

# Ordinance No. 00590

[CITY COUNCIL MINUTES AUGUST 4, 2014](#)

## ORDINANCE NO. 590

AN ORDINANCE of the City Council of the City of Lakewood, Washington, adopting a Shoreline Master Program; amending Sections 14A.142.040 and 18A.02.502 Lakewood Municipal Code (LMC); repealing Chapters 14.06, 14.10, 14.14, 14.18, 14.22, 14.26, 14.30, 14.34, 14.38, 14.42, 14.46, 14.50, 14.54, 14.58, 14.62, 14.66, 14.70, 14.74, 14.78, 14.82, 14.86, 14.90, 14.94, 14.98, 14.102, 14.106, 14.110, 14.114, 14.118, 14.122, 14.126, 14.130 and 14.134 LMC; and repealing Sections 18A.40.200 through 18A.40.260 LMC

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

WHEREAS, although the City of Lakewood adopted interim Shoreline Use Regulations on February 12, 1996, it has never adopted a Shoreline Master Program in accordance with the procedures of WAC 173-26; and,

WHEREAS, on April 23, 1997, the Washington State Department of Ecology notified the City that until the City of Lakewood formally adopts a Shoreline Master Program in accordance with WAC 173-26, the pre-existing shoreline regulations adopted by Pierce County would remain in effect per WAC 173-26-160; and

WHEREAS, the City is required to develop a Shoreline Master Program pursuant to the SMA and WAC 173-26; and,

WHEREAS, in 2009 the City entered into Grant Agreement #G1000045 with the Department of Ecology to update its shoreline master program; and,

WHEREAS, the City of Lakewood retained the firm of AHBL Consultants to develop the draft SMP and guide it through the adoption process; and,

WHEREAS, there was extensive public participation with respect to updating the City's Shoreline Master Program, including but not limited to the following: holding public forums and open houses, meeting with property owners and forming citizen involvement committees to review and recommend amendments to the designations, policies and regulations of the Shoreline Master Program consistent with the Shoreline Management Act, including at least ten public meetings before the Planning Advisory Board and a formally noticed public hearing on November 9, 2011; and,

WHEREAS, on February 1, 2012, the Planning Advisory Board adopted PAB Resolution 2012-01, recommending that the City Council adopt the proposed updated Shoreline Master Program; and,

WHEREAS, on July 11, 2013, a Determination of Non-Significance was issued consistent with the State Environmental Policy Act (RCW 43.21C), and a Notice of Issuance was published in the Tacoma News Tribune; and,

WHEREAS, on May 20, 2013, the Lakewood City Council adopted a Resolution of Intent to adopt the draft SMP and forwarded the approved draft to the Department of Ecology; and,

WHEREAS on May 6, 2014, the Department of Ecology responded to the City of Lakewood, approving the updated Shoreline Master Program, subject to certain required and recommended changes; and,

WHEREAS, on June 18, 2014, the Planning Advisory Board reviewed the required and recommended changes from DOE and recommended approval of the amended SMP; and,

WHEREAS, July 28, 2014, the City Council considered and accepted Ecology's required and recommended amendments; and

WHEREAS chapters 14.06 through 14.134 LMC currently compose the City's interim regulations, which will be superseded by the adoption of the Shoreline Master Program;

WHEREAS Sections 18A.40.200 through .260 LMC pertain to the Riparian Overlay (RO) zone and can be deleted in their entirety based on the finding that adequate and appropriate provisions for the preservation and protection of the functions of creeks and streams are provided through the City's critical areas regulations (Lakewood Municipal Code Section 14A.142 et seq.) and the City's Shoreline Master Program as herein amended.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON DO ORDAIN as follows:

Section 1. The City Council hereby adopts the City of Lakewood Shoreline Master Program (“SMP”) dated May 6, 2014, which incorporates the required and recommended changes noted by the Department of Ecology, a copy of which is attached to this ordinance as an exhibit and incorporated herein by this reference. A copy of said plan shall be on file in the office of the City Clerk for public use and copies of this ordinance, together with copies of the Shoreline Master Plan, shall be distributed and filed as required by law. In the event of a conflict between the SMP, and any provision of Title 14 or 14A of the Lakewood Municipal Code, the SMP shall control.

Section 2. That Section 14A.142.040 of the Lakewood Municipal Code, entitled “Applicability and Mapping” be amended to read as follows:

A. Applicability.

This Title shall apply to all lands, land uses and development activity in the City which are designated as Critical Areas or Natural Resource Lands by the City, including wetlands. Properties containing critical areas or natural resource lands are subject to this Title. When the requirements of this Title are more stringent than those of other City codes and regulations, the requirements of this Title shall apply.

Where a site contains two or more critical areas, the site shall meet the minimum standards and requirements for each identified critical area as set forth in this Title.

Critical areas on lands subject to the Washington State Shoreline Management Act (SMA) and regulated by the City’s shoreline management regulations shall be regulated under the shoreline provisions and are not subject to the procedural and substantive requirements of this Title. Nothing in this section, however, is intended to limit or change the quality of information to be applied in protecting critical areas within shorelines of the state. Shorelines of the state shall not be considered critical areas under this Title except to the extent that specific areas located within such shorelines qualify for critical area designation based on the definition of critical areas provided by RCW 36.70A.030(5) and have been designated as such by the City’s critical areas regulations.

If the City’s shoreline regulations do not include land necessary for buffers for critical areas that occur within shoreline areas, then the City shall continue to regulate those critical areas and their required buffers pursuant to this Title.

B. Mapping.

Maps may be developed and maintained by the City which show the general location of critical areas for informational purposes. The actual presence of critical areas and the applicability of these regulations shall be determined by the classification criteria established for each critical area.

Section 3. That Section 18A.02.502 of the Lakewood Municipal Code, entitled “Process Types - Permits” be amended to read as follows:

Permit Process Types. Permit applications for review pursuant to this section shall be classified as a Process I, Process II, Process III, or Process IV action. Process V actions are legislative in nature. Permit applications and decisions are categorized by process type as set forth in Table 3. The differences between the processes are generally associated with the different nature of the decisions and the decision-making body as described below.

**TABLE 3: APPLICATION PROCESSING PROCEDURES**

	<b>Process I Administrative Action</b>	<b>Process II Administrative Action</b>	<b>Process III Hearing Action</b>	<b>Process IV Hearing Action</b>	<b>Process V Legislative Action</b>
	Zoning certification; Building permit; Design Review; Sign permit; Temporary Sign permit;	Administrative Uses; Short Plat; SEPA;	Conditional Use; Major Variance; Preliminary Plat; Major	Zoning Map Amendments; Site-specific	

<b>Permits</b>	Accessory Living Quarters; Limited Home Occupation; Temporary Use; Manufactured or Mobile Home permit; Boundary Line Adjustments; Minor modification of Process II and III permits; Final Site Certification; Certificate of Occupancy; ***Sexually Oriented Business extensions	Home Occupation; Administrative Variance; Binding Site Plans, Minor Plat Amendment, Major modification of Process II permits; <u>Shoreline Conditional Use; Shoreline Variance; Shoreline Substantial Development Permit when referred by the Shoreline Administrator;</u> Public Facilities Master Plan	Plat Amendment; Major modification of Process III permits: Shoreline Conditional Use; Shoreline Variance; Shoreline Substantial Development Permit when referred by the Shoreline Administrator; Public Facilities Master Plan	Comprehensive Plan map amendments; Specific Comprehensive Plan text amendments; Shoreline Redesignation, **Final Plat**; **Development Agreement** **No hearing required or recommendation made by Planning Advisory Board**	Generalized or comprehensive ordinance text amendments; Area-wide map amendments; Annexation; Adoption of new planning-related ordinances;
<b>Impacts</b>	Minimal or no effect on others, so issuance of permit is not dependent on others	Application of the standards may require some knowledge of impacts and effect upon others	Potential significant effect on some persons or broad impact on a number of persons	Potential significant effect on some persons or broad impact on a number of persons	Potential significant effect on some persons or broad impact on a number of persons
<b>Notice &amp; Comment</b>	Participation of applicant only	Nearby property owners invited to comment on an application	In addition to applicant, others affected invited to present initial information	In addition to applicant, others affected invited to present initial information	Anyone invited to present information
<b>Recommendation</b>	NA	NA	Community Development Department Staff	Planning Advisory Board, except for Final Plat and Development Agreement as noted ** above	Planning Advisory Board
<b>Decision-Making Body</b>	Community Development Director	Community Development Director	Hearing Examiner	City Council	City Council
<b>Appeal</b>	Hearing Examiner Community Development Director's decision on permits noted *** above is appealable to Superior Court.	Hearing Examiner	Superior Court	Superior Court	Superior Court

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Section 4. Chapters 14.06, 14.10, 14.14, 14.18, 14.22, 14.26, 14.30, 14.34, 14.38, 14.42, 14.46, 14.50, 14.54, 14.58, 14.62, 14.66, 14.70, 14.74, 14.78, 14.82, 14.86, 14.90, 14.94, 14.98, 14.102, 14.106, 14.110, 14.114, 14.118, 14.122, 14.126, 14.130 and 14.134 of the Lakewood Municipal Code, and each Section contained therein, regarding Shoreline Use Regulations, be repealed in their entirety;

Section 5. Sections 18A.40.200, 18A.40.210, 18A.40.220, 18A.40.230, 18A.40.240, 18A.40.250 and 18A.40.260 of the Lakewood Municipal Code are repealed in their entirety.

Section 6. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 7. This ordinance shall take effect fourteen days following the date of a letter to the City of Lakewood from the Washington State Department of Ecology approving the SMP adopted by this ordinance.

ADOPTED by the City Council this 4th day of August, 2014.

CITY OF LAKEWOOD

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Don Anderson, Mayor

Attest:

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Alice M. Bush, MMC, City Clerk

Approved as to Form:

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Heidi A. Wachter City Attorney