Chapter I. User’s Guide

20.10.001 Overview of State Shoreline Management Act

The State of Washington’s Shoreline Management Act (RCW 90.58) was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The following is an excerpt from the Shoreline Management Act stating Washington State’s policy regarding shorelines.

RCW 90.58.020 – “The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shorelines… (shortened for brevity)….”

The citation from RCW 90.58.020 should either be in quotes or italicized to set off from the rest of the section. The City should also include all the language from RCW 90.58.020 since it is the basis for Shoreline Management Act.

Under the SMA, the shoreline jurisdiction generally includes all water areas of the state, the lands underlying them, and areas that are 200 feet landward of the ordinary high water mark (OHWM) of said waters that have been designated as “shorelines of statewide significance” or “shorelines of the state.”

The changes are suggested to add clarity and accuracy.

Chapter IV. Shoreline Uses and Modifications Policies and Regulations

20.30.001 Figure 4 Shoreline Permit Matrix
(Note that the table has been changed to reflect the required changes found in Attachment B.)
## Type of Shoreline Permit Required for New Shoreline Uses and Modifications

<table>
<thead>
<tr>
<th>Shoreline Environment Designations</th>
<th>Shoreline Residential</th>
<th>Aquatic</th>
<th>Urban Conservancy</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Shoreline Residential</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aquaculture</td>
<td>X</td>
<td>CU</td>
<td>X</td>
</tr>
<tr>
<td>Boat Mooring Buoy</td>
<td>N/A</td>
<td>SDP P^4^</td>
<td>N/A</td>
</tr>
<tr>
<td>Boat Ramp</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Boat House (covered moorage)</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td><strong>Shoreline Stabilization Structures</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Breakwater &amp; other in-water structures</td>
<td>N/A</td>
<td>X^c</td>
<td>N/A</td>
</tr>
<tr>
<td>• Bulkheads</td>
<td>SDP P^4^</td>
<td>CU</td>
<td>SDP P^3^</td>
</tr>
<tr>
<td>• Upland Structures (retaining walls and bluff walls)</td>
<td>SDP P^3^</td>
<td>N/A</td>
<td>SDP P^3^</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>CU</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>CU</td>
<td>CU</td>
<td>CU</td>
</tr>
<tr>
<td><strong>Docks, Piers and Floats-Residential</strong></td>
<td>SDP P^3^</td>
<td>SDP P^3^</td>
<td>X</td>
</tr>
<tr>
<td>Dredging</td>
<td>N/A</td>
<td>X</td>
<td>N/A</td>
</tr>
<tr>
<td>Fill^i</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><strong>Flood protection</strong></td>
<td>SDP P^3^</td>
<td>CU</td>
<td>SDP P^3^</td>
</tr>
<tr>
<td>Hazard Reduction^ iv</td>
<td></td>
<td></td>
<td></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><strong>Government facility</strong></td>
<td>CUP</td>
<td>X</td>
<td>CUP</td>
</tr>
<tr>
<td><strong>Habitat Enhancement or Restoration</strong></td>
<td>SDP P^3^</td>
<td>SDP P^3^</td>
<td>SDP P^3^</td>
</tr>
<tr>
<td>Industrial &amp; Ports</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Jetty^ii</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^iii</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Public park and recreation facilities</td>
<td>SDP P^3^</td>
<td>SDP P^3^</td>
<td>SDP P^3^</td>
</tr>
<tr>
<td>Recreation</td>
<td>SDP P^3^</td>
<td>SDP P^3^</td>
<td>SDP P^3^</td>
</tr>
<tr>
<td>Residential - Single family**</td>
<td>SDP P^3^</td>
<td>N/A</td>
<td>SDP P^3^</td>
</tr>
<tr>
<td>Residential - Multi family</td>
<td>SDP P^3^</td>
<td>N/A</td>
<td>CU</td>
</tr>
<tr>
<td>Commercial Use and Development</td>
<td>X^i</td>
<td>X</td>
<td>X^i</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 P^3^</td>
<td>X</td>
<td>SDP P^3^</td>
</tr>
<tr>
<td>Utilities</td>
<td>SDP P^3^</td>
<td>CU</td>
<td>SDP P^3^</td>
</tr>
</tbody>
</table>

SDP — Shoreline substantial development permit (City Decision) — See Chapter 20.35 for specific procedures

P — Permitted - Allowed when meeting the requirements for the given use. A shoreline substantial development permit (SDP) or shoreline exemption may be needed. See WAC 173-26-040 for complete list of development exempt from a substantial development permit. 

^i

^ii

^iii

^iv

^c

^5

^6

^7

^8

^9
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 Buoys] 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 for protection or restoration of ecological functions.
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).
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.
* 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 It would be more accurate to use “permitted” instead of “substantial development permit”. A permitted development or use may or may not require a SDP or even a shoreline exemption.

ii “Jetty” is unnecessary since it is covered under “Shoreline Stabilization Structures”.

iii “Office” is covered under “Commercial Use and Development”.

iv The change in language is consistent with the Guidelines and Section 20.30.30.

20.30.007 Existing Development

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 of the single-family home, appurtenance or other structure must comply with the SMP. Any single family home to which a variance is issued shall be considered a conforming structure.

The suggested language is consistent with the City’s intent to eliminate nonconforming single family homes. Without this language any homes that are issued a variance would be considered
nonconforming and WAC 173-27-080 “Nonconforming Use and Development Standards” would apply.

20.30.025 Critical Areas

2. Regulations
e. Development proposals shall adhere to the applicable submittal requirements (a critical area report specific to the critical area) as specified in the Critical Areas Ordinance regulations adopted as part of this SMP.

The additional language should be added to avoid confusion since the Critical Areas Ordinance is a separate document and may change over time without an SMP amendment.

20.30.040 Shoreline Vegetation

2. Regulations
d. Within a shoreline vegetation conservation buffer as set forth in BMC 20.30.050[Dimensional Standards for Shoreline Development], alterations shall comply with the following;

v. Vegetation management plans should place emphasis on surface water filtration and infiltration, and providing plantings as close to the water’s edge or edge of bulkhead as feasible within a 20 foot wide area parallel and adjacent to the shoreline; and

The suggested language is consistent with the policy statements and optimum mitigation.

g. In accordance Consistent with existing regulations, only noxious weeds shall be removed from the Lake Burien wetland or wetland critical areas or their buffer without approval of the Shoreline Administrator. Replacement of non-native vegetation may be allowed through approval of a vegetation management plan as prescribed in section h.

Section 19.40.350(1.D.) allows for manual removal of noxious weeds without review or approval in stream buffers. The master program does the same for Lake Burien wetlands and buffers as shown above. It is only logical to be consistent with the marine shoreline.

h. The Director shall may establish minimum standards for vegetation management plans. At a minimum, vegetation management plans shall comply with the following;

The change is suggested since the minimum standards are listed and the Director should establish what the management plan is.
i. Describe Delineate the area to be disturbed and describe the proposed vegetation to be altered; and

The suggested changes are consistent with terminology in the other criteria found in this section.

i. Hand removal of noxious weeds or invasive vegetation may be allowed without approval of a vegetation management plan as prescribed in section h, following a consultation with the shoreline administrator or his or her designee.

This regulation is no longer needed if the change is made to “g” above.

20.30.045 Water Quality, Storm Water and Nonpoint Pollution

2. Regulations


Unless the City has a better manual it is suggested to use this one.

20.30.055 Shoreline Buffers

Policy

1. While buffers widths based on science are necessary to protect ecological functions, it presents challenges in existing heavily developed areas such as along some parts of Burien. In such areas, an alternative strategy is established using smaller buffers that are based on the existing development pattern, in combination with mitigation requirements for new development that provide enhancement of the smaller buffer and other degraded features to address impacts of the new development outside the small buffer areas when part of a vegetation conservation plan.

The language comes as a suggestion from Futurewise and is supported by Ecology.

20.30.065 Aquaculture

2. Regulations

d. No aquatic organism shall be introduced into City of Burien shoreline areas without the prior written approval of the Director of the Washington State Department of Fish and Wildlife or the appropriate regulatory agency for the specific organism.

It is more appropriately up to WDFW to decide the approval process.
20.30.070 Bulkheads and Other Shoreline Stabilization Structures

2. Regulations

c. The following requirements apply to both new and replacement bulkheads:

iv. The maximum height of a new bulkhead on the marine shoreline shall be no greater than four (4) vertical feet above the OHWM. The height of a replacement bulkhead shall not exceed four (4) vertical feet above the OHWM or exceed the height of the existing bulkhead, whichever is greater.

*The additional language helps make it clear that 4-feet is not measured from the existing bulkhead.*

20.30.090 Recreational Mooring Buoys

1. Policies

a. Recreational boat mooring buoys are the preferred method to provide moorage instead of constructing new residential docks, piers or floats on marine waters in the City of Burien.

*Given that mooring buoys are prohibited on Lake Burien, the suggested language would seem appropriate.*

2. Regulations

h. Boats must be sixty feet or less in length to tie up to a recreational mooring buoy on public lands.

*The change is suggested in order to be consistent along residential shorelines regardless of ownership of the intertidal area. The water areas are “waters of the state” and are not privately owned.*

20.30.105 Utilities

2. Regulations

e. New transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible and when necessarily located within the shoreline area shall assure no net loss of shoreline ecological functions. When allowed, utility and transportation facilities shall share rights-of-way to minimize disturbance in shoreline areas.

*Suggested language comes from 20.30.100(2.c).*
Chapter V. Administration and Shoreline Permit Procedures

20.35.055 Effective Date and Duration of Shoreline Permits

Construction authorized by an approved shoreline permit shall not begin until 21 days after the date of filing as defined by WAC 173-27-130 (Filing With Ecology) RCW 90.58.140 (Development Permits). This restriction shall be stated on the permit. Construction shall be commenced or, where no construction is involved, the use or activity shall be commenced within two years and the construction related activity shall terminate within five years after the effective date of a shoreline permit or the final settlement date of any associated appeals or legal actions regarding the proposed action. Provided, that the City may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology. The City shall notify the Department of Ecology in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by this section shall require a new permit application. See also WAC 173-27-090 for additional information regarding duration of permits.

A bill before the legislature is expected to take effect in July or August of 2011 that re-established “date of filing” instead of “date of receipt” currently in effect. The bill also has additional permit related changes that are not yet in the WAC.

WAC 173-27-090 provides additional information to permit duration that is not included in this section.

Chapter VI. Shoreline Definitions

Definitions contained in the Shoreline Management Act of 1971 (RCW Chapter 90.58) and the Shoreline Master Program Guidelines (WAC Chapter 173-26) shall apply to all terms and concepts used in this shoreline master program, provided that definitions contained in this title shall be applicable where not in conflict with the Shoreline Management Act and the Shoreline Master Program Guidelines and Shoreline Management procedural rules.

The suggested language is consistent with 20.35.001.