

# CITY OF BURIEN, WASHINGTON

## ORDINANCE NO. 587

---

**AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON,  
AMENDING TITLE 19 OF THE BURIEN MUNICIPAL CODE  
RELATED TO MULTI-FAMILY RECREATIONAL SPACE  
DEVELOPMENT REGULATIONS IN THE DOWNTOWN  
COMMERCIAL ZONE, PROVIDING FOR SEVERABILITY, AND  
ESTABLISHING AN EFFECTIVE DATE.**

---

WHEREAS, in June, 1999, the City of Burien adopted a zoning code establishing zoning regulations for the City of Burien; and

WHEREAS, the City desires to amend BMC Title 19 modifying the standards to provide common and private recreational space for multi-family and mixed use developments in the Downtown Commercial Zone; and

WHEREAS, the City provided the proposed zoning amendments to the Washington State Department of Commerce and did not receive any comments during the 60-day notice and comment period; and

WHEREAS, the SEPA Responsible Official issued a Determination of Non-Significance on July 18, 2013; and

WHEREAS, the Planning Commission had three public meetings and conducted a public hearing to receive public comments on August 14, 2013; and

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

WHEREAS, the City Council held a public meetings on September 16, 2013 and September 23, 2013 to review and discuss the proposed amendments; and

WHEREAS, the Planning Commission and City Council evaluated the proposed zoning code amendments and confirmed they comply with the decision criteria for zoning code amendments of BMC 19.65 and attached hereto as Exhibit B.

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

Section 1: Amendments to BMC Title 19. The City Council of the City of Burien hereby amends BMC Title 19 as shown on Exhibit A incorporated by reference as if fully set forth herein.

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

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

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

**ADOPTED** BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THIS 23<sup>RD</sup> DAY OF SEPTEMBER, 2013, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 23<sup>RD</sup> DAY OF SEPTEMBER, 2013.

CITY OF BURIEN  
/s/ Brian Bennett, Mayor

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

Approved as to form:  
/s/ Ann Marie Sotto, Acting City Attorney

Filed with the City Clerk: September 10, 2013  
Passed by the City Council: September 23, 2013  
Ordinance No. 587  
Date of Publication: September 26, 2013

## ORDINANCE 587 EXHIBIT A

### 19.17.010 Multi-Family Recreation Space

1. New developments of 4 *multiple family dwelling units* or more shall provide a minimum of 200 square feet of required common recreation space per *dwelling unit*. The required common recreation space shall be in one or more areas on site that are available and accessible to all residents of the development.

A. Not more than 50% of the required common recreation space shall be indoors. Such areas must be located, designed and improved in a manner that provides recreational opportunities functionally equivalent to those recreational opportunities available outdoors.

B. At least 50% of the required common recreation space shall be designed and improved as play space for preadolescent children--environments that are designed to support and suggest activities that are an essential part of a child's learning and development (social, emotional, cognitive, and physical). Unless otherwise approved by the *Director*, required play space for children shall be accessible from all *dwelling units* by pedestrian paths separate from vehicular areas. The requirement for play space for children shall not apply to developments devoted exclusively to senior citizens.

C. An area designated as required common outdoor recreation space shall:

- i. Have a minimum size of 800 square feet and minimum width and depth of 25 feet.
- ii. Not be located in the following *critical areas* or their *buffers*: *wetlands*, *streams*, and *flood hazard areas*.
- iii. Be of a grade and surface suitable for recreation.
- iv. Be centrally located and accessible and convenient to all residents within the development.
- v. Be connected by path, walkway or separated walkway across a parking area to any adjacent existing or planned public park, open space or trail system.
- vi. Not be used for driveways, parking or other vehicular use. Adequate *fence* and/or plant screening, as approved by the *Director*, shall be provided to separate outdoor recreation areas from vehicular areas.
- vii. Not be located in the required front *setback* or in an *interior setback* abutting a *single-detached dwelling unit* or *single family residential zone*.

2. All new developments shall provide a minimum of 80 square feet of outdoor private recreation space if provided as a patio and 60 square feet of outdoor private recreation space if provided as a deck or balcony, for each multiple family dwelling unit.

A. An area designated as required private outdoor recreation space shall:

- i. Have a minimum width and depth of 8 feet for patios and 6 feet for decks or balconies.
- ii. Not be located in the following critical areas or their buffers: wetlands, streams, or flood hazard areas.
- iii. Be of a grade and surface suitable for recreation.
- iv. Be adjacent to and directly accessible from the corresponding dwelling unit.
- v. Not be used for driveways, parking or other vehicular use. Adequate fence and/or plant screening, as approved by the Director, shall be provided to separate outdoor recreation areas from vehicular areas.
- vi. Not be located in the required front setback or in an interior setback abutting a single-detached dwelling unit or RS zone. [Ord. 437 § 12, 2005, Ord. 273 § 1, 1999]

B. Private and common recreation space in the downtown commercial (DC) zone.

i. **Common Recreation Space:** In the downtown commercial zone the total amount of required ~~private and~~ common recreation space shall be provided as follows:

Minimum 170 square feet per three or more bedrooms unit;

Minimum 130 square feet per two bedrooms unit; and

Minimum 100 square feet per one bedroom unit; and

Minimum 85 square feet per studio unit;

At least 10 percent of the required common recreation space shall be provided as indoor space including but not limited to exercise, recreation, meeting and hospitality facilities. 260 square feet.

iii.1) Design of common recreation space is subject to the minimum standards set forth in BMC Chapter 19.17.010.1 and/or the design standards set forth in BMC chapter 19.47. The Director may modify the required amount of recreation space as specified in BMC 19.17.010.1.B (play space for preadolescent children), if appropriately sized facilities are provided for the targeted housing market segment, as determined through the development review process. [Ord. 437 § 12, 2005, Ord. 273 § 1, 1999]

Formatted: Font: Bold

Formatted: Indent: Left: 1.31"

**Comment [d1]:** The primary objective is to reduce barriers to development in the downtown zone. The percentage can equate to range of 130 square feet to 100 square feet per unit. Typically less space will be required for a larger sized building. Using a percentage is more equitable when applying the standard to buildings of vastly different scales and is more accommodating to variations in unit size.

**ii. Private Recreation Space:** Private recreation space shall be provided as follows.

Formatted: Indent: Left: 1.31"

Formatted: Font: Bold

~~1) The total recreation space shall be provided on site unless otherwise approved subject to BMC 19.17.010.4.~~

~~2) A minimum of 50% of the total number of dwelling units shall have individual private recreation spaces (decks, balconies or patios) meeting the minimum dimensional standards of 19.17.010.2.B.iii.3. If the calculation results in a fraction the number shall be rounded to the nearest integer. No more than 30 percent of the required private recreation spaces may be in the form of patios. For those units that do not provide private recreation space the private recreation space area (decks, balconies or patios) shall be included in the total required amount of common outdoor recreation space.~~

Comment [d2]: Reducing the percentage further reduces development barriers, however note that this applies to full size rec. spaces, there are other provisions that require other private recreation space, just not at "full" size.

Comment [d3]: Ensures that full size decks are included in the project. This requirement is for building design and other related purposes.

~~2) A majority of the units that do not provide private recreation space as prescribed above shall provide alternative private recreation space. For the purposes of this section alternative private recreation space includes Juliette balconies, decks, balconies or patios and shall have a minimum depth of 12 inches and a minimum length of 6 feet.~~

Comment [d4]: This requirement works in conjunction with, and complimentary to the standard above. In essence, it requires more private spaces, albeit less in overall size per space. The adjustment is to reduce costs of larger decks yet provide more of them to achieve the desired public benefit of private space, openings to the outdoors, building design and eyes on the street.

~~iii.3) Dimensions of private recreation space shall be no less than 48 square feet in area with a minimum width or depth of 5 feet.~~

Formatted: Indent: Left: 1.19"

~~Projects that achieve a calculated residential density of more than 50 units per net acre may reduce the size of private recreation space to 24 square feet in area with a minimum width or depth of 4 feet.~~

Comment [d5]: Adjusts the dimensions to a contemporary standard and reduces costs. Common recreation space will still be required.

Comment [d6]: This is the same threshold that is used to determine if a project qualifies for the 8-12 year multi-family tax exemption.

~~For the purposes of this section achieved residential density shall be calculated using the following method.~~

Comment [d7]: Adjusts the dimensions to a contemporary standard and reduces costs. Common recreation space will still be required.

~~Residential Density =  $\frac{\text{number of units}}{\text{(net lot area X \% of floor area devoted to residential use)}}$~~

~~Dimensions of private recreation space are subject to the minimum standards set forth in BMC Chapter 19.17.010.2.~~

~~iii. Design of common recreation space is subject to the minimum standards set forth in BMC Chapter 19.17.010.1 and/or the design standards set forth in BMC chapter~~

~~19.47. The Director may modify the required amount of recreation space as specified in BMC 19.17.010.1.B (play space for preadolescent children), if appropriately sized facilities are provided for the targeted housing market segment, as determined through the development review process. [Ord. 437 § 12, 2005, Ord. 273 § 1, 1999]~~

~~1) The total recreation space shall be provided on-site unless otherwise approved subject to BMC 19.17.010.4.~~

3. Maintenance of recreation space shall be the responsibility of the owner or other separate entity (such as a homeowners association) capable of long-term maintenance and operation in a manner acceptable to the *Director*.

~~4. Mixed use developments in a Downtown-Commercial (DC) zone containing more than 20 dwelling units may be exempted from the requirements of BMC 19.17.010.1 in whole or in part. The Director may accept a fee in lieu of on-site recreation space for no more than 50% of the space required by this code is to be spent on designated park, recreational or open space resources within the DC zones. [Ord. 437 § 12, 2005, Ord. 273 § 1, 1999]~~

~~5. The fee in lieu of recreation space shall be determined within one month from the adoption of this Code and each year thereafter during January by the following methods:~~

~~A. The Director shall divide the acreage of land in public neighborhood and community parks (including only the playground areas for schools) within the City as defined in the Comprehensive Plan, by the number of dwelling units estimated for the City in the preceding year population estimate by the State of Washington Office of Financial Management. This produces a ratio (denoted P) of needed park acres per dwelling unit.~~

~~B. The applicable fee shall be the number of proposed dwelling units times the average land value per acre as determined by the most recent tax statement on the property, times P times 150%.~~

#### NEW DEFINITION

BMC 19.10.059 Common recreation space - Recreation space within a development or building that is accessible to and available for common use by all residents or groups of residents and their invitees. Examples of common recreation space include but are not limited to the following: courtyards, children's play areas, exercise rooms, gardens, lounges, hospitality rooms and media rooms.

**Comment [d8]:** The section was removed to further reduce development barriers and places emphasis on meeting the minimum requirements as set forth above. The approach was to set minimum standards for recreation space that meet the desired objectives and that more in line with current building and market trends. The recreation space objectives will be met through different approaches. In addition, the fee-in-lieu may not have been in alignment with State law and could have been problematic to manage the collection and proper expenditure of funds received. The City has yet to collect the fee since its inception.

**Formatted:** Level 3, Space Before: 12 pt, After: 0 pt, Line spacing: At least 15.6 pt, Font Alignment: Baseline

**Formatted:** Font: Bold, Underline

**Formatted:** Font: Bold, Underline

**Formatted:** Font: Bold, Underline

**Formatted:** Font: Bold, Underline

# ORDINANCE 587

## EXHIBIT B

Consideration and approval of Zoning Code amendments is addressed in BMC 19.65.100 and BMC 19.65.080 (Type 4 Decisions). The following analyzes compliance with applicable portions of the following code sections.

1. **BMC 19.65.080(2) State Environmental Policy Act (SEPA):** Procedural amendments are categorically exempt from SEPA under WAC 197-11-800 (19). Since the proposed amendments also contain nonprocedural elements, the City completed a SEPA Environmental Checklist and issued a Determination of Non-Significance on July 18, 2013.
2. **BMC 19.65.080.3.a and 19.65.080.4 Public Hearing:** This section requires a public hearing prior to the Planning Commission recommending the amendments to the City Council. A public hearing will be held on August 14, 2013. Notice of the hearing was distributed 14 days in advance of the hearing to the City's Planning Commission interest list, Zoning Code amendment interest list, published in the Seattle Times and posted on the City's website and in City Hall.
3. **BMC 19.65.080.3.b and 19.65.100.4 Decision Criteria:** The Planning Commission must use following criteria in making a recommendation to the City Council:

*A. The amendment is consistent with the Comprehensive Plan.*

Analysis: The proposed Zoning Code amendments relate to encouraging redevelopment in Burien's urban center. This is supported by the following Comprehensive Plan policies:

**Pol. LU 1.4** Encourage a mix of residential, office and commercial uses within Burien's Urban Center to create a vibrant city center that reduces reliance on the automobile and provides a range of housing opportunities.

**Pol. BU 1.5** The *Downtown Commercial* designation fosters a vibrant, compact, pedestrian oriented area by allowing high density residential development, office, retail and commercial uses, government activities, and restaurants, entertainment and cultural uses. Mixed use developments are encouraged, including well-designed townhouses and condominiums, providing a convenient living environment and making the downtown a community focal point and center, as well as a lively place in the evening and on weekends. Residential densities are limited only by physical constraints such as height, bulk, parking and infrastructure capacities. Moderate to high rise buildings, pedestrian amenities and facilities that help define downtown Burien's distinctive qualities are encouraged.....

## LAND USE in 2020

While 20 years ago there were few residences in the downtown, they now are a significant component in the mix of downtown uses. Among the options available are the upper levels of the three-story buildings along Southwest 152nd Street, immersed in the daily hum of activity, or the higher structures to the north, taking advantage of the spectacular views. Restaurants flourish in the downtown, many with regional reputations.

**Pol. HS 1.3** The City should encourage multi-family residential uses in appropriate commercial land use districts, subject to development standards and design guidelines.

**Discussion:** Mixed-use development provides a residential lifestyle that many people find desirable. Residents can minimize transportation costs and travel time by residing in commercial areas close to employment, shopping, and leisure activities. Mixed-use development also provides businesses with consumers in the immediate vicinity. Mixed use can increase the perception of safety in commercial areas by providing “eyes on the street” at all times of the day. Allowing some of the new residential growth to locate in commercial areas will also help to protect the character of existing single family neighborhoods.

**Pol. LU 1.11** The City of Burien designates downtown Burien and its surrounding residential and employment areas as an urban center in accordance with the King County Countywide Planning Policies. The boundaries of the urban center are shown on Figure 2-LU1.11

**Discussion:** The Countywide Planning Policies support development of Urban Centers to meet the region’s needs for housing, jobs services, culture and recreation. An Urban Center is characterized by defined boundaries; a broad array of daytime and nighttime land uses that are transit-supportive; pedestrian emphasis, superior urban design, limitations on single-occupancy vehicles, public open space and recreational opportunities. The Burien Urban Center has these characteristics. The Urban Center designation recognizes existing city policy supportive of compact mixed-use development. The designation will assist the city to obtain funding for transportation improvements necessary to support the planned level of redevelopment.

**Pol. HS 1.16** The City should evaluate its development standards and regulations for effects on housing costs, and, where appropriate, modify development regulations which unnecessarily add to housing costs.

B. *The amendment bears a substantial relation to the public health, safety, or welfare.*

Analysis: All of the amendments are intended to relate to the public health, safety and welfare by being consistent with the Comprehensive Plan.

It is in the best interest of the community's welfare that the City takes proactive steps to further encourage multi-family development where it is desired. By relaxing a development standard that can reduce potential barriers to re-development it will make the downtown zone more appealing area to develop. This zoning designation has been identified as a desirable location for mixed use and higher density multi-family developments because of the availability to transit services and the symbiotic relationship with local businesses, which are related to public health, safety and welfare.

C. *The amendment is in the best interest of the community as a whole.*

Analysis: The proposed amendments will reduce barriers associated with developing multi-family residential buildings in the Downtown Commercial zone. The City is continually working to improve the Zoning Code to guide and encourage development in desired locations. Market forces that affect financial viability of projects have experienced a significant shift and the proposed amendments will allow the City to be more competitive when comparing costs to develop multi-family projects. The downtown area and zone is an area that has been selected as the location for a majority of Burien's housing growth into the future. The downtown area was selected because it has very important traits and fulfills the interests of the community in the following ways: It will be pedestrian friendly and walkable. Most parcels are located within one-quarter mile distance from the transit station or bus route. This encourages use of mass transit and reduces parking demand throughout the downtown and region. More residents in the downtown equate to more economic activity for local businesses.