



**STATE OF WASHINGTON**  
**DEPARTMENT OF SOCIAL AND HEALTH SERVICES**  
**Aging and Long-Term Support Administration**  
**Home and Community Services Division**  
**PO Box 45600, Olympia, WA 98504-5600**

December 10, 2019

Mr. David Johanson, AICP  
Department of Community Development  
City of Burien  
400 SW 152<sup>nd</sup> Street, Suite 300  
Burien, WA 98166

Dear Mr. Johanson:

Thank you for providing information on the City's 2019 Zoning Code Amendments for Enhanced Services Facilities. The Department truly appreciates the City's intent to lift the moratorium on the development of Enhanced Services Facilities (ESF).

We offer the following input on specific elements of the City's proposed zoning changes:

- The City has recognized the importance of access to community services such as transportation, shopping and other community resources for residents of community residential settings such as Enhanced Services Facilities.
- Regarding the "separation from sensitive users", we recognize that ESF residents do not have a need to access schools or daycares and, therefore, some separation would be reasonable. ESF residents likely will access religious facilities, libraries and public parks, however, a separation as suggested in the potential definition would not unnecessarily impede an ESF resident's ability to attend church or visit a park.
- While RCW 70.97.010 (11) is cited in the definition of an ESF (BMC 19.10.141.5), ESFs are not licensed to provide any type of mental health treatment; their focus is providing personal care and services to support residents in the community. We want to make sure there is an accurate understanding that ESFs are a facility type serving individuals with needs for activities of daily living assistance such as bathing, dressing and personal hygiene similar to other long term care facilities and is not a mental health treatment facility.
- RCW 70.97.060(4) states "Nursing homes under chapter 18.51 RCW, assisted living facilities under chapter 18.20 RCW, or adult family homes under chapter 70.128 RCW, that become licensed as facilities under this chapter [as enhanced services facilities] shall be deemed to meet the applicable state and local rules, regulations, permits, and code requirements. All other facilities are required to meet all applicable state and local rules

Mr. David Johanson, AICP  
December 10, 2019  
Page 2

regulations, permits, and code requirements.” While the City of Burien can clearly establish zoning regulations for enhanced services facilities that are not converting from a different license type, where one of the listed facility types converts into an enhanced services facility it is “deemed” to comply with all local laws, including local zoning ordinances. The City should ensure that its ordinance will not impede the ability of an existing facility to convert into an enhanced services facility as allowed by RCW 70.97.060(4).

- The November 8, 2019, memorandum made no mention of the Washington Law Against Discrimination, the Washington Housing Policy Act, or the Federal Fair Housing Amendments Act. Each of these laws provide protections against housing discrimination for individuals with disabilities. We mention this because your 660-foot option in particular appears to severely limit available options to operate an ESF solely because the people served by an ESF have disabilities such as mental illness. An ESF, as stated above, is a facility that provides assistance with personal care services—and it is also a residence for individuals with functional disabilities that need such assistance. We encourage you to examine the law surrounding housing discrimination including the cases of *Sunderland Family Treatment Services v. City of Pasco*, 107 Wn. App. 109, 118, 26 P.3d 955 (2001) and *Children’s Alliance v. City of Bellevue*, 950 F.Supp. 1491 (W.D. Wash. 2005) to ensure that your planned ordinance does not impermissibly discriminate on the basis of disability.

Thank you for the opportunity to provide input on this public process. Please let me know if you have any questions.

Sincerely,



Bea Rector, Director  
Home and Community Services Division

cc: Bill Moss, Assistant Secretary, ALTSA