All changes are required. As provided in RCW 90.58.090(2)(e)(ii) the city may choose to submit an alternative to all or part of the changes required by Ecology.

Added text is underlined. Removed text is struck. Ecology’s explanatory statements are in italics. Roman numeral subscripts are used in the permit matrix to reference Ecology’s comments and not part of a required change. Shading is added in some areas to enhance readability where no changes are being made to the text.

Chapter I. User’s Guide

20.10.001 Overview of State Shoreline Management Act

In 1995, the Legislature amended the Growth Management Act (GMA) and the Shoreline Management Act (SMA) to partially integrate the two statutes. The amendments incorporated the goals and policies of the SMA as the 14th goal of the GMA, specifically designating the goals and policies of a local shoreline master program as a segment of the jurisdiction’s development regulations – comprehensive plan. All other portions of the SMP shall be considered a part of the jurisdiction’s development regulations (RCW 36.70A.480). The diagram below indicates the relationship.

Figure 1: Relationship of Shoreline Master Program to GMA

The changes are required in order to be consistent with RCW 36.70A.480 – Growth Management, Shorelines of the State.
The Shoreline Restoration Plan is part of the SMP per RCW 173-26-186(8.c.).

Chapter II. General Goals and Policies

20.20.035 Conservation Element

Pol. CON 3 The City of Burien’s Critical Areas Map shall be used as a reference for identifying the City’s critical areas. Other unmapped critical areas do exist throughout the City. Any site containing critical areas within shoreline jurisdiction are subject to the special development regulations and conditions found in the City’s Critical Areas Ordinance this shoreline master program.

These changes add clarification and are required in order to comply with RCW 36.70A.480(3.b.) – the transfer of critical area protection to the SMP.
Chapter III. Shoreline Environment Designations

20.25.015 Urban Conservancy

2. Criteria for Designation

An “Urban Conservancy” environment designation is assigned to areas within shoreline jurisdiction that are suitable for public access, water-enjoyment recreational uses and active recreation developments. These are areas that are developed at a low density including residences and outdoor recreation. The Urban Conservancy environment is bounded on the north by the northern end of Seahurst Park and on the south by the southern end of Eagle Landing Park.

20.25.020 Shoreline Residential

2. Criteria for Designation

A Shoreline Residential environment designation is assigned to shoreline areas that are predominantly single-family or multifamily residential development or are planned and platted for residential development. These are areas that are developed at a moderate density or intensity including residences and outdoor recreation. Low intensity institutional uses may be allowed if their impacts on the shoreline environment are mitigated. The Shoreline Residential environment includes all shorelands from the northern city limits to the north end of Seahurst Park, from the southern end of Eagle Landing Park to the southern city limits, and all of Lake Burien.

These changes are required per WAC 173-26-211(2.b.) - Common boundary descriptions.

Chapter IV. Shoreline Uses and Modifications Policies and Regulations

20.30.001 Figure 4 Shoreline Permit Matrix

| Type of Shoreline Permit Required for New Shoreline Uses and Modifications* | Shoreline Environment Designations |
|---|---|---|---|
|  | Shoreline Residential | Aquatic | Urban Conservancy |
| Aquaculture | X | CU | X |
| Boat Mooring Buoy | N/A | P² | N/A |
| Boat Ramp | X | X | X |
| Boat House (covered moorage) | X | X | X |
| Shoreline Stabilization Structures | | | |

*Please see Chapter 20.25 for shoreline designation descriptions and section 20.25.025 Figure 3 for a map showing the locations of each designation.
<table>
<thead>
<tr>
<th>Activity Description</th>
<th>SDP</th>
<th>CU</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breakwater &amp; other in-water structures</td>
<td>N/A</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>Bulkheads</td>
<td>SDP</td>
<td>CU</td>
<td>SDP</td>
</tr>
<tr>
<td>Upland Structures (retaining walls and bluff walls)</td>
<td>SDP</td>
<td>N/A</td>
<td>SDP</td>
</tr>
<tr>
<td>Personal Wireless Service Facility</td>
<td>CU</td>
<td>N/A</td>
<td>X</td>
</tr>
<tr>
<td>Community Beach</td>
<td>CU</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Community residential facility</td>
<td>CU</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Docks, Piers and Floats</td>
<td>SDP</td>
<td>N/A</td>
<td>X</td>
</tr>
<tr>
<td>Docks, Piers and Floats-Residential</td>
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<td>SDP</td>
<td>X</td>
</tr>
<tr>
<td>Dredging</td>
<td>N/A</td>
<td>X</td>
<td>N/A</td>
</tr>
<tr>
<td>Fill</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Floating home</td>
<td>N/A</td>
<td>X</td>
<td>N/A</td>
</tr>
<tr>
<td>Flood protection</td>
<td>SDP</td>
<td>SDP</td>
<td>SDP</td>
</tr>
<tr>
<td>Forestry (clearing)</td>
<td>CU</td>
<td>N/A</td>
<td>CU</td>
</tr>
<tr>
<td>Grading</td>
<td>CU</td>
<td>N/A</td>
<td>CU</td>
</tr>
<tr>
<td>Government facility</td>
<td>SDP</td>
<td></td>
<td>SDP</td>
</tr>
<tr>
<td>Habitat Enhancement or Restoration</td>
<td>SDP</td>
<td></td>
<td>SDP</td>
</tr>
<tr>
<td>Industrial &amp; Ports</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<td>Jetty</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Mining</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Office</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Public park and recreation facilities</td>
<td>SDP</td>
<td></td>
<td>SDP</td>
</tr>
<tr>
<td>Recreation</td>
<td>SDP</td>
<td></td>
<td>SDP</td>
</tr>
<tr>
<td>Residential - Single family**</td>
<td>SDP</td>
<td>N/A</td>
<td>X</td>
</tr>
<tr>
<td>Residential - Multi family</td>
<td>SDP</td>
<td>N/A</td>
<td>X</td>
</tr>
<tr>
<td>Retail Commercial Use and Development</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Schools</td>
<td>CU</td>
<td>N/A</td>
<td>CU</td>
</tr>
<tr>
<td>Transportation Facilities &amp; Parking</td>
<td>SDP</td>
<td></td>
<td>SDP</td>
</tr>
<tr>
<td>Utilities</td>
<td>SDP</td>
<td></td>
<td>SDP</td>
</tr>
</tbody>
</table>

**SDP** Shoreline substantial development permit (City Decision) – See Chapter 20.35 for specific procedures.

**CU** Shoreline conditional use permit (Requires a Department of Ecology Decision if locally approved.) – See Chapter 20.35 for specific procedures. A SDP may also be required.

**X** Prohibited

**N/A** Not applicable

1 Prohibited in critical saltwater habitats and Lake Burien
2 Allowed if necessary to construct a permitted use
3 Private mooring buoys are exempt from the shoreline substantial development permit process but shall comply with BMC 20.30.090[Recreational Mooring Buoy] which prohibits mooring buoys on Lake Burien.
4 Construction of the normal protective bulkhead common to single-family residences must comply with BMC 20.30.070[Bulkheads and other shoreline stabilization structures] but is not required to obtain a substantial development permit.
5 Construction of a dock, pier, or float that is below the substantial development threshold set forth in RCW 90.58.030[3e.iv] [Definitions and concepts, “substantial development”] shall be exempt from the Shoreline...
Substantial Development Permit process, but shall comply with all other applicable sections of this master program.

6 Allowed only for protection or restoration of ecological functions. vii

7 B & B’s are allowed in the Shoreline Residential environment (Section 20.30.095). Limited commercial recreation activities are allowed in Seahurst Park (Section 20.30.085). viii

8 A conditional use permit is required for construction within the riparian buffer or setback that is not waterward of the existing home. A variance is required for any development waterward of the existing home within the buffer or setback. This does not apply to the common line setback option. viii

* Shoreline uses not listed in the matrix above are subject to a shoreline conditional use permit.

** Exempt from shoreline substantial development permit requirements if this is for construction of only one detached unit built by an owner, lessee, or contract purchaser who will be occupying the residence, in accordance with WAC 173-27-040(g)[single-family residential exemption], as amended.

i “Shoreline Stabilization Structures” and other additional language is necessary to be consistent with Section 20.30.070 – “Bulkheads and Other Shoreline Stabilization Structures”. The section includes retaining walls and bluff walls as shoreline stabilization structures making it necessary to distinguish between in-water and upland structures. SDPs for the upland structures are consistent with the use section of the SMP.

ii The SMP contains no policies, regulations or definition for government facilities. Government facilities may or may not be a preferred use in shorelines. The City states in the Responsiveness Summary that the SDP is consistent with the zoning code and was specifically included in the Urban Conservancy to ensure some existing uses would not become nonconforming. Although useful for determining intent, the zoning code is not based upon SMA policy or Guideline provisions and is not part of the SMP. A CUP is required until the City adopts appropriate policies and regulations as part of the SMP to ensure consistency with the provisions of the SMA.

iii The Recreation and Residential Sections of the SMP allows for B & B’s and limited commercial recreation and must be correctly reflected in the matrix.

iv WAC 173-27-200 requires local government to make a decision on conditional use permits. Some developments that require a CUP may also require a SDP.

v Required by WAC 173-26-241(3.j.) – New overwater homes are not permitted.

vi A flood protection structure in the Aquatic environment is the same as a bulkhead and needs a CUP consistent with the bulkhead CUP requirement.

vii Required by WAC 173-26-231(3.a.iii.B.IV.) – provisions for specific shoreline modifications.

viii This is consistent with Section 20.30.095(2.c.) which allows for greater flexibility for the expansion of single family homes and at the same time ensuring not net loss of ecological functions.

ix Recreational mooring buoys are specifically allowed in Section 20.30.090 except in Lake Burien.

20.30.007 Existing Development

1. Existing Single-Family Homes, Appurtenances, and Other Existing Structures.
   Single-family homes, appurtenances and other structures that were legally established by
(effective date of this SMP) are considered to be conforming to the SMP. Any addition, expansion or reconstruction beyond the existing footprint of the single-family home, appurtenance or other structure must comply with the SMP. Replacement of any portion of any structure in the Aquatic shoreline designation shall comply with the SMP requirements for materials that come in contact with the water pursuant to 20.30.045 [2.b] [Water Quality, Storm Water and Nonpoint Pollution].

The deleted language is consistent with Section 20.30.045 and is necessary to achieve “no net loss” since banned or improper use of treated wood may also leach into surface and ground water in upland areas.

20.30.025 Critical Areas

2. Regulations

a. BMC 19.40—Critical areas (City of Burien Ordinance 394, adopted October 20, 2003) has been reviewed for consistency with Chapter 90.58 RCW and WAC 173-26 and shall apply to the shoreline jurisdiction with the following exceptions:

This is a statement of fact required by RCW 36.70A.480, the Shoreline Management Act and Guidelines.

i. “Reasonable use exemptions” contained in BMS 19.40.070(1), (2) & (3) apply only to the critical areas provisions and are not exemptions from substantial development permits. The reasonable use provisions—exceptions contained in BMC 19.40.070 (3) & (4) do not apply and are not considered part of the SMP.

The changes are required in order to be consistent with WAC 173-27-040 (Exemptions from Substantial Development Permits) and 173-27-170 (Review Criteria for Shoreline Variance Permits).


The required language is consistent with the purpose and intent of WAC 173-27-170 - Review Criteria for Variance Permits.

iv. Section 19.40.410(2.B) is not part of the shoreline master program. Filling is prohibited in the Aquatic environment per Section 20.30.001 Figure 4.

The required change is needed to remove conflict between the critical area section and use section of the SMP.
20.30.030 Flood Hazard Reduction

The following provisions apply to actions taken to reduce flood damage or hazard, as well as to uses, development and shoreline modifications that may increase flood hazards. Flood hazard reduction measures may consist of nonstructural measures such as setbacks, land use controls, wetland restoration, biotechnical measures, and storm water management. Flood hazard reduction measures may also include structural measures such as the weir at Lake Burien, floodwalls, dikes and elevation of structures consistent with the National Flood Insurance Program.

The background information for the writing of the SMP suggests that this is a means to keep the lake level up rather than to control flooding. (The City concurs in the Responsiveness Summary.)

1. Policies

   b. Flood protection structures may be allowed in shoreline jurisdiction if a shoreline substantial development permit is obtained. Structures that are near and generally parallel to the ordinary high water mark shall be considered a bulkhead and require a conditional use permit consistent with bulkhead regulations.

Definition: Bulkhead means a solid or open pile wall erected generally parallel to and near the OHWM for purposes of protecting adjacent uplands from waves or current action.

The required language is consistent with a conditional use permit for a bulkhead in the aquatic environment. This eliminates the argument for the type of permit required for bulkhead that is stated to be for flood protection.

2. Regulations

   f. All new shoreline development and uses, including the replacement of a destroyed home, shall be located and designed to prevent the need for shoreline stabilization and structural flood hazard reduction measures for the life of the development. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result.

The new language is consistent with Policy 1. It is also required by WAC 173-26-221(2.c.ii.C.) and WAC 173-26-231(3.a.iii.) which address standards for new development and shoreline stabilization. The change also removes any ambiguity of a policy statement using the term “shall” when not backed by a regulation.

   g. New structural flood hazard reduction measures in shoreline jurisdiction are allowed only when it can be demonstrated by a scientific and engineering analysis that they are
necessary to protect existing development or facilitate restoration projects, that nonstructural measures are not feasible, that impacts to ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss and that appropriate vegetation conservation actions are undertaken consistent with Section 20.30.040.

The regulation is required per WAC 173-26-221(3.c.ii.) addressing new flood hazard structures.

h. Flood protection structures may be allowed in shoreline jurisdiction if a shoreline substantial development permit is obtained. In addition, flood protection structures at or near, and parallel to, the ordinary high water mark requires a conditional use permit.

The required language is consistent with the definition for a bulkhead and is consistent with the CUP requirement for a bulkhead in the Aquatic environment. This eliminates the argument for the type of permit required for bulkhead that is stated to be for flood protection. As a regulation the requirement is unambiguous and supports the policy statement.

20.30.035 Public Access

Public access includes both can be either physical access or visual access. Physical access is the ability of the general public to reach, touch, and enjoy the water's edge, to view the water and the shoreline from adjacent locations, and/or to travel on the waters of the state. Visual access is to view the water and the shoreline from adjacent locations or access with improvements that provide only a view of the shoreline or water, but do not allow physical access to the shoreline.

The corrections are necessary to be consistent with WAC 173-26-221(4.a.) – Public Access.

20.30.045 Water Quality, Storm Water and Nonpoint Pollution

2. Regulations

a. Construction materials that come in continuous, direct contact with surface waters shall not be treated or coated with toxic materials. Untreated wood, precast concrete, plastic or nontoxic alternatives shall be used unless the project proponent demonstrates and the City of Burien building official determines that there is no feasible alternative to toxic treatments that will provide the structural characteristics necessary for the project. Wood products treated with creosote or pentachlorophenol are prohibited on all new structures or repair projects that come in direct contact with water or could leach into surface or ground water.

The language is required in order to meet the “no net loss” standard. It is also consistent with the State Department’s of Ecology and Fish & Wildlife memorandum of understanding for use of treated wood in the aquatic environment as well as the policies and regulations in the section.
20.30.050 Dimensional Standards for Shoreline Development

The following buffers are based on the City of Burien Shoreline Inventory (Appendix 1), City of Burien Shoreline Analysis and Characterization (Appendix 2), and the City of Burien Shoreline Cumulative Impacts Analysis (Appendix 4), and Supplemental Informational Documents (Appendix 5) reports contained in this shoreline master program. The shoreline riparian buffers, common line building setbacks and vegetation conservation buffers are calculated from the ordinary high water mark or from the landward face of a bulkhead or other shoreline stabilization structure if one is present. Buffer setbacks are measured landward from the outer edge of a buffer. For measurement methods, refer to BMC 19.17[Misc. Use, Development and Performance Standards].

A significant majority of Burien’s marine shorelines are developed with single-family residential structures and appurtenances. Specifically reaches 1, 3 and 4, on the Puget Sound, there are many structures in close proximity to the ordinary high water mark and due to this existing development pattern there is inherent conflicts in applying greater buffer widths while also retaining the ability of residents to continue use and maintain those areas that have been historically used in conjunction with those properties. The justification for this approach is supported by the documentation found in Appendix 5 of this SMP.

As stated in the second paragraph, Appendix 5 is used in the final buffer determination and needs to be included. The setback changes are needed to in order to be accurate and distinguish between buffer setbacks and the common line setback. The change to measurement of the OHWM is required to be consistent with Section 20.30.055(1.) – Shoreline Buffers.

Figure 5 Dimensional Standards for Shoreline Development

<table>
<thead>
<tr>
<th>SHORELINE ENVIRONMENT DESIGNATION</th>
<th>Shoreline Residential</th>
<th>Urban Conservancy</th>
<th>Aquatic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marine Riparian Buffer <em>(1)</em></td>
<td>20-50 ft.</td>
<td>50 ft.</td>
<td>N/A</td>
</tr>
<tr>
<td>Building Setback from Buffer</td>
<td>Ø 15 ft.</td>
<td>15 ft.</td>
<td>N/A</td>
</tr>
<tr>
<td>Lake Burien Riparian Buffer <em>(1)</em></td>
<td>30 ft.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Building Setback from Buffer</td>
<td>15 ft.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

The required change to a 50-foot marine buffer and 15-foot setback is consistent with the supporting documents including Appendix 5 (see the “Findings and Conclusions” for further discussion). Section 19.40.230(2) also requires a setback to the buffer. The additional language referencing the buffer is needed to distinguish from the common line setback which is measured from the OHWM.
A 35-foot height limit in the Aquatic environment is not justified given the allowed uses.

Lot Size (4) (see BMC 19.15)
- RS-12,000
- RS-7,200 (Lake Burien)

Building Coverage (see BMC 19.15)
- 35%
- 30%
- N/A

The change to footnote 1 referencing BMC 20.30 is needed to correct an apparent error. As submitted, the referenced section talks about noxious weeds. The required reference mirrors the 30-foot riparian buffer on Lake Burien. The change to footnote 3 is consistent with Section 20.30.095(2.c), buffer and setback standards.

### 20.30.055 Shoreline Buffers

**Regulations:**

1. A twenty-five foot riparian buffer for the marine shoreline (thirty feet for Lake Burien) shall be established from the ordinary high water mark for all lots. The riparian buffer is measured landward from a perpendicular line from the edge of the OHWM.

   The change is required consistent with supporting documents. See Attachment A – “Findings and Conclusions” for a detailed explanation.

2. Overwater structures are allowed within the buffer as provided herein. Structures and development such as viewing platforms, boardwalks, benches, and trails are allowed when associated with public access. Fences less than 6-feet high, stairs, and trams (see Section 20.30.095 (2.g.) – Residential Development.

   The change is required for internal consistency of the SMP.

### 20.30.070 Bulkheads and Other Shoreline Stabilization Structure

2. **Regulations**

   b. Jetties, breakwaters and other in-water stabilization structures except for bulkheads are prohibited except for protection or restoration of ecological functions. New bulkheads and
other shoreline stabilization structures such as gabions, revetments, retaining walls and bluff walls are allowed if there would be no net loss of shoreline ecological functions and the following requirements are met:

The added language is consistent with the 20.30.001 (Figure 4) – the use table, WAC 173-26-231(3.a.iii.B.IV.), and the intent of SMP.

20.30.075 Over-Water Structures—Including Docks, Piers and Floats

2. Regulations

a. New over-water structures shall be limited to those required as part of a permitted water dependent use or for joint use of the facility, ecological restoration or public access.

The deleted language is too general and could be misinterpreted to mean any type of joint use. The added language is required per WAC 173-26-211(5.c.ii.A.), new over-water structures.

b. The design and construction of over-water structures as well as their subsequent use and operation, shall:

   i. Be capable of withstanding expected environmental conditions; and,
   ii. Minimize interference with adjacent water uses and navigation; and
   iii. Minimize adverse effects on fish, shellfish, wildlife, water quality, public views and geohydraulic processes by limiting the size of the structure and the use of hazardous materials, incorporating grating to allow light passage or reflective panels to increase light refraction; and spaced and oriented to minimize shading and avoid a ‘wall’ effect that would block or baffle wave patterns, currents, littoral drive, or movement of aquatic life forms.

Required per WAC 173-26-211(5.c.ii.D.), new over-water structures.

i. When permitted, new residential development of two or more dwellings shall provide joint use or community docks, rather than individual docks, when feasible, rather than allow individual docks for each residence.

Required per WAC 173-26-231(3.b.), piers and docks.

k. Dredging associated with over-water structures is prohibited in the Aquatic environment.

This is consistent with 20.30.001- Figure 4- Shoreline Permit Matrix.
20.30.085 Recreational Development

2. Regulations

h. Should public access occur on Lake Burien, no watercraft access is allowed from public access areas.

The deletion is consistent with Section 20.30.035 (Public Access), Chapter 90.58 RCW and the Guidelines. The public access section of the SMP requires that any concerns regarding public access to Lake Burien be addressed at the time of permitting. See also Attachment A – “Findings and Conclusions” for additional discussion.

h. Shoreline recreational development is a priority and shall be primarily related to access to, enjoyment and use of the water and shorelines of the State.

This is required per WAC 173-26-241(3.i.) – recreational development.

20.30.090 Recreational Mooring Buoys

2. Regulations

d. Individuals owning residential property abutting state owned aquatic lands may install a mooring buoy on those public lands for recreational purposes after obtaining approval from the State of Washington Department of Natural Resources (DNR), Washington Department of State Fish and Wildlife (WDFW) and the Army Corps of Engineers as appropriate.

e. Recreational mooring buoys on public lands shall be installed using a DNR or WDFW approved system.

Regardless of ownership of the intertidal area, recreational mooring buoys located in marine waters require regulating.

g. Recreational mooring buoys on public lands are prohibited for commercial and transient uses or live-aboards.

The SMP use matrix prohibits these types of uses regardless of ownership of the intertidal area. Again, regardless of ownership of the land, use and development must be regulated.

20.30.095 Residential Development

Single family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Residential development shall mean the creation of new
residential lots and the construction or exterior alteration of one or more buildings, structures or portions thereof which are designed for and used to provide a place of abode for human beings including one and two family detached dwellings, multi-family residences, townhouses and condominiums, together with appurtenances and accessory structures. For purposes of this master program, Bed and Breakfast establishments are considered an accessory use (see also Use Table under Commercial Use and Development).

WAC 173-26-241(3.j.) establishes subdivision of land as residential development. The SMP must recognize B & B’s as a commercial use.

2. Regulations

c. Common-line riparian buffer and building setback standards. Riparian buffer and setback standards for new or expanded single-family primary residential structures may be reduced through the shoreline conditional use variance permit process. In addition to the conditional use criteria the Shoreline Administrator may approve a reduced buffer and setback for residential development under the following conditions without a variance permit.

Setbacks are associated with riparian buffers and need to be included. A variance is required for reduction of bulk dimensions in this situation (see WAC 173-27-170). A variance may not required for common line setbacks as long as the City applies “no net loss” standards and other criteria found in this section of the SMP.

k. Detached Accessory Dwelling Units. New detached accessory dwelling units shall not be located in riparian buffers or setbacks.

Required change consistent with Section 19.40.230(2) - setback to buffers.

Chapter V. Administration and Shoreline Permit Procedures

20.35.010 Shoreline Permit Types and Review Procedures

6. Compliance with Regulations. In the case of either a shoreline conditional use permit or a shoreline variance, the Shoreline Administrator shall determine the application’s compliance with the relevant review criteria and render a decision prepare a recommendation that is then forwarded to Ecology for review and approval. The City’s decision may include issuing the shoreline permit, issuing the shoreline permit with conditions, or denial of the requested shoreline permit.

The City is required to make a decision as required by RCW 90.58.140(2) – development permits.
7. **Shoreline Conditional Use Permit required.** A development activity or use that is listed as a conditional use pursuant to this master program or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit. The conditional use permit application shall be processed as indicated in BMC 20.35.010.3, except the decision maker issues a recommendation to the Dept. of Ecology rather than a decision. This recommendation is not appealable to the Hearing Examiner or City Council.

*The City is required to make a decision as required by RCW 90.58.140(2) – development permits.*

8. **Shoreline Variance Required.** When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development or use can only be authorized by approval of a shoreline variance, consistent with WAC 173-27-170 (Variances). The variance application shall be processed as set forth in BMC 20.35.010.3, except that the decision maker issues a recommendation to the Department of Ecology rather than a decision. This recommendation is not appealable to the Hearing Examiner or City Council.

*The City is required to make a decision as required by RCW 90.58.140(2) – development permits.*
Figure 7  Shoreline Permit Review for Type 1 Process

Pre-application meeting

Applicant submits permit application to Community Development Department

Public Notice (Mailings, Posting, Publication)

Technical Review and Administration Decision by City Shoreline Administrator

If applicable, City Hearing Examiner rules on an appeal of administrative decision

Permit Recommendation decision sent to Ecology

If approved by the City, Ecology issues its decision approving, conditioning or denying. Appeal period is established.

State Shoreline Hearings Board hears appeals and issues decision

Ecology sends Authorization to Commence Activity to City. Appropriate action taken depending on Board’s decision

City and/or Ecology Notifies Applicant as appropriate

Shoreline Substantial Development Permit

Shoreline Conditional Use or Variance Permit
Chapter VI. Shoreline Definitions

20.40.055 Feasible means actions that meet all of the following conditions:
(a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
(b) The action provides a reasonable likelihood of achieving its intended purpose; and
(c) The action does not physically preclude achieving the project's primary intended legal use.

In cases where this SMP require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

Required per WAC 173-26-020(13) – definition of “feasible”.

20.40.145 Shoreline substantial development means any development of which the total cost, or fair market value, whichever is higher, exceeds $5,718,000, or any development which materially interferes with the normal public use of the water or shorelines of the state (See also WAC 173-27-040(2.a.).

The changes accurately reflect and explain new legislative standards.

20.40.175 Shorelines of statewide significance means shorelines designated by the State of Washington that are major resources from which all people in the state derive benefit. Shoreline areas in the City of Burien that are designated as shorelines of statewide significance are portions of the Puget Sound adjacent to the city limits extending out to mid channel from extreme low tide.

See definition in RCW 90.58.030(2,f.iii.).