

ORDINANCE NO. 2008-04-036

AN ORDINANCE AMENDING BELLINGHAM MUNICIPAL CODE SECTIONS 16.55.050 AND 16.55.490 OF THE CITY OF BELLINGHAM'S CRITICAL AREAS ORDINANCE TO CLARIFY THE RELATIONSHIP BETWEEN THE CRITICAL AREAS ORDINANCE AND THE CITY'S NEW SHORELINE MASTER PROGRAM.

WHEREAS, WHEREAS, on November 21, 2005, the City of Bellingham adopted a Critical Areas Ordinance (CAO) in accordance RCW 36.70A.130 (8)(a); and

WHEREAS, the City of Bellingham is in the process of adopting a new Shoreline Master Program (SMP); and

WHEREAS, because there will be some regulatory overlap between the CAO and the new SMP with regard to permitted uses and buffer setbacks, the City included a provision in the CAO that recognizes the supremacy of the SMP's policy priorities for the areas adjacent to marine waters.

WHEREAS, BMC 16.55.490.F.4 of the CAO expressly states that "[t]he SMP shall establish all permitted uses adjacent to, and critical area buffer setbacks from, the ordinary high water mark of marine waters (mean higher water tide)."; and

WHEREAS, the CAO does not expressly state that the SMP shall establish all permitted uses adjacent to, and critical area buffer setbacks from the ordinary high water mark of Lake Whatcom and Lake Padden; and

WHEREAS, to achieve the City's policy priorities for areas adjacent to marine waters, Lake Whatcom and Lake Padden and to improve consistency between the CAO and the new SMP, additional clarifying language is necessary in the CAO at BMC 16.55.050.B and BMC 16.55.490 F.4.; and

WHEREAS, the Planning Commission held a public hearing on February 7th, 2008 and has recommended adoption of an ordinance amending the Critical Areas Ordinance to clarify the relationship between the CAO and the City's new SMP; and

WHEREAS, the SEPA Official has issued a Determination of Non-Significant Environmental Impact (SEP2008-00002) for adoption of this ordinance; and

WHEREAS, the ordinance amending the Critical Areas Ordinance to clarify the relationship between the CAO and the City's new SMP was sent out to the appropriate state agencies for the required sixty-day review and comment period on January 14, 2008; and

WHEREAS, the City Council has held a public hearing on the ordinance on March 17th, 2008.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

SECTION 1. Bellingham Municipal Code Section 16.55.050 shall be amended as follows:

BMC 16.55.050 -- Relationship to Other Regulations

A. [NO CHANGE].

B. Any individual Critical Area adjoined by another type of Critical Area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved. When any provision of this Chapter or any existing regulation, easement, covenant, or deed restriction conflicts with this Chapter, generally that which provides more protection to the critical areas shall apply, except that the Shoreline Master Program (SMP) shall establish all permitted uses adjacent to and critical area buffer setbacks from the ordinary high water mark of marine waters and from the ordinary high water mark of Lake Whatcom and Lake Padden.

C. – D. [NO CHANGE].

SECTION 2. Bellingham Municipal Code Section 16.55.490 shall be amended as follows:

BMC 16.55.490 – Performance Standards – General Requirements

A. – E. [NO CHANGE]

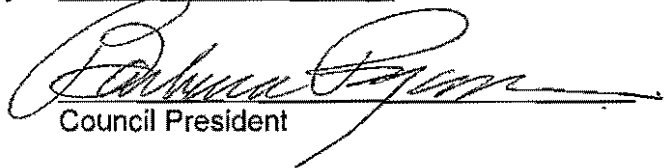
F. Buffers

1. – 3. [NO CHANGE]

4. All land and shoreline uses, development, occupancy, and critical area resource management of any kind shall comply with the provisions of the City of Bellingham Shoreline Master Program (SMP). The SMP shall establish all permitted uses adjacent to, and critical area buffers and setbacks from, the ordinary high water mark of marine waters and Lake Whatcom and Lake Padden.

SECTION 3. The effective date of this ordinance shall be May 15, 2008.

PASSED by the Council this 28th day of April, 2008.


Council President

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

APPROVED by me this 8th day of May, 2008.

David V. Pih
Mayor

ATTEST: [Signature]
Finance Director

APPROVED AS TO FORM:
[Signature]
Office of the City Attorney

Published:
May 2, 2008

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