



**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Motion to adopt Ordinance 520, amending Section 2.15.070 BMC (Duties of the Hearings Examiner).		Meeting Date: October 5, 2009
Department: Community Development	Attachments: 1. <u>Proposed Ord. 520</u>	Fund Source: N/A
Contact: Jan Vogee		Activity Cost: N/A
Telephone: (206) 248-5523		Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Adopted Work Plan Priority: Yes X No	Work Plan Item Description: Review Development Codes	
<p>PURPOSE/REQUIRED ACTION: The purpose of this agenda item is for the Council to consider proposed Ordinance 520, amending Section 2.15.070 BMC (Duties of the Hearings Examiner) to include acting as the board of appeals for the purposes of the Building and Construction Codes adopted in Title 15 of the Burien Municipal Code;</p> <p>BACKGROUND (Include prior Council action & discussion): Section 2.15.070 of the Burien Municipal Code designates the Hearings Examiner to to act as the board of appeals for the purposes of the Uniform Building Code, however, the Uniform Building Code has not been published since 1997 and was replaced with the International Building, Residential, Mechanical, and other construction codes. In addition to the International Codes, the city also adopts and administers the Uniform Plumbing Code and National Electrical Code.</p> <p>This ordinance would update the Municipal code by authorizing the Hearings Examiner to act as the board of appeals for all Building and Construction Codes adopted in Title 15.</p> <p>At the September 28, 2009 Council meeting, Council discussed the proposed ordinance and requested that it be placed on the October 5, 2009 Consent Agenda for adoption.</p>		
<p>OPTIONS (Including fiscal impacts): N/A</p>		
Administrative Recommendation: Adopt Ordinance No. 520 amending Section 2.15.070 BMC (Duties of the Hearings Examiner).		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motion: Motion to approve the consent agenda adopts Ordinance No. 520,		
Submitted by: Jan Vogee, Building Official		
Administration 	City Manager 	
Today's Date: September 30, 2009	File Code: \\File01\records\CC\Agenda Bill 2009\100509cd-2 Amend BMC 2.15.070 Duties of the Hearings Examiner.docx	

CITY OF BURIEN, WASHINGTON**ORDINANCE NO. 520**

**AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON,
RELATING TO THE DUTIES OF THE HEARING EXAMINER TO
INCLUDE ACTING AS THE BOARD OF APPEALS FOR THE
BUILDING AND CONSTRUCTION CODES ADOPTED IN TITLE 15 ;
AMENDING SECTION 2.15.070 OF THE BURIEN MUNICIPAL
CODE, PROVIDING FOR SEVERABILITY, AND ESTABLISHING
AN EFFECTIVE DATE**

WHEREAS, Section 2.15.070 of the Burien Municipal Code provides for the duties of the Hearing examiner; and

WHEREAS, the foregoing section includes provisions for the Hearing Examiner to act as the board of appeals for the purposes of the Uniform Building Code; and

WHEREAS, the Uniform Building Code is no longer in effect in the state of Washington; and

WHEREAS, the City Council of the City of Burien finds that it would be in the best interests of the City to amend Section 2.15.070 to establish and clarify the Hearing Examiners duties to include acting as the board of appeals for the purposes of the Building and Construction Codes adopted in Title 15 of the Burien Municipal Code;

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

Section 1. Amending Section 2.15.070 BMC (Duties of the examiner). Section 2.15.070(3) of the Burien Municipal Code is hereby amended (amendments shown in legislative revisions marks) to read as follows:

2.15.070 Duties of the examiner.

The examiner shall consider the matters set forth below.

(1) Applications and Appeals – Final Decision. The examiner shall receive and examine available information, conduct public hearings, prepare a record thereof, and enter findings of fact and conclusions based upon those facts, which conclusions shall represent the final action on the application, unless appealed, as specified herein, for the following type of applications and appeals.

(a) Applications.

- (i) Applications for residential condominium binding site plan;
- (ii) Applications for shoreline substantial development permits when combined with other land use applications pursuant to KCC 25.32.080.
- (b) Appeals.
 - (i) Appeals from the decision of the director regarding short subdivisions;
 - (ii) Appeal of administrative decision on building permits, grading permits and temporary use permit pursuant to review of the zoning code;
 - (iii) Appeals from notices and orders issued pursuant to KCC Title 23 as adopted by reference;
 - (iv) Appeal from decisions of the director on requests for rate adjustments to surface and storm water management rates and charges.

(2) Applications – Recommendation to Council. Until such time as the planning commission is created and its duties and procedures are adopted, the examiner shall receive and examine available information, conduct public hearings, prepare a record thereof and enter findings of fact and conclusions, based upon those facts, together with a recommendation to the city council, for the following applications:

- (a) Applications for preliminary plats;
- (b) Applications for shoreline environment redesignation.

(3) The examiner shall act as the board of appeals for the purposes of the ~~Uniform Building Code~~. Building and Construction Codes adopted in BMC Title 15.

(4) Other applications or appeals which the council may prescribe by ordinance.

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 the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE ____ DAY OF _____, 2009, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS ____ DAY OF _____, 2009.

CITY OF BURIEN

Joan McGilton, Mayor

ATTEST/AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Christopher Bacha, Interim City Attorney
Kenyon Disend, PLLC

Filed with the City Clerk: September 21, 2009

Passed by the City Council:

Ordinance No.: 520

Date of Publication:

