



Agenda Bill

City Council Regular Business Meeting - 04 Nov 2019

Department

City Manager

Staff Contact

Chris Craig, Economic Development Manager (206) 436-5579

Agenda Bill Title

Discussion and Potential Action on Ordinance No. 707, Adopting Amendments to the Burien Municipal Code Relating to Noise

Summary**Purpose**

The City of Burien is considering changes to the City's Municipal Code related to noise (BMC 9.105) that would allow more public events to extend into the evening in order to:

- Implement the City of Burien Strategic Plan element: "Enhance the quality and number of community events and celebrations;"
- Respond to event producer requests for extended hours of festival operation; and
- Support businesses by attracting visitors.

Council received a presentation at the October 7, 2019 City Council meeting with information on the community outreach conducted and including draft amendment language for review.

Outreach and Community Feedback

The City provided multiple forms of outreach to Burien residents about the noise regulations and evening entertainment options including surveys, individual meetings, and tabling at the Farmer's Market. Outreach conducted via the city's 2018 community survey showed that the majority of Burien residents as a whole (76%) supported a change to start quiet hours at a later time for special events.

Additionally, in September 2019, a survey notification letter was mailed to 1,095 residential addresses identified inside, and within 500 feet, of the downtown commercial zone. Of the 120 downtown residents that responded, 53% supported a change to start quiet hours at a later time on Fridays and Saturdays for community events in the downtown, while 47% opposed the change.

Options

Option 1: Adopt the proposed Ordinance No. 707, revising the Burien Municipal Code to allow City of Burien permitted special events and parks events located in the "Downtown" – as defined by city zoning codes– between the hours of 9:00 a.m. and 12:00 a.m. (midnight) on Fridays and Saturdays.

Option 2: Provide alternate direction to staff.

Advisory Board Recommendation

The BEDP concurs with the Administration's recommendation.

Administrative Recommendation

The Administration recommends that the Burien Municipal Code Noise Regulations be revised to allow City of Burien permitted special events and parks events located in the “Downtown” – as defined by City zoning codes– between the hours of 9:00 a.m. and 12:00 a.m. (midnight) on Fridays and Saturdays.

Suggested Motion

Move to adopt Ordinance No. 707 approving amendments to the Burien Municipal Code relating to Noise allowing for City of Burien permitted special events and parks events located in the “Downtown” – as defined by city zoning codes– between the hours of 9:00 a.m. and 12:00 a.m. (midnight) on Fridays and Saturdays.

Attachments

[Ordinance 707](#)

[Redlines of Current Code](#)

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 707

**AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, AMENDING
CHAPTER 9.105 OF THE BURIEN MUNICIPAL CODE RELATED TO NOISE,
PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, the City of Burien desires to implement the City of Burien Strategic Plan element: "Enhance the quality and number of community events and celebrations";

WHEREAS, the City desires to amend BMC 9.105 concerning Noise;

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

Section 1. Amendment. BMC 9.105 is amended as set forth in Exhibit A attached hereto and incorporated by this reference as if fully set forth herein.

Section 2. 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 3. 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 publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, AT A REGULAR BUSINESS MEETING THEREOF THIS ____ DAY OF _____, 2019.

CITY OF BURIEN

Jimmy Matta, Mayor

ATTEST/AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Lisa Marshall, City Attorney

Filed with the City Clerk:

Passed by the City Council:

Ordinance No.:

Date of Publication:

Ordinance No. 707 Exhibit A

PUBLIC PEACE, CRIMES RELATING TO

Sections:

- 9.105.100 Public disturbance – Adopted by reference.
- 9.105.200 Disorderly conduct.
- 9.105.300 Violating right of privacy – Adopted by reference.
- 9.105.400 Noise.
- 9.105.410 Public disturbance noise prohibited
- 9.105.420 Exclusions
- 9.105.430 Penalties
- 9.105.440 Downtown area defined

9.105.100 Public disturbance – Adopted by reference.

The following sections of the Washington Criminal Code, as now in effect, and as may subsequently be amended, are adopted by reference to establish crimes relating to public disturbance under the Burien criminal code:

RCW

- 9.27.015 Interference, obstruction of any court, building or residence – Violations.
- 9A.84.010 Riot.
- 9A.84.020 Failure to disperse.
- 9A.84.040 False reporting.

9.105.200 Disorderly conduct.

(1) A person is guilty of disorderly conduct if he or she:

- (a) Uses abusive language and thereby intentionally creates a risk of assault;
- (b) Intentionally disrupts any lawful assembly or meeting of persons without authority;
- (c) Intentionally obstructs vehicular or pedestrian traffic without lawful authority; or
- (d) Fights by agreement, except as part of an organized athletic event.

(2) Disorderly conduct is a misdemeanor.

9.105.300 Violating right of privacy – Adopted by reference.

The following sections of RCW Title 9, as now in effect, and as may subsequently be amended, are adopted by reference to establish crimes relating to violation of the right of privacy under the Burien criminal code:

RCW

- 9.73.010 Divulging telegram.
- 9.73.020 Opening sealed letter.
- 9.73.030 Intercepting, recording or divulging private communication – Consent required – Exceptions.

Ordinance No. 707 Exhibit A

9.73.070 Same – Persons and activities excepted.

9.73.090 Police and fire personnel exempted from RCW 9.73.030 – 9.73.080 – Standards.

9.73.100 Recordings available to defense counsel.

9.105.400 Noise.

9.105.410 Public disturbance noise prohibited.

(1) General Prohibition. It is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, sound that is a public disturbance noise.

(2) Illustrative Enumeration. The following sounds are public disturbance noises in violation of this article:

(a) The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law.

(b) The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine within a residential district, so as to unreasonably disturb or interfere with the peace and comfort of owners or possessors of real property.

(c) Yelling, shouting, whistling or singing on or near the public streets, particularly between the hours of 10:00 p.m. and 8:00 a.m. or at any time and place as to unreasonably disturb or interfere with the peace and comfort of owners or possessors of real property.

(d) The creation of frequent, repetitive or continuous sounds which emanate from any building, structure, apartment or condominium, which unreasonably disturbs or interferes with the peace and comfort of owners or possessors of real property, such as sounds from musical instruments, audio sound systems, band sessions or social gatherings.

(e) Sound from motor vehicle audio sound systems, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than 50 feet from the vehicle itself.

(f) Sound from portable audio equipment, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than 50 feet from the source, and if not operated upon the property of the operator.

(g) The squealing, screeching or other such sounds from motor vehicle tires in contact with the ground or other roadway surface because of rapid acceleration, braking or excessive speed around corners or because of such other reason; provided, that sounds which result from actions which are necessary to avoid danger shall be exempt from this section.

(h) Sounds originating from construction sites, including but not limited to sounds from construction equipment, power tools and hammering, between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and 10:00 p.m. and 9:00 a.m. on weekends; provided, however, the city manager shall have the discretion to issue variances for city of Burien public works projects if the city manager determines, after considering the relative interests of the applicant, other owners or possessors of property likely to be affected by the noise, and the general public, that the noise occurring or proposed to occur does not endanger health and safety of a substantial number of persons.

(i) Sounds originating from residential property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances, including but not limited to sounds from lawnmowers, powered hand tools, snow removal equipment and composters between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and 10:00 p.m. and 9:00 a.m. on weekends.

Ordinance No. 707 Exhibit A

9.105.420 Exclusions.

(1) City of Burien permitted special events and parks events located in the “Downtown” – as defined by city zoning codes and as described in section 9.105.440 of this chapter – between the hours of 9:00 a.m. and 12:00 a.m. (midnight) on Fridays and Saturdays.

(2) Regularly scheduled events at parks, not including parks in the Downtown, such as public address systems for baseball games or park concerts between the hours of 9:00 a.m. and 10:30 p.m.

9.105.430 Penalties.

(1) Any person who violates the provisions of this article shall be subject to a civil fine not to exceed \$250.00 for a first offense. For second and subsequent offenses, the person shall be guilty of a misdemeanor. [Ord. 652 § 1 (Exh. A), 2017; Ord. 365 § 1, 2002; Ord. 63 § 81, 1993]

9.105.440 Downtown area defined.

(1) “Downtown” refers to the areas located within the Downtown Commercial and Special Planning Area 1 zones as defined by city zoning codes and are illustrated below.

