

EXECUTIVE ORDER No. 2015-3

Establishing Rules for Chief of Police Consideration of Requests for Entry Onto Public Property During Exclusion Periods After Issuance of Trespass Warnings/Exclusion Notices

Whereas, pursuant to Burien Municipal code (BMC) 9.125, Burien police officers are empowered to issue a trespass warning to any individual who the officer has probable cause to believe has violated any city ordinance, state statute, or government rule or regulation, relating to or prohibiting conduct that is dangerous, illegal, or unreasonably disruptive to other users of public property; and

Whereas, BMC 9.125 authorizes graduated warnings accompanied by temporary exclusions from public property based on conduct; and

Whereas, on July 20, 2015, the Burien City Council voted unanimously to adopt Ordinance No. 624, which amends the City's trespass warning code to clarify due process, scope and standards for use of trespass warnings on City and other publicly-owned property; and

Whereas, Ordinance No. 624 directs the City Manager to "establish rules directing the chief of police in the consideration of requests for entries onto public property by the recipient of a trespass warning during a period of exclusion"; to specify objective standards to be used in granting or denying such requests; and to "require a prompt response" to "any request by the recipient of a trespass warning for entry onto public property to exercise his or her First Amendment rights or to conduct government business";

NOW THEREFORE, the City Manager, adopts and promulgates rules and procedures to guide consideration of requests for entry onto public property during exclusion periods after police have issued trespass warnings/exclusion notices; said rules shall be as forth in Exhibit A, attached hereto and incorporated as though set forth herein, which rules and procedures shall be effective upon the date set forth herein.

Exhibit A

Rules and Procedures for Chief of Police Consideration of Requests for Entry Onto Public Property During Exclusion Periods After Issuance of Trespass Warnings/Exclusion Notices

1. Method for requesting entry onto public property during an exclusion period after receiving a trespass warning/exclusion notice

Any person who has received a King County Sheriff's Office and Burien Police Department Trespass Warning/Exclusion Notice for a particular public property, and who, during the exclusion period, wishes to enter onto the same public property from which he or she was excluded, may request entry and have the request promptly considered by the Burien Chief of Police or his designee as long as the following procedures are observed:

- a. During the exclusion period, the recipient of the trespass warning/exclusion notice must either appear at the Burien police station at 14905 – 6th Avenue SW, in Burien and make the request for entry in person, or he/she must call the Main Line for Burien Police Services at (206) 477-2200 and leave a voicemail requesting entry.
 - b. Each request for entry during an exclusion period must be accompanied by the following information (“necessary information for consideration of request for entry”):
 - (i) Contact information at which the requester can be reached.
 - (ii) Date of trespass warning/exclusion notice and name of officer who issued the notice.
 - (iii) Identification of public property and its location from which the requester has been excluded.
 - (iv) What requester intends to do upon entering the public property from which he/she was excluded.
 - (v) Why requester needs to enter the public property during the exclusion period rather than wait until after the exclusion period has ended.
 - (vi) Assurance by the requester that, if permission is granted, he/she will not engage any other person in unwelcome conversation or unwelcome contact, will not interfere with the free passage of any person, nor will obstruct stairways, hallways or ingress or egress to or from a public building.
2. Within one calendar day of receipt of the necessary information for consideration of a request for entry, the Chief of Police or his designee shall consider the request for entry and determine whether to grant or deny such request.

3. If articulated by the recipient of a trespass warning in his/her request for entry, the following purposes shall be deemed sufficient by the Chief of Police or his designee to grant permission to enter the public property from which the requester was excluded:
 - a. To distribute free of charge brochures, pamphlets, leaflets, or other literature to members of the public who use/access the public property;
 - b. To communicate through use of other written messages or through verbal conversation, as long as the conversation is welcome, with members of the public who use/access the public property;
 - c. To gather signatures from registered voters to qualify a measure for the ballot;
 - d. To submit an appeal of a trespass warning/exclusion notice, obtain information about a review hearing of such notice, attend a review hearing, or obtain information about a decision following a review hearing;
 - e. To attend a City Council meeting;
 - f. To vote in an election;
 - g. To conduct time-sensitive business at City Hall – provided that the exclusion notice was not based on conduct that threatened the safety of City or library staff, or members of the public.
 - h. To use library facilities at City Hall - provided that the exclusion notice was not based on conduct that threatened the safety of City or library staff, or members of the public.

4. If the Chief of Police or his designee decides to grant permission to enter despite the exclusion notice, the permission shall be promptly communicated to the Burien police department and to the City Manager via an email and to the requester verbally, and via email or text if functional contact information was provided by the requester. Such communication must be made no later than four hours of reaching a decision. Example:

Subject line of email: Permission for _____ [name of person granted permission] to enter during exclusion period

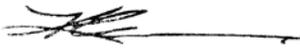
Message in email: Despite exclusion notice issued on _____ [insert date] to _____ [insert name of person granted permission despite exclusion notice], he/she has been granted permission by _____ [Chief of Police or designee] to enter _____ [identify public property/location the person is permitted to enter].

5. If, upon hearing the necessary information for consideration of a request for entry, the Chief of Police or his designee decides to deny permission to enter, the denial shall be promptly communicated verbally to the person requesting entry. If the request was made by leaving a

message, the denial shall be promptly communicated by calling and texting or emailing the person who made the request as long as the requester provided functional contact information to reach him/her. Such communication must be made no later than four hours of reaching a decision.

6. If the request for entry is denied, the requester may appeal the denial to King County Superior Court.

CITY OF BURIEN, WASHINGTON

By:  _____

Title: City Manager _____

Date: August 7, 2015 _____

