Critical Areas

Critical areas are important ecosystems that help protect the environment and the community. They improve and protect water quality, provide habitat for fish and wildlife, help control flooding and stormwater, recharge groundwater, and reduce wave and erosion impacts. Some critical areas can also be hazardous if not properly managed, as they may be prone to landslides, flooding, or severe erosion that can threaten people and property. Critical area regulations are in place to protect public safety, sensitive habitats and environment, and to prevent property damage.

Regulated Critical Areas:

Cities are required by state law to protect the following five critical areas.

1. Wetlands: Español | Tiếng Việt | አማርኛ
2. Fish and Wildlife Habitat Conservation Areas: Español | Tiếng Việt | አማርኛ
3. Aquifer Recharge Areas: Español | Tiếng Việt | አማርኛ
4. Frequently Flooded Areas: Español | Tiếng Việt | አማርኛ
5. Geologically Hazardous Areas: Español | Tiếng Việt | አማርኛ

Required Permits and Process

A Critical Area Review is required for any alteration, construction, development, or activity within a critical area (except a seismic hazard area) or its buffer. An alteration is defined in BMC 19.10.020 as: "*Any human activity which results or is likely to result in an impact upon the existing condition of a critical area. Alterations include, but are not limited to, grading, filling, dredging, draining, channelizing, applying herbicides or pesticides or any hazardous substance, discharging pollutants except storm water, grazing domestic animals, paving, constructing, applying gravel, modifying for surface water management purposes, cutting, pruning, topping, trimming, relocating or removing vegetation or any other human activity which results or is likely to result in an impact to existent vegetation, hydrology, wildlife or wildlife habitat. Alterations do not include walking, fishing or any other passive recreation or other similar activities.*"

Not all projects are within critical areas are reviewed at the same level, as impacts and critical areas differ. The City uses different permitting types to match the level of review with the scope and scale of the proposed project. Minor projects with little or no impact may qualify for a simpler review, while projects with greater potential impacts require more detailed studies and review. In some cases, specific permits may be needed when the provisions of the critical areas code result in a property with limited or no reasonable use.

Complete Exemption	Partial Exemption	Type 1 Land Use	Administrative CAR
• Emergency Actions • Existing Public Facilities and Infrastructure • Existing Structures • Minor Site Investigations • Older Structures • Non-Regulated Activities • Vegetation Management and Voluntary Restoration:	• Emergency Removal of Hazardous Trees • New Accessory Structures or Additions • Existing public and quasi-public utilities • Pedestrian Trails	• Public Agency Exception • Reasonable Use Exception • Vacant lot within landslide hazard area	• All other projects not listed that propose an alteration to a critical area

Exemptions (BMC 19.40.070(3))

Exemption activities are small in nature and are typically related to routine maintenance and repair. Limited projects/activities qualify for a complete exemption. Exempt activities are listed and described below:

1. Emergency Actions: Work may occur without prior approval when an emergency poses an immediate threat to public health, safety, welfare, or property and there is not enough time to follow standard requirements. Emergency actions **must be reported to the City within 7 business days**. After the emergency is resolved, all appropriate permits must be obtained, and any impacted critical areas must be restored or mitigated subject to City review.
2. Existing Public Facilities and Infrastructure: Routine operation, maintenance, remodeling, or repair of **existing** public facilities is exempt as long as work does **not expand into previously undeveloped areas**, including:
    a. Public facilities, parks, and open spaces
    b. Public streets and City-approved private roads
    c. Public and quasi-public utilities within existing rights-of-way or easements (typically related to utility services).
3. Existing Structures: Routine maintenance, repair, or minor alterations to existing public or private structures are exempt if they do not increase the building footprint or increase nonconformance with critical area regulations. For example, interior renovations to an existing home such as updating kitchens or bathrooms.
4. Minor Site Investigations: Limited investigative activities (such as surveying or soil testing) needed for permit applications are exempt if they do not require new roads or major vegetation removal. Any disturbed areas must be promptly restored.
5. Older Structures: Normal maintenance, repair, renovation, or structural alteration of public and private structures that existed prior to *January 14, 2003*, is exempt, provided there is *no expansion*.
6. Non-Regulated Activities: Activities located within Critical Aquifer Recharge Areas are exempt when they are *not specifically regulated* under this chapter.
7. Vegetation Management and Voluntary Restoration: Vegetation management and voluntary restoration within critical area buffers are allowed when intended to *protect or improve ecological functions* and do not involve grading, filling, or heavy equipment (unless approved by the City). This includes:
    a. Selective removal of non-native or noxious plants using approved methods
    b. Limited pruning that does not damage tree health
    c. Stabilization and replanting of disturbed areas
    d. Voluntary restoration such as planting native vegetation or adding habitat features

    Please note seasonal restrictions and size limits may apply.

Exemption Process:
Exempt activities meeting the criteria above must be confirmed by staff. If you believe your project qualifies for an exemption, you will be required to provide staff with the proposed scope of work, the associated critical area, and the exemption provision applicable to your project. Staff will provide a letter confirming the activity is exempt, or if not, the appropriate level of review that shall be required. This letter will be kept on file with the City.

Partial Exemptions (BMC 19.40.070(4))

Partial Exemptions are for alterations that are still minor in nature but may require some technical information, though not at the level of a full critical area review. For example, a small deck addition within 10 feet of a landslide hazard area may not require a full study but may require Geotechnical Engineering for safety. This level of review reflects the potential impacts to the critical area. Partial Exemptions are listed and described below.

1. Emergency Removal of Hazardous Trees: The removal of hazardous trees is allowed when a certified Arborist determines that the tree poses a high or extreme risk (using the ISA TRAQ method). A Vegetation Management

Plan is required to be submitted within two-weeks upon tree removal. When possible, it is required that the tree is left on site as a snag or as large woody debris, with the stumps and roots remaining in the ground for stability. All replanting is required to follow the vegetation management standards found in BMC 19.40.180.

2. New Accessory Structures or Additions: New accessory structures or additions to existing buildings are allowed if the total amount of new hard surface added since January 14, 2003, is no more than 1,000 square feet *or* 7% of the lot size (whichever is greater). The work must not be located in a stream, wetland, or lake, or within their required buffers, and it must not make an existing critical area condition worse.
3. Existing Public and Quasi-public Utilities: Normal operation, maintenance, repair, and minor upgrades of existing public and quasi-public utilities are allowed as long as the work does not occur in streams or wetlands, or their required buffers. This includes utilities such as water, sewer, stormwater, electricity, natural gas, cable, and telephone service. Allowed work includes relocating or upgrading utility lines and equipment (but not substations) with voltages of 55,000 volts or less when required and approved by the City, as well as installing, replacing, or modifying utilities within improved public rights-of-way or City-authorized private roads.
4. Pedestrian Trails: Pedestrian trails are generally allowed provided they are not located in streams, wetlands, fish and wildlife habitat areas, or their required buffers, unless specifically allowed by City code. Trails may be permitted within buffers if they meet the City's standards for wetlands, streams, and fish and wildlife habitat. The City may require an environmental study to make sure the trail avoids unnecessary impacts and does not negatively impact the associated habitat. In some cases, buffer areas may need to be widened to offset the trail, and trails in landslide or erosion hazard areas must be designed to avoid increasing risk and follow an approved geotechnical report.
5. Forest Practices: Forest practices are allowed when they follow state forest practice laws and regulations. However, converting forest land to another use is not exempt from City review.

Partial Exemption Process:
You will apply for the Critical Area Partial Exemption permit on MyBuildingPermit.com. When prompted, after selecting Burien as the jurisdiction, you will select the following to begin the application:

Land Use → Single Family Residential → Critical Areas → Critical Areas Partial Exemption

Administrative Critical Area Reviews (BMC 19.40.070.4)

The City of Burien uses the Critical Area Review (CAR) process to evaluate a proposal's effect on critical areas. The purpose of this review is to protect the natural environment and protect public health and safety. In addition to project plans, a Critical Area Study is also required. A Critical Area Review is processed as an administrative decision and will require a qualified professional to provide a study/report on the projects probable impacts and proposed mitigation to ensure no net loss of ecological function.

Administrative CAR Permit Pathway: You will apply for the Critical Area Review permit on MyBuildingPermit.com. When prompted, after selecting Burien as the jurisdiction, you will select the following to begin the application:

Land Use → Any Project Type → Critical Areas → Critical Areas Permit

If you are developing on a vacant lot, within a landslide hazard, a Type 1 Land Use Review is required:
Critical Area Type 1 Permit Pathway: You will apply for the Critical Area Type 1 permit on MyBuildingPermit.com. When prompted, after selecting Burien as the jurisdiction, you will select the following to begin the application:

Land Use → Any Project Type → Critical Areas → Critical Areas Permit Type 1

Exceptions (BMC 19.40.070(5))

Critical Area Exceptions may allow certain activities or alterations that would normally be restricted when the strict application of the regulations would impose unreasonable or impractical limitations. Critical Area Exceptions are highly regulated and require impact mitigation. Critical Area Exceptions are processed as a Type 1 Land Use Review, which requires public noticing. Critical Area Exceptions are listed and described below:

1. Public Agency and Utility Exception: Public agencies and services that are located within a critical area can request an exception, only when necessary. All requirements of BMC 19.40 are required to be met, except when waived as a part of the decision on the exception. The project must minimize impacts on the critical area and meet safety and environmental standards. The City reviews each request to make sure it is necessary and that critical areas are protected as much as possible. The exception can be approved if all criteria in BMC 19.40.070(5)(A)(iii) can be met.
2. Reasonable Use Exception: Reasonable use exceptions allow the use of the land when strict rules would otherwise prohibit development, rendering the property unusable/unbuildable, while still protecting the critical area as much as possible. The goal is to allow reasonable use of property without negatively impacting the critical area, with the following limitations:
    a. Exceptions cannot be allowed for uses or densities that are not allowed per BMC 19.15
    b. Maximum disturbance of the site is generally 20% of the lot area, or 2,500 square feet, and must be located to minimize impacts to the critical area
        i. When proposing over the maximum disturbance limit, a Type 2 Land Use Review shall be required. This is a decision which is determined by the Hearing Examiner following a recommendation from the Community Development Director.
        Land Use → Any Project Type → Use Approval → Land Use Review Type 2

Critical Area Exception Permit Pathway: You will apply for the Critical Area Exception as a Critical Area Type 1 permit on MyBuildingPermit.com. When prompted, after selecting Burien as the jurisdiction, you will select the following to begin the application:

Land Use → Any Project Type → Critical Areas → Critical Areas Permit Type 1

To receive a Critical Area Exception permit:

- The applicant must show that there are *no other* feasible alternatives outside the critical area or buffer.
- Impacts must be minimized and mitigated to the greatest extent possible.
- A qualified professional will be required to prepare a critical areas report.
- The project must still protect public safety and critical area functions.

These permits are reviewed carefully and may include conditions such as buffer reductions, mitigation measures, monitoring, or long-term protection requirements. The goal is to allow limited flexibility while still protecting important environmental resources.