

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
1	E	Header and Section header	1, 3	Purposes and <del>General Administrative</del> Provisions <b>PURPOSES AND GENERAL ADMINISTRATIVE PROVISIONS</b>	To be distinguished from several other sections that contain “general requirements” or “general standards.”
2	O	Document outline	1-3	<i>See document for changes.</i>	Edited to reflect revisions and reorganizations throughout document. Individual changes will be presented by section in this table.
3	O	User guide (19.40.010)	3	This chapter establishes regulations pertaining to the development within or adjacent to critical areas. Many areas of Burien have been or may become classified as critical areas by the City or other public agencies. <u>The following critical areas are found in the City of Burien and regulated under this Chapter: [Ord. 376 § 1, 2003]</u> A. <u>Frequently flooded areas (19.40.240);</u> B. <u>Geologically hazardous areas (19.40.280), including:</u> i. <u>Erosion hazard areas,</u> ii. <u>Landslide hazard areas, and</u> iii. <u>Seismic hazard areas;</u> C. <u>Wetlands (19.40.300);</u> D. <u>Streams (19.40.340);</u> E. <u>Fish and wildlife habitat conservation areas (19.40.380); and</u> F. <u>Critical aquifer recharge areas (19.40.420).</u> <del>[Ord. 376 § 1, 2003]</del>	Added to enhance usability by making it clear at the beginning of the document what critical areas are regulated under this Chapter.
4	E	Purposes and Goals (19.040.020)	4	<i>Convert introductory text to numbered bullets; adjust subsequent bullets accordingly.</i>  1. The City finds that critical areas provide... 2. This chapter is to be administered... 3. Purposes. 4. Goals.	In general, we recommend avoiding unnumbered “preambles” in sections that contain regulations. Their applicability is not always clear.
5	E	Purposes and Goals (19.040.020(1))	4	The beneficial functions and values of critical areas include...	Editorial fix.
6	CA	Purposes and Goals: Purposes (19.040.020(3))	4	B. <u>Designate, classify, and r</u> Regulate the use of critical areas in accordance with the Growth Management Act...	For clarity: under the GMA, critical areas regulations must designate and protect the functions and values of critical areas.
7	E	Applicability (19.40.040)	6	B. Actual site conditions. Regardless of whether a critical area is shown on the <del>critical areas map</del> <u>Critical Areas Map</u> , the actual presence...	Internal consistency – Critical Areas Map is capitalized when it is defined, and elsewhere it is referred to.
8	CP	Applicability: Adjacency	6	3. Adjacency. For the purposes of this Chapter, land is “adjacent” to a critical area if it is:	Under the GMA, critical areas code should state that review is required whenever an impact is likely. Throughout the code, this is accomplished by

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (\$)	Pg.	Proposed change	Justification
		(19.40.040(3))		A. Land that contains the required critical area buffer width and building setback; B. Land within one hundred (100) feet upland from a stream, <del>wetland</del> or lake; <u>C. Land within three hundred (300) feet of a wetland;</u>	regulating development not just within, but adjacent to critical areas. This section defines what “adjacent” means for that purpose.  Changes reflect updated buffer schemes for wetlands. Distance should reflect the highest buffer width (which, regardless of which option the City chooses, will be 300’ for wetlands).
9	CP	Applicability: Adjacency (19.40.040(3))	6	<del>D</del> . Land within <del>800</del> <u>660</u> feet of a bald eagle nest; <del>E</del> . Land within <u>two hundred (200) feet from</u> of a designated critical aquifer recharge area; or <del>F</del> . Land within the floodway or floodplain.	Current USFWS recommendations would reduce buffer to 660 feet for activity visible from a nest and 330 feet for activity not visible from nest. For purposes of adjacency, default to larger buffer.  Other changes reflect edits for numbering and formatting consistency.
10	E	Protection of critical areas (19.40.050)	5	All actions and developments shall be designated and constructed <u>in accordance with mitigation sequencing (BMC 19.40.170) to avoid, minimize, and restore all adverse impacts achieve no net loss of critical area functions and values.</u>	Internal references increase code usability. <b>Edited to better align with updated code and to clearly reflect no net loss requirements of WAC 365-196-830.</b>
11	CP	Best available science (19.40.060)	7	<i>Addition of third bullet:</i>  <u>3. Absence of valid scientific information. Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the Director shall take a “precautionary approach,” that strictly limits development and land use activities until the uncertainty is sufficiently resolved.</u>	Recommended per Commerce guidance to cover uncertain situations. Not required.
12	CA	Exemptions and exceptions (19.40.070)	7	<i>Addition of first bullet, and renumbering of subsequent bullets:</i>  <u>1. Exemption request and review process. Exemptions shall be reviewed in conjunction with an associated approval such as a land use decision or the issuance of a construction permit. Absent associated permits or approvals, the proponent of the activity may submit a written request for exemption to the Director that describes the activity and states the exemption in this Section that applies. The request shall be processed as an administrative decision. If the exemption is approved, it shall be placed on file with the department. If the exemption is denied, the proponent may continue in the review process and shall be subject to the requirements of this Chapter. The Director may add conditions for exemption to ensure the level of activity remains consistent with the provisions of this Chapter.</u>	Recommended per Commerce guidance to clarify exemption process and ensure exempt activities are consistent with the CAO. Reviewed for alignment with City administrative processes.
13	O	Exemptions and exceptions (19.40.070) and	9, 33	<i>Move bullets J and K of 19.40.070(3) to bullet 4 (A and B) of 19.40.280 Geologically hazardous areas - Designation, with the following introductory text:</i>	19.40.070 lists activities and uses that are exempt from critical areas review. This text refers to areas exempt from designation as critical areas (specifically, geologically hazardous areas) and are therefore more logically located within

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Type key:**

- E** – Editorial/wording changes for document clarity, consistency, and/or usability
- O** – Document organization
- CA** – Content change to administrative, designation, or other non-protective regulations
- CP** – Content change to protective regulations
- D** – Determined through discussion by Planning Commission/Council

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
		Geologically hazardous areas – Designation (19.40.285)		6. The following areas are exempt from designation as geologically hazardous areas: A. Slope exemptions: The following slopes are exempt, unless the slope is part of another critical area or required buffer: ...  <i>Last bullet of 19.40.070(3) changed from L to J as a result.</i>	that section of the code.
13.1	CA	Reserved (now Nonconforming uses and structure) (19.40.080)	12	<b>19.40.080 Reserved Nonconforming uses and structures. {Ord. 394 § 4, 2003}</b> <b><u>Uses or structures lawfully established in a critical area or its buffer prior to the adoption of this Chapter that no longer conform to the provisions of this Chapter shall be considered nonconforming to this Chapter and shall be subject to the provisions of BMC 19.55, Nonconformance.</u></b>	Similar to the treatment for other general requirements, nonconformance language has been pulled out of the sections for wetlands and streams and moved into a location in the code that clearly applies these requirements to all critical areas. Language has also been edited per examples from other jurisdictions to better align with BMC 19.55. <b>See changes 66.1 and 85.1 in this table.</b>
14	E	Critical area review (19.40.090)	12	2. As part of its review of a critical area review, the City shall: D. Determine whether the development proposal conforms to the purposes and <del>performance standards</del> provisions of this Chapter, including the criteria in BMC 19.40.100;	The term “provisions” covers all regulatory measures in the Chapter. For the purpose of critical area review criteria, this broader term is appropriate.
15	E	Review criteria (19.40.100)	14	D. Any alterations permitted to the critical area or its required buffer are mitigated in accordance with the <u>mitigation requirements of this chapter (BMC 19.40.170) and the critical area study (BMC 19.40.120); and...</u>	Internal references added for usability.
16	CA	Critical area study requirements (19.40.120)	14	2. Prepared by qualified professional. A required critical area study shall be prepared by a person with experience and training in the scientific discipline appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or related field, and two years of related work experience. <u>The City maintains a roster of qualified professionals.</u>  A. <u>A qualified professional for wetlands must be a Professional Wetland Scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the state or federal manuals; preparing wetland reports; conducting function assessments; and developing and implementing mitigation plans.</u> B. A qualified professional for Fish and Wildlife Habitat Conservation Areas <del>or wetlands</del> must have a degree in biology...	Mention City’s roster so that applicants will know to approach City for list of qualified professionals.  Criteria for qualified wetlands professional added per Ecology comment received 3/10/15.
17	E	Critical area study requirements (19.40.120)	16	H. A description of reasonable efforts made to apply mitigation sequencing ( <u>BMC 19.40.170(2)</u> ) to avoid, minimize, and mitigate impacts to critical areas;	Internal reference added for usability.
18	E	Critical area study requirements	16	I. <u>When impacts are unavoidable, a mitigation plan (BMC 19.40.170(3))</u> <del>Plans for adequate mitigation to offset any impacts;</del>	Refer/direct to specific requirements for clarity and usability.

**Type key:**

- E** – Editorial/wording changes for document clarity, consistency, and/or usability
- O** – Document organization
- CA** – Content change to administrative, designation, or other non-protective regulations
- CP** – Content change to protective regulations
- D** – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
		(19.40.120)			
19	E	GENERAL CRITICAL AREA DEVELOPMENT STANDARDS (Section header)	18	GENERAL CRITICAL AREA DEVELOPMENT STANDARDS REQUIREMENTS	Most of the subsections that follow do not focus on development standards. Several subsections provide permit requirements and/or types of conditions for approval that may be applied, e.g. mitigation requirements; bonds).
20	O	Ordering of subsections within this section (General Critical Area Development Standards)	18-24	Existing order: 19.40.160 Construction requirements 19.40.170 Mitigation, maintenance, and monitoring 19.40.180 Bonds 19.40.190 Vegetation management plan 19.40.200 Critical area markers and signs 19.40.210 Notice on Title 19.40.220 Permanent protection of critical areas and buffers 19.40.230 General development standards  Proposed order and associated renumbering: 19.40.210 Notice on Title 19.40.170 Mitigation requirements, maintenance, and monitoring 19.40.180 Vegetation management plan 19.40.190 General development standards 19.40.200 Construction requirements 19.40.200 Critical area markers and signs 19.40.220 Permanent protection of critical areas and buffers 19.40.230 Bonds	Revised order offers a more logical flow between general application standards, development standards, more specific development standards, and requirements for protection following or instead of development.  Mitigation section (19.40.170) renamed to better reflect revised content (see below).
21	CP	Mitigation, maintenance, and monitoring (19.40.170)	18	<del>1. The Director may require the applicant to provide, at the applicant's expense, mitigation, maintenance and monitoring measures to protect critical areas and buffers. A written report describing the results of any mitigation, maintenance or monitoring measures shall be submitted to the Director for review and further action, if needed. The applicant shall avoid all impacts that degrade the functions and values of critical areas and buffers. Unless otherwise provided in this Chapter, if impacts to critical areas or buffers are unavoidable, all adverse impacts resulting from the proposed alteration, construction, development, or activity shall be mitigated, at the applicant's expense, using the best available science in accordance with an approved critical</del>	To fully protect critical areas functions and values per GMA, code needs to ensure that impacts are mitigated. Both Commerce and Ecology recommend use of a mitigation sequence. Proposed edits to this section make that sequence more explicitly defined, and also make it clear that mitigation will be required when there are adverse impacts. Specifying mitigation plan (including monitoring) requirements here necessarily fills the gaps for those critical areas without specific requirements sections (FWHCAs, FFAs, CARAs), and lays out

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
				<p><u>area study.</u></p> <p><del>2. Where monitoring reveals a significant deviation from predicted impacts or a failure of mitigation or maintenance measures, the applicant shall be responsible for appropriate corrective action which, when approved, shall be subject to further monitoring.</del> [Ord. 394 § 1, 2003; Ord. 376 § 1, 2003] <u>Mitigation sequencing. Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, applicants shall follow the sequential order of preference below. Mitigation for individual actions may include a combination of these measures.</u></p> <p><u>A. Avoiding the impact altogether by not taking a certain action or parts of an action;</u></p> <p><u>B. Minimizing the impact by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;</u></p> <p><u>C. Rectifying the impacts by repairing, rehabilitating, or restoring the affected environment;</u></p> <p><u>D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;</u></p> <p><u>E. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or</u></p> <p><u>F. Monitoring the impact area of the required mitigation area and taking remedial action when necessary.</u></p> <p><u>3. When mitigation is required, the applicant shall submit for approval by the City a mitigation plan as part of the critical areas study (BMC 19.40.120). The mitigation plan:</u></p> <p><u>A. shall be prepared by a qualified professional;</u></p> <p><u>B. shall demonstrate that the proposed mitigation will adequately offset all adverse impacts to critical areas that may result from the proposed alteration, construction, development, or activity; and</u></p> <p><u>C. shall include a monitoring, maintenance, and contingency plan, including measurable performance standards that evaluate whether or not the mitigation project has fulfilled the requirements of this Chapter.</u></p> <p><u>4. Mitigation shall not be implemented until after the City approval of a critical areas study that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical areas study.</u></p>	<p>the requirements in a way that shows the user what will be asked of him/her, but still allows plenty of flexibility for the City.</p>
22	CA	Mitigation, maintenance, and monitoring (19.40.170)	19	<p><u>5. Impacts to significant trees within critical areas shall be mitigated according to BMC 19.25 Tree Retention and Landscaping.</u></p>	<p>The City already regulates replacement ratios for significant trees. To avoid conflicting requirements and redundancies, refer to these requirements for impacts to significant trees.</p>
22.1	CP	Vegetation	20	<p><b>1. For all proposals where preservation of existing vegetation is required by this chapter, a vegetation</b></p>	<p><b>Normal maintenance activities (e.g. pruning and trimming) should be</b></p>

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
		management plan (19.40.180)		<p>management plan shall be submitted and approved prior to issuance of the permit or other request for permission to proceed with an alteration.</p> <p><b><u>2. Normal nondestructive pruning and trimming of vegetation for maintenance purposes, shall not be considered alteration for the purposes of this section. Pruning allowed without a vegetation management plan shall be performed in a manner that ensures continued survival of the vegetation.</u></b></p> <p>...</p> <p><b><u>56. Vegetation within critical areas and their buffers may be trimmed, pruned or removed altered only upon prior written approval by the Director. A report by a qualified professional or certified arborist may be required to address alternatives, to ensure that the proposed activity alteration will not be detrimental to surrounding properties and to the functions and values of the associated critical areas.</u></b></p>	allowed without Director approval or the submittal of a vegetation management plan. Per City staff guidance in response to public feedback at the 04/22/15 Planning Commission meeting.
23	CP	General development standards (19.40.230, now 19.40.190)	20	<p>2. Building setback. Except in critical aquifer recharge areas and seismic hazard areas, buildings shall be set back <u>15 feet</u> from the edges of all critical area buffers or from the edges of all other critical areas, if no buffers are required, as required in the critical area study. [Ord. 394 § 1, 2003; Ord. 376 § 1, 2003] <u>The following may be allowed in the building setback area:</u></p> <p>A. Landscaping;</p> <p>B. Uncovered decks;</p> <p>C. Building overhangs which do not extend more than eighteen (18) inches into the area;</p> <p>D. Pervious unroofed stairways and steps; and</p> <p>E. Impervious ground surfaces, such as driveways and patios, provided that such improvements may be subject to water quality regulations as adopted in the City's stormwater management regulations (BMC 13.10).</p>	Specific setback widths and allowed uses/alterations taken from existing code sections 19.40.310(2) – Wetland buffers and 19.40.350(2) – Stream buffers. Added here to clarify requirement for all critical areas.
24	CP	Critical area markers and signs (19.40.200, now 19.40.210)	22	<p>2. Permanent barrier fencing. <del>The Director may require installation of a permanent barrier such as a fence or berm, if needed to protect the critical area and/or its buffer from damage or encroachment after construction. [Ord. 394 § 1, 2003; Ord. 376 § 1, 2003]</del> Permanent fencing shall be required at the outer edge of the critical area buffer under the following circumstances: <b><u>Fencing installed in accordance with this section shall be designed to not interfere with fish and wildlife migration and shall be constructed in a manner that minimizes critical areas impacts.</u></b></p> <p>A. As part of any development proposal for:</p> <p>i. Plats;</p> <p>ii. Short plats;</p> <p>iii. Parks;</p> <p>iv. Other development proposals, including but not limited to multifamily, mixed use, and commercial development where the Director determines that such fencing is necessary to protect the functions of the critical area;</p> <p>B. When buffer reductions are employed as part of a development proposal;</p>	<p>From the Gap Analysis: Permanent critical area signs should be required. Sign spacing and language is recommended, and 50' spacing is commonly used.</p> <p>Inserted language is adapted from the City of Sammamish Municipal Code 21A. 50.170.</p> <p><b>“Fencing installed in accordance with this section...” text moved above to body of bullet for clarity based on City staff feedback.</b></p>

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
				<p><u>C. When buffer averaging is employed as part of a development proposal; and</u>  <u>D. At the Director's discretion to protect the functions and values of a critical area.</u>  <b><u>Fencing installed in accordance with this section shall be designed to not interfere with fish and wildlife migration and shall be constructed in a manner that minimizes critical areas impacts.</u></b></p> <p><u>3. Signs. Development proposals approved by the City shall require that the boundary between a critical area buffer and contiguous land shall be identified with permanent signs. Permanent signs shall be a City-approved type designed for high durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner or homeowners' association in perpetuity. The wording, number and placement of the signs may be modified by the Director based on specific site conditions.</u></p>	
25	E	Permanent protection of critical areas and buffers (19.40.220)	23	<p>As a condition of approval of a proposed activity within a critical area or its buffer <del>critical area review</del>, the City <del>shall</del> <u>may</u> require that critical areas and their buffers, except for critical aquifer recharge areas and seismic hazard areas, shall be permanently protected from alteration by tracts or easements. A property owner may also voluntarily propose permanent protection of critical areas and their buffers on the owner's property by use of tracts, easements, <u>or gifting of the property to the City or by transfer of development rights</u>. Any required forms or documents related to protective tracts <u>or</u>, easements <u>or transfer of development rights</u> shall be approved by the City Attorney. Any area permanently protected under this section shall impose upon all present and future owners and occupiers of the protected area the obligation to leave the protective area permanently undisturbed, unless otherwise allowed by this chapter. Such obligation shall be enforceable by the City on behalf of the public. <del>The rules for transfer of development rights will be prepared as part of Phase 2 of this Code.</del></p>	Edited for readability and clarity. Removal of references to TDR per staff guidance. TDR process may be developed in the future, but it is not appropriate for code to mention.
26	CA	Bonds (19.40.180, now 19.40.230)	24	<p>The Director may require a bond or other security in a form and amount deemed acceptable by the Director to ensure compliance with any aspect of this chapter or any decision or determination made under this chapter. <u>The Director shall administratively prepare and maintain applicable bonding forms and procedures.</u> [Ord. 394 § 1, 2003; Or. 376 § 1, 2003]</p>	Acknowledge this administrative process to provide clarity for applicant without inserting too much complexity or being too specific within the code to allow flexibility.
27	E	FREQUENTLY FLOODED AREAS (Section header)	24	<p><u>FREQUENTLY FLOODED AREAS</u></p>	Section headers make it easier to navigate the various sections of the document.
28	CA	Flood hazard areas – Components (19.40.240)	24	<p><del>19.40.240 Flood hazard areas – Components</del> <u>Frequently flooded areas – Designation.</u></p>	Revised terminology to be consistent with the WAC. City's existing definition of Flood Hazard Areas aligns with WAC definition of Frequently Flooded Areas.
29	CA	Flood hazard areas – Components (19.40.240)	24	<p>1. <u>The purpose of designation and protection of frequently flooded areas shall be to:</u>  <u>A. Reduce the risk to life and safety, public facilities, and public and private property that result from floods.</u>  <u>B. Avoid and minimize impacts to fish and wildlife habitats that occur within frequently flooded areas.</u>  <u>C. Assure that flood loss reduction measures protect and are consistent with retaining natural floodplain</u></p>	Inserted from model ordinance (City of Bellingham) to illustrate that the purpose of this section is not just to protect against flood hazards, but also to protect the functions and values of frequently flooded areas.

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Type key:**

- E** – Editorial/wording changes for document clarity, consistency, and/or usability
- O** – Document organization
- CA** – Content change to administrative, designation, or other non-protective regulations
- CP** – Content change to protective regulations
- D** – Determined through discussion by Planning Commission/Council

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (\$)	Pg.	Proposed change	Justification
				<p><u>functions related to protecting riparian habitat and the natural processes that create and maintain habitat for fish.</u></p> <p><u>D. Assure maintenance of hydraulic, geomorphic, and ecological functions of floodplains.</u></p> <p><u>E. Control filling, grading, dredging, and other development activities which may increase flood damage and alter beneficial natural stream processes.</u></p> <p><u>F. Prevent or regulate the construction of flood barriers that may unnaturally divert floodwaters in such a way as to block natural channel migration, or may increase flood hazards in other areas.</u></p>	
30	CA	Flood hazard areas – Components (19.40.240)	24	<p><u>2. A flood hazard area</u><del>Frequently flooded areas shall include</del> <u>consists of the following components:</u></p> <p>A. <u>100-year Floodplain;</u></p> <p>B. Flood fringe;</p> <p>C. Zero-rise floodway; and</p> <p>D. Federal Emergency Management Agency (“FEMA”) floodway.</p>	Terminology edited for consistency with WAC.
31	CA	Flood hazard areas – Components (19.40.240)	25	<p><u>3. The eCity of Burien shall determine the flood hazard area</u><del>frequently flooded area</del> <u>boundaries</u> after obtaining, reviewing and utilizing base flood elevations...</p>	Terminology edited for consistency with the WAC.
32	CA	Frequently flooded areas – General Standards (19.40.250) (new section)	25	<p><del>19.40.250 Flood hazard areas</del> <u>Frequently flooded areas – General Standards</u></p> <p><u>1. For the purposes of sections 19.40.250, 19.40.260, and 19.40.270, development in frequently flooded areas includes any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, subdivision of land, removal of substantial amounts of vegetation, or alteration of natural site characteristics.</u></p>	Definition of development in bullet (1) added to support requirements for new development provided in subsequent bullets (see below).
33	CA	Frequently flooded areas – General Standards (19.40.250) (new section)	25	<p><u>2. Development within frequently flooded areas shall be subject to the provisions of Chapter 15.55 BMC, Flood Damage Prevention, as amended.</u></p>	Rather than repeat sections of code from the City’s building code here and risk inconsistencies and redundancies, adopt that code by reference. We have gone through and suggested deletions where the existing critical areas code clearly duplicates provisions in Chapter 15.55 BMC (see below), but the City may wish to perform further review.
34	CP	Frequently flooded areas – General Standards (19.40.250) (new section)	25	<p><u>3. Application requirements. In addition to the requirements of Section 19.40.120, a critical area study for a frequently flooded area shall contain an assessment of the following site- and proposal-related information that describes the effects of proposed development on floodplain functions including, but not limited to:</u></p> <p><u>A. Storing and conveying floodwater;</u></p> <p><u>B. Reducing peak flows and flow velocities;</u></p> <p><u>C. Reducing redd scour and displacing rearing juvenile fish at the project site and downstream;</u></p>	<p>By requiring a habitat assessment, the inserted text fulfills the “Door 3” option (default option) for compliance with the FEMA BiOp decision. Other options are described in the addendum to the Gap Analysis, and include more substantive to regulations.</p> <p>To streamline applications, habitat assessment requirements are presented as additional requirements to be included in the critical area study. In general, the</p>

**Type key:**

- E** – Editorial/wording changes for document clarity, consistency, and/or usability
- O** – Document organization
- CA** – Content change to administrative, designation, or other non-protective regulations
- CP** – Content change to protective regulations
- D** – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (\$)	Pg.	Proposed change	Justification
				<p><u>D. Maintaining sediment quality in streams;</u>  <u>E. Improving water quality;</u>  <u>F. Maintaining and improving fish access; and</u>  <u>G. Mitigation for any adverse effects on floodplain functions, pursuant to section 19.40.170 of this Chapter.</u></p> <p><u>4. The Director shall have the authority to require consultation with the Washington Department of Fish and Wildlife or other appropriate agencies.</u></p>	<p>habitat assessment must address potential impacts to: stormwater, water quality, floodplain capacity, vegetative habitat, spawning substrate, and/or floodplain refugia for listed salmonids.</p> <p>Important to note: Although current code does not address any of the “doors,” the City effectively already follows “door 3” (habitat assessment). Although the City has done some work on their building code toward adopting a “door 2” approach, this will likely be a lengthy, involved process, and we recommend that in the interim, the code reflects the City’s de facto requirements/process.</p>
35	O	Frequently flooded areas – General Standards (19.40.250) (new section)	26	<p><del>19.40.250 Flood fringe—Development standards and permitted alterations.</del></p> <p><u>54. Development proposals...</u></p> <p><i>Existing bullets below 19.40.250 heading updated to reflect continued numbering.</i></p>	These requirements apply to the zero-rise floodway and FEMA floodway (i.e. entire floodplain), so no need for a separate section.
36	O	Frequently flooded areas – General Standards (19.40.250) (new section)	26	<p><del>3. All elevated construction shall be designed and certified by a professional structural engineer licensed by the state of Washington and shall be approved by the city of Burien prior to construction.</del></p>	Covered under 15.55.120(2) Flood Damage Prevention.
37	O	Frequently flooded areas – General Standards (19.40.250) (new section)	26	<p><del>4. Subdivisions, short subdivisions and binding site plans shall meet the following requirements:</del></p> <p><del>A. New building lots shall contain 5,000 square feet or more of buildable land outside the zero-rise floodway, and building setback areas shall be shown on the face of the plat to restrict permanent structures to this buildable area;</del></p> <p><del>B. All utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed consistent with subsections 5, 6 and 9;</del></p> <p><del>C. Base flood data and flood hazard notes shall be shown on the face of the recorded subdivision, short subdivision or binding site plan including, but not limited to, the base flood elevation, required flood protection elevations and the boundaries of the floodplain and the zero-rise floodway, if determined; and</del></p> <p><del>D. The following notice shall also be shown on the face of the recorded subdivision, short subdivision or binding site plan for all affected lots:</del></p> <p><del>NOTICE: Lots and structures located within flood hazard areas may be inaccessible by emergency vehicles during flood events. Residents and property owners should take appropriate advance precautions.</del></p>	Covered under 15.55.170(4) Flood Damage Prevention, per staff guidance.
38	O	Frequently flooded areas – General Standards	27	<p><del>5. New residential structures and substantial improvements of existing residential structures shall meet the following requirements:</del></p>	Covered under 15.55.180(1) Flood Damage Prevention, per staff guidance.

**Type key:**

- E** – Editorial/wording changes for document clarity, consistency, and/or usability
- O** – Document organization
- CA** – Content change to administrative, designation, or other non-protective regulations
- CP** – Content change to protective regulations
- D** – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
		(19.40.250) (new section)		<p><del>A. The lowest floor shall be elevated to the flood protection elevation;</del></p> <p><del>B. Portions of a structure which are below the lowest floor area shall not be fully enclosed. The areas and rooms below the lowest floor shall be designed to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for satisfying this requirement shall meet or exceed the following requirements:</del></p> <p><del>i. A minimum of two openings on opposite walls having a total open area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;</del></p> <p><del>ii. The bottom of all openings shall be no higher than one foot above grade; and</del></p> <p><del>iii. Openings may be equipped with screens, louvers or other coverings or devices if they permit the unrestricted entry and exit of floodwaters;</del></p> <p><del>C. Materials and methods which are resistant to and minimize flood damage shall be used; and</del></p> <p><del>D. All electrical, heating, ventilation, plumbing, air conditioning equipment and other utility and service facilities shall be floodproofed to or elevated above the flood protection elevation.</del></p>	
39	O	Frequently flooded areas – General Standards (19.40.250) (new section)	27	<p><del>6. New non-residential structures and substantial improvements of existing non-residential structures shall meet the following requirements:</del></p> <p><del>A. The elevation requirement for residential structures contained in subsection 5.A. shall be met; or</del></p> <p><del>B. The structure shall be floodproofed to the flood protection elevation and shall meet the following requirements:</del></p> <p><del>i. The applicant shall provide certification by a professional civil or structural engineer licensed by the state of Washington that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impacts, uplift forces and other factors associated with the base flood. After construction, the engineer shall certify that the permitted work conforms with the approved plans and specifications; and</del></p> <p><del>ii. Approved building permits for floodproofed nonresidential structures shall contain a statement notifying applicants that flood insurance premiums shall be based upon rates for structures which are one foot below the floodproofed level;</del></p> <p><del>C. Materials and methods which are resistant to and minimize flood damage shall be used; and</del></p> <p><del>D. All electrical, heating, ventilation, plumbing, air conditioning equipment and other utility and service facilities shall be floodproofed to or elevated above the flood protection elevation.</del></p>	Covered under 15.55.180(2) Flood Damage Prevention, per staff guidance.
40	O	Frequently flooded areas – General Standards (19.40.250) (new section)	28	<p><del>7. All new construction shall be anchored to prevent flotation, collapse or lateral movement of the structure.</del></p>	Covered under 15.55.170(1) Flood Damage Prevention, per staff guidance.
41	O	Frequently flooded areas – General	28	<p><del>8. Mobile homes and mobile home parks shall meet the following requirements:</del></p> <p><del>A. Mobile homes shall meet all requirements for flood hazard protection for residential structures, shall be</del></p>	Covered under 15.55.180(4), Flood Damage Prevention, per staff guidance

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
		Standards (19.40.250) (new section)		<del>anchored and shall be installed using methods and practices which minimize flood damage; and B. No permit or approval for the following shall be granted unless all mobile homes within the mobile home park meet the requirements for flood hazard protection for residential structures: i. A new mobile home park; ii. An expansion of an existing mobile home park; or iii. Any repair or reconstruction of streets, utilities or pads in an existing mobile home park which equals or exceeds 50 percent of the value of such streets, utilities or pads.</del>	
42	O	Frequently flooded areas – General Standards (19.40.250) (new section)	28	<del>9. Utilities shall meet the following requirements: A. New and replacement utilities including, but not limited to, sewage treatment facilities shall be floodproofed to or elevated above the flood protection elevation; B. New on-site sewage disposal systems shall be, to the extent possible, located outside the limits of the base flood elevation. The installation of new on-site sewage disposal systems in the flood fringe may be allowed if no feasible alternative site is available; C. Sewage and agricultural waste storage facilities shall be flood-proofed to the flood protection elevation; D. Above-ground utility transmission lines, other than electric transmission lines, shall only be allowed for the transport of nonhazardous substances; and E. Buried utility transmission lines transporting hazardous substances shall be buried at a minimum depth of four feet below the maximum depth of scour for the base flood, as predicted by a professional civil engineer licensed by the state of Washington, and shall achieve sufficient negative buoyancy so that any potential for flotation or upward migration is eliminated.</del>	Covered under 15.55.170(3), Flood Damage Prevention, per staff guidance.
43	O	Frequently flooded areas – General Standards (19.40.250) (new section)	29	<del>10. Critical facilities may be allowed within the flood fringe of the floodplain, but only when no feasible alternative site is available. Critical facilities shall be evaluated through the conditional or special use permit process. Critical facilities constructed within the flood fringe shall have the lowest floor elevated to three or more feet above the base flood elevation. Floodproofing and sealing measures shall be taken to ensure that hazardous substances will not be displaced by or released into floodwaters. Access routes elevated to or above the base flood elevation shall be provided to all critical facilities from the nearest maintained public street or roadway.</del>	Covered under 15.55.180(3), Flood Damage Prevention, per staff guidance.
44	E	Frequently flooded areas – General Standards (19.40.250) (new section)	29	<del>147.</del> Prior to approving any permit for alterations in the flood fringe <u>a frequently flooded area</u> , the city of Burien shall determine that all permits required by state or federal law have been obtained.	Edited for numbering and terminology consistency.
45	O	Zero-rise floodway (19.40.260, now general standards)	29	19.40.260 <del>Zero-rise floodway</del> <u>Floodway</u> – Development standards and permitted alterations.  13. The following are presumed to produce no increase in base flood elevation and shall not require a special	Only one additional provision for FEMA floodways vs. zero-rise floodways; incorporated into regulation language.

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
		for Floodway)		<p>study to establish this fact:</p> <p>A. New residential structures outside the FEMA floodway on lots...</p> <p>B. Substantial improvements of existing residential structures in the zero-rise floodway, but outside the FEMA floodway, where the footprint is not increased;-<del>er</del></p> <p>C. Substantial improvements of existing residential structures meeting the requirements for new residential structures in BMC 19.40.250; <del>and</del>.</p> <p><u>D. Substantial improvements of existing residential structures in the FEMA floodway, meeting the requirements of WAC 173-158-070, as amended.</u></p> <p><i>Existing 19.40.270 FEMA floodway – Development standards and permitted alterations:</i></p> <p><del>4. Substantial improvements of existing residential structures in the FEMA floodway, meeting the requirements of WAC 173-158-070, as amended, are presumed to produce no increase in base flood elevation and shall not require a special study to establish this fact. [ORD. 394 § 1, 2003; Ord. 28 § 1(472), 4003]</del></p>	Bullet D taken from existing 19.40.270(4) FEMA floodway; incorporated here for streamlining and clarity.
46	O	Zero-rise floodway (19.40.260, now general standards for Floodway)	29	<del>1. The requirements which apply to the flood fringe shall also apply to the zero-rise floodway. The more restrictive requirements shall apply where there is a conflict.</del>	Per logic above, flood fringe standards moved to general standards, making this statement unnecessary.
47	O	Zero-rise floodway (19.40.260, now general standards for Floodway)	29	<del>2. A development proposal including, but not limited to, new or reconstructed structures shall not cause any increase in the base flood elevation unless the following requirements are met:</del>	Covered under BMC 15.55.190(1), Flood Damage Prevention.
				<del>A. Amendments to the Flood insurance rate map are adopted by FEMA, in accordance with 44 CFR 70, to incorporate the increase in the base flood elevation; and</del>	
				<del>B. Appropriate legal documents are prepared in which all property owners affected by the increased flood elevations consent to the impacts on their property. These documents shall be filed with the title of record for the affected properties.</del>	
48	E	Zero-rise floodway (19.40.260, now general standards for Floodway)	31	<del>57. Utilities may be allowed within the zero-rise floodway</del> <u>floodway</u> if the city of Burien...	Language and numbering revised per new combined section.
				<del>68. Critical facilities shall not be allowed within the zero-rise floodway</del> <u>floodway</u> except as provided in subsection <del>840</del> .	
49	O	FEMA floodway – Development standards and permitted	32	<del>19.40.270 FEMA floodway – Development standards and permitted alterations.</del>	FEMA floodway is a subset of zero-rise floodway; provisions have been incorporated into general floodway section above and called out using terms “zero-rise” vs. “FEMA” to make distinctions when necessary.
				<del>1. The requirements which apply to the zero-rise floodway shall not apply to the FEMA floodway. The more restrictive requirements shall apply where there is a conflict.</del>	

**Type key:**

- E** – Editorial/wording changes for document clarity, consistency, and/or usability
- O** – Document organization
- CA** – Content change to administrative, designation, or other non-protective regulations
- CP** – Content change to protective regulations
- D** – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
		alterations (19.40.270, now part of general standards for Floodway)			
50	O	FEMA floodway – Development standards and permitted alterations (19.40.270, now part of general standards for Floodway)	32	<del>2. A development proposal including, but not limited to, new or reconstructed structures shall not cause any increase in the base flood elevation.</del>	Covered under 15.55.190(1) Flood Damage Prevention.
51	O	FEMA floodway – Development standards and permitted alterations (19.40.270, now part of general standards for Floodway)	32	<del>3. New residential or nonresidential structures are prohibited within the FEMA floodway.</del>	Covered under 19.40.260(6)(A) (old numbering) – general standards for Floodway.
52	O	FEMA floodway – Development standards and permitted alterations (19.40.270, now part of general standards for Floodway)	32	<del>4. Substantial improvements of existing residential structures in the FEMA floodway, meeting the requirements of WAC 173-158-070, as amended, are presumed to produce no increase in base flood elevation and shall not require a special study to establish this fact. [Ord. 394 § 1, 2003; Ord. 28 § 1(472), 1993]</del>	Incorporated under 19.40.260(3) (old numbering) – general standards for Floodway.
53	O	Flood hazard areas – Certified by engineer or surveyor (19.40.280)	32	<del>19.40.280 Flood hazard areas – Certification by engineer or surveyor.</del> <b>1. For all new structures or substantial improvements in a flood hazard area, the applicant shall provide certification by a professional civil engineer or land surveyor licensed by the state of Washington of:</b> <b>A. The actual as-built elevation of the lowest floor, including basement; and</b> <b>B. The actual as-built elevation to which the structure is floodproofed, if applicable.</b>	Covered under 15.55.120(2) Flood Damage Prevention.

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (\$)	Pg.	Proposed change	Justification
				<p><del>2. The engineer or surveyor shall indicate if the structure has a basement.</del></p> <p><del>3. The city of Burien shall maintain the certifications required by this section for public inspection. [Ord. 394 § 1, 2003; Ord. 28 § 1(473), 1993]</del></p>	
54	E	GEOLOGICALLY HAZARDOUS AREAS (Section header)	32	<u>GEOLOGICALLY HAZARDOUS AREAS</u>	Section headers make it easier to navigate the various sections of the document.
55	CA	Geologically hazardous areas – Designation (19.40.280) (new section)	32	<u>19.40.280 Geologically hazardous areas – Designation.</u>	Creation of “designation” section at the beginning of the GHA section of the CAO is consistent with treatment of other critical areas, and was recommended for clarity during joint PC/council meeting in March. Note: 19.40.270 no longer exists due to reorganization and revisions (skips from .260 to .280).
56	O	Geologically hazardous areas – Designation (19.40.280) (new section)	32	<p><i>Move the following text from 19.40.290 (GHA development standards and permitted alterations) to new 19.40.285 (designation):</i></p> <p>1. Intent. Geologically hazardous areas are a potential threat to public health, safety and welfare when construction of geotechnically incompatible uses is allowed. Some potential risk due to construction in geologically hazardous areas can be reduced through engineering design. Alteration of and construction in geologically hazardous areas should be avoided when the potential risk to public health and safety cannot be reduced to a level comparable to the undeveloped site.</p>	Leading designation section with a “purpose” statement is consistent with treatment of other critical areas in the CAO.
57	CA	Geologically hazardous areas – Designation (19.40.280) (new section)	33	<p><u>2. Geologically hazardous areas include areas susceptible to erosion, landslide, rock fall, subsidence, earthquake, or other geological events. Areas susceptible to one or more of the following types of hazards shall be designated as a geologically hazardous area:</u></p> <p><u>A. Erosion hazard;</u></p> <p><u>B. Landslide hazard; or</u></p> <p><u>C. Seismic hazard.</u></p>	Clear definition of geologically hazardous areas and subcategories added per recommendation for clarity during joint PC/council meeting in March.
58	CA	Geologically hazardous areas – Designation (19.40.280) (new section)	33	<u>3. The approximate location and extent of known landslide hazard areas and seismic hazard areas are shown on the Critical Areas Map adopted by the City, as described in BMC 19.40.040 and as most recently updated. For landslide hazard areas and seismic hazard areas depicted on the Critical Areas Map, the King County Census Areas Mapfolio from December 1990 was used as a base map. The City amends this map as new site-specific information becomes available from professional critical area studies completed as part of critical area review.</u>	This is the approach used by the City for CARAs, and provides geographic (mapping) direction for designation.
58.1	E	<b>Geologically hazardous areas – Development</b>	37	<b>E. A vegetation management plan pursuant to BMC <del>19.40.190</del>19.40.180 showing all existing vegetation and which vegetation is proposed for removal. ... Significant trees shall be retained, protected, or</b>	<b>Edited to reflect new document numbering.</b>

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Type key:**

- E** – Editorial/wording changes for document clarity, consistency, and/or usability
- O** – Document organization
- CA** – Content change to administrative, designation, or other non-protective regulations
- CP** – Content change to protective regulations
- D** – Determined through discussion by Planning Commission/Council

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
		<b>standards and permitted alterations (19.40.290)</b>		<b>replaced in accordance with BMC <del>19.40.190</del>19.40.180.</b>	
59	E	WETLANDS (Section header)	38	<u>WETLANDS</u>	Section headers make it easier to navigate the various sections of the document.
60	E	Wetlands – Designation and Classification (19.40.300)	38	1. <del>General Requirements</del> <u>Intent</u> . Wetlands provide fish and wildlife habitat, flood storage, water quality, recreation, educational opportunities, and aesthetics. The goal of wetland regulations in the City of Burien is to achieve no net loss of wetland functions and values.	Subsection header change; consistent with content and with approach for other critical areas.
61	CA	Wetlands – Designation and Classification (19.40.300)	38	2. <u>Designation and Applicability</u> . <u>A. Wetlands are those areas in the City of Burien, designated 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, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Chapter. [RCW 36.70A.175, RCW 90.58.380 (1995); WAC 173-22-035 (2011)]</u> <del>A. All wetlands meeting the federal definition of wetlands that lie within the City limits of Burien are regulated by this section.</del> <u>B. Where the vegetation has been removed or substantially altered, a wetland shall be determined by the presence or evidence of hydric or organic soil, as well as by other documentation, such as aerial photographs, of the previous existence of wetland vegetation.</u> <u>C. Puget Sound and Lake Burien are shorelines of the state and shall be regulated under the Burien Shoreline ManagementMaster Program.</u> 3. <u>Designation of Wetlands</u> . <del>A. Wetlands are those areas in the City of Burien, designated in accordance with the Washington State Wetland Identification and Delineation Manual, as required by RCW 36.70A.175 (Ecology Publication #96-94). Wetlands are defined as those areas that are inundated or saturated, by ground or surface water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.</del> <del>B. The designation of wetlands through application of the protocols outlined in the Washington State Wetland Identification and Delineation Manual, regardless of any other formal identification, shall designate those wetland areas as critical areas and shall be subject to the provisions of BMC 19.40.</del> <u>Where the vegetation has been removed or substantially altered, a wetland shall be determined by the presence or evidence of hydric or organic soil, as well as by other documentation, such as aerial photographs, of the previous existence of wetland vegetation.</u>	Text insertions and deletions based on new Ecology guidance re: wetland delineation (required).  Definition of wetlands also updated per Ecology guidance – please see accompanying definitions document, incorporated at the end of this table.

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Type key:**

- E** – Editorial/wording changes for document clarity, consistency, and/or usability
- O** – Document organization
- CA** – Content change to administrative, designation, or other non-protective regulations
- CP** – Content change to protective regulations
- D** – Determined through discussion by Planning Commission/Council

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
62	CA	Wetlands – Designation and Classification (19.40.300)	39	<p><u>34. Wetland Rating and Classification.</u></p> <p><u>A. Wetlands <del>are</del><b> shall be</b> classified into category I, category II, category III and category IV <b>according to the Washington Department of Ecology wetland rating system, based on the adopted as set forth in the Washington State Wetland Rating System for Western Washington, Washington State Department of Ecology publication number 14-06-029, or as amended, which contains the definitions and methods for determining whether the criteria below are met:-</b></u></p> <p><u><b>i. Category I. Category I wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of functions. In Western Washington these include large undisturbed estuarine wetlands; wetlands of high conservation value; bogs; wetlands with mature and old-growth forests; wetlands in coastal lagoons; interdunal wetlands larger than one (1) acre with a high habitat score; and wetlands that provide a high level of functions.</b></u></p> <p><u><b>ii. Category II. Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. In Western Washington, these include smaller estuarine wetlands; interdunal wetlands larger than one (1) acre or interdunal wetlands that are part of a wetland mosaic; and wetlands with a moderately high level of functions.</b></u></p> <p><u><b>iii. Category III. Category III wetlands include wetlands with a moderate level of functions, and interdunal wetlands between 0.1 and one (1) acre in size. Category III wetlands generally have been disturbed in some way; are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands; and can often be adequately replaced with a well-planned mitigation project.</b></u></p> <p><u><b>iv. Category IV. Category IV wetlands have the lowest levels of functions and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve.</b></u></p> <p><u>B. Wetland rating categories shall not recognize illegal modifications.</u></p> <p>Wetlands shall be designated Category 1, 2, 3, or 4 according to the criteria in this section:</p> <p><u>i. Category 1: Wetlands that meet any of the following criteria:</u></p> <p><u>a. Documented presence of fish, wildlife, or plant species listed by the federal or state government as endangered or threatened or outstanding actual habitat for those species;</u></p> <p><u>b. Equal to or greater than 10 acres in size and have three or more wetland classes as defined in BMC 19.10;</u></p> <p><u>c. Association with a Type 1 stream;</u></p> <p><u>d. Presence of plant associations of infrequent occurrence or High Quality Native Wetland Communities. Examples include: bogs and fens, estuarine wetlands, mature forested wetlands, or kelp and eelgrass beds;</u></p>	<p>Text changes in this subsection are a result of the new wetland classification system released by Ecology in 2014.</p> <p>Note this is a more recent classification system (methodology) than the one used by the SMP; however, it results in the same actual assignment of wetland class. For consideration upon review and update to SMP.</p> <p><b>Revised following 04/22/15 PC meeting to introduce and provide summary descriptions of four wetland categories.</b></p>

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Type key:**

- E** – Editorial/wording changes for document clarity, consistency, and/or usability
- O** – Document organization
- CA** – Content change to administrative, designation, or other non-protective regulations
- CP** – Content change to protective regulations
- D** – Determined through discussion by Planning Commission/Council

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
				<del> <ul style="list-style-type: none"> <li>e. Documented as regionally significant waterfowl or shorebird concentration areas.</li> <li>ii. Category 2: Wetlands that do not meet any of the criteria for Category 1, but meet any of the following criteria:                             <ul style="list-style-type: none"> <li>a. Greater than one acre in size;</li> <li>b. Equal to or less than one acre in size and have three or more wetland classes as defined in BMC 19.10;</li> <li>c. Forested wetlands equal to or less than one acre;</li> <li>d. Documented presence of heron rookeries or raptor nesting trees;</li> <li>e. Documented occurrences of sensitive species of plant, animal or fish recognized by federal or state agencies;</li> <li>f. Associated with Type 2 or 3 streams; or</li> <li>g. Wetlands with significant habitat value (Greater than or equal to 22 points on the Wetlands Rating Form).</li> </ul> </li> <li>iii. Category 3: A wetland that does not meet any of the criteria for Category 1 or 2, but meets either of the following criteria:                             <ul style="list-style-type: none"> <li>a. Of a size between 1,000 square feet and one acre, with two or fewer wetland classes as defined in BMC 19.10;</li> <li>b. Wetlands where the habitat score for significant habitat value is less than or equal to 21 points;</li> </ul> </li> <li>iv. Category 4: Wetlands associated with Lake Burien.</li> </ul> </del>	
63	CP	Wetlands – Designation and Classification (19.40.300)	40	<del> <ul style="list-style-type: none"> <li>c. The following types of wetlands are not regulated by the City of Burien:                             <ul style="list-style-type: none"> <li>a. <u>Category 3</u>All hydrological isolated Category III and IV wetlands less than 1,000 square feet and hydrologically isolated that:                                     <ul style="list-style-type: none"> <li>ai. Are not associated with riparian areas or buffers.</li> <li>bii. Are not part of a wetland mosaic, and</li> <li>eiii. Do not contain habitat identified as essential by Washington Department of Fish and Wildlife.</li> </ul> </li> </ul> </li> </ul> </del>	Expands City's existing definition of non-regulated wetlands, per Ecology guidance.
64	E	Wetlands – Designation and Classification (19.40.300)	41	<del> <ul style="list-style-type: none"> <li>b. Man-made ponds smaller than one acre and excavated from uplands without a surface water connection to streams, lakes, rivers, or other wetlands. [Ord. 394 § 1, 2003]</li> </ul> </del>	The current wetland definition already excludes farm ponds and landscape amenities.
65	E	Wetlands – Performance Standards (19.40.310, now Development)	41	19.40.310 Wetlands – <del>Performance</del> <u>Development</u> standards.	Performance standards are used to measure the success of a mitigation project, e.g. (like a restored wetland) – this term is not appropriate for use in describing protective measures for existing wetlands.

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Type key:**

- E** – Editorial/wording changes for document clarity, consistency, and/or usability
- O** – Document organization
- CA** – Content change to administrative, designation, or other non-protective regulations
- CP** – Content change to protective regulations
- D** – Determined through discussion by Planning Commission/Council

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification																									
		Standards)																												
66	CP	Wetlands – Performance Standards (19.40.310, now Development Standards)	42	1. General Requirements. ... C. Plantings in a wetland or buffer <del>should</del> <b>shall</b> be native to Western Washington <u>or be a native plant community appropriate for the ecoregion.</u> <del>or increase the functions of the wetland or wildlife habitat.</del>	Per Ecology comment from Donna Bunten, 3/10/15. Not required. Ecoregion added to City definitions; see accompanying definitions document, incorporated at the end of this table. <b>Bold changes added to clarify requirement; consistent with regulatory language in rest of section.</b>																									
66.1	CA	<b>Wetlands – Performance Standards (19.40.310, now Development Standards)</b>	42	<del><b>E. Non-Conformance. Activities occurring in a wetland or wetland buffer prior to October 20, 2003 shall be considered a non-conforming use as described in BMC 19.55.</b></del>	<b>Moved out of wetlands section to 19.40.080 to apply generally to all critical areas. See change 13.1 in this matrix.</b>																									
67	O	Wetlands – Performance Standards (19.40.310, now Development Standards)	41	<i>Moved from subsection 2, which refers to buffers:</i> <del>E.</del> Unless otherwise provided, the following restrictions shall apply to all development proposals in Category I, II, or III wetlands that include the introduction of livestock: i. Implementation of a plan approved by the Director to protect and enhance the wetland's water quality; and ii. Fencing located at the buffer edge. [Ord. 394 § 1, 2003]	This regulation applies more generally to wetlands (not just to wetland buffers).  Wetland categories updated to reflect new classification system.																									
68	D	Wetlands – Performance Standards (19.40.310, now Development Standards)	42	B. The following standard buffers, <b>based on the category of wetland and the habitat score as determined by a qualified wetland professional</b> , shall be established from the wetland edge. <u>Additional buffer widths are added to the standard buffer widths. For example, a Category I wetland scoring eight (8) points for habitat function would require a buffer of 225 feet (75 + 150).</u>  <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Wetland Category</u></th> <th style="text-align: center;"><u>Buffer width if wetland scores 3-4 habitat points</u></th> <th style="text-align: center;"><u>Additional buffer width if wetland scores 5 habitat points</u></th> <th style="text-align: center;"><u>Additional buffer width if wetlands cores 6-7 habitat points</u></th> <th style="text-align: center;"><u>Additional buffer width if wetland scores 8-9 habitat points</u></th> </tr> </thead> <tbody> <tr> <td><u>Category I</u></td> <td style="text-align: center;"><b>75 ft</b></td> <td style="text-align: center;"><b>Add 30 ft</b></td> <td style="text-align: center;"><b>Add 90 ft</b></td> <td style="text-align: center;"><b>Add 150 ft</b></td> </tr> <tr> <td><u>Category II</u></td> <td style="text-align: center;"><b>75 ft</b></td> <td style="text-align: center;"><b>Add 30 ft</b></td> <td style="text-align: center;"><b>Add 90 ft</b></td> <td style="text-align: center;"><b>Add 150 ft</b></td> </tr> <tr> <td><u>Category III</u></td> <td style="text-align: center;"><b>60 ft</b></td> <td style="text-align: center;"><b>Add 45 ft</b></td> <td style="text-align: center;"><b>Add 105 ft</b></td> <td style="text-align: center;"><b>Add 165 ft</b></td> </tr> <tr> <td><u>Category IV</u></td> <td colspan="4" style="text-align: center;"><b>40 ft</b></td> </tr> </tbody> </table>	<u>Wetland Category</u>	<u>Buffer width if wetland scores 3-4 habitat points</u>	<u>Additional buffer width if wetland scores 5 habitat points</u>	<u>Additional buffer width if wetlands cores 6-7 habitat points</u>	<u>Additional buffer width if wetland scores 8-9 habitat points</u>	<u>Category I</u>	<b>75 ft</b>	<b>Add 30 ft</b>	<b>Add 90 ft</b>	<b>Add 150 ft</b>	<u>Category II</u>	<b>75 ft</b>	<b>Add 30 ft</b>	<b>Add 90 ft</b>	<b>Add 150 ft</b>	<u>Category III</u>	<b>60 ft</b>	<b>Add 45 ft</b>	<b>Add 105 ft</b>	<b>Add 165 ft</b>	<u>Category IV</u>	<b>40 ft</b>				Ecology recommends revising buffer regulations per the table on page A-6 of Wetlands and CAO Updates: Guidance for Small Cities (Western Washington Version) (Ecology Publication #10-06-002, January 2010) (as updated in 2012).  <b>Based on this feedback from Ecology City staff and consultants considered four buffer schemes. Following feedback from the Planning Commission at the 04/22/15 meeting, the City is proceeding with the preferred option, incorporating it into the code for consideration.</b>
<u>Wetland Category</u>	<u>Buffer width if wetland scores 3-4 habitat points</u>	<u>Additional buffer width if wetland scores 5 habitat points</u>	<u>Additional buffer width if wetlands cores 6-7 habitat points</u>	<u>Additional buffer width if wetland scores 8-9 habitat points</u>																										
<u>Category I</u>	<b>75 ft</b>	<b>Add 30 ft</b>	<b>Add 90 ft</b>	<b>Add 150 ft</b>																										
<u>Category II</u>	<b>75 ft</b>	<b>Add 30 ft</b>	<b>Add 90 ft</b>	<b>Add 150 ft</b>																										
<u>Category III</u>	<b>60 ft</b>	<b>Add 45 ft</b>	<b>Add 105 ft</b>	<b>Add 165 ft</b>																										
<u>Category IV</u>	<b>40 ft</b>																													

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (\$)	Pg.	Proposed change	Justification										
				<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 40%;">Wetland Category</th> <th style="width: 60%;">Standard Wetland Buffer (feet)</th> </tr> </thead> <tbody> <tr> <td>Category 1*</td> <td style="text-align: center;">200</td> </tr> <tr> <td>Category 2</td> <td style="text-align: center;">400</td> </tr> <tr> <td>Category 3</td> <td style="text-align: center;">50</td> </tr> <tr> <td>Category 4</td> <td style="text-align: center;">30</td> </tr> </tbody> </table>	Wetland Category	Standard Wetland Buffer (feet)	Category 1*	200	Category 2	400	Category 3	50	Category 4	30	
Wetland Category	Standard Wetland Buffer (feet)														
Category 1*	200														
Category 2	400														
Category 3	50														
Category 4	30														
69	CA	Wetlands – Performance Standards (19.40.310, now Development Standards)	43	*As of <del>October 20, 2003</del> the date of adoption of this Chapter, no Category 4 wetlands exist in Burien.	Updated to be current.										
69.1	CP	Wetlands – Performance Standards (19.40.310, now Development Standards)	43	<p><b><u>C. The use of the standard buffer widths requires the implementation of the measures in the following table, where applicable, to minimize the impacts of the adjacent land uses. If an applicant chooses not to apply these measures, then a thirty-three (33) percent increase in the width of all buffers is required. For example, a 75-foot buffer accompanied by the mitigation measures would be a 100-foot buffer without them.</u></b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #d3d3d3;"> <th style="width: 30%;">Disturbance</th> <th style="width: 70%;">Required Measures to Minimize Impacts</th> </tr> </thead> <tbody> <tr> <td><u>Lights</u></td> <td> <ul style="list-style-type: none"> <li>• <u>Direct lights away from wetland</u></li> </ul> </td> </tr> <tr> <td><u>Noise</u></td> <td> <ul style="list-style-type: none"> <li>• <u>Locate activity that generates noise away from wetland</u></li> <li>• <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</u></li> <li>• <u>For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</u></li> </ul> </td> </tr> <tr> <td><u>Toxic runoff</u></td> <td> <ul style="list-style-type: none"> <li>• <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u></li> </ul> </td> </tr> </tbody> </table>	Disturbance	Required Measures to Minimize Impacts	<u>Lights</u>	<ul style="list-style-type: none"> <li>• <u>Direct lights away from wetland</u></li> </ul>	<u>Noise</u>	<ul style="list-style-type: none"> <li>• <u>Locate activity that generates noise away from wetland</u></li> <li>• <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</u></li> <li>• <u>For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</u></li> </ul>	<u>Toxic runoff</u>	<ul style="list-style-type: none"> <li>• <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u></li> </ul>	The preferred option features overall smaller buffer widths with required accompanying impact-minimization measures. This allows developers to get credit for such measures and considers the constraints of protecting wetlands and their buffers in an urban, largely developed setting.		
Disturbance	Required Measures to Minimize Impacts														
<u>Lights</u>	<ul style="list-style-type: none"> <li>• <u>Direct lights away from wetland</u></li> </ul>														
<u>Noise</u>	<ul style="list-style-type: none"> <li>• <u>Locate activity that generates noise away from wetland</u></li> <li>• <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</u></li> <li>• <u>For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</u></li> </ul>														
<u>Toxic runoff</u>	<ul style="list-style-type: none"> <li>• <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u></li> </ul>														

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
				<ul style="list-style-type: none"> <li>• <b><u>Establish covenants limiting use of pesticides within 150 feet of wetland</u></b></li> <li>• <b><u>Apply integrated pest management</u></b></li> </ul> <p><b><u>Stormwater runoff</u></b></p> <ul style="list-style-type: none"> <li>• <b><u>Retrofit stormwater detention and treatment for roads and existing adjacent development</u></b></li> <li>• <b><u>Prevent channelized flow from lawns that directly enters the buffer</u></b></li> <li>• <b><u>Use Low Intensity Development techniques (per PSAT publication on LID techniques)</u></b></li> </ul> <p><b><u>Change in water regime</u></b></p> <ul style="list-style-type: none"> <li>• <b><u>Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</u></b></li> </ul> <p><b><u>Pets and human disturbance</u></b></p> <ul style="list-style-type: none"> <li>• <b><u>Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</u></b></li> <li>• <b><u>Place wetland and its buffer in a separate tract or protect with a conservation easement</u></b></li> </ul> <p><b><u>Dust</u></b></p> <ul style="list-style-type: none"> <li>• <b><u>Use best management practices to control dust</u></b></li> </ul> <p><b><u>Disruption of corridors or connections</u></b></p> <ul style="list-style-type: none"> <li>• <b><u>Maintain connections to offsite areas that are undisturbed</u></b></li> <li>• <b><u>Restore corridors or connections to offsite habitats by replanting</u></b></li> </ul>	
70	CP	Wetlands – Performance Standards (19.40.310, now Development Standards)	44	<p><u>D. Buffer widths as defined in subsection B above assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer <del>should</del><b>shall</b> either be planted to create the appropriate plant community or the buffer <del>should</del><b>shall</b> be widened to ensure that adequate functions of the buffer are provided.</u></p>	<p>Take from model ordinance provided in <i>Guidance for Small Cities</i> (Ecology 2012), and recommended by Ecology staff in comment received 3/10/15.</p> <p>Ecology’s buffer guidance assumes a well-vegetated, high-functioning buffer. Therefore, Ecology will be much more likely to agree to buffer the City’s buffer regulations, as amended, if this is included.</p> <p><b>Bold changes added to clarify requirement; consistent with regulatory language in rest of section.</b></p>
71	O	Wetlands – Performance Standards (19.40.310, now Development Standards)	43	<p><del>E. No structures are allowed within of fifteen (15) feet of the edge of a designated or modified wetland buffer. This area serves to protect the wetland during development activities, use, and routine maintenance occurring adjacent to these resources. The following may be allowed within fifteen (15) feet of the buffer edge: landscaping, uncovered decks, building overhangs which do not extend more than eighteen (18) inches into the area, and driveways and patios subject to water quality regulations as adopted in the City’s stormwater management regulations (BMC 13.10).</del></p>	Moved to 19.40.230 General development standards.
72	CP	Wetlands –	43	<p><del>G.H.</del> Standard buffer width averaging may be allowed by the Director (in accordance with an approved critical</p>	Ecology recommends 75% of the standard buffer (per comment received

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (\$)	Pg.	Proposed change	Justification
		Performance Standards (19.40.310, now Development Standards)		area review) if: ... ii. Minimum buffer width is the greater of <del>thirty</del> <u>seventy-five</u> percent ( <del>30</del> <u>75</u> %) of the standard buffer width or 25 (25) feet.	3/10/2015). This recommendation is also in our Gap Analysis. Reduction beyond 75% significantly reduces the function (and purpose) of the buffer and can lead to wetland impacts.
72.1	CP	<b>Wetlands – Performance Standards (19.40.310, now Development Standards)</b>	43	<b>iii. Buffer enhancement includes, but is not limited to the following: a. Planting <u>native</u> vegetation that would increase value for fish and wildlife habitat, improve water quality, or provide aesthetic/recreational value.</b>	<b>Clarification added based on Planning Commission discussion 04/22/2015. Native vegetation is required to provide buffer functions within the context of these buffer regulations.</b>
72.2	CP	<b>Wetlands – Performance Standards (19.40.310, now Development Standards)</b>	44	<del>v. If the buffer reduction results in a buffer of less than twenty-five (25) feet, the applicant shall be responsible for attending an environmental stewardship Class Acceptable to the City.</del>	<b>Buffers below 25 feet should not be allowed. Per BAS, such buffers do not provide any buffer functions. This is consistent with the approach taken for stream buffers</b>
73	E	Wetlands – Permitted Alterations (19.40.320)	45	3. Alterations to Wetlands. A. Activities and uses shall be prohibited from Category <del>I</del> <u>4</u> wetlands. B. Alterations to Category <del>II</del> <u>2</u> , <del>III</del> <u>3</u> , and <del>IV</del> <u>4</u> wetlands may be permitted if the Director determines...	Mapped to new classification system.
74	CP	Wetlands – Permitted Alterations (19.40.320)	47	D. The following surface water management activities and facilities may be allowed in wetland buffers only as follows: ... <u>ii. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They are not allowed in buffers of Category I or II wetlands, but may be allowed within the outer twenty-five percent (25%) of the buffer of Category III or IV wetlands, provided that:</u> <u>a. No other location is feasible; and</u> <u>b. The location of such facilities will not degrade the functions and values of the wetland; and</u> <u>c. All requirements of the King County Surface Water Design Manual, as adopted in BMC 13.10, are met.</u> <del>ii. A Category 2 wetland or buffer may be used for a regional retention/detention facility if:</del> <del>a. A public agency and utility exception is granted pursuant to BMC 19.40.070.3;</del> <del>b. All requirements of the Surface Water Design Manual are met; and</del> <del>c. The use will not alter the rating or the factors used in rating the wetland.</del> <del>iii. A Category 3 wetland buffer which has as its major function the storage of water may be used as a regional</del>	Bullet ii comes from Ecology guidance for small cities. Requirements/references to public agency and utility exceptions in old (deleted) bullet ii are not necessary – the nature of an exception is that it applies wholesale to the code. Implications of this change are that stormwater management facilities outside of dispersion outfalls and bioswales are no longer allowed in wetlands w/o an exception, and no stormwater management facilities are allowed in Cat I or II wetlands without an exception.

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Type key:**

- E** – Editorial/wording changes for document clarity, consistency, and/or usability
- O** – Document organization
- CA** – Content change to administrative, designation, or other non-protective regulations
- CP** – Content change to protective regulations
- D** – Determined through discussion by Planning Commission/Council

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (\$)	Pg.	Proposed change	Justification
				<del>retention/detention facility if a pre-settlement pond is required and all requirements of the Surface Water Design Manual are met; and iv. Use of a wetland buffer for a surface water management activity or facility, other than a retention/detention facility, such as an energy dissipater and associated pipes, may be allowed only if the applicant demonstrates, to the satisfaction of the City, that: a. No practicable alternative exists; and b. The functions of the buffer or the wetland are not adversely affected.</del>	
75	CP	Wetlands – Permitted Alterations (19.40.320)	47	E. Public and private trails may be allowed in <u>the outer 25% of</u> wetland buffers only if: i. The trail surface <u>is no more than 5 feet wide and</u> shall not be made of impervious materials, except that public multipurpose trails may be made of impervious materials if: a.) they meet all other requirements including water quality; and b.) an impervious trail has less of an impact on the wetland and its buffer.	Per Ecology guidance. Placement farther from wetland minimizes potential impacts. 5 foot trail width is flexible; many jurisdictions use 6 feet here. The idea is to minimize impacts to vegetation, upon which the buffer function relies.
76	E	Wetlands – Mitigation Requirements (19.40.330, now Additional Mitigation Requirements)	48	19.40.330 Wetlands – <u>Additional</u> Mitigation Requirements	To reflect general mitigation requirements of BMC 19.40.170.
77	CA	Wetlands – Mitigation Requirements (19.40.330, now Additional Mitigation Requirements)	48	1. General Requirements. ... B. Mitigation for alterations to wetlands shall achieve equivalent or greater biological functions. Mitigation plans shall be consistent with this Chapter (BMC 19.40.170) and <i>Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance</i> (Version 1, Ecology Publication #06-06-011a) or as amended, and the Department of Ecology Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposal (Ecology 1004) or other best available science.	Ecology has specific requirements for wetland mitigation; best/easiest way to ensure mitigation aligns with those requirements as they relate to plan contents.
78	O	Wetlands – Mitigation Requirements (19.40.330, now Additional Mitigation Requirements)	48	2. Types of Mitigation. <u>Impacts to wetlands shall be mitigated according to the mitigation sequence defined in BMC 19.40.170, Mitigation Requirements. Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to wetlands and wetland buffers. When an alteration to a wetland or its required buffer is proposed, such alteration shall be avoided, minimized, or compensated for in the following order of preference: Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:</u> A. <u>Avoidance of wetland and wetland buffer impacts, whether by finding another site or changing the location of the proposed activity on site.</u> B. <u>Minimizing wetland and wetland buffer impacts by limiting the degree of impact on site.</u>	Mitigation sequencing is now covered under BMC 19.40.170 Mitigation Requirements.

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification								
				<p><del>C. Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:</del></p> <p><del>i. Restoring wetlands on upland sites that were formerly wetlands.</del></p> <p><del>ii. Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of exotic introduced species or noxious weeds.</del></p> <p><del>iii. Enhancing significantly degraded wetlands.</del></p>									
79	CA	Wetlands – Mitigation Requirements (19.40.330, now Additional Mitigation Requirements)	49	<p>3. Mitigation Location....</p> <p>...</p> <p>C. Off-site locations shall be in the same sub-drainage basin and the same Water Resource Inventory Area (WRIA) unless:</p> <p>i. <del>R</del>regional or watershed goals for water quality, flood or conveyance, habitat or other wetland functions have been established and strongly justify location of mitigation at another site; <u>or</u></p> <p>ii. <u>Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the certified bank instrument; or</u></p> <p>iii. <u>Fees are paid to an approved in-lieu fee program to compensate for the impacts.</u></p>	Language regarding mitigation banks and ILF programs inserted per Ecology recommendation. Not required. Note that existing code within this subsection already allows for off-site mitigation outside of the city (off-site locations in the same sub-drainage basin and WRIA) when justified; this just expands these options to more explicitly align with watershed approach.								
80	CA	Wetlands – Mitigation Requirements (19.40.330, now Additional Mitigation Requirements)	50	<p>5. Mitigation Schedule.</p> <p>A. A mitigation monitoring schedule shall be established for a period of <u>a minimum of five years.</u></p>	Ecology staff recommends 10 years where a scrub-shrub or forested vegetation community is proposed (per comment received 3/10/15); however, it is atypical for small residential projects to require more than a 5 year monitoring and maintenance period. Planting density and/or area may be increased to compensate for loss of significant trees. The mitigation plan should justify how critical area functions and values are maintained. Forested versus non-forested wetland impacts could be addressed in section on mitigation ratios (bullet 7 below) per Ecology guidance.								
81	CP	Wetlands – Mitigation Requirements (19.40.330, now Additional Mitigation Requirements)	50	<p>7. Mitigation Ratios.</p> <p><del>Wetland Category</del> <del>Creation or Restoration Ratio</del></p> <p><del>Category 1 and 2</del> <del>3 to 1</del></p> <p><del>Category 3 and 4</del> <del>2 to 1</del></p> <table border="1" style="margin-top: 10px; width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #e0e0e0;"> <th style="width: 25%;">Category of Impact Wetland</th> <th style="width: 25%;">Creation or Re-establishment</th> <th style="width: 25%;">Rehabilitation</th> <th style="width: 25%;">Enhancement</th> </tr> </thead> <tbody> <tr> <td>Category I: based on</td> <td style="text-align: center;">4:1</td> <td style="text-align: center;">8:1</td> <td style="text-align: center;">16:1</td> </tr> </tbody> </table>	Category of Impact Wetland	Creation or Re-establishment	Rehabilitation	Enhancement	Category I: based on	4:1	8:1	16:1	New ratios recommended by Ecology (from page A-19 of the Small Cities Guidance) and required for consistency with BAS.
Category of Impact Wetland	Creation or Re-establishment	Rehabilitation	Enhancement										
Category I: based on	4:1	8:1	16:1										

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (\$)	Pg.	Proposed change	Justification																				
				<table border="1"> <tr> <td>total score</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Category I: Mature Forested</td> <td>6:1</td> <td>12:1</td> <td>24:1</td> </tr> <tr> <td>Category II</td> <td>3:1</td> <td>6:1</td> <td>12:1</td> </tr> <tr> <td>Category III</td> <td>2:1</td> <td>4:1</td> <td>8:1</td> </tr> <tr> <td>Category IV</td> <td>1.5:1</td> <td>3:1</td> <td>6:1</td> </tr> </table>	total score				Category I: Mature Forested	6:1	12:1	24:1	Category II	3:1	6:1	12:1	Category III	2:1	4:1	8:1	Category IV	1.5:1	3:1	6:1	
total score																									
Category I: Mature Forested	6:1	12:1	24:1																						
Category II	3:1	6:1	12:1																						
Category III	2:1	4:1	8:1																						
Category IV	1.5:1	3:1	6:1																						
82	CP	Wetlands – Mitigation Requirements (19.40.330, now Additional Mitigation Requirements)	52	8. Wetlands Enhancement as Mitigation. ... B. At a minimum, enhancement acreage shall be <del>double</del> according to the ratios in Section 19.40.330.7 above. <del>The acreage required for creation or restoration under Subsection A.</del>	To meet the federal mandate of no net loss of wetland area, Ecology does discourage wetland enhancement only to mitigate for wetland area loss. It is an option under the guidance, but the ratio varies by wetland category and is much higher than double (see tables above).																				
83	E	STREAMS (Section header)	52	<u>STREAMS</u>	Section headers make it easier to navigate the various sections of the document.																				
83.1	CA	<b>Streams – Designation and Classification (19.40.340)</b>	52	<b>1. General Requirements. The goal of stream regulations in the City of Burien is to preserve and enhance stream <u>channels, banks, and stream channels and buffers to their natural condition</u> and to maintain and enhance existing fish and wildlife <u>habitat and species and habitat diversity.</u></b>	<b>Suggested revision received by WDFW, 04/24/15. Clarifies purpose of streams chapter to better align with state guidance.</b>																				
84	CA	Streams – Designation and Classification (19.40.340)	53	3. Stream Classifications. Streams shall be classified as Type <del>4S</del> , Type <del>2E</del> , Type <del>3Np</del> , or Type <del>4Ns</del> according to the <del>criteria in this section</del> permanent water typing system (WAC 222-16-030). Water types are described generally below: <u>A. Type S waters are all waters inventoried as “shorelines of the state” under Chapter 90.58 RCW. Type S waters are not regulated under this Chapter and are subject to the Shoreline Master Program (Title 20 BMC).</u> <u>B. Type F waters are segments of natural <b>watercourses, or natural watercourses which have been altered by humans</b>, other than Type S waters, which contain fish habitat.</u> <u>C. Type Np waters include <del>these</del> <b>segments of natural watercourses, or natural watercourses which have been altered by humans</b>, which are perennial during a year of normal rainfall and do not have the potential to be used by fish and are typically formed by geomorphic processes.</u> <u>D. Type Ns waters include <del>these</del> <b>segments of natural watercourses, or natural watercourses which have been altered by humans</b>, which are seasonal or ephemeral during a year of normal rainfall and do not have</u>	Adoption of permanent water-typing system per WAC/Commerce guidance.  Recommend adding full definitions for Type S, Type F, Type Np, and Type Ns streams (found in WAC 222-16-030) to definitions section, and linking appropriate text in this section. See definitions document, incorporated at the end of this table.  <b>Changes in bold added based on comment from WDFW received 04/24/15.</b>																				

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
				<p><del>the potential to be used by fish and were generally formed by geomorphic processes.</del></p> <p><del>A. Type 1: Streams inventoried as “Shorelines of the State” under Chapter 90.58 (RCW).</del></p> <p><del>B. Type 2: Streams that are natural streams that have perennial (year round) or intermittent flow and have documented use by salmonids.</del></p> <p><del>C. Type 3: Streams that are natural streams that have perennial flow and are not used by salmonids.</del></p> <p><del>D. Type 4: Streams that are natural streams with perennial or intermittent flows that are not used by fish. [Ord. 394 § 1, 2003]</del></p>	
85	E	Streams – Performance Standards (19.40.350, now Development Standards)	54	19.40.350 Streams – <del>Performance</del> <u>Development</u> Standards	Performance standards are used to measure the success of a mitigation project, e.g. (like a restored stream) – this term is not appropriate for use in describing protective measures for existing streams.
85.1	CA	<b>Streams – Performance Standards (19.40.350, now Development Standards)</b>	<b>55</b>	<del><b>E. Non-Conformance. Activities occurring in a stream or stream buffer prior to October 20, 2003 shall be considered a non-conforming use as described in BMC 19.55.</b></del>	<b>Moved out of streams section to 19.40.080 to apply generally to all critical areas. See change 13.1 in this matrix.</b>
86	O	Streams – Performance Standards (19.40.350, now Development Standards)	55	<p><i>Moved from subsection 2, which refers to buffers:</i></p> <p><u>E</u>. Unless otherwise provided, the following restrictions shall apply to all development proposals within the vicinity of all City of Burien streams and stream buffers that include the introduction of livestock:</p> <p>i. Implementation of a plan approved by the Director to protect and enhance the stream’s water quality; and</p> <p>ii. Fencing located at the stream buffer edge. [Ord. 580 § 1 (Exh. A), 2012; Ord. 394 § 1, 2003]</p>	This regulation applies more generally to streams (not just to stream buffers).
87	CP	Streams – Performance Standards (19.40.350, now Development Standards)	55	<p>2. Buffers.</p> <p><del>Stream Type — Standard Stream Buffer (feet)</del></p> <p><del>Type 1* — 125</del></p> <p><del>Type 2 — 100</del></p> <p><del>Type 3 — 50</del></p> <p><del>Type 4 — 25</del></p>	<p>Recommendation from the Gap Analysis. City will need to adopt for consistency with BAS. Note that for the purposes of buffers, Type 2 streams will become Type F; Type 3 and 4 will become Np and Ns, respectively.</p> <p>BAS-based ranges for the recommended water typing system:</p> <p>Type F: 100-165 ft</p> <p>Type Np: 50-65 ft</p> <p>Type Ns: 50-65 ft</p>

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change		Justification										
				Stream Type	Standard Stream Buffer (feet)											
					<table border="1"> <tr> <th>Stream Type</th> <th>Standard Stream Buffer (feet)</th> </tr> <tr> <td>S</td> <td>See Title 20 BMC, Shoreline Master Program</td> </tr> <tr> <td>F</td> <td>100</td> </tr> <tr> <td>Np</td> <td>50</td> </tr> <tr> <td>Ns</td> <td>50</td> </tr> </table>	Stream Type	Standard Stream Buffer (feet)	S	See Title 20 BMC, Shoreline Master Program	F	100	Np	50	Ns	50	Note that buffers may be reduced to 25 feet – see bullet H (old numbering) below.
Stream Type	Standard Stream Buffer (feet)															
S	See Title 20 BMC, Shoreline Master Program															
F	100															
Np	50															
Ns	50															
88	CA	Streams – Performance Standards (19.40.350, now Development Standards)	55	*as of <del>October 20, 2003</del> date of adoption of this Chapter, no Type 4S streams exist in Burien.		Updated to be current.										
89	O	Streams – Performance Standards (19.40.350, now Development Standards)	55	<p><del>D. No impervious surfaces are allowed within fifteen (15) feet of the edge of a designated or modified stream buffer. This area serves to protect the stream during development activities, use, and routine maintenance occurring adjacent to these resources. The following impervious surfaces may be allowed within fifteen (15) feet of the buffer edge: building overhangs which do not extend more than eighteen (18) inches into the area, and residential driveways and patios subject to water quality regulations as adopted in the City's stormwater management regulations (BMC 13.10).</del></p> <p><i>Numbering of subsequent bullets revised accordingly.</i></p>		Now covered under 19.40.230 General development standards.										
90	CP	Streams – Performance Standards (19.40.350, now Development Standards)	56	<p><del>G.H.</del> Buffer reduction with enhancement may be allowed by the Director (in accordance with an approved critical area study) if:</p> <p>...</p> <p><b>iv. For Type F and Type Np streams, Buffer reductions under this Section shall be limited to twenty-five (25)% of the standard buffer width. Or a minimum of twenty-five (25) feet, whichever is greater. For Type Ns streams, buffer reductions shall result in a buffer of no less than twenty-five (25) feet.</b></p>		BAS indicates that buffers do not provide any buffering functions when smaller than 25 feet. This clarification allows reduction of Type F and Type Np streams consistent with the City's existing code, and allows greater reduction of Type Ns stream buffers to accommodate existing conditions in the City while still ensuring functional buffers.										
91	CP	Streams – Performance Standards (19.40.350, now Development Standards)	57	<p><del>v. If the buffer reduction results in a buffer of less than twenty five (25) feet, the applicant shall be responsible for attending an environmental stewardship Class Acceptable to the City.</del></p>		Buffers smaller than 25 feet are no longer possible given the revised reduction regulations above.										

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
92	CA	Streams – Permitted Alterations (19.40.360)	57-60	<p>1. Alteration to Streams.</p> <p>A. Relocation or piping of any Type <del>4</del><del>or 2</del><u>E</u> stream in the City of Burien shall not be permitted unless undertaken for stream enhancement as described in BMC 19.40.360.1 (B). Relocation or piping of Type <del>3</del><del>or 4</del><u>Np</u> or <u>Ns</u> streams may take place only when it is part of an approved mitigation or restoration plan, and will result in equal or better habitat and water quality, and will not diminish the flow capacity of the stream.</p> <p>2. Alterations to Stream Buffers.</p> <p>...</p> <p>C. Utilities such as water, telephone, cable, electric, and natural gas may be allowed in Type <del>3</del><u>Np</u> or Type<del>4</del><u>Ns</u> stream buffers if: ...</p> <p>E. The following surface water management activities and facilities may be allowed in Type <del>3</del><u>Np</u> and Type <del>4</del><u>Ns</u> stream buffers only as follows:</p> <p>i. Surface water discharge to a Type <del>3</del><u>Np</u> or Type <del>4</del><u>Ns</u> stream from a detention facility, pre-settlement pond or other surface water management activity...</p> <p>ii A Type <del>3</del><u>Np</u> or Type <del>4</del><u>Ns</u> stream or stream buffer may be used for a regional retention/detention facility if: ...</p> <p>G. Stream crossings may be allowed and may encroach on the required stream buffer if...</p> <p>...</p> <p>ii. All crossings use bridges or other construction techniques which do not disturb the stream bed or bank; except that bottomless culverts, fish friendly culverts or other appropriate methods demonstrated to provide fisheries protection may be used for Type <del>2</del><u>E</u>, <del>3</del><u>Np</u>, or <del>4</del><u>Ns</u> streams if the culvert design is in accordance with the WDFW manual <i>Fish Passage Design at Road Culverts</i>;</p>	Mapped to new water typing; also, Type S waters are not regulated under this Chapter.
93	E	Streams – Mitigation requirements (19.40.370, now Additional mitigation requirements)	61	19.40.370 Streams – <u>Additional m</u> Mitigation requirements.	To reflect general mitigation requirements in BMC 19.40.170.
94	O	Streams – Mitigation requirements (19.40.370, now Additional	61	<p>1. General Requirements.</p> <p><del>A. All impacts to streams that degrade the functions and values of the stream shall be avoided. If alteration to the stream is unavoidable, all adverse impacts to the stream and its buffer resulting from a development proposal or alteration shall be mitigated in accordance with an approved mitigation plan as described below.</del></p>	Now covered under 19.40.170 Mitigation Requirements.

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (\$)	Pg.	Proposed change	Justification
		mitigation requirements)			
95	E	Streams – Mitigation requirements (19.40.370, now Additional mitigation requirements)	61	<u>AB.</u> Restoration or mitigation shall be required when a stream or buffer is altered in violation of law or without any specific permission or approval by the Director. In addition to the requirements of BMC 19.40.170, aA mitigation plan <u>for stream impacts</u> shall demonstrate that: ... <u>BC. Mitigation</u> In addition to the requirements of BMC 19.40.170, <u>Mitigation</u> minimum requirements shall include:	Internal reference added for enhanced usability.
96	E	FISH AND WILDLIFE HABITAT CONSERVATION AREAS (Section header)	63	<u>FISH AND WILDLIFE HABITAT CONSERVATION AREAS</u>	Section headers make it easier to navigate the various sections of the document.
97	E	Fish and Wildlife Habitat Conservation Areas – Designation and Classification (19.40.380)	63	<u>19.40.380 Fish and Wildlife Habitat Conservation Areas – Designation and Classification</u>	No classifications of FWHCAs are presented in this section.
98	CA	Fish and Wildlife Habitat Conservation Areas – Designation and Classification (19.40.380)	63	1. Fish and wildlife habitat conservation areas are those habitat areas that meet any of the following criteria: ... F. Bald eagle habitat protected pursuant to the <del>Washington State</del> <u>Federal</u> <u>Bald and Golden Eagle Protection Act</u> <del>Rules (WAC 232-12-202); or</del> G. Heron rookeries or active nesting trees; <u>or</u>	Per City staff recommendation, to reflect changes to WAC.
99	CA	Fish and Wildlife Habitat Conservation Areas – Designation and Classification (19.40.380)	63	<u>H. Waters of the state, regulated under Section 19.40.340, Streams, of this Chapter.</u>	Under the WAC, FWHCAs include waters of the state, which include streams. The City has indicated that it wishes to keep its stream regulations separate than those for other FWHCAs. In order to clarify how the City's regulations map to the WAC, we have added bullet 19.40.380(1)(H) under FWHCA designation. This helps explain the separate stream section in the code, and serves to illustrate why it sometimes makes more sense to incorporate stream regulations under FWHCAs, to avoid overlaps/redundancies. However, in the case of overlaps, the code is clear that the more protective regulations would apply (19.40.030(1)). There are examples of other jurisdictions that follow this model.

**Type key:**

- E** – Editorial/wording changes for document clarity, consistency, and/or usability
- O** – Document organization
- CA** – Content change to administrative, designation, or other non-protective regulations
- CP** – Content change to protective regulations
- D** – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (\$)	Pg.	Proposed change	Justification
100	E	Fish and Wildlife Habitat Conservation Areas – Designation and Classification (19.40.380)	63	2. The approximate location and extent of known fish and wildlife habitat conservation areas are shown on the <u>Critical Areas Maps</u> adopted by the City, as described in BMC 19.40.040(2)(A) and as most recently updated.	Added for clarity and consistency with other sections.
101	E	Fish and Wildlife Habitat Conservation Areas – Performance Standards (19.40.390, now Development Standards)	64	19.40.390 Fish and Wildlife Habitat Conservation Areas – <del>Performance</del> <u>Development</u> Standards.	Performance standards are used to measure the success of a mitigation project, e.g. (like a restored habitat) – this term is not appropriate for use in describing protective measures for existing FWHCAs.
102	E	Fish and Wildlife Habitat Conservation Areas – Performance Standards (19.40.390, now Development Standards)		b. The location and description of the fish and wildlife habitat conservation areas on the subject property, as well as any potential fish and wildlife habitat conservation areas within 200 feet of the subject property as shown on the City’s adopted <u>Critical Areas Maps</u> ; and ...	Edited for clarity and consistency with other sections.
103	E	Fish and Wildlife Habitat Conservation Areas – Specific Habitats (19.40.410)	67	1. Endangered, threatened, and sensitive species habitat. ... B. B. Whenever activities are proposed adjacent to a fish and wildlife habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a Habitat Management Plan prepared by a qualified professional ( <u>BMP 19.40.390</u> ) and approved by the City.	Internal reference added for usability.
104	CA	Fish and Wildlife Habitat Conservation Areas – Specific Habitats (19.40.410)	67	C. Bald eagle habitat shall be protected pursuant to the <del>Federal Washington State Bald Eagle Protection Rules Act (WAC 232-12-202)</del> . Whenever activities are proposed <del>within 660 feet of adjacent to a verified nest territory or communal roost, a Habitat Management Plan shall be developed by a qualified professional.</del> Activities are adjacent to bald eagle sites when they are within eight hundred (800) feet of an eagle nest, or within a quarter mile (1,320 feet) if in a shoreline foraging area. <del>The applicant shall verify the location of eagle management areas for each proposed activity.</del> <u>consult with the U.S. Fish and Wildlife Service to determine if a permit is required. Prior to issuance of the building permit by the City, the applicant shall provide written approval of the Habitat Management Plan by the Department of Fish and Wildlife.</u>	Per City staff recommendation, to reflect changes to WAC.

**Type key:**

- E – Editorial/wording changes for document clarity, consistency, and/or usability
- O – Document organization
- CA – Content change to administrative, designation, or other non-protective regulations
- CP – Content change to protective regulations
- D – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (\$)	Pg.	Proposed change	Justification
105	CA	Fish and Wildlife Habitat Conservation Areas – Specific Habitats (19.40.410)	68	2. Aquatic Habitats. ... B. Filling of aquatic habitats, <del>when authorized by the City of Burien's Shoreline Management Master Program</del> shall not adversely impact salmonids or their habitat or shall mitigate any unavoidable impacts, and shall only be allowed for a water-dependent activity.	Aquatic habitats under the jurisdiction of the SMP would be under the jurisdiction of that SMP's CAO (even if it refers to this CAO). This statement is not necessary.
106	E	CRITICAL AQUIFER RECHARGE AREAS (Section header)	68	<u>CRITICAL AQUIFER RECHARGE AREAS</u>	Section headers make it easier to navigate the various sections of the document.
107	E	Critical aquifer recharge areas – Performance Standards (19.40.430, now Development Standards)	69-72	19.40.430 Critical aquifer recharge areas – <del>Performance Development</del> Standards. ... 4. Appeal of determination. ... D. If the hydrogeologic assessment determines that the facility will have no effect on groundwater, the facility is exempt from the <del>performance development</del> standards requirements in Sections 19.40.350.6. E. If the hydrogeologic assessment determines that the facility could have an effect on the groundwater resource, the City shall require implementation of <u>applicable</u> development standards <del>and applicable performance standards</del> in 19.40.350.5 and 19.40.350.6.  5. <del>Performance Development</del> standards – General requirements.	Performance standards are used to measure the success of a mitigation project – this term is not appropriate for use in describing protective measures for existing CARAs.
108	CA	Critical aquifer recharge areas – Performance Standards (19.40.430, now Development Standards)	72	C. Storage tank permits. The City of Burien specifically regulates and authorizes permits for underground storage tanks, pursuant to the <del>Uniform Fire Code (Article 70)</del> <u>International Fire Code</u> and this Chapter. The Washington Department of Ecology also regulates and authorizes permits for underground storage tanks (WAC 173-360). The local Fire District regulates and authorizes permits for the removal of underground storage tanks ( <del>UFC 7002</del> ).	Edited per City staff recommendation, to reflect changes to City fire code.
109		DEFINITIONS (19.10)	NA	19.10.140.5 Ecoregion - Ecoregions are defined using EPA's Ecoregions of the Pacific Northwest Document No. 600/3-86/033 July 1986 by Omernik and Gallant. The term ecoregions is used to define a mapped classification of the ecosystem regions of the United States. Ecoregions are generally considered to be regions of relative homogeneity in ecological systems or in relationships between organisms and their environments. In general, ecoregions have a distinct composition and distribution of plant and animal species.	Defined using EPA's <i>Ecoregions of the Pacific Northwest</i> Document No. 600/3-86/033 July 1986 by Omernik and Gallant, as defined in WAC 173-340-7493(7)(a).

**Type key:**

- E** – Editorial/wording changes for document clarity, consistency, and/or usability
- O** – Document organization
- CA** – Content change to administrative, designation, or other non-protective regulations
- CP** – Content change to protective regulations
- D** – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
110		DEFINITIONS (19.10)		19.10.182 Frequently flooded area - Frequently flooded areas are lands in the flood plain subject to at least a one percent or greater chance of flooding in any given year, or within areas subject to flooding due to high groundwater. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and areas where high groundwater forms ponds on the ground surface.	WAC 365-190-030(8)
111		DEFINITIONS (19.10)		19.10.545.5 Type F Water - Type F Water means segments of natural waters other than Type S Waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or are described by one of the following four categories: (a) Waters, which are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less; (b) Waters, which are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type F Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality. The department may allow additional harvest beyond the requirements of Type F Water designation provided the department determines after a landowner-requested on-site assessment by the department of fish and wildlife, department of ecology, the affected tribes and interested parties that: (i) The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and (ii) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery; (c) Waters, which are within a federal, state, local, or private campground having more than 10 camping units: Provided, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail or other park improvement; (d) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria: (i) The site must be connected to a fish habitat stream and accessible during some period of the year; and (ii) The off-channel water must be accessible to fish.	WAC 222-16-030(2)

**Type key:**

- E** – Editorial/wording changes for document clarity, consistency, and/or usability
- O** – Document organization
- CA** – Content change to administrative, designation, or other non-protective regulations
- CP** – Content change to protective regulations
- D** – Determined through discussion by Planning Commission/Council

**CRITICAL AREAS ORDINANCE  
Summary of Changes**

**Planning Commission Public Hearing DRAFT 4/28/2015**

**Bold text within the body of the table was added following the Planning Commission meeting on 04/22/15, based on feedback from the Planning Commission, public attendees, and comments received from the Washington Department of Fish and Wildlife on 04/24/15.**

#	Type	Topic (§)	Pg.	Proposed change	Justification
112		DEFINITIONS (19.10)		19.10.546 Type Np Water - Type Np Water means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are flowing waters that do not go dry any time of a year of normal rainfall and include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.	WAC 222-16-030(3)
113		DEFINITIONS (19.10)		19.10.546.3 Type Ns Water - Type Ns Water means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np Waters.	WAC 222-16-030(4)
114		DEFINITIONS (19.10)		19.10.546.5 Type S Water - Type S Water means all waters, within their bankfull width, as inventoried as “shorelines of the state” under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW including periodically inundated areas of their associated wetlands.	WAC 222-16-030(1)
115		DEFINITIONS (19.10)		19.10.580 Wetlands - <del>Wetlands are those areas in the City of Burien, designated in accordance with the Washington State Wetland Identification and Delineation Manual, as required by RCW 36.70A.175 (Ecology Publication #96-94).</del> Wetlands are defined as those areas that are inundated or saturated, by ground or surface water at a frequency and duration sufficient to support, and under normal circumstances to support, a prevalence of vegetation typically adopted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands. For identifying and delineating a wetland, local government shall use the <del>Washington State Wetland Identification and Delineation Manual</del> approved federal wetland delineation manual and applicable regional supplements.	Wetlands definition updated per WAC/Ecology guidance.  WAC 365-190-030(22)