

Appendix H.1: GMA Park Impact Fee

Ordinance Number

An ordinance of the City of Burien, Washington relating to:

- 1) the regulation of the use and development of land in the incorporated areas of the City of Burien, Washington;
- 2) imposing an impact fee on land development in Burien for providing new parks and related facilities necessitated by such new development;
- 3) stating the authority for adoption of the ordinance;
- 4) providing definitions;
- 5) providing findings and declarations of the Council;
- 6) providing for the payment and time of payment of a park impact fee;
- 7) providing for review of park impact fees and fee schedules;
- 8) providing for the establishment of park impact fee service areas;
- 9) providing for the placement of revenue collected from park impact fees into park impact fee trust funds established for that purpose;
- 10) providing for exemptions and credits;
- 11) providing for refund of unexpended funds;
- 12) providing for use of funds derived from park impact fees;
- 13) providing that park impact fees may be pledged toward payment of bond issues and similar debt instruments;
- 14) providing for penalties for violation of this ordinance;
- 15) providing for severability; and
- 16) providing an effective date.

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Section 1: Legislative findings

The City Council of Burien finds, determines, and declares that:

A: In order to meet development requirements and maintain park standards Burien must expand the park, recreation, and open space system. This must be done in order to promote and protect the public health, safety, and welfare.

B: The Washington State Legislature authorized local jurisdictions to enact impact fees through the enactment of the Washington State Growth Management Act - (Chapter 17, Law of 1990, 1st Executive Session, Chapter 36.70A of the Revised Code of Washington (RCW) et sequitur, and Chapter 32 Laws of 1991, 1st Special Session, RCW 82.02.050 et sequitur, as not in existence or as hereafter amended). The Washington State Legislature clarified the basis of fees by including sections on development impact fees (Sections 40-44, 46-48, RCW 82.46.050, RCW 82.46.060, RCW 82.02.050, RCW 82.02.060, RCW 82.02,070, RCW 82.02.080, RCW 82.02.090). The fees are intended to be a means of implementing Goal 12 in Section 2 of the GMA (RCW 36.70A.020) that reads: "...Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and

use without decreasing current service levels below locally established minimum standards."

C: The imposition of impact fees is one of the preferred methods of ensuring that new development bears a proportionate share of the cost of capital facilities necessary to accommodate new growth.

D: Each type of land development described in Section 7 hereof will create demand for the acquisition or expansion of parks and the construction of recreational facilities and other park improvements.

E: The fees established in Section 7 are derived from, based upon, and do not exceed the costs of providing additional park and park improvements necessitated by the new land developments for which the fees are levied.

Section 2: Short title, authority, and applicability

a: This ordinance shall be known and may be cited as the Burien Park Impact Fee Ordinance.

A: The Council of Burien has the authority to adopt this ordinance pursuant to the Washington State Growth Management Act - (Chapter 17, Law of 1990, 1st Executive Session, Chapter 36.70A of the Revised Code of Washington (RCW) et sequitur, and Chapter 32 Laws of 1991, 1st Special Session, RCW 82.02.050 et sequitur, as now in existence or as hereafter amended).

B: This ordinance shall apply to all new residential development submitted after the effective date of this ordinance.

Section 3: Intent and purpose

A: This ordinance is intended to assist in the implementation of the Capital Improvements Program element of the Burien Comprehensive Plan, and to help achieve the goals of the Burien Comprehensive Park, Recreation & Open Space Plan Element therein.

B: The purpose of this ordinance is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide parks, recreation, and open space improvements on Burien.

Section 4: Rules of construction

A: The provisions of this ordinance shall be liberally construed so as to effectively carry out

its purpose in the interest of the public health, safety, and welfare.

B: For the purposes of administration and enforcement, unless otherwise stated in this ordinance, the following rules of construction shall apply to the text of this ordinance:

1) In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.

2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

3) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

4) The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".

5) The word "person" includes an individual, a corporate entity, a partnership, an incorporated association, or any other similar entity.

6) Unless the context clearly indicates the contrary, where a regulation involves 2 or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either...or", the conjunction shall be interpreted as follows:

a) "And" indicates that all the connected terms, conditions, provisions, or events shall apply.

b) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.

c) "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.

7) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

8) Local Official means the official or staff representative the Council may designate to carry out the administration of this ordinance.

Section 5: Definitions

1) Capital improvement - includes park planning, land acquisition, site improvements, buildings, and equipment but excludes maintenance, operation, repair, alteration, or replacement.

2) Capital improvement program (CIP)

- a 6 year plan that is annually updated and approved by the Council to finance the development of capital facilities necessary to support the population projected within Burien over the 6 year projection period. As defined in the GMA, the capital improvement program will include:

a) forecast of future needs for park facilities;

b) identification of additional demands placed on existing public facilities by new development;

c) long-range construction and capital improvement projects of the City;

d) parks under construction or expansion;

e) proposed locations and capacities of expanded or new park facilities;

f) inventory of existing park facilities;

g) at least a 6 year financing component, updated as necessary to maintain at least a 6-year forecast period, for financing needed for park facilities within projected funding levels, and identifying sources of financing for such purposes, including bond issues authorized by the voters; and

h) identification of deficiencies in park facilities and the means by which existing deficiencies will be eliminated within a reasonable period of time.

In accordance with GMA requirements, the current 6 year Capital Facilities Program (CFP) will identify all projects that are to be included in the calculation of existing levels-of-service (ELOS) for the purposes of identifying a growth impact fee assessment.

3) City - the City of Burien, Washington.

4) Comprehensive Park, Recreation & Open Space Plan - Burien - the planning document that includes a park and recreation inventory, facility demand, policy and guidance on developing regional/city-wide and local park and recreation facilities.

5) Developer - the person or entity that owns or holds purchase options or other development control over property for which development activity is proposed.

6) Development activity - any construction or expansion of a building, structure, or use, any change in use of a

building or structure, or any change in the use of land, that creates additional demand for park and recreational facilities (GMA, Section 48, RCW 82.090).

7) Development approval - any written authorization from a county, city or other municipal jurisdiction that authorizes the commencement of development activity.

8) Elderly - a person aged 62 or older.

9) Encumbered - impact fees identified by the City as being committed as part of the funding for a park facility for which the publicly funded share has been assured or building permits sought or construction contracts let.

10) Environments and facilities - regional/city-wide - have:

- a) significant physical qualities,
- b) historical, cultural or social values,
- c) are not duplicated elsewhere in the city,
- d) are of city-wide interest, and
- e) are accessible to residents of the city by trails, park features or local roads.

Regional/city-wide facilities may:

- a) have high population participation rates,
- b) have high user volumes,
- c) benefit residents of a number of neighborhoods including adjacent jurisdictions,
- d) involve joint ventures,
- e) represent the ultimate competition level play facility,
- f) have no or low user fee recapture opportunities,
- g) have unique location requirements that require regional coordination, and
- h) be activities for which there are no other logical or available sponsors.

11) Environments and facilities - local - have:

- a) significant character,
- b) local historical or social values, but
- c) are duplicated elsewhere within the city, though

not elsewhere within the local area, and
d) are of local rather than city-wide interest.

Local facilities:

- a) have significant but not high user participations,
- b) are oriented to local user preferences,
- c) are limited in appeal,
- d) are developed to minimum levels of playing skill or competition,
- e) provide no or low fee recapture potentials,
- f) are not subject to special siting considerations, and
- g) have a number of other public and private sponsors.

12) Growth impact requirement - caused by population increases created by new developments determined by:

- a) calculating** - the inventory of existing park and recreational lands and facilities [optionally including funded projects listed within the current Capital Facilities Program (CFP)],
- b) dividing** - by the existing population in order to determine the existing level-of-service (ELOS),
- c) multiplying** - by the population estimated to be created by the development project (per person or housing unit),
- d) multiplying** - by the estimated land and facility acquisition and development cost or value for each kind of land and facility unit, in order
- e) to determine** - the composite level-of-service (LOS) value or cost required per person (or housing unit) by the composite development project in order to sustain the existing level-of-service (ELOS).

The growth impact requirement will differentiate the proportional impact (cost or value) required to sustain regional or city-wide facilities and local facilities.

13) Growth impact fee assessment - a payment of money imposed upon development as a condition of development approval to pay for:

- a) public facilities needed to serve new growth and development,
- b) that is reasonably related to the new development that creates additional demand for public facilities,
- c) that is a proportionate share of the cost of the public facilities, and
- d) that is used for facilities that reasonably benefit the new development.

Park impact fees will be a proportionate amount (less than 100%) of the land acquisition and facility development value or cost required to sustain the existing level-of-service (ELOS) as a result of new development.

The assessment fee proportion of the actual impact (as defined in item 5 above) will be determined on an annual basis by the Council. The Council will review and consider projected park and recreation facility requirements, funding capabilities and trends, citizen preferences concerning park improvement financing, and other issues when determining the proportionate amount to be charged new developments.

The growth impact fee assessment will include a proportionate amount:

- a) for regional or city-wide facilities** - that may be distributed amongst other park providers for the creation of a city-wide system of park and recreation facilities on a city-wide basis; and
- b) a local facilities** - that may be distributed amongst or jointly invested by Burien and other park providers for the creation of local facilities servicing the residents of Burien neighborhoods.

Park growth impact fees do not include reasonable permit or application fees or charges.

14) Growth impact fee - schedule - the table of impact fees to be charged per unit of development as computed by the formula adopted under this ordinance, and indicating the standard fee amount per dwelling unit type to be paid as a condition of development within the city.

15) Improvements - project - site improvements and facilities planned and designed to provide service for a particular development project. Project improvements are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. Project improvement examples include the construction of water and sewer lines or interior roads that serve only the structures and occupants located within the development.

No improvement or facility in a Capital Facilities Program (CFP) approved by the City Council shall be considered a project improvement. The developer normally pays project improvements as a condition of development approval. Project improvements are not financed with public funds nor included within the City's Capital Improvements Program and development impact fees.

16) Improvements - system - public facilities designed to serve areas within the community at large, in contrast to project improvements designed to service occupants of a particular development project or site. System improvement examples include collector or arterial roads, schools, and parks.

Systems improvements are financed with public funds in accordance with the City's Capital Facilities Program (CFP). An impact fee may be imposed for a system improvement only if the improvement is included within Burien's Capital Facilities Program (CFP).

17) Level-of-service - existing/proposed (ELOS/PLOS) - the ratio of park and recreation land and facility units (acres, fields, square feet, etc) to the number of persons in the population (expressed as a unit per 1,000 persons).

The existing level-of-service (ELOS) includes all park and recreation land and facility units that have been improved to the present time and funded for improvement within the current (existing) time period specified in the Capital Facilities Program (CFP).

The proposed level-of-service (PLOS) includes park and recreational land and facility units that are intended to be added to the current inventory over Burien's Comprehensive Park, Recreation & Open Space Plan's time period (20 years) to improve upon existing standards.

Growth impact fees are to be imposed on new developments in order to finance the development of additional facilities necessary to maintain the existing level-of-service (ELOS) as a result of the additional population requirements created by new development.

Existing and proposed level-of-service (ELOS/PLOS) requirements will be estimated:

- a) for regional or city-wide facilities - that may be distributed amongst other park providers for the creation of a city-wide system of park and recreation facilities on a city-wide basis, and
- b) local facilities - that may be distributed amongst or jointly invested by Burien and other park providers for the creation of local facilities servicing the residents of Burien neighborhoods.

18) Owner - the owner of record of real property, although when real property is being purchased under a real estate contract, the purchaser shall be considered the owner of the real property if the contract is recorded.

19) Previously incurred system improvements - system projects that were accomplished that will serve new growth and development. Impact fees can be imposed on an adjacent development to recover a proportionate share of the money Burien spent or previously incurred to provide for the future demand that the adjacent development now requires.

20) Prior system deficiencies - are improvements that are necessary to expand the existing system to meet current level-of-service (LOS) requirements. Impact fees may not be used for prior system deficiencies or for improvements that do not benefit or serve new growth.

21) Private recreational facility - are any recreational facility that is not owned by or dedicated to any public or governmental entity.

22) Proportionate share - that portion of the cost of public facility improvements that are reasonably related to the service demands and needs of new development.

23) Public facility - the following capital facilities owned or operated by government entities:

- a) public streets and roads,
- b) publicly owned parks, open space, and recreation facilities,
- c) school facilities, and
- d) fire protection facilities in jurisdictions that are not part of a fire district.

24) Service areas - regional/local park and recreational - a geographic area in which a defined set of public facilities provide service to the population within the area. Park and recreational lands, facilities, and services will be provided under a tiered approach that includes:

- a) a regional or city-wide system that will be organized on a city-wide basis; and
- b) a local system that may be organized on a neighborhood basis.

Separately calculated growth impact fee assessments and Capital Facilities Program (CFP) projects may support each type of facility.

Section 6: Imposition of park impact fee

A: Any person or entity who, after the effective date of this ordinance seeks to develop land within Burien by applying for a building permit for a residential building or permit for residential mobile home installation, is hereby required to pay a park impact fee in the manner and amount set forth in this ordinance.

B: No new residential building permit or new permit for residential mobile home installation for any activity requiring payment of an impact fee pursuant to Section 7 of this ordinance shall be issued unless and until the park impact fee hereby required has been paid.

C: No extension of a residential building permit or permit for residential mobile home installation issued prior to the effective date of

this ordinance for any activity requiring payment of an impact fee pursuant to Section 7 of this ordinance shall be granted unless and until the park impact fee hereby required has been paid.

Section 7: Computation of the park impact fee amount

A: Schedule - the regional/city-wide and local park impact fee value per person shall be determined in accordance with Section 5: Definition items 4, 5 and 6 as defined above and documented in Attachment A to this ordinance.

1) If a building permit is requested for mixed uses, then the fee shall be determined using the above schedule by apportioning the space committed to uses specified on the schedule.

2) If the type of development activity that a residential building permit is applied for is not specified on the above fee schedule, the Local Official shall use the fee applicable to the most comparable type of land use on the above fee schedule. The Local Official shall be guided in the selection of a comparable type by the Burien Comprehensive Plan, supporting documents of the Burien Comprehensive Park, Recreation & Open Space Plan, and the Burien Zoning Ordinance. If the Local Official determines that there is not a comparable type of land use on the above fee schedule then the Local Official shall determine the appropriately discounted fee by considering demographic or other documentation that is available from state, local, and regional authorities.

3) In the case of change of use, redevelopment, or expansion or modification of an existing use that requires the issuance of a building permit or permit for mobile home installation, the impact fee shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use. The Local Official shall be guided in this determination by the source and agencies listed above.

B: Calculation - if a developer opts not to have the impact fee determined according to Paragraph A of this section, then:

1) The developer shall prepare and submit to the Local Official an independent fee calculation study for the land development activity for which a building permit or permit for mobile home installation is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made.

2) The Local Official shall consider the documentation submitted by the developer but is not required to accept such documentation as he/she shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the developer to submit additional or different documentation for consideration.

3) If an acceptable independent fee calculation study is not presented, the developer shall pay park impact fees based upon the schedule shown in Paragraph A of this section.

4) If an acceptable independent fee calculation study is presented, the Local Official may adjust the fee to that appropriate to the particular development. The adjustment may include a credit against the fee otherwise payable up to --- percent for private recreational facilities constructed or deed restricted or otherwise set aside for recreational purposes by the developer that serve the same purposes and functions as set forth for public parks in the Burien Comprehensive Park, Recreation & Open Space Plan Element.

5) In cases where the developer requests an independent fee calculation, the costs of such calculation shall be borne by the developer.

C: Appeals

1) Determinations made by the Local Official pursuant to this section may be appealed to the Council by filing a written request with the Local Official within 10 days of the Official's determination.

2) Any appeal of the decision of the City with regard to fee amounts shall follow the process for the appeal of the underlying development activity, as set forth in the Burien Municipal Code.

3) Impact fees may be paid under protest in order to obtain a permit or other approval of development activity.

Section 8: Payment of fee

A: Impact fees shall be imposed upon development activity in the City, based upon the schedule set forth in this ordinance, and may be collected by the City from any applicant where such development activity requires final plat, PUD approval, issuance of a residential building permit or a mobile home permit and the fee for the lot or unit has not been previously paid.

B: For a plat or PUD applied for on or after the effective date of this ordinance, 50% of the impact fees due on the plat or the PUD shall be

assessed and collected from the applicant at the time of final approval, using the impact fee schedule in effect when the plat or PUD was approved. The balance of the assessed fee shall be allocated to the dwelling units in the project, and shall be collected when the building permits are issued. Residential development proposed for short plats shall not be governed by this section, but shall be governed by subsection D below.

C: If on the effective date of this ordinance, a plat or PUD has already received preliminary approval, such plat or PUD shall not be required to pay 50% of the impact fees at the time of final approval, but the impacts fees shall be assessed and collected from the lot owner at the time the building permits are issued, using the impact fee schedule then in effect. If on the effective date of this ordinance, an applicant has applied for preliminary plat or PUD approval, but has not yet received such approval, the applicant shall follow the procedures set forth in subsection B above.

D: For existing lots or lots not covered by subsection B above, application for single family and multifamily residential building permits, mobile home permits, and site plan approval for mobile home parks proposed, the total amount of the impact fees shall be assessed and collected from the applicant when the building permit is issued, using the impact fee schedules then in effect.

E: Any application for preliminary plat or PUD approval or multifamily zoning which has been approved subject to conditions requiring the payment of impact fees established pursuant to this ordinance shall be required to pay the fee in accordance with the conditions of approval.

F: Arrangement may be made for later payment of the impact fee with the approval of the City only if the City determines that it will be unable to use or will not need the payment until a later time, provided that sufficient security, as defined by the City, is provided to assure payment. Security shall be made to and held by the City, which will be responsible for tracking and documenting the security interest.

Section 9: Park impact fee service areas

A: Regional/city-wide service area - a single park impact fee service area will be created for regional or city-wide park and recreational facilities to include the entire city.

B: Local service areas - local park and recreation facilities will be located in neighborhood service areas which may be oriented around neighborhood parks, elementary and middle schools, and similar sites. There may be multiple local service areas within the city depending on residential neighborhood boundaries and the location of proximate or nearby sites and facilities.

Section 10: Park impact fee trust funds established

A: All funds collected shall be promptly transferred for deposit in a park impact fee interest-bearing trust fund to be held in separate account as determined by Section 10 of this ordinance and used solely for the purposes specified in this ordinance.

1) A separate park impact fee trust fund is hereby created for regional/city-wide park and recreational facilities to include the entire city.

2) A separate impact fee trust fund will also be created for local park and recreational facilities to include neighborhoods within the city.

B: Funds withdrawn from these accounts must be used in accordance with the provisions of section 11 of this ordinance.

Section 11: Use of funds

A: Funds collected from park impact fees shall be used solely for the purpose of acquiring and/or making capital improvements to regional/city-wide or local parks under the jurisdiction of Burien, and shall not be used for maintenance or operations.

B: Funds shall be used exclusively for acquisitions, expansions, or capital improvements within the regional/city-wide or local park impact fee service areas. Funds shall be expended in the order in which they were collected.

C: In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which park impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in Paragraph A above and are located within the appropriate impact fee service areas created by Section 9 of this ordinance or as provided in Paragraph B of this section.

D: Impact fees for system improvements shall be expended by the City only in conformance with the Capital Facilities Program (CFP).

E: Impact fees shall be expended or encumbered by the City for a permissible use within 6 years of receipt by the City, unless there exists an extraordinary or compelling reason for fees to be held longer than 6 years. The City Council shall identify the City's extraordinary and compelling reasons for the fees to be held longer than 6 years in the Council's own written findings.

F: At least once each fiscal period the Local Official shall present to the Council a proposed capital facility program (CIP) for parks, assigning funds, including any accrued interest from the several park impact fee trust funds to specific park improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same park impact fee trust funds until the next fiscal period, except as provided by the refund provisions of this ordinance.

G: Funds may be used to provide refunds as described in Section 12.

H: Burien shall be entitled to retain not more than ____ percent of the funds collected as compensation for the expense of collecting the fee and administering this ordinance.

Section 12: Refunds of fees paid

A: If a residential building permit or permit for residential mobile home installation expires without commencement of construction, then the developer shall be entitled to a refund, with interest, of the impact fee paid as a condition for its issuance except that Burien shall retain a percent of the fee to offset a portion of the costs of collection and refund. The developer must submit an application for such a refund to the Local Official within 30 days of the expiration of the permit.

B: Any funds not expended or encumbered by the end of the calendar quarter immediately following 6 years from the date the park impact fee was paid shall, upon application by the current landowner, be returned to such landowner with interest at the interest rate accrued in the trust fund account, provided that the landowner submits an application for a refund to the City of Burien within 1 year of the expiration of the 6 year period.

C: Any impact fees that are not expended or encumbered by the City in conformance with the Capital Facilities Program (CFP) within these time limitations, and for which no application for a refund has been made within this 1 year period, shall be retained and expended consistent with the provisions of this section.

D: Interest due upon the refund of impact fees required by this section shall be calculated according to the average rate received by the City on invested funds throughout the period during which the fees were retained.

Section 13: Exemptions

The following development activities shall be exempted from payment of impact fees:

A: Reconstruction, remodeling or construction

- of the following facilities, subject to the recording of a covenant or recorded declaration of restrictions precluding use of the property for other than the exempt purpose. Provided that if the property is used for a nonexempt purpose, then the park impact fees then in effect shall be paid:

1) Shelters or dwelling units for temporary placement which provide housing to persons on a temporary basis for not more than 4 weeks.

2) Construction or remodeling of transitional housing facilities or dwelling units that provide housing to persons on a temporary basis for not more than 24 months, in connection with job training, self-sufficiency training and human services counseling - the purpose of which is to help persons make the transition from homelessness to placement in permanent housing.

B: Rebuilding or replacement - of a legally established dwelling unit(s) destroyed or damaged by fire, flood, explosion, act of God or other accident or catastrophe provided that such rebuilding takes place within a period of 1 year after destruction with a new building or structure of the same size and use.

C: Alteration or expansion:

1) of an existing building where no additional residential units are created and where the use is not changed, and/or

2) the construction of accessory buildings or structures.

D: Mobile home where:

1) The installation of a replacement mobile home on a lot or other such site when a park impact fee for such mobile home site has previously been paid pursuant to this ordinance or where a mobile home legally existed on such site on or prior to the effective date of this ordinance.

2) The construction of any nonresidential building or structure or the installation of a nonresidential mobile home.

Any claim or exemption must be made no later than the time of application for a building permit or permit for mobile home installation. Any claim not so made shall be deemed waived.

E: Condominium projects - in which existing dwelling units are converted into condominium ownership where no new dwelling units are created.

F: Previous mitigation where:

1) The development activity is exempt from the payment of an impact fee pursuant to RCW 82.02.100, due to mitigation of the same system improvement under the State Environmental Policy Act (SEPA).

2) The development activity for which park impacts have been mitigated pursuant to a condition of plat or PUD approval to pay fees, dedicate land or construct or improve park facilities, unless the condition of the plat or PUD approval provides otherwise - provided that the condition of the plat or PUD approval predates the effective date of fee imposition as provided herein.

3) Any development activity for which park impacts have been mitigated pursuant to a voluntary agreement entered into with the City to pay fees, dedicate land or construct or improve park facilities, unless the terms of the voluntary agreement provide otherwise - provided that the agreement predates the effective date of fee imposition as provided herein.

Section 14: Credits

Park land and/or park capital improvements may be offered by the developer as total or partial payment of the required impact fee. The offer must specifically request or provide for a park impact fee credit. If the Local Official accepts such an offer, whether the acceptance is before or after the effective date of this ordinance, the credit shall be determined and provided in the following manner:

A: Credit for the dedication of land shall be valued at 100 percent of the most recent assessed value by the County Property Appraiser; by such other appropriate method as the Council may have accepted prior to the effective date of this ordinance for particular park improvements; or by fair market value established by private appraisers acceptable to Burien. Credit for the dedication of park land shall be provided when the property has been conveyed at no charge to, and accepted by, --- in a manner satisfactory to the Council.

B: Applicants for credit for construction of park improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the Local Official. The Local Official shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the Local Official determines that such estimates submitted by the applicant are either unreliable or inaccurate. The Local Official shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating their agreement to the terms of the letter or certificate and return such signed document to the Local Official before credit will be given. The applicant's failure to sign, date, and return such document within 60 days shall nullify the credit.

C: Except as provided in Subparagraph 4) below, credit against impact fees otherwise due will not be provided until:

- 1) The construction is completed and accepted by _____;
- 2) A suitable maintenance and warrant bond is received and approved by the _____ of _____, when applicable.

D: Credit may be provided before completion of specified park improvements if adequate assurances are given by the applicant that the standards set out in Subparagraph 3) above will be met and if the developer posts security as provided below for the costs of such construction. Security in the form of a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with and approved by the _____ of _____ in an amount determined by the Local Official. If the park construction project will not be constructed

within 1 year of the acceptance of the offer by the Local Official, the amount of the security shall be increased by 10% compounded for each year of the life of the security. The security shall be reviewed and approved by the _____ prior to acceptance of the security. If the park construction project is not to be completed within 5 years of the date of the developer's offer, the Council must approve the park construction project and its scheduled completion date prior to the acceptance of the offer by the Local Official.

E: Any claim for credit must be made no later than the time of application for a building permit or permit for mobile home installation. Any claim not so made shall be deemed waived.

F: Credits shall not be transferable from one project or development to another without the approval of the Council and may only be transferred to a different development upon a finding by the Council that the dedication for which the credit was given benefits the different impact fee service area.

G: Determinations made by the Local Official pursuant to this paragraph may be appealed to the Council by filing a written request with the Local Official within 10 days of the Official's determination.

Section 15: Review

The fee schedule contained in Section 7A shall be reviewed by the Council at least once each fiscal year. The review shall occur in conjunction with any update of the Capital Facilities Program (CFP) element of the City's Comprehensive Plan - provided, that failure to conduct this review shall not invalidate the fee schedule previously adopted.

Section 16: Penalty provision

A violation of this ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to law; however, in addition to or in lieu of any criminal prosecution Burien shall have the power to sue in civil court to enforce the provisions of this ordinance.

Section 17: Severability

If any section, phrase, sentence, clause or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent

provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 18: Effective date

This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, shall be effective 5 days after passage and publication of the ordinance or a summary thereof consisting of the title.

Approved:

Mayor

Attest/Authenticated:

Clerk

Approved as to form:
Office of the City Attorney

By _____

Filed with the City Clerk:

Passed by the City Council:

Published:

Effective date:

Ordinance number:

Attachment A

The fee for different types of housing products may be determined by the following schedule.

	<u>housing products</u>				
	<u>single family detached</u>	<u>single family attached</u>			<u>mobile home**</u>
		single and duplex	3-4 units/structure	5+ units/structure	
Calculation of park impact fee/unit					
Value of ELOS parks/person	\$1,562.00	\$1,562.00	\$1,562.00	\$1,562.00	\$1,562.00
Average number persons/type of housing unit*	2.57	2.26	2.56	1.95	1.79
Value of ELOS parks/type of housing unit	\$4,014.34	\$3,536.09	\$3,998.72	\$3,038.48	\$2,792.46
Percent of value to be charged for impact fee	35%	35%	35%	35%	35%
Total impact fee/unit	\$1,405.02	\$1,237.63	\$1,399.55	\$1,063.47	\$977.36
Amount of fee allocated to neighborhood/citywide facilities					
Percent allocated to neighborhood facilities	0%	0%	0%	0%	0%
Local facilities allocation/unit	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Percent allocated to city-wide facilities	100%	100%	100%	100%	100%
Regional facilities allocation/unit	\$1,405.02	\$1,237.63	\$1,399.55	\$1,063.47	\$977.36

*Census 2000, Summary File 3 Housing Profile 1; Table Housing-1 for City of Burien

** Mobile home, boat, RV, van, etc.