

PLANNING COMMISSION BY-LAWS

The Burien City Council created the Burien Planning Commission's role to advise the City Council and the City Manager in its preparation and revision of Burien's comprehensive plan and land use code and to review development proposals to guide and ensure that Burien's development is consistent with the comprehensive plan and the land use code. RCW 35A.63.020.

All Planning Commission members serve at the pleasure of the City Council and, consistent with RCW 35.63.030, "may be removed, after public hearing, by the appointing official, with the approval of his or her council or board, for inefficiency, neglect of duty, or malfeasance in office."

Article I

Responsibility

The Planning Commission shall carry out the responsibilities designated by ordinance and other duties the City Council assigns. The Planning Commission members accept the office's responsibility and declare their intention to execute the duties defined under the state and municipal law to the best of their ability and to respect and observe the requirements established by the City Council. Among the responsibilities of the Planning Commission is the requirement that the Planning Commission "prepare a comprehensive plan for anticipating and influencing the orderly and coordinated development of land and building uses of" Burien. RCW 35A.62.060.

Article II

Organization of the Commission

1. A Chairperson and Vice-Chairperson shall be elected by a majority of the Commissioners at the second regular meeting in July of each year or as soon as feasible. A quorum must be present to elect the Chairperson and Vice-Chairperson.
2. If the Chairperson's term ends before the Chair and Vice-Chairperson's election, the Commission shall elect an interim Chair until the regularly scheduled election.
3. In the absence of the Chairperson and the Vice-Chairperson, a Chairperson pro tem shall be elected informally by the members present to conduct the meeting.
4. If the Chairperson or Vice-Chairperson resigns, the Commission shall expeditiously elect a new officer to fill the vacancy for the unexpired term.
5. The Chairperson shall preside at all Commission meetings and have the powers generally assigned such office in conducting the meetings.
6. It shall be the Chairperson's duty to see that the transaction of Commission business is in accord with these by-laws.
7. The Planning Commission, by a majority vote of those present, may create special committees and assign one or more members to such committees.
8. If a Commission member has more than eight (8) total absences from regularly scheduled meetings in a calendar year, the Chairperson shall inform the City Council, who may appoint a new Commission member to fill the member's term.
9. No person shall hold the office of a member of the Planning Commission unless that person is a Burien resident. If a member of the Planning Commission ceases to be a Burien resident, the office must be vacated.

10. A quorum is a majority (at least four (4) members) of the Planning Commission.

Article III

Planning Commission powers

Consistent with RCW 35.63.060, the Planning Commission “may act as the research and fact-finding agency of the municipality.” More specifically, as noted in RCW 35A.63.020, the Planning Commission serves in an advisory capacity to the City Manager, City Council, or both, as may be provided by ordinance, and shall have such other powers and duties as shall be provided by ordinance. Also,

1. “Any duties and responsibilities which by other statutes are imposed upon a planning commission may, in a code city, be performed by a planning agency, as provided in this chapter. RCW 35A.63.140. See, RCW Chapter 35.63, entitled *Planning Commissions*.
2. A Planning Commission’s “authority is generally limited to that of an advisory administrative body, and its recommendations are not binding but are subject to final approval by the legislative body of the municipality.” *D.E.B.T., Ltd. V. Bd. Of Clallam County Commissioners*, 24 Wn.App. 136, 139 (Div. II, 1979), and *Concerned Coupeville Citizens v. Coupeville*, 62 Wn.App. 408, 417 (Div. I, 1991).
3. A council may “vote to approve or disapprove or to modify and approve, as modified, the comprehensive plan or to refer it back to the planning agency for further proceedings, in which case the legislative body shall specify the time within which the planning agency shall report back to the legislative body its findings and recommendations on the matters referred to it.” RCW 35A.63.072
4. The Planning Commission may make such surveys, analyses, research, and reports responsive to any council request or that it is authorized to perform or gather. RCW 35.63.060.
5. Prepare coordinated plans for Burien’s physical development. RCW 35.63.080.
6. Encourage land use that lessens traffic congestion and accidents, protects from fire, provides sufficient light and air, prevents overcrowding and overpopulation, coordinates the development of undeveloped land, protects and forms neighborhoods and community units, secures land for community needs, conserves and restores natural beauty and resources, ensures direct sunlight for solar energy systems, facilitates adequate transportation, water, sewage, and other public needs and uses, while reviewing each plan for drainage, flooding, stormwater runoff and mitigating and cleaning discharges that may pollute the Puget Sound or waters releasing into the Puget Sound. RCW 35.63.090.
7. Make recommendations to the council after at least one public hearing. RCW 35A.63.070 and 35.63.100.
8. Hear all proposed amendments, supplements, or modifications to resolutions or ordinances adopting a comprehensive plan or related regulations before the council considers such a proposal. RCW 35A.63.071, RCW 35A.63.073, and RCW 35.63.120.

Article IV

Meetings

The Commission shall determine a regular meeting time (time, place, and frequency) as necessary.

1. Planning Commission meetings are open to the public consistent with RCW Chapter 42.30.

2. According to RCW 35.63.040, the Planning Commission “shall hold at least one regular meeting each month for not less than nine months in each year.”
3. Executive sessions may be held only with prior City Council approval and consistent with RCW 42.30.110 (Executive Sessions) and 42.30.140 (Chapter controlling – Application).
4. A quorum must be present to conduct official Planning Commission business. No official action can be taken if no quorum exists due to members leaving or failing to attend the meeting. If no quorum exists due to members leaving the meeting, the meeting must adjourn.
5. These by-laws shall govern all Planning Commission meetings. Where the by-laws do not state otherwise, the 12th Edition of Roberts Rules of Order shall apply.
6. To the extent it does not violate public notice requirements, the printed agenda of a regular meeting may be modified, supplemented, or revised at the beginning of the meeting by the affirmative vote of the majority of Commission members present.
7. The Planning Commission may devote part of its meetings to an informational study session during which no comments from the public will be permitted unless the Chairperson or a majority decides otherwise on a case-by-case basis.
8. A majority vote of the members present and voting takes action.
9. After 9 p.m., the Planning Commission shall hear no new agenda items unless a majority of the Commissioners present decide otherwise.
10. To satisfy RCW 35.63.050, a staff person will be responsible for the written recording of all Planning Commission meetings. All minutes will be forwarded to the City Clerk and be made part of a permanent record. *See also*, RCW 42.30.035.

Article V

Conflict of Interest and Appearance of Fairness

According to RCW 35A.63.020, if a Planning Commission member “concludes that he or she has a conflict of interest or an appearance of fairness problem with respect to a matter pending before the agency so that he or she cannot discharge his or her duties on such an agency, he or she shall disqualify himself or herself from participating in the deliberations and the decision-making process with respect to that matter.” The Planning Commission is subject to Burien’s ethics ordinance, BMC Chapter 2.50, and any other applicable guideline, ordinance, policy, resolution, or rule.

1. Conflict of Interest. Prohibitions under RCW Chapter 42.23, *Code of Ethics for Municipal Officers – Contract Interests*, are the minimum standard to be enforced against municipal officers. RCW 42.23.060.
 - a. Applies to all “municipal officers, ” including all elected and appointed officials. RCW 42.23.020(2), *Definitions*.
 - b. Generally, municipal officers may not benefit from a contract under the official’s or the official’s office and may not accept any compensation, gratuity, or reward from such contract or a beneficiary of that contract. RCW 42.23.030, *Interest in contracts prohibited – Exceptions*.
 - c. Violations of RCW 42.23 could result in a \$500 penalty to be paid to Burien, criminal charges or civil liability, and a forfeiture of the officer’s position. RCW 42.23.050, *Prohibited contracts void – Penalties for violation of chapter*.
 - d. According to RCW 42.23.070, Prohibited acts, a municipal officer may not
 - i. use their “position to secure special privileges or exemptions for himself, herself, or others.”

- ii. “directly or indirectly, give or receive or agree to receive any compensation, gift, reward, or gratuity from a source except the employing municipality, for a matter connected with or related to the officer’s services as such an officer unless otherwise provided for by law.”
 - iii. “accept employment or engage in business or professional activity that the officer might reasonably expect would require or induce him or her by reason of his or her official position to disclose confidential information acquired by reason of his or her official position.”
 - iv. disclose confidential information gained because of the officer’s position [i.e., Executive session, meetings, etc.], nor may the officer otherwise use such information for personal gain or benefit.
 - e. Other prohibitions exist in Burien’s guidelines, ordinances, policies, resolutions, and rules.
2. Appearance of Fairness Doctrine. The quasi-judicial hearings (non-legislative and non-policy items) must be procedurally fair and appear to be conducted by impartial decision-makers. Quasi-judicial hearings include:
- a. Appeal of a rezone application (BMC 19.65.090, *Rezones*)
 - b. Conditional uses (BMC Chapter 19.55, *Non-Conformance* and BMC 20.35.035, *Shoreline conditional use permits*)
 - c. Discretionary zoning permits
 - d. Preliminary plat approval (BMC Chapter 17.40, *Preliminary Plats*)
 - e. Planned Unit Development approval (BMC 17.50.020, *Planned unit developments*)
 - f. Subdivisions (BMC Title 17, *Subdivisions*)
 - g. Variances (BMC 19.65.085, *Variances*)
 - h. Other types of zoning changes that involve fact-finding

Article VI

Agenda

1. The Community Development Director or designee shall prepare the Planning Commission agenda with input from the Planning Commission Chair, Vice-Chair, or designee.
2. The agenda may be divided into sections and continue until subsequent meetings when it is apparent that one meeting will not be sufficient to complete the scheduled business.
3. Copies of the agenda will be available to all Commission members at least two (2) days before a regular meeting date.
4. The agenda will indicate whether the Planning Commission intends to act on a particular matter formally.
5. The Commission may continue a public hearing to a future date only to accept new written or oral testimony solely from anyone who had signed up to speak on the original hearing date but did not have the opportunity to testify. A continued public hearing does not require new public notice. Once a public hearing is closed, it cannot be re-opened without issuing a new public notice.
6. The Commission shall adopt an agenda at the beginning of each meeting.

Article VII

Study Sessions

Much of the Planning Commission’s work is conducted at informal study sessions.

1. The Commission shall consider information and recommendations from staff and, if permitted, comments from the public during the study session.
2. Based on staff, Commission, and possibly public input, the Commission makes recommendations to forward to the City Council.

Article VIII

Public Comment

1. If a speaker is an individual or represents an organization, that speaker may speak for 2 minutes or less.
2. Members of the public attending study sessions may only speak if acknowledged by the Chairperson.
3. If audience dialogue becomes disruptive, the Chairperson may recess the meeting or request that the meeting be adjourned.
4. To communicate with the Commission on a matter not scheduled for Public Hearing, the public may write a letter and/or speak during the duration of each meeting entitled “Public Comment” near the beginning of the agenda.

Article IX

Public Hearings and Notice

The Burien City Council “may provide by ordinance for such additional public hearings and notice thereof as it deems to be appropriate in connection with any action contemplated under this chapter.” RCW 35A.63.150.

RCW 35A.63.152 explains that any notice made under RCW Chapter 35A.63 “that identifies affected property may identify this affected property without using a legal description of the property including, but not limited to, identification by an address, written description, vicinity sketch, or other reasonable means.

Article X

Amending By-Laws

1. The Planning Commission may amend these bylaws at a regularly scheduled meeting.
2. The Burien City Council must approve all Planning Commission-initiated amendments before they become effective.
3. The Burien City Council may propose and adopt amendments to the Planning Commission by-laws as necessary or appropriate without Planning Commission involvement.