground waters, or both.

Section 2. Amendment of Section 13.10.020 BMC (Surface Water Manuals Adopted and Amended). Burien Municipal Code Section 13.10.020 is hereby amended to read as follows:

13.10.020 Surface Water Manuals adopted and amended.

The ~~2005–2009~~ King County Surface Water Design Manual (~~“SWDM or KCSWDM”~~) and the 2009 King County Stormwater Pollution Prevention Manual (~~“SPPM or KCSPPM”~~); ~~and any future amendments thereto~~ are hereby adopted by reference as, respectively, the City of Burien Surface Water Design Manual (“SWDM”) and the City of Burien Stormwater Pollution Prevention Manual (“SPPM”), with the following modifications:

Chapter 1, Paragraph 1.1.1 is hereby amended to read as follows:

1.1.1 WHEN IS DRAINAGE REVIEW REQUIRED?

All development, redevelopment or new impervious surface regardless of size, scope and nature ~~that is subject to a City of Burien development proposal, permit, or approval that is subject to a City development permit or approval~~ shall be subject to, at a minimum, a small site drainage review by the City in accordance with the provisions of this manual. Targeted, full or large site drainage review may be required based on specific project and site characteristics as described in Section 1.1.2.

If any provisions of the Surface Water Design Manual ~~and or~~ the Stormwater Pollution Prevention Manual as adopted conflict with any provisions of this chapter, the provisions of this chapter will control. Unless the context indicates otherwise, all references to “King County” or “County” in the SWDM and the SPPM shall mean and refer to the City of Burien; references to the King County Department of Development and Environmental Services or its acronym “DDES” shall mean and refer to the City of Burien Department of Public Works and those agencies contracting with the City of Burien to enforce Chapter 13.10 of the

Burien Municipal Code; references to the Water and Land Resources Division of the King County Department of Natural Resources or its acronym “WLR” shall mean and refer to the City of Burien Department of Public Works; references to the King County Department of Natural Resources and Parks or its acronym (“DNRP”) shall mean and refer to the City of Burien Department of Public Works; all references to Chapter 9.04 of the King County Code or any specific sections thereof shall mean and refer to Chapter 13.10 of the Burien Municipal Code and the equivalent sections thereof.

Terms and standards that are defined in the SWDM and SPPM by reference to Chapter 21A of the King County Code, shall mean and refer to those terms and standards as defined in Title 19 of the Burien Municipal Code; provided that, when such terms have no defined meaning in ~~¶~~ Title 19 of the Burien Municipal Code, the City adopts and incorporates by reference as part of this Chapter, the definitions given set forth in applicable administrative rules or regulations adopted by the Public Works Director or as otherwise determined by the Public Works Director. ~~in Chapter 21A of the King County Code, as now or hereafter amended.~~

All references in the SWDM to the Storm Water Pollution Prevention Manual shall mean and refer to the ~~S~~WPPM as adopted by the City of Burien pursuant to this Chapter 13.10 of the Burien Municipal Code.

All references in the SPPM to the Storm Water Design Manual shall mean and refer to the SWDM as adopted by the City of Burien pursuant to this Chapter 13.10 of the Burien Municipal Code.

The definition of Critical Drainage Area in Chapter 1 of the SWDM is amended by striking “by administrative rule under the procedures specified in KCC 2.98”^{cc}.

The reference in Section 1.1.2.4 of the SWDM to Urban Planned Development shall mean and refer to the equivalent such designation under the City of Burien Comprehensive Plan as determined by the City of Burien Community Development Director.

The note following the third sentence of Section 1.1.3 of the SWDM is stricken.

The last paragraph of Section 1.1.4 beginning with “Additional mitigation” is stricken.

The reference in Section 1.2.2 at paragraph 2 of the SWDM to KCC 21A.24.110 shall mean and refer to the applicable provision of Title 19 of the Burien Municipal Code.

All references to Critical Area Review in the SWDM and the SPPM shall mean and refer to Critical Area Review pursuant to Title 19 of the Burien Municipal Code.

References in the SWDM and SWWP to Chapter 16.82 of the King County Code, shall mean and refer to the clearing and grading provisions of the Burien Municipal Code.

Subsection F of section 1.2.4.3 of the SWDM is omitted.

The reference in Section 1.2.7 to King County Ordinance 12020 shall mean and refer to the financial ~~G~~guarantee requirements of the applicable provisions of the Burien Municipal Code.

Section 1.4.4 of the SWDM is stricken and replaced with the following:

All variances (“Adjustments”) from Chapter 13.10 BMC, the SWDM and the SWWP shall be governed by the procedures, standards and requirements set forth at Section 19.65.085 of the Burien Municipal Code, as ~~is-it~~ now exists or may hereafter be amended. Consistent with these requirements, the general steps of the variance review process for specific types of ~~-~~adjustments are presented as follows:

The reference in Section 1.4.5 of the SWDM to KCC 20.20 shall mean and refer to Section 19.65.085 BMC.

References to offices of King County shall mean and refer to the equivalent offices of the City of Burien.

Except when the context indicates otherwise, references in the SWDM and the SPPM to specific codes or sections of codes of King County, such as the King County critical areas code, shoreline management code, clearing and grading code, and road standards, shall mean and refer to the equivalent codes or sections of codes of the City of Burien.

Section 3. Amendment of Section 13.10.030 BMC (Administration). Section 13.10.030 of the Burien Municipal Code is hereby amended to read as follows:

13.10.030 Administration.

(1) Administration.

- (a) The Director is authorized to promulgate and adopt administrative rules for the purpose of implementing and enforcing the provisions of this chapter. Adopted administrative rules will be made available to the public from the Department. This includes, but is not limited to, the Surface Water Design Manual and the Stormwater Pollution Prevention Manual.

(b) The Director is authorized to develop procedures for applying adopted rules and regulations during the review of permit applications for the development of land. These procedures may also be contained in the Surface Water Design Manual and the Stormwater Pollution Prevention Manual.

(2) -Inspections. The Director is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

(3) Right of entry. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, monitor for proper function of drainage facilities, or whenever the Director has reasonable cause to believe that violations of this chapter are present or operating on a subject property or portion thereof, the Director may enter such premises at all reasonable times to inspect the same or perform any duty imposed upon the Director by this chapter; provided that, if such premises or portion thereof is occupied, the Director shall first make a reasonable effort to locate the owner or other person having charge or control of the premises or portion thereof and demand entry.

(4) Access. Proper ingress and egress shall be provided to the Director to inspect, monitor or perform any duty imposed upon the Director by this chapter. The Director shall notify the responsible party in writing of failure to comply with this access requirement. ~~Failing to obtain~~If the Director does not receive a response from the responsible party within seven days ~~from the of~~ receipt of the written notification, the Director may order the work required completed or otherwise address the cause of improper access. The obligation for the payment of all costs that may be incurred or expended by the City in causing such work to be done shall thereby be imposed on the person holding title to the subject property.

Section 4. Amendment of Section 13.10.110 BMC (Scope). Section 13.10.110 of the Burien Municipal Code is hereby amended to read as follows:

13.10.110 Scope.

Compliance with the standards in this chapter, the Surface Water Design Manual, and the Stormwater Pollution Prevention Manual does not necessarily mitigate all probable and significant environmental impacts to aquatic biota. Fishery resources and other living components of aquatic systems are affected by a complex set of factors. While employing a specific flow control standard may prevent stream channel erosion or instability, other factors affecting fish and other biotic resources (such as increases in stream flow velocities) are not directly addressed by the Surface Water Design Manual and the Stormwater Pollution Prevention Manual. Thus, compliance with ~~this-these~~ manuals should not be construed as mitigating all probable and significant surface water impacts, and additional mitigation may be required to protect aquatic biota in streams and wetlands.

Section 5. Amendment of Section 13.10.130 BMC (Drainage Review - When Required - Type). Section 13.10.130 of the Burien Municipal Code is hereby amended to read as follows:

13.10.130 Drainage review - when required - type.

(1) All development, including all redevelopment or new impervious surface regardless of size, scope and nature, that is subject to a City of Burien permit or approval, shall be subject to, at a minimum, a small project site drainage review. Targeted, full or large site drainage review may be required based on specific project and site characteristics as described in subsection 2, below.

(2) Targeted, full or large drainage review is required for any proposed project, regardless of size of the development, that is subject to a City of Burien development proposal, permit, or approval when any proposed project is subject to a City development permit or approval for any proposed development and which meets any one or more of the following conditions:

- (a) Would result in 2,000 square feet or more of new impervious surface, replaced impervious surface, and/or new plus replaced impervious surface;
- (b) Would involve 7,000 square feet or more of land disturbing activity;
- (c) Would construct or modify a drainage pipe or ditch that is 12 inches or more in size or depth or receives surface and storm surface water run-off from a drainage pipe or ditch that is 12 inches or more in size or depth;
- (d) Would involve connection of a private surface and storm water management system or drainage facility to a surface and storm water management system or drainage facility owned or controlled by the City of Burien;:-
- (e) Contains or is adjacent to a flood hazard area as defined in BMC 19.10.179.2;
- (f) Is located within a critical drainage area;
- (g) Is a redevelopment project proposing \$100,000.00 or more of improvements to an existing site; or
- (h) Is a redevelopment project on a site in which the total of new plus replaced impervious surface is 5,000 square feet or more and whose valuation of proposed improvements, including interior improvements and excluding required mitigation and frontage improvements, exceeds 50 percent of the assessed value of the existing site improvements.

(3) The drainage review for any proposed project shall be scaled to the scope of the project's size, type of development, and potential for impacts to the regional surface water system to facilitate preparation and review of project applications. If the drainage review for a proposed project is required under subsection (a) of

~~this section~~, the Department shall determine which of the following drainage reviews types apply as specified in the Surface Water Design Manual:

- (a) Small project drainage review;
- (b) Targeted drainage review;
- (c) Full drainage review; or
- (d) Large project drainage review.

Section 6. Amendment of Section 13.10.140 BMC (Drainage Review - Requirements).
Section 13.10.140 of the Burien Municipal Code is hereby amended to read as follows:

13.10.140 Drainage review - requirements.

(1) Every application for a permit or approval ~~application that is subject to with~~ drainage review must meet each of the ~~following~~ core requirements ~~which are described in detail in the set forth in the~~ Surface Water Design Manual for the type of drainage review that is required:

~~Core requirement 1: Discharge at the natural location. All storm and surface water run-off from a project shall be discharged at the natural location so as not to be diverted onto, or away from, downstream properties. The manner in which run-off is discharged from the project site shall not create a significant adverse impact to downhill properties or drainage systems as specified in the discharge requirements of the Surface Water Design Manual;~~

~~Core requirement 2: Off site analysis. The initial application submittal for proposed projects shall include an off site analysis report that assesses potential off-site drainage and water quality impacts associated with development of the proposed site and proposes appropriate mitigations to those impacts. This initial submittal shall include, at minimum, a Level One downstream analysis as described in the Surface Water Design Manual. If impacts are identified, the proposed projects shall meet any applicable problem specific requirements as specified in the Surface Water Design Manual;~~

~~Core Requirement 3: Flow control. All proposed projects, including redevelopment projects, must provide onsite flow control facilities or flow control BMPs or both to mitigate the impacts of increased storm and surface water runoff generated by new impervious surface, new pervious surface, and replaced impervious surface. Proposed projects that would result in 2,000 square feet or more of new plus replaced impervious surface or 35,000 square feet or more of new pervious surface, shall provide flow control facilities or flow control BMPs, or both, to control surface and surface water run-off generated by new impervious surface, new pervious surface, replaced impervious surface and any existing impervious surface added on or after January 8, 2001, as specified in the Surface Water Design Manual. Flow control facilities shall meet the area specific flow control facility requirements and the flow control facility implementation requirements applicable to the project site as specified in the Surface Water Design Manual. Flow control BMPs shall also be applied as specified in the Surface Water Design Manual. Projects subject to area specific flow control~~

facility requirements shall meet one of the flow control facility performance criteria listed in (i) through (iii) of this subsection (1)(c), as directed by the Surface Water Design Manual:

Level One shall match the predeveloped site's peak discharge rates for the two-year and 10-year return periods;

Level Two shall meet Level One criteria and also match the predeveloped site's discharge durations for the predeveloped peak discharge rates between the 50 percent of the two-year peak flow through the 50-year peak flow; or

Level Three shall meet Level Two criteria and also match the predeveloped site's peak discharge rate for the 100-year return period;

(2) The Surface Water Design Manual defines three flow control levels for impact mitigation. The city uses the Level Two standard as the default standard within the entire city. The city may require Level Three flow control for specific areas in accordance with the provisions set forth in Section 1.2.3 of the SWDM where the severe flooding problems or other concerns identified as described in section 1.2.3, KCSWDM. The flow control level requirements may be reduced or waived for specific areas (e.g., Salmon Creek Basin) where a plan or study approved by the City, County and Department of Ecology shows that a lower standard (e.g., Level 1 flow control) is sufficient or no facility is necessary. Level 1 and Level 3 flow control levels designated by King County pursuant to the King County Basin Plan, and approved by the Department of Ecology, that apply to specific areas that have been, after such designation, annexed to the City, shall apply to those specific areas until such time as the City, by and through the Public Works Director, adopts a different flow control level.

~~(3) Core requirement 4: Conveyance system. All engineered conveyance system elements for proposed projects shall be analyzed, designed and constructed to provide the minimum level of protection against overtopping, flooding, erosion and structural failure as specified by the conveyance requirements for new and existing systems and conveyance implementation requirements described in the Surface Water Design Manual;~~

~~(4) Core requirement 5: Erosion and sediment control. All proposed projects that will clear, grade or otherwise disturb the site shall provide erosion and sediment control that prevents, to the maximum extent practicable, the transport of sediment from the site to drainage facilities, water resources and adjacent properties. Erosion and sediment controls shall be applied in accordance with the temporary erosion and sediment control measures and performance criteria and implementation requirements in the King County Surface Water Design Manual;~~

~~(5) Core requirement 6: Maintenance and operation. Maintenance of all drainage facilities in compliance with City maintenance standards is the responsibility of the applicant/property owner as described in the Surface Water Design Manual, except those facilities for which King County is granted an easement or covenant and assumes maintenance and operation as described in the Surface Water Design Manual;~~

~~(6) Core requirement 7: Financial guarantees and liability. All drainage facilities constructed or modified for projects, except downspout infiltration and~~

dispersion systems for single family residential lots, must provide adequate liability requirements and financial guarantees consistent with this code;

~~(7) Core requirement 8: Water quality. Proposed projects All proposed projects, including redevelopment projects, must provide water quality (WQ) facilities to treat the runoff from those new and replaced pollution generating impervious surfaces and pollution generating pervious surfaces. that would result in 5,000 square feet or more of new pollution generating impervious surface or 35,000 square feet or more of new pollution generating pervious surface, or that are redevelopment projects that would result in a total of 5,000 square feet or more of new and replaced pollution generating impervious surface, shall provide water quality treatment facilities to treat polluted surface and surface water run-off generated by new or replaced pollution generating impervious surface, new pollution generating pervious surface and any existing pollution generating impervious surface added on or after January 8, 2001, as specified in the Surface Water Design Manual. However, pervious surfaces are specifically excluded if there is a good faith agreement with the King Conservation District to implement a farm management plan for agricultural uses, and pervious areas for other uses are specifically excluded if the Department approves a landscape management plan that controls pesticides and fertilizers leaving the site. Water quality treatment facilities shall meet the area specific water quality treatment requirements and the water quality implementation requirements applicable to the project site as specified in the Surface Water Design Manual. The facilities specified by these requirements are designed to reduce pollutant loads according to the applicable annual average performance goals listed in (i) through (iv) of this subsection (1)(h) for 95 percent of the annual average run-off volume:~~

~~(8) for basic water quality: remove eighty percent of the total suspended solids;~~

~~(9) for enhanced basic water quality: remove fifty percent of the total zinc;~~

~~(10) for sensitive lake protection: remove fifty percent of the total phosphorus; and~~

~~(11) for sphagnum bog protection: remove 50 percent of the total phosphorus and 40 percent of the total nitrate plus nitrite. The discharge shall maintain a pH of less than 6.5 and an alkalinity of less than 10 milligrams per liter.~~

~~(12)(3) A proposed project required to have drainage review shall meet any of the following special requirements which apply applicable to the site and which are described in detail in pursuant to the Surface Water Design Manual. The Department shall verify if a proposed project is subject to and must meet any of the following special requirements set forth in the Surface Water Design Manual.~~

~~Special Requirement 1: Other adopted area-specific requirements. If a proposed project is in a designated critical drainage area, or is in an area included in an adopted master drainage plan, basin plan, salmon conservation plan, surface water compliance plan, flood hazard reduction plan, lake management plan or shared facility plan, then the proposed project shall meet the applicable drainage requirements of the critical drainage area, master drainage plan, basin plan, salmon conservation plan, surface water compliance plan, flood hazard reduction plan, lake management plan or shared facility plan.~~

~~Special Requirement 2: Flood hazard areaplain/floodway delineation. If a proposed project contains or is adjacent to a stream, lake, wetland or closed depression, or if other City regulations require study of flood hazards relating to the proposed project, the 100 year floodplain boundaries and floodway shall be determined and delineated on the site improvement plans and profiles and any final maps prepared for the proposed project. The flood hazard study shall be prepared for as specified in the Surface Water Design Manual.~~

~~Special Requirement 3: Flood protection facilities. If a proposed project contains or is adjacent to a stream that has an existing flood protection facility, such as a levee, revetment or berm, or proposes to either construct a new or modify an existing flood protection facility, then the flood protection facilities shall be analyzed and designed as specified in the Surface Water Design Manual to conform with the Federal Emergency Management Agency regulations as found in 44 C.F.R.~~

~~Special Requirement 4: Source Control. If a proposed project requires a commercial building or commercial site development permit, then water quality source controls shall be applied to prevent rainfall and run off from coming into contact with pollutants to the maximum extent practicable. Water quality source controls shall be applied in accordance with the Surface Water Design Manual. All structural source controls shall be identified on the site improvement plans and profiles or final maps prepared for the proposed project.~~

~~Special Requirement 5: Oil control. If a proposed project is a high use site or is a redevelopment project proposing \$100,000.00 or more of improvements to an existing high use site, then oil control shall be applied to all run off from the high use portion of the site as specified in the Surface Water Design Manual.~~

(34) (a) An adjustment to the requirements contained in this section or other requirements in the Surface Water Design Manual may be proposed. The resulting development shall be subject to all of the remaining terms and conditions of this chapter and the adjustment shall:

- (i) ~~p~~**P**roduce a compensating or comparable result in the public interest; and
 - (ii) ~~m~~**M**eeet this chapter's objectives of safety, function, appearance, environmental protection and maintainability based upon sound engineering judgment.
- (b) If complying with subsection (43)(a)(i) of this section will deny all reasonable use of a property, the best practicable alternative shall be obtained as determined by the Director according to the adjustment process defined in the Surface Water Design Manual.
 - (c) Requests for adjustments that may conflict with the requirements of any other City department shall require review and concurrence with that department.
 - (d) A request for an adjustment shall be processed in accordance with the procedures specified in the Surface Water Design Manual.
 - (e) The ~~c~~**C**ity may require monitoring of experimental designs and technology or untested applications proposed by the applicant in order

to determine compliance with subsection (34)(a) of this section and the approved plans and conditions.

- (f) The applicant may appeal an adjustment decision to the Hearing Examiner by following the appeal procedures as specified in Chapter 2.20 BMC.

(5) Applications of Low Impact Development (“LID”) techniques as a flow control or a water quality control design are encouraged where the LID techniques are feasible. LID techniques can may be granted as an Adjustment by the Director; provided that, the applicant establishes that the proposed LID techniques will meet or exceed the standards set forth in the Clean Water Act, the current Phase II Western Washington NPDES permit applicable to the City of Burien, and this Title, including the SWDM and the SPPM. The city may allow the Western Washington Hydrology Model (“WWHM”), MGS Flood Model, System for Urban Stormwater Treatment and Analysis Integration (“SUSTAIN”) Model or other hydrologic/hydraulic models that are have been approved by the City, King County, DOE, the Washington State Department of Transportation DOT, and the Environmental Protection Agency EPA to be used as a tool for determining flow control or water quality requirements. The drainage review requirements in this section and in the Surface Water Design Manual may be modified or waived by the Director if the Director determines that such modification or waiver is in the best interests of the public and will comply with the current Phase II Western Washington NPDES permit applicable to the City of Burien and other applicable laws.

(6) -“Existing (or historic)-site conditions” or “Historic site conditions” means those that existed on the site prior to any development in the Puget Sound region. For lands not currently submerged (i.e., outside the ordinary high water mark of a lake, wetland, or stream), existing site conditions shall be assumed to be forest cover unless reasonable, historic, site-specific information, which is approved by the King County or DOE, is provided to demonstrate a different vegetation cover.

Section 7. Amendment of Section 13.10.240 BMC (Illicit discharges and connections).

Section 13.10.240 of the Burien Municipal Code is hereby amended to read as follows:

13.10.240 Illicit discharges and connections.

(1) Prohibited Discharges. It is unlawful for any person to discharge any contaminants into surface and storm water or ground water. Contaminants include, but are not limited, to the following:

- (a) Trash or debris;
- (b) Construction materials;
- (c) Petroleum products including but not limited to oil, gasoline, grease, fuel oil, and heating oil;
- (d) Antifreeze and other automotive products;
- (e) Metals in either particulate or dissolved form;
- (f) Flammable or explosive materials;
- (g) Radioactive material;

- (h) Batteries;
- (i) Acids, alkalis, or bases;
- (j) Paints, stains, resins, lacquers or varnishes;
- (k) Degreasers and solvents;
- (l) Drain cleaners;
- (m) Pesticides, herbicides or fertilizers;
- (n) Steam cleaning wastes;
- (o) Soaps, detergents or ammonia;
- (p) Swimming pool backwash;
- (q) Chlorine, bromine and other disinfectants;
- (r) Heated water;
- (s) Domestic animal wastes;
- (t) Sewage;
- (u) Recreational vehicle waste;
- (v) Animal carcasses;
- (w) Food wastes;
- (x) Bark and other fibrous materials;
- (y) Collected lawn clippings, leaves, or branches;
- (z) Silt, sediment, or gravel;
- (aa) Dyes, except as stated in subsection (3)(a) of this section;
- (bb) Chemicals not normally found in uncontaminated water; or
- (cc) Any hazardous material or waste, not listed above.

(2) Allowable Discharges. Certain discharges may be made directly or indirectly to a public drainage control system. The following types of discharges shall not be considered prohibited discharges for the purpose of this chapter unless the Director determines that the type of discharge, whether singly or in combination with other discharges, is causing significant contamination of surface water or ground water:

- (a) Spring water;
- (b) Diverted stream flows;
- (c) Uncontaminated water from crawl space pumps, foundation drains or footing drains;
- (d) Lawn watering with potable water or collected rainwater;
- (e) Pumped groundwater flows that are uncontaminated;
- (f) Materials placed as part of an approved habitat restoration or bank stabilization project;
- (g) Natural uncontaminated surface water or ground water;
- (h) Flows from riparian habitats and wetlands;
- (i) The following discharges from boats: engine exhaust; cooling waters; effluent from sinks; showers and laundry facilities; and treated sewage from Type I and Type II marine sanitation devices;
- (j) Collected rainwater that is uncontaminated;
- (k) Uncontaminated groundwater that seeps into or otherwise enters stormwater conveyance systems;

- (l) Air conditioning condensation;
 - (m) Irrigation water from agricultural sources that is commingled with 550 stormwater runoff; and
 - (n) Other types of discharges as determined by the ~~D~~Director.
- (3) Exceptions.
- (a) Dye testing is allowable but requires verbal notification to the City of Burien Public Works Department at least one day prior to the date of test.
 - (b) A person does not violate subsection (1) of this section if that person has properly designed, constructed, implemented and is maintaining BMPs and is carrying out AKART as required by this chapter, but contaminants continue to enter surface and storm water or ground water; or that person can demonstrate that there are no additional contaminants being discharged from the site above the background conditions of the water entering the site. A person who, under of this subsection, is not in violation of subsection (1) of this section is liable for any prohibited discharges through illicit connections, dumping, spills, improper maintenance of BMPs or other discharges that allow contaminants to enter surface and storm water or ground water.
 - (c) Emergency response activities or other actions that must be undertaken immediately or within a time too short to allow full compliance with this chapter in order to avoid an imminent threat to public health or safety, shall be exempt from this section. The ~~D~~irector by public rule may specify actions that qualify for this exception in ~~county-city~~ procedures. A person undertaking emergency response activities shall take steps to ensure that the discharges resulting from such activities are minimized. In addition, this person shall evaluate BMPs and the site plan, where applicable, to restrict recurrence.

Any connection, identified by the Director, that could convey anything not composed entirely of surface and surface water, directly to surface, storm, or ground waters is considered an illicit connection and is prohibited with the following exceptions: connections conveying allowable discharges, connections conveying discharges pursuant to a National Pollutant Discharge Elimination System (“NPDES”) permit as issued by the state (other than an NPDES surface water permit) or a state waste discharge permit, and connections conveying effluent from on-site sewage disposal systems to subsurface soils. Presence of prohibited connections as defined herein constitutes a violation of this chapter as set force in BMC sSections 13.10.510 and 13.10.520. Water quality analysis or investigation for potential illicit connection and illicit discharge will be conducted by the city or by the state certified laboratory.

Section 8. Amendment of Section 13.10.250 BMC (Best Management Practices).

Section 13.10.250 of the Burien Municipal Code is hereby amended to read as follows:

13.10.250 Best Management Practices.

(1) Any person causing or allowing discharge to a public drainage facility, natural drainage system, surface and surface water, or ground water shall control contamination in the discharge by implementing appropriate source control BMPs. Failure to implement such practices shall constitute a violation of this chapter. The Best Management Practices (“BMPs”) shall be applied to any business or residential activity that might result in prohibited discharges as specified in the Stormwater Pollution Prevention Manual or as determined necessary by the Director.

- (a) In applying the Stormwater Pollution Prevention Manual, the Director shall first require the implementation of source control BMPs. If these are not sufficient to prevent contaminants from entering surface and storm water or ground water, the Director may require implementation of treatment BMPs as set forth in AKART. The city will provide, upon reasonable request, available technical assistance materials and information.
- (b) The Director shall use public education and warnings as the primary method of gaining compliance with this chapter and shall not use citations, notice and orders, assessment of civil penalties and fines, or other compliance actions as authorized in BMC Chapter 18.110, unless the Director determines: (1) The discharge from a normal single family residential activity, whether singly or in combination with other discharges, is causing a significant contribution of contaminants to surface and storm water or ground water; or (2) The discharge from a normal single family residential activity poses a hazard to the public health, safety or welfare, endangers any property or adversely affects the safety and operation of city or county right-of-way, utilities or other city or county-owned or maintained property.
- (c) Persons implementing BMPs through another federal, state or local program will not be required to implement the BMPs prescribed in the city’s Stormwater Pollution Prevention Manual, unless the Director determines the alternative BMPs are ineffective at reducing the discharge of contaminants. If the other program requires the development of a stormwater pollution prevention plan or other best management practices plan, the person shall make the plan available to the city upon request.

Section 9. Amendment of Section 13.10.260 BMC (Water Quality Standards). Section 13.10.260 of the Burien Municipal Code is hereby amended to read as follows:

13.10.260 Water quality standards.

The City of Burien hereby adopts by reference the water quality standards established under the authority of Chapter 90.48 RCW and contained within Chapter 173-201A WAC as presently written or hereafter amended. ~~Under the authority of Chapter 173-201A WAC, all the streams and all the lakes in the city are classified as Class AA and Class Lake respectively.~~

Section 10. Amendment of Section 13.10.270 BMC (Operation and Maintenance of Stormwater Facilities). Section 13.10.270 of the Burien Municipal Code is hereby amended to read as follows:

13.10.270 Operation and maintenance of stormwater facilities.

(1) Standards for maintenance of stormwater facilities existing on public or private property within the City are contained in the ~~sSurface wWater dDesign mManual~~ and the Stormwater Pollution Prevention Manual. Any maintenance agreement submitted and approved by the ~~C~~city through the permit process shall supersede maintenance requirements contained in the ~~sSurface wWater dDesign mManual~~ and the Stormwater Pollution Prevention Manual.

(2) No person shall cause or permit any drainage facility on any public or private property to be obstructed, filled, graded, or used for disposal of debris. Any such activity constitutes a violation of this chapter.

(3) Any modification of an existing drainage facility must be approved and permitted by the city. Failure to obtain permits and approvals, or to violate conditions thereof for any such alteration, constitutes a violation of this chapter.

(4) The ~~c~~City will maintain all elements of the storm drainage system beginning at the first catch-basin within the public right-of-way, and in easements or tracts dedicated to and accepted by the City.

~~All other facilities, including, but not limited to, nonresidential stormwater facilities and roof downspout drains and driveway drains serving single-family residences, shall be maintained by the property owner.~~

(5) All private stormwater facilities, including, but not limited to, nonresidential stormwater facilities, and roof downspout drains and driveway drains serving single-family residences, shall be maintained by the property owner.

(6) Maintenance of Nonresidential Stormwater Facilities by Owners.

(a) Any person or persons holding title to a nonresidential property for which stormwater facilities have been required by the ~~c~~City shall be responsible for the continual operation, maintenance, and repair of said stormwater facilities in accordance with the criteria set forth in the ~~sSurface wWater dDesign mManual~~ the Stormwater Pollution Prevention Manual.

(b) For nonresidential stormwater facilities, failure to meet the maintenance requirements specified in the ~~sSurface wWater dDesign mManual~~ and the Stormwater Pollution Prevention Manual constitutes

a violation of this chapter, and shall be enforced against the owner(s) of the subject property served by the stormwater facility.

(7) City Acceptance of Existing Residential Stormwater Facilities. The City may accept for maintenance those stormwater facilities serving residential developments existing prior to the effective date of the ordinance codified in this chapter that meet the following conditions:

- (a) The stormwater facilities serve more than one individual house or property;
- (b) An inspection by the Director has determined that the stormwater facilities are functioning as designed;
- (c) The stormwater facilities have had at least two years of satisfactory operation and maintenance, unless otherwise waived by the Director;
- (d) An inspection by the Director has determined that the stormwater facilities are accessible for maintenance using existing city equipment;
- (e) The person or persons holding title to the properties served by the stormwater facilities ~~must have submitted~~ a petition containing the signatures of the title holders of more than fifty percent of the lots served by the stormwater facilities requesting that the City maintain the stormwater facilities;
- ~~(f) An easement or dedication of the property is offered by the property owner at no cost;~~
- ~~(f) An easement or dedication of the property is offered by the property owner at no cost.~~
- (g) All easements entitling the city to properly access, operate and maintain the subject stormwater facilities have been conveyed to the city and have been recorded with the King County office of records and elections;
- (h) The person or persons holding title to the properties served by the stormwater facilities show proof of the correction of any defects in the drainage facilities, including provision of maintenance access, as required by the Director; ~~and;~~

(i) The city formally accepts said infrastructure for operation and maintenance.

(87) Disposal of waste from maintenance activities shall be conducted in accordance with the minimum Functional Standards for Solid Waste Handling, Chapter 173-304 WAC; guidelines published by the Washington State Department of Ecology for disposal of waste materials from stormwater maintenance activities; and where appropriate, the Dangerous Waste Regulations, Chapter 173-303 WAC.

Section 11. Amendment of Section 13.10.340 BMC (Policy). Section 13.10.340 of the Burien Municipal Code is hereby amended to read as follows:

13.10.340 Policy.

(1) It is the finding of the City that developed parcels contribute to an increase in surface and storm surface water run-off to the surface and storm surface water management system. This increase in surface and surface water run-off results in the need to establish rates and charges to finance the City's activities in surface and surface water management. Developed parcels shall be subject to the rates and charges of the Program based on their contribution to increased run-off. The factors to be used to determine the degree of increased surface and surface water run-off to the surface and surface water management system from a particular parcel shall be the percentage of impervious surface coverage on the parcel, the total acreage of the parcel and any mitigating factors as determined by the City.

(2) It is the finding of the City that undeveloped parcels do not contribute as much as developed parcels to an increase in surface and storm surface water run-off into the surface and storm surface water management system. Undeveloped properties shall be exempt from the rates and charges of the Program.

(3) It is the finding of the City that maintained drainage facilities mitigate the increased run-off contribution of developed parcels by providing on-site drainage control. Parcels served by flow control facilities which were required for development of the parcel or can be demonstrated by the property owner to provide flow control of surface and storm surface water to the standards in this chapter shall receive a discount as provided in the rates and charges of the Program, if the facility is maintained at the parcel owner's expense to the standard established by the Department.

(4) It is the finding of the City that improvements to the quality of surface water run-off can decrease the impact of that run-off on the environment. Parcels served by water quality treatment facilities that were required for development of the parcel or that can be demonstrated by the property owner to provide treatment of surface and storm surface water to the standards in this chapter shall receive a discount as provided in the rates and charges of the surface and storm water management program, if the facility is maintained at the parcel owner's expense to the standard established by the Department.

(5) It is a finding of the City that open space properties provide a benefit to the surface and storm surface water management system by the retention of property in an undeveloped state. Open space properties shall receive a discount from the rates and charges to encourage the retention of property as open space.

(6) The majority of the parcels in the service area are residential. The variance between residential parcels in impervious surface coverage is found to be minor and to reflect only minor differences in increased run-off contributions. The administrative cost of calculating the service charge individually for each residential parcel and maintaining accurate information would be very high. A flat charge for residential parcels is less costly to administer than calculating a separate charge for each parcel and is equitable because of the similarities in

impervious surface coverage between residential parcels. Therefore, residential parcels shall be charged a flat charge based upon an average amount of impervious surface.

(7)___ Very lightly developed nonresidential parcels which have an impervious surface coverage of 10 percent or less of the total parcel acreage are characterized by a very low intensity of development and generally a large number of acres. A greater number of acres of undeveloped land associated with an impervious surface results in significantly less impact to the surface and ~~surface-storm~~ water management system. These parcels shall be charged a flat rate which will encourage the retention of large areas of very lightly developed land.

(8)___ Lightly to very heavily developed nonresidential parcels which have an impervious surface coverage of more than 10 percent have a substantial impact on the surface and ~~stormsurface~~ water management system. The impact of these parcels on the surface and ~~stormsurface~~ water management system increases with the size of the parcels. Therefore, lightly to very heavily developed properties shall be charged a rate determined by the percent of impervious surface coverage multiplied by the parcel acreage.

(9)___ The ~~c~~City roads and State highway programs provide substantial annual programs for the construction and maintenance of drainage facilities, and the roads systems and their associated drainage facilities serve as an integral part of the surface and ~~stormsurface~~ water management system. City and State road drainage systems unlike the drainage systems on other properties are continually being upgraded to increase both conveyance capacity and control. It is envisioned that the roads program will work cooperatively with the surface ~~and storm~~ water management program to improve regional surface and surface water management services, as new information is available from basin plans and other sources. City roads and State highways shall not be charged a rate in recognition of the benefit to the surface ~~and storm~~ water management services provided by the drainage facilities associated with the ~~c~~City roads and State highway programs; provided, that those drainage facilities are constructed, operated, and maintained in accordance with this chapter.

(10)___ Comprehensive management of surface and ~~stormsurface~~ water run-off must include anticipation of future growth and development in the design and improvement of the surface and ~~surface-storm~~ water management system. Service charge revenue needs shall be based upon the present and future requirements of the surface and ~~surface-storm~~ water management system, and these needs shall be considered when determining the rates and charges of the Program.

(11)___ Basin plans are essential to establishing a comprehensive approach to a capital improvement program, maintenance of facilities and regulation of new developments. A plan should analyze the measures needed to control surface and ~~surface-storm~~ water run-off which results from existing and anticipated development within the basin. The measures investigated to control run-off should include land use regulation such as setback requirements or community plan revisions which revise land use densities as well as the use of drainage facilities. A plan also should recommend the quantity and water quality run-off control measures required to further the purposes set forth in this chapter, and

community goals. The institutional requirements and regulations, including but not limited to land use management, funding needs, and incentives for preserving the natural surface and storm water drainage system should be identified in the plan. The proposed ordinances and regulations necessary to implement the plan shall be transmitted to the council simultaneously with the plan.

(12) -Areas with development related surface and storm surface water problems require comprehensive management of surface and storm surface water.

(13) -Additional surface and storm surface water run-off problems may be caused by new land use development if not properly mitigated both through protection of natural systems and through constructed improvements. The Surface Water Design Manual and the Stormwater Pollution Prevention Manual and this chapter have been adopted to mitigate the impact of land use development. Further mitigation of these impacts is based on expertise which continues to evolve as new information on our natural systems is obtained and new techniques are discovered. The Program, through reconnaissance studies, basin plans, and other special studies, will continuously provide valuable information on the existing problems and areas of the natural drainage system that need special protection. The City-city is researching and developing methods to protect the natural drainage system through zoning, buffering and setbacks to alleviate existing problems. Setback and buffering measures allow natural preservation of wetlands and stream corridors to occur, alleviate erosion and water pollution, and provide a safe environment for the small mammals and fish which inhabit sensitive areas. Based upon the findings in this subsection, and as information and methods become available, the Director, as appropriate shall draft and submit to the Council, regulations and development standards to allow protection of the surface and storm surface water management system including natural drainage systems.

(14) -The Program will maintain long term fiscal viability and fund solvency for all of its related funds. The Program's approach to financial reporting and disclosure will be comprehensive, open and accessible.

(15) -The Program shall prepare an annual, multiyear capital improvement program which encompasses all of the Program's activities related to the acquisition, construction, replacement, or renovation of capital facilities or equipment. All proposed new facilities will be subject to a consistent and rigorous needs analysis. The Program's capital facilities will be planned and financed to ensure that the benefits of the facilities and the costs for them are balanced over time.

Section 12. Amendment of Section 13.10.500 BMC (Inspection and Sampling). Section 13.10.500 of the Burien Municipal Code is hereby amended to read as follows:

13.10.500 Inspection and sampling.

(1) Inspections for compliance with the provisions of this chapter shall be allowed as follows:

- (a) Construction and Development Inspection. The Director or designee shall have access to any site for which a permit as listed in Section 13.10.130 has been issued, during regular business hours, for the

purpose of review of erosion control practices and stormwater facilities, and to insure compliance with the terms of such permit. Applicants for any such permit shall agree in writing, as a condition of issuance thereof that such access shall be permitted for such purposes. Inspection procedures shall be as outlined in Section 13.10.500(2).

- (b) Inspection for Cause. Whenever there is cause to believe that a violation of this chapter has been or is being committed, the Director or designee is authorized to inspect the property during regular business hours, and at any other time reasonable ~~in~~ given the circumstances. Inspection procedures shall be as outlined in Section 13.10.500(2).
- (c) Inspection for Maintenance and Source Control Best Management Practices. The Director or designee may inspect stormwater facilities in order to ensure continued functioning of the facilities for the purposes for which they were constructed, and to ensure that maintenance is being performed in accordance with the standards of this chapter and any maintenance schedule adopted during the plan review process for the property. The Director also may enter the site for the purposes of observing source control best management practices. The property owner or other person in control of the site shall allow any authorized representative of the Director or designee access during regular business hours, or at any other time reasonable in the circumstances, for the purpose of inspection, sampling, and records examination.

(d) Drainage Pipeline Video Inspection for New and Re-development. The property owner or the applicant shall conduct video inspection of the newly constructed or modified drainage systems that are equal or larger than an 8 inch diameter pipe. The city may require pipeline video inspection for ~~the~~ a pipe smaller than 8 inches pipe. The applicant or property owner shall be responsible for the cost of ~~V~~ video inspections.

(2) Inspection Procedure. Prior to making any inspections, the ~~D~~irector or designee shall present identification credentials, state the reason for the inspection, and request entry of the owner or other person having charge or control of the property, if available, or as provided below.

- (a) If the property or any building or structure on the property is unoccupied, the Director or his designee shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portions of the property and request entry.
- (b) If, after reasonable effort, the Director or his designee is unable to locate the owner or other person(s) having charge or control of the property, and has reason to believe the condition of the site or of the surface and storm water drainage system creates an imminent hazard to persons or property, the inspector may enter.

(3) Water sampling and analysis for determination of compliance with this chapter shall be allowed as follows:

- (a) Sample Collection. When the Director has reason to believe that a violation exists or is occurring on a property, the Director shall have the authority to set up on the site such devices as are necessary to conduct sampling, inspection, compliance monitoring, or flow measuring operations.
- (b) Sample Analysis. Analysis of samples collected during investigation of potential violations shall be analyzed by a laboratory certified by the State Department of Ecology as competent to perform the required analysis using standard practices and procedures.
- (c) Cost of Sample Collection and Analysis. If it is determined that a violation of this chapter exists on the site, the owner of the property shall pay the City's actual costs for collecting samples and for laboratory analysis of those samples. If it is found that a violation does not exist, the City will pay such charges.
- (d) Establish a sampling plan. If it is determined that a violation of the chapter exists, the Director may require the property owner or applicant to prepare a Monitoring and Sampling Plan to assure that compliance is occurring. The Monitoring and Sampling Plan shall be approved by the Director prior to implementation.

Section 13. Amendment of Section 13.10.510 BMC (Enforcement - Violations). Section 13.10.510 of the Burien Municipal Code is hereby amended to read as follows:

13.10.510 Enforcement - violations.

The provisions set forth in this section shall apply to all violations of this chapter or the sSurface wWater dDesign mManual and the Stormwater Pollution Prevention Manual. 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 8.45 and 9.75 of this code 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 13.10.510 BMC and Section 13.10.520 BMC.
- (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 Section 13.10.510(5).
 - (c) Appeal. An order to cease activity may be appealed in like manner as a notice of civil infraction under Section 13.10.510(5). 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~~ assignee 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; ~~and~~
 - (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 Section 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, ~~on which 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:
 - (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; ~~and~~.

- (iii) Extension. Upon written request received prior to the correction date or time, the ~~pPublic wWorks~~ 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 ~~either of~~ 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 Sections 13.10.510(3) and 13.10.510(4), 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 Section 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 Section 13.10.510(5)(e).
- (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 ten 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 ten 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 ~~h~~Hearing ~~e~~Examiner finds that the appeal is frivolous or intended solely to delay compliance.
 - (iv) The hearing before the ~~h~~Hearing ~~e~~Examiner shall be conducted as follows:
 - i. The office of the Hearing Examiner shall give notice of the hearing before the Hearing Examiner to the appellant seventeen calendar days before such hearing; ~~and-~~

- ii. 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:
 - i. Whether the intent of the appeal was to delay compliance; ~~or~~
 - ii. Whether the appeal is frivolous; ~~or~~
 - iii. 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; ~~or~~
 - iv. Whether the appellant exercised reasonable and timely effort to comply with applicable development regulations; ~~and~~
 - v. ~~-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 twenty-one 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.
- (6) Criminal. Any willful violation of the provisions of this chapter is deemed a misdemeanor unless a more exacting charge is allowed by law.

Section 14. Amendment of Section 13.10.520 BMC (Enforcement - Penalties). Section 13.10.520 of the Burien Municipal Code is hereby amended to read as follows:

13.10.520 Enforcement – 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 in the Burien Municipal Court 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.

(A)

Monetary Penalty. The amount of the monetary penalty per day or portion thereof for each violation of this chapter is as follows:

- (1) 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 an appeal was filed pursuant to Section 13.10.510(5)(e), within seven calendar days of the Hearing Examiner's decision.
- (2) 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.
- (3) In the event of failure to appear at a hearing as provided in Section 13.10.510(5)(e), the Hearing Examiner shall assess the monetary penalty prescribed and a penalty of twenty-five dollars.
- (4) In the event of a conflict between this chapter and any other provision of this code of City ordinances providing for a civil penalty, this chapter shall control.

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.

Section 15. Severability. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the

validity of the remaining provisions thereof provided the intent of this Ordinance can still be furthered without the invalid provision.

Section 16. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.

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

CITY OF BURIEN

Joan McGilton, Mayor

ATTEST/AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Chris Bacha
Kenyon Disend, PLLC
Interim City Attorney

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