

CITY OF BURIEN
ORDINANCE NO. 640

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
BURIEN, WASHINGTON, APPROVING AMENDMENTS TO THE
BURIEN SHORELINE MASTER PROGRAM.**

WHEREAS, the State of Washington Shoreline Management Act of 1971 (Chapter 90.58 RCW), recognizes that the shorelines are among the most valuable and fragile resources of the state and that the state and local government must establish a coordinated planning program to address the types and effects of development occurring along shorelines of state-wide significance; and

WHEREAS, on June 3, 2013 the City of Burien adopted Ordinance 581 establishing a New Title 20 of the Burien Municipal Code Adopting a Shoreline Master Program and the Accompanying Goals Policies, Environmental Designations, Regulations, Restoration Plan and Cumulative Impacts Analysis; and

WHEREAS, on October 3, 2013 the Washington State Department of Ecology approved the new Shoreline Master Program with an effective date of October 17, 2013; and

WHEREAS, on June 15, 2015 the City of Burien adopted amendments to its critical area regulations to comply with the State Growth Management Act; and

WHEREAS, the Planning Commission held a total of three (3) public meetings including one (1) public hearing soliciting comment on the proposed shoreline master program amendments on the following dates: 8/12/2015, 8/26/2015 and 9/9/2015; and

WHEREAS, the Burien City Council held two (2) public meetings on the proposed amendments to the shoreline master program on the following dates: 9/21/2015 and 10/19/2015; and

WHEREAS, comments were solicited from federal, state, local, regional and tribal interests in accordance with RCW 90.58.130; and

WHEREAS, on November 4, 2014 the City's State Environmental Policy Act responsible official conducted SEPA review of the proposed land use Comprehensive Plan and zoning map changes and issued an Environmental Impact Statement Addendum to the 1997 Environmental Impact Statement for the City of Burien Comprehensive Plan.

WHEREAS, on May 6, 2015 the City's State Environmental Policy Act responsible official conducted SEPA review of the amended critical area regulations and issued an Determination of Non-significance; and

WHEREAS, the proposed City of Burien Shoreline Master Program addresses a requirement of WAC 173-26 (Shoreline Master Program Guidelines) that the SMP result in “no net loss” of ecological functions relative to the baseline conditions due to its implementation; and

WHEREAS, on October 5, 2015, the City approved Resolution No. 368 approving the proposed City of Burien Shoreline Master Program and directed City staff to forward the appropriate Shoreline Master Program update documents to the State Department of Ecology for formal review and approval; and

WHEREAS, on April 27, 2016, the Department of Ecology completed its review and determined there were required changes in order to comply with Chapter 90.58 RCW, the Shoreline Management Act of 1971, and the Shoreline Master Program Guidelines (WAC 173-26, Part III); and

WHEREAS, the Burien City Council finds that the policies and regulations set forth in Exhibit A are consistent with the Shoreline Management Act and its implementing regulations (WAC 173-26), the Growth Management Act, the City’s Comprehensive Plan, the City’s Zoning Code, and other applicable law;

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

Section 1. The Burien City Council hereby approves the proposed City of Burien Shoreline Master Program as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

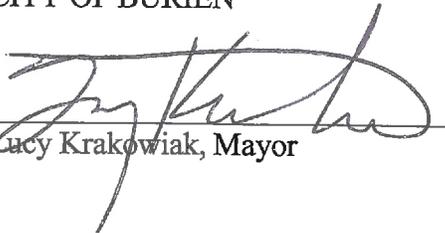
Section 2. Severability. Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal 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. Savings. The enactments of this ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this ordinance.

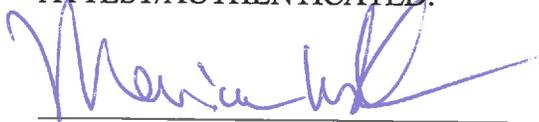
Section 4. Effective Date. This ordinance shall take effect upon approval of the proposed City of Burien Shoreline Master Program as set forth in Exhibit A by the Washington State Department of Ecology pursuant to RCW 90.58.090 and WAC 173-26-120.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, AT A
REGULAR MEETING THEREOF THIS 6TH DAY OF JUNE 2016.

CITY OF BURIEN


Lucy Krakowiak, Mayor

ATTEST/AUTHENTICATED:


Monica Lusk, City Clerk

Approved as to form:


Soojin Kim, City Attorney

Filed with the City Clerk: *June 6, 2016*
Passed by the City Council: *June 6, 2016*
Ordinance No.: 640
Date of Publication: *June 9, 2016*

Ordinance No. 640
Exhibit A

20.30.025 Critical Areas

Critical areas include the following areas and ecosystems: wetlands, critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. Critical saltwater and critical freshwater habitats are also types of critical areas within shoreline jurisdiction.

1. Policies

- a. In assessing the potential for net loss of ecological functions or processes, project specific and cumulative impacts should be considered.
- b. Development standards for density, frontage improvements, setbacks, impervious surface, shoreline stabilization, vegetation conservation, buffers, critical areas, and water quality should protect existing shoreline ecological functions and processes. During permit review, the Shoreline Administrator should consider the expected impacts associated with proposed shoreline development when assessing compliance with this policy.

(For additional policy guidance please refer to Chapter II General Goals and Policies, pgs. 12-15 and Chapter III Management Policies, pgs. 2-4.)

2. Regulations

- a. BMC 19.40—Critical areas (City of Burien Ordinance ~~394623~~, adopted ~~October 20, 2003~~ June 15, 2015) has been reviewed for consistency with Chapter 90.58 RCW and WAC 173-26 and shall apply to the shoreline jurisdiction with the following exceptions:
 - i. The exemptions and exceptions contained in BMC 19.40.070(~~1~~), (~~32~~) & (~~43~~) apply only to the critical areas provisions and are not exemptions from substantial development permits. The exceptions contained in BMC 19.40.070 (~~45~~) do not apply and are not considered part of the SMP.
 - ii. BMC 19.40.290 (~~32~~.B.iii) does not apply and is not considered part of the SMP. For a landslide hazard area buffer of less than twenty-five (25) feet, in addition to the items required in BMC 19.40.120, a shoreline variance shall be required.
 - ~~iii. BMC 19.40.310 (2.H.v) does not apply and is not considered part of the SMP. For a wetland buffer of less than twenty-five (25) feet, a shoreline variance shall be required.~~
 - ~~iv.~~iii. BMC 19.40.410(2.B) does not apply and is not considered part of the SMP. Filling is prohibited in the Aquatic environment per Section 20.30.001 Figure 4.

~~v. The following types of wetlands are not regulated by the SMP:~~

- ~~a. Small wetlands less than 1,000 square feet and hydrologically isolated;~~
- ~~b. Man-made ponds smaller than one acre and excavated from uplands without a surface water connection to streams, lakes, or other wetlands.~~

~~iv. BMC 19.40.300.-3.C(Category III & IV Wetland Exemption) does not apply and is not considered part of the SMP.~~

~~v. BMC 19.40.350.2.F.ii. is amended as follows: Standard buffer width averaging may be allowed by the Director (in accordance with an approved critical area review) if:~~
~~ii. Minimum buffer width is the greater of fifty seventy-five percent (50 75%) of the standard buffer width or twenty-five (25) feet;~~

~~b. Identification of wetlands and delineation of their boundaries pursuant to this Master Program shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the City of Burien meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Master Program.~~

~~Wetland rating system. Wetlands for the purposes of the SMP shall be categorized in accordance with the Washington State Wetland Rating System for Western Washington—Revised (Ecology Publication #04-06-025).~~

~~e. Wetland buffers. Wetland buffers for the purposes of this SMP shall be determined based upon Appendix 8-C of “Wetlands in Washington State Volume 2: Guidance for Protecting and Managing Wetlands FINAL April 2005 Ecology Publication #05-06-008” based on information provided as part of a critical area study.~~

~~d.b. Development proposals shall adhere to the applicable submittal requirements (a critical area report specific to the critical area) as specified in the Critical Areas Ordinance regulations adopted as part of this SMP.~~

~~e.c. Development shall not intrude into, over, or within 10 feet from *critical saltwater habitats* (e.g., eelgrass) except when an alternative alignment or location is not *feasible* and the development would result in no net loss of *critical saltwater habitat*.~~

~~f.d. When this Master Program requires mitigation, the mitigation sequence described in section BMC 20.30.010 [Impact Mitigation] shall be followed.~~

20.30.050 Dimensional Standards for Shoreline Development

Figure 5 Dimensional Standards for Shoreline Development

| | UC | SR-LB | SR-AL | SR-HA |
|---|-----------|-----------------------|-----------|-----------|
| Shoreline Buffer Zone 1 ⁽¹⁾ | 50 ft | 30 ft | 30 ft | 20 ft |
| Shoreline Buffer Zone 2 ⁽¹⁾ | 100 ft | 15 ft | 15 ft | 15 ft |
| Vegetation Conservation ⁽²⁾ | 200 ft | 150 ft | 150 ft | 150 ft |
| Lot Size ⁽³⁾ | RS-12,000 | RS-7,200 RS-12,000 | RS-12,000 | RS-12,000 |
| Building Coverage ⁽⁴⁾ | 30% | 35% | 35% | 35% |

UC: Urban Conservancy

SR-LB: Shoreline Residential – Lake Burien

SR-AL: Shoreline Residential – Marine altered

SR-HA: Shoreline Residential – Marine highly altered

(Please refer to Figure 6 for a map detailing the locations of the areas listed above.)

- (1) Consistent with BMC 19.40-critical areas and BMC 20.30.055(1). For single family residential development in the Marine altered and highly altered planning areas, development may occur in the buffers prescribed in this section pursuant to BMC 20.30.095, through the conditional use or variance permit process. Additions or expansions of primary single family residences are not allowed in zone one or two around Lake Burien.
- (2) See BMC 20.30.040 Shoreline Vegetation Conservation for specific requirements.
- (3) See BMC 19.15 and BMC 19.17.170 of the zoning code for minimum lot area requirements.
- (4) See BMC 19.15