

**Chapter IV. Shoreline Uses and Modifications
Policies and Regulations**

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General Provisions

20.30.001 Figure 4 Shoreline Permit Matrix

Type of Shoreline Permit Required for Shoreline Uses and Modifications*			
	Shoreline Residential	Aquatic	Urban Conservancy
Aquaculture	X	CU ¹	X
Boat Mooring Buoy	N/A	CU	N/A
Boat Ramp	X	X	X
Boat House (covered moorage)	X	X	X
Breakwater & other in-water structures	N/A	X	N/A
Bulkheads	CU	CU	CU
Cell towers	CU	N/A	X
Community Beach	CU	CU	X
Docks, Piers and Floats	CU	CU	CU
Dredging	N/A	X	N/A
Fill ²	X	X	X
Floating home	N/A	X	N/A
Flood protection	SDP	SDP	SDP
Forestry (clearing)	CU	N/A	CU
Grading	CU	N/A	CU
Habitat Enhancement or Restoration	SDP	SDP	SDP
Industrial & Ports	X	X	X
Jetty	X	X	X
Mining	X	X	X
Recreation	SDP	SDP	SDP
Residential Single family**	SDP	N/A	SDP
Residential Multi family	SDP	N/A	CU
Schools	CU	N/A	CU
Transportation Facilities	SDP	X	SDP
Utilities	SDP	CU	SDP

SDP Shoreline substantial development permit

CU Shoreline conditional use permit

X Prohibited

N/A Not applicable

1 Prohibited in critical saltwater habitats and Lake Burien

2 Allowed if necessary to construct a permitted use

* 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), as amended.

20.30.005 Applicability

The following provisions shall apply to all uses and activities within the City of Burien's shoreline jurisdiction. These regulations are based on general goals and policies without regard to shoreline designation based upon elements of the shoreline detailed in Chapter II of this shoreline master program consistent with RCW 90.58.100(2) and implement the principles as established in WAC 173-26-186 and WAC 173-26-221.

- Land Use
- Archaeological and Historic Resources
- Critical Areas
- Flood Hazard Reduction
- Public Access
- Shoreline Vegetation Conservation
- Water Quality, Storm Water, and Nonpoint Pollution

20.30.010 Impact Mitigation

1. Policy

- a. Impacts to the ecological functions and values shall be mitigated to result in no net loss of shoreline ecological functions and process.

(For additional policy guidance please refer to Chapter II General Goals and Policies, pgs. 1-2, 12-15 and Chapter III Management Policies, pgs. 2-4.)

2. Regulations

- a. All shoreline development and uses shall occur in a manner that results in no net loss of shoreline ecological functions to the greatest extent *feasible*, through the location and design of all allowed development and uses. In cases where impacts to shoreline ecological functions from allowed development and uses are unavoidable, those impacts shall be mitigated according to the provisions of this section.
- b. To the extent Washington's State Environmental Policy Act of 1971 (SEPA), RCW chapter 43.21C, is applicable, the analysis of environmental impacts from proposed shoreline uses or developments shall be conducted consistent with the rules implementing SEPA (BMC Chapter 14 and WAC 197-11).
- c. Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority.
 - i. Avoiding the impact altogether by not taking a certain action or parts of an action;

- ii. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
 - iii. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - iv. Reducing or eliminating the impact over time by preservation maintenance;
 - v. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
 - vi. Monitoring the impact and the compensation projects and taking the appropriate corrective measures.
- d. In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.
- e. Required mitigation shall not be in excess of that necessary to assure that proposed uses or development will result in no net loss of shoreline ecological functions.
- f. When requiring compensatory measures or appropriate corrective measures pursuant to the priority of mitigation sequencing above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions.

20.30.015 Land Use

The following provisions apply to all development and uses regardless of whether a shoreline substantial development permit is required.

1. Policies

- a. Preference for shoreline permitted uses shall first be given to *water dependent uses*, then to *water related* and *water enjoyment uses*.
- b. The city should be proactive in enforcing shoreline regulations and provide sufficient resources to ensure enforcement occurs.

(For additional policy guidance please refer to Chapter II General Goals and Policies, pgs. 8-11 and Chapter III Management Policies, pgs. 2-4.)

2. Regulations

- a. The application of master program policies and regulations to all uses and related modifications shall assure no net loss of ecological functions necessary to sustain shoreline natural resources.
- b. *Water dependent uses* shall only be allowed overwater if the overwater location is necessary for the operation of the water dependent use. Uses which are not water dependent shall not be permitted overwater unless specifically stated otherwise in the regulations for the applicable shoreline environment.

20.30.020 Archaeological and Historic Resources

According to the state shoreline management guidelines, if archaeological or historic resources have been identified in shoreline jurisdiction, the local government is required to collect information about these resources and contact the state historic preservation office and local affected Indian Tribes. The county and the state maintain inventories of both archaeological and historic resources. These sites and artifacts are protected by several state provisions:

RCW Chapter 27.53— Archaeological Sites and Resources

This state law makes it illegal to knowingly disturb an archaeological site on public or private lands without a state-issued permit.

RCW Chapter 27.44— Indian Graves and Records

This state law makes it illegal to knowingly disturb Native American cairns, petroglyphs and graves on public or private lands without a state-issued permit. Selling any Native American Indian artifacts or remains removed from a cairn or grave is also illegal.

WAC 25-48—Archaeological Excavation and Removal Permit

This provision establishes procedures for application for and issuance of state permits for excavation and/or removal of archaeological sites and resources.

1. Policy

The City should ensure conservation of significant archeological and historic amenities in the shoreline areas and include on the inventory of registered sites maintained by the Washington State Office of Archaeology and Historic Preservation, and tribally identified sites.

(For additional policies refer to Chapter II General Goals and Policies, pg. 15.)

2. Regulations

- a. Archaeological sites located in shoreline jurisdiction are subject to state and federal regulations as well as to the City of Burien Shoreline Master Program.
- b. The City shall notify the relevant Native American tribe(s) when an application for work in the shoreline area is filed.
- c. All shoreline permits shall contain the requirement to stop work immediately and notify the City, affected tribes and the Washington State Office of Archaeology and Historic Preservation if an artifact is discovered. The property owner will be required to provide for a site inspection and evaluation by a professional archaeologist for review by the relevant tribes and agencies prior to proceeding with the development or activity.
- d. Archaeological excavations may be permitted subject to the provisions of this shoreline program.

20.30.025 Critical Areas

Critical areas include the following areas and ecosystems: wetlands, critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. Critical saltwater and critical freshwater habitats are also types of critical areas within shoreline jurisdiction.

1. Policies

- a. In assessing the potential for net loss of ecological functions or processes, project specific and cumulative impacts should be considered.
- b. Development standards for density, frontage, setbacks, impervious surface, shoreline stabilization, vegetation conservation, buffers, critical areas, and water quality should protect existing shoreline ecological functions and processes. During permit review, the Shoreline Administrator should consider the expected impacts associated with proposed shoreline development when assessing compliance with this policy.

(For additional policy guidance please refer to Chapter II General Goals and Policies, pgs. 12-15 and Chapter III Management Policies, pgs. 2-4.)

2. Regulations

- a. BMC 19.40—Critical areas (City of Burien Ordinance 394, adopted October 20, 2003) shall apply to the shoreline jurisdiction with the exception of the reasonable use provisions contained in BMC 19.40.070 (4).

- b. 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.
- c. Development shall not intrude into, over, or within 10 feet from *critical saltwater habitats* (e.g., eelgrass) except when an alternative alignment or location is not *feasible* and the development would result in no net loss of *critical saltwater habitat*.
- d. When this Master Program requires mitigation, the mitigation sequence described in section BMC 20.30.010 shall be followed.

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.

1. Policies

- a. All new shoreline development and uses shall be located and designed to prevent the need for shoreline stabilization and structural flood hazard reduction measures for the life of the development.
- b. Flood protection structures may be allowed in shoreline jurisdiction if a shoreline substantial development permit is obtained.
- c. New and expanded public flood protection measures may be permitted subject to City of Burien review and approval of a critical area study and the approval of a Federal Biological Assessment by the federal agency responsible for reviewing actions related to a federally listed species.
- d. New structural flood protection measures should only be allowed when necessary to protect existing development or to facilitate restoration projects.
- e. When emergency repair of flood protection structures are necessary, permits for the work including mitigation, should be obtained upon abatement of the emergency or the structure must be removed.

- f. Maintain the outlet weir at Lake Burien to provide a relatively constant lake level to minimize the potential for flooding.

(For additional policies refer to Chapter II General Goals and Policies, pg. 16.)

2. Regulations

- a. Non-structural flood protection measures shall be used instead of structural solutions unless the project proponent demonstrates that a non-structural solution is not feasible and there would be no net loss of shoreline ecological functions.
- b. All flood protection measures, including repair and maintenance, shall conform to standards set forth in approved floodplain management plans, when available.
- c. Flood protection shall not have adverse impacts on the property of others.
- d. Flood control methods must be consistent with BMC 15.55-Flood Damage Prevention and BMC 19.40-Critical Areas.
- e. Subdivision proposals shall be consistent with the need to minimize flood damage by conforming to the adopted Base Flood Elevation regulations.

20.30.035 Public Access

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

1. Policies

- a. Public access to shoreline areas should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.
- b. Public access should be provided as close as possible to the water's edge without adversely affecting a critical area such as a wetland.
- c. Private views of the shoreline, although considered during the review process, are not expressly protected. Property owners concerned with the protection of views from private property are encouraged to obtain view easements, purchase intervening property or seek other similar private means of minimizing view obstruction.

(For additional policies refer to Chapter II General Goals and Policies, pg. 2-4 and Chapter III Management Policies, pg. 2-4.)

2. Regulations

- a. Public access provided by shoreline street ends, rights-of-way, and other public lands shall provide, maintain, enhance and preserve visual access to the water and shoreline in accordance with RCW 35.79.035.
- b. Visual access to outstanding scenic areas shall be provided with the provision of roadside pullovers or broadening of road shoulders.
- c. If a public road is located within shoreline jurisdiction, any unused right of way shall be dedicated as open space and public access.
- d. Public access shall be required for all new shoreline development and uses, except for; water dependent uses, individual single family residences and subdivisions of less than four parcels.
- e. Public access to shoreline areas shall not be required where it is demonstrated to be infeasible because of incompatible uses, safety, security, or constitutional and other legal limitations that may be applicable.
- f. The City shall utilize alternate methods of providing public access when appropriate and *feasible*, such as off-site improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access.
- g. Public access improvements shall not result in a net loss of shoreline ecological functions.
- h. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.
- i. Public access easements and permit conditions shall be recorded on the deed where applicable or on the face of a plat or short plat as a condition running in perpetuity with the land and shall occur at the time of permit approval.
- j. Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access site.

20.30.040 Shoreline Vegetation Conservation

Vegetation along the shoreline plays a number of important roles including providing bank stability, habitat and wildlife corridors, shade and cover, wood and organic debris recruitment. By slowing erosion and retaining sediments, riparian vegetation reduces pollutants including nitrogen, phosphorus, hydrocarbons, PCBs, metals, and pesticides. Shoreline vegetation also prevents excessive turbidity by slowing down and filtering surface water runoff and associated sediments. This section should be used in conjunction with BMC section 20.30.050.

1. Policies

- a. Native plant communities within shoreline jurisdiction including, but not limited to, wetlands, lakes, streams and bluffs should be protected and maintained to minimize damage to the Ecology and environment of the shoreline area.
- b. Restoration and mitigation of shorelines degraded due to natural or manmade causes should, wherever feasible, use bioengineering techniques to arrest the processes of erosion and sedimentation, to improve water quality and to provide for properly functioning conditions.

(For additional policy guidance please see Chapter II General Goals and Policies, pg. 10-15.)

2. Regulations

- a. *Alterations* to vegetation within shoreline jurisdiction shall result in no net loss of shoreline ecological value or function.
- b. *Alterations* within the shoreline vegetation conservation buffer shall only be allowed through approval of a vegetation management plan. The plan shall be prepared by qualified professional and shall be consistent with the provisions of this chapter and BMC Chapter 19.40.
- c. Within a shoreline riparian buffer as set forth in BMC 20.30.050 *alterations* shall comply with the following;
 - i. The applicant shall provide a vegetation management plan prepared by a qualified professional; and
 - ii. At least 75% of the buffer area shall be vegetated; and
 - iii. Where vegetation is proposed within the buffer it shall be provided at a density to mimic natural conditions; and
 - iv. Vegetation shall consist of mix of native trees, shrubs and ground cover; and
 - v. When *alterations* are proposed within a buffer, the end result shall be no loss of vegetated areas; and

- vi. Vegetation management plans should place emphasis on providing plantings within a 20 foot wide area parallel and adjacent to the shoreline; and
 - vii. Lawn is a prohibited vegetation in the shoreline buffer due to its limited functional benefits and need for chemical and fertilizer application; and
 - viii. Include appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect lake and marine water quality.
- d. Prior to issuance of a building permit, the applicant shall submit a vegetation management plan pursuant to section g. The plans shall state what erosion control measures will be implemented during and after construction resulting in long term shoreline stabilization.
- e. All clearing, grading and vegetation removal shall be the minimum necessary except for the removal of noxious and invasive vegetation. Hand equipment should be used when feasible.
- f. In accordance with existing regulations, only noxious weeds shall be removed from the Lake Burien 30 foot wetland or wetland 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 g.
- g. The Director may establish minimum standards for vegetation management plans. At a minimum, vegetation management plans shall comply with the following;
- i. Describe the area to be disturbed and the proposed vegetation to be altered; and
 - ii. Outline specific actions or methods that will be used to minimize impacts to the ecological functions and values; and
 - iii. Indicate how existing shoreline vegetation will be preserved and protected; and
 - iv. Describe measures that will be used or enacted that will ensure any alteration and required vegetation will be maintained for the duration of the use or development; and
 - v. Delineate any applicable critical area and/or buffer; and
 - vi. The plan shall document how the proposed alteration will result in equal or better ecological function and value.
- h. Hand removal of noxious weeds or invasive vegetation may be allowed without approval of a vegetation management plan as prescribe in section g, following a consultation with the shoreline administrator or his or her designee.

20.30.045 Water Quality, Storm Water and Nonpoint Pollution

Storm water picks up oil, grease, metals, yard and garden chemicals, dirt, bacteria, nutrients, and other pollutants from paved areas, and carries them to Puget Sound and Lake Burien without treatment. The higher rate of runoff from more impervious areas also results in decreased water quality by flushing more sediment into the water.

1. Policies

- a. The City of Burien should protect against adverse impacts to the public health, to the land and its vegetation and wildlife, and to the waters of the state and their aquatic life, through implementation of the following principles:
 - i) Prevent impacts to water quality and storm water quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities.
 - ii) Ensure mutual consistency between shoreline management provisions and other regulations that address water quality and storm water quantity, including public health, storm water, and water discharge standards. The regulations that are most protective of ecological functions shall apply.

(For additional policy guidance please see Chapter II General Goals and Policies, pg. 12.)

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.
- b. Low impact development methods shall be incorporated into any development or redevelopment in shoreline jurisdiction when feasible.

20.30.050 Dimensional Standards for Shoreline Development

The following buffers and setbacks 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) reports contained in this shoreline master program. The shoreline riparian buffers and building setbacks 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. For measurement methods, refer to BMC 19.17.

Figure 5 Dimensional Standards for Shoreline Development

SHORELINE ENVIRONMENT DESIGNATION			
	Shoreline Residential	Urban Conservancy	Aquatic
Marine Riparian Buffer	50 ft.	50 ft.	N/A
Lake Burien Riparian Buffer⁽¹⁾	30 ft.	N/A	N/A
Vegetation Conservation Buffer⁽²⁾	150 ft.	200 ft.	N/A
Building Setback from Riparian Buffer	15 ft.	15 ft.	N/A
Height Limit (see BMC 19.15)	35 ft.	35 ft.	35 ft.
Lot Size (see BMC 19.15)	RS-12,000 RS-7,200 (Lake Burien)	RS-12,000	N/A
Building Coverage (see BMC 19.15)	35%	30%	N/A

(1) Consistent with BMC 19.40 and BMC 20.30.040 (2) (f).

(2) See BMC 20.30.040 Shoreline Vegetation Conservation for specific requirements.

20.30.055 Shoreline Buffers

Regulations:

1. A fifty 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.
2. Docks 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.
3. Whenever the Shoreline Administrator determines that monitoring has established a significant adverse deviation from predicted impacts, or that mitigation or

maintenance measures have failed, the applicant or the property owner shall be required to institute corrective action(s), which shall also be subject to further monitoring as provided in this section.

4. The Shoreline Administrator may require a performance bond(s) or other security in an amount sufficient to guarantee that all required mitigation measures will be completed in a manner that complies with conditions of approval and to guarantee satisfactory workmanship and materials for a period not to exceed five years. The Shoreline Administrator shall establish the conditions of the bond or other security according to the nature of the proposed mitigation, maintenance or monitoring and the likelihood and expense of correcting mitigation or maintenance failures.
5. All costs associated with the mitigation/monitoring and planning including city expenses, shall be the responsibility of the applicant.

20.30.060 Select Shoreline Uses and Modifications

Shoreline master programs establish a comprehensive program of use regulations for shorelines and provisions for specific uses to assure consistency with the policy of the act and where relevant within the jurisdiction. This section provides specific policies and regulations for the following types of uses and modifications:

- Aquaculture
- Bulkheads and Other Shoreline Stabilization Structures
- Docks, Piers and Floats
- Habitat Restoration and Enhancement
- Recreation
- Recreational Mooring Buoys
- Residential
- Transportation Facilities and Parking
- Utilities

20.30.065 Aquaculture

Aquaculture means the culture, harvesting or farming of food fish, shellfish, or other aquatic plants and animals. Sport fishing is not considered an aquaculture activity. Aquaculture activities include the hatching, cultivating, planting, feeding, raising, harvesting, and processing of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings and growing areas. Cultivation methods include but are not limited to fish pens, fish hatcheries, shellfish rafts, racks and long lines, seaweed floats and nets and the culture of clams and oysters on tidelands and subtidal areas.

1. Policies

- a. Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adversely impact eelgrass and macroalgae, or significantly conflict with existing adjacent uses.
- b. Aquacultural facilities must be designed and located so as not to spread disease to native aquatic life, establish new nonnative species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.

2. Regulations

- a. Aquaculture shall be limited to geoduck harvesting within Department of Natural Resources' tracts or for recovery of a native aquatic population in accordance with a government and/or tribal approved plan.
- b. Aquaculture is not permitted in areas where it would result in a net loss of ecological functions, adversely impact eelgrass and macroalgae, or significantly conflict with navigation and other water-dependent uses.
- c. Aquaculture is prohibited in critical saltwater habitat or within a 10 foot buffer from these areas.
- 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.
- e. No aquacultural processing, except for the sorting or culling of the cultured organism and the washing or removal of surface materials or organisms, shall be permitted waterward of the ordinary high water mark unless fully contained within a tending boat or barge.
- f. Shellfish seeding and culturing is allowed when conducted for native population recovery in accordance with a government and/or tribal approved plan.

20.30.070 Bulkheads and Other Shoreline Stabilization Structures

Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, roads and utilities, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods.

Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, planning and regulatory measures to avoid the need for structural stabilization.

1. Policies

- a. New development should be located and designed to avoid the need for future shoreline stabilization to the greatest extent *feasible*.
- b. Bulkheads should be designed to blend in with the natural surroundings and not detract from the aesthetic qualities or degrade the natural processes of the shoreline.

- c. Burien should take active measures to preserve natural unaltered shorelines, and prevent the proliferation of bulkheads and other forms of shoreline armoring.
- d. Non-structural stabilization measures including relocating structures, increasing buffers, enhancing vegetation, managing drainage and runoff and other measures are preferred over structural shoreline armoring.
- e. Where feasible, any failing, harmful, unnecessary, or ineffective structural shoreline armoring should be removed, and shoreline ecological functions and processes should be restored using non-structural methods.

(For additional policy guidance please see Chapter II General Goals and Policies, pg. 7, 11, 13.)

2. Regulations

- a. Non-structural shoreline stabilization or flood protection measures shall be used instead of structural solutions unless the project proponent demonstrates that a non-structural solution is not *feasible* and there would be no net loss of shoreline ecological functions.
- b. Construction of bulkheads, gabions, revetments, retaining walls and bluff walls, are only permitted when non structural methods (e.g., building setbacks, biotechnical vegetation measures, anchor trees, upland drainage control, and beach enhancement) are not feasible to protect a residence or other *primary structure* or essential public facility.
- c. New structural stabilization measures shall not be allowed except when the necessity to protect existing *primary structures* is demonstrated in the following manner:
 - i. New or enlarged structural shoreline stabilization measures for an existing *primary structure*, including residences and roads, shall not be allowed unless a geotechnical analysis, accepted by the City of Burien Shoreline Administrator, indicates that the structure is in imminent danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need.
 - ii. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.
- d. An existing shoreline stabilization structure may be replaced with a similar structure if the following apply:

- i. The existing structure can no longer adequately serve its purpose of stabilizing the shoreline to protect the *primary structure*.
 - ii. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there is overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.
 - iii. Where a net loss of ecological functions associated with *critical saltwater habitats* would occur by leaving the existing structure, removal of that structure would be required as part of the construction of the replacement.
- e. Structural shoreline stabilization may be allowed to protect new development when all the following conditions apply or have been complied with:
 - i. The need to protect a new *primary structure* from damage due to erosion must be demonstrated by a geotechnical analysis accepted by the City of Burien Shoreline Administrator. The analysis shall specifically find and state that the *primary structure* will be in imminent danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.
 - ii. The erosion on the site is not being caused by upland conditions, such as the loss of vegetation and drainage.
 - iii. Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or are not sufficient.
- f. Bulkheads shall be located and constructed in a manner which will not result in adverse effects on littoral drift and adjacent properties.
- g. Bulkheads shall not be installed for the purpose of creating upland by filling behind the bulkhead.
- h. The size and quantity of material utilized for the bulkhead shall be the minimum necessary to protect the structure from the estimated energy intensity of the shoreline hydraulic system.

- i. The maximum height of a bulkhead on the marine shoreline shall be no greater than four (4) vertical feet above the OHWM.

20.30.075 Docks, Piers and Floats

Docks are fixed structures floating upon the water. *Piers* are fixed, pile-supported structures. *Floats* (rafts) are floating structures that are moored, anchored, or otherwise secured in the water that are not directly connected to the shoreline. All of these types of overwater structures are found in the City's shoreline jurisdiction. These structures typically require permits from local, state and federal agencies. For structures overlying state owned lands, an Aquatic Lands lease and authorization from the Department of Natural Resources is required.

1. Policies

- a. Inwater structures should be designed to minimize impacts to ecological functions of the water body including but not limited to water quality, anadromous and forage fish habitat, spawning and rearing areas, migration, and passage.
- b. New *piers* and *docks* should be restricted to the minimum size necessary and permitted only when the applicant has demonstrated that a specific need exists to support the intended *water dependent* use.
- c. Ensure that *docks*, *piers* and *floats* (rafts) are designed and maintained to avoid adverse impacts to the environment and shoreline aesthetics and minimize interference with the public's use of the water and public beach area.
- d. Encourage the use of mooring buoys in place of overwater boating structures.
- e. Encourage shared docks between multiple owners for single family waterfront development to minimize overwater coverage adversely impacting shoreline ecological functions.
- f. Overwater structures should be designed to avoid the need for maintenance dredging. The moorage of a boat larger than provided for in the original moorage design shall not be grounds for approval of dredging.

2. Regulations

- a. New docks, *piers*, floats and rafts shall be limited to those required as part of a permitted water dependent use or for joint use of the facility.
- b. Private, single residence piers for the sole use of the property owner shall not be considered an outright use on City of Burien marine shorelines. A pier, dock or float may be allowed on the marine shoreline when the applicant has demonstrated

a need for moorage and the following alternatives have been investigated and are not available or feasible:

- i. Commercial or marina moorage;
 - ii. Floating moorage buoys;
 - iii. Joint use moorage pier.
- c. The design and construction of docks, floats, and *piers* 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 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.
- d. *Piers, docks* and *floats* shall not be used for residential dwelling purposes nor provide moorage for boats that are occupied longer than two (2) days unless pump-out facilities are available and then no longer than seven (7) days total.
- e. Only joint use *dock*, moorage, *float* or launching facilities are allowed for attached dwelling unit developments.
- f. Only one *dock*, moorage, raft, *float* or launching facility is allowed for each single family detached residential lot.
- g. No covered moorage is allowed waterward of the ordinary high water mark.
- h. The total surface area of *piers, docks, floats* and rafts shall not exceed 150 square feet of surface area.

20.30.080 Habitat Restoration and Enhancement

Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines. Restoration or enhancement of shoreline areas means a change of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic ecological functions of a former or degraded wetland or fish and wildlife habitat conservation area.

1. Policy

Habitat restoration or enhancement projects that are not exempt pursuant to WAC 173-27-040, may be allowed in shoreline jurisdiction if a shoreline substantial development permit is obtained.

(For additional policy guidance please see Chapter II General Goals and Policies, pg. 16 & 17.)

2. Regulations

- a. Shoreline restoration or enhancement shall be designed to result in a natural shoreline with functions, vegetative communities and structure similar to what would historically have been found on the site or in the vicinity.
- b. All shoreline restoration or enhancement projects shall ensure that critical areas and their functions are not degraded by the action.
- c. Shoreline restoration projects shall implement the City's adopted shoreline restoration plan and be conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines.
- d. Nonstructural approaches for shoreline restoration or enhancement shall be used for shoreline stabilization instead of bulkheads or other structural stabilization measures, where feasible.
- e. Shoreline restoration projects that are not specifically listed in the City's adopted shoreline restoration plan shall be considered subject to approval of the Shoreline Administrator.
- f. Existing artificial structures that appear to be impeding natural recovery of a species or habitat shall be removed.
- g. When habitat is restored or enhanced, priority shall be given to retention of snags and trees that provide overhanging vegetation and/or nesting or perching branches for eagles, other raptors, or priority species.

- h. Shoreline habitat restoration or enhancement projects shall not adversely impact sediment processes, littoral drift, wetlands or fish and wildlife habitat conservation areas.
- i. Beach enhancement shall not be allowed within spawning, nesting or breeding habitats unless the completed project will result in a greater long term benefit to the ecological functions and values.
- j. Restoration of native vegetation shall comply with the vegetation conservation section BMC 20.30.040. In addition to the provisions of BMC section 20.30.040 a re-vegetation plan shall include a monitoring and maintenance program that shall, at a minimum, include the following:
 - a. Goals and objectives for the mitigation plan; and
 - b. Criteria for assessing the effectiveness of the mitigation; and
 - c. Monitoring plan including annual progress reports submitted to the Shoreline Administrator. The plan shall be in effect for a period of time sufficient to establish that performance standards have been met as determined by the Shoreline Administrator, but no less than five years; and
 - d. A contingency/adaptive management plan.
- k. Restoration resulting in movement of the *OHWM*.
- (1) The Shoreline Administrator may grant relief from shoreline master program development standards and use regulations when the following apply:
 - (a) A shoreline restoration project causes or would cause a landward shift in the ordinary high water mark, resulting in the following:
 - (i) (A) Land that had not been regulated under this Shoreline Master Program prior to construction of the restoration project is brought under shoreline jurisdiction; or
 - (B) Additional regulatory requirements apply due to a landward shift in required shoreline buffers or other regulations of the shoreline master program; and
 - (ii) Application of shoreline master program regulations would preclude or interfere with use of the property permitted by other development regulations, thus presenting a hardship to the project proponent;
 - (b) The proposed relief meets the following criteria:
 - (i) The proposed relief is the minimum necessary to relieve the hardship;
 - (ii) After granting the proposed relief, there is net environmental benefit from the restoration project;
 - (iii) Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with the shoreline master program; and

- (iv) Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this section; and
- (c) The application for relief must be submitted to the Department of Ecology for written approval or disapproval. This review must occur during the Department of Ecology's normal review of a shoreline substantial development permit, conditional use permit, or variance. If no such permit is required, then the Department of Ecology shall conduct its review when the City of Burien provides a copy of a complete application and all supporting information necessary to conduct the review.
 - (i) Except as otherwise provided in subsection (2) of this section, the Department of Ecology shall provide at least twenty-days (20) notice to parties that have indicated interest to the department in reviewing applications for relief under this section, and post the notice on their web site.
 - (ii) The department shall act within thirty calendar days of close of the public notice period, or within thirty days of receipt of the proposal from the local government if additional public notice is not required.
- (2) The public notice requirements of subsection (1)(c) of this section do not apply if the relevant shoreline restoration project was included in a shoreline master program or shoreline restoration plan as defined in WAC 173-26-201, as follows:
 - (a) The restoration plan has been approved by the Department of Ecology under applicable shoreline master program guidelines;
 - (b) The shoreline restoration project is specifically identified in the shoreline master program or restoration plan or is located along a shoreline reach identified in the shoreline master program or restoration plan as appropriate for granting relief from shoreline regulations; and
 - (c) The shoreline master program or restoration plan includes policies addressing the nature of the relief and why, when, and how it would be applied.
- (3) A substantial development permit is not required on land that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the ordinary high water mark.

20.30.085 Recreational Development

Shoreline recreational development includes facilities for activities such as hiking, fishing, picnicking, swimming, photography and viewing. It also includes facilities for more intensive uses, such as parks. This section applies to both publicly- and privately-owned shoreline facilities intended for use by the public or private group, association, or individual.

1. Policies

- a. Allow a variety of active and passive recreation opportunities in the shoreline areas.
- b. Encourage provision of view points, rest areas and picnic facilities in public shoreline areas.

(For additional policy guidance please see Chapter II General Goals and Policies, pg. 4-7, 15.)

2. Regulations

- a. Commercial recreational development or use in Seahurst Park shall be consistent with the provisions of this section.
- b. Recreation facilities shall be designed to take maximum advantage of and enhance the natural character of the shoreline area.
- c. Recreation areas shall promote public health, safety and security and not materially interfere with the normal public use of the water and shorelines.
- d. Recreation facilities shall provide adequate provisions to prevent the general public from trespassing and overflowing into adjacent, privately owned properties.
- e. Recreation facilities shall provide signage that prohibits tree cutting and collecting of marine life, driftwood and other natural materials.
- f. Jet skis and water craft with combustion engines are prohibited on Lake Burien.
- g. No person shall moor, anchor or dock a boat or other object overnight on or within 50 feet of the ordinary high water mark at any city beachfront park without authorization from the City of Burien Parks Department.
- h. Should public access occur on Lake Burien, only hand-carried watercraft shall be allowed to be launched from the public access areas.

20.30.090 Recreational Mooring Buoys

A recreational mooring buoy is a device used to tie up a boat and typically consists of a line from the boat attached to a float at the water's surface with a cable or line fixed underwater to the submerged ground. The anchor line allows the boat to float and swing around the fixed buoy anchor.

1. Policies

- a. Recreational boat mooring buoys are the preferred method to provide moorage instead of constructing new residential docks, piers or floats.

(For additional policy guidance please see Chapter II General Goals and Policies, pg. 7.)

2. Regulations

- a. Mooring buoys shall be located as close to the shore as possible while avoiding beaching under all tidal situations and no farther waterward than existing authorized mooring buoys unless the drift of the boat dictates it.
- b. Mooring buoys shall be located away from critical saltwater habitat.
- c. Mooring buoys shall utilize a system design that minimizes damage to underwater lands and marine vegetation.
- 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.
- e. Recreational mooring buoys on public lands shall be installed using a DNR or WDFW approved system.
- f. Buoys shall be visible under normal daylight conditions at a minimum of 100 yards during daylight hours and must have reflectors for night time visibility.
- g. Recreational mooring buoys on public lands are prohibited for commercial and transient uses or live-aboards.
- h. Boats must be sixty feet or less in length to tie up to a recreational mooring buoy on public lands.
- i. A *Community Beach* may have one mooring buoy for every one hundred (100) lineal feet of waterfront.
- j. Mooring buoys are prohibited on Lake Burien.

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 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. Bed and Breakfast establishments are considered an accessory use.

1. Policy

Residential development should demonstrate that the development and its related activities will not be detrimental to the public interest and uses of the shoreline and its associated water bodies.

(For additional policy guidance please see Chapter II General Goals and Policies, pg. 8-15.)

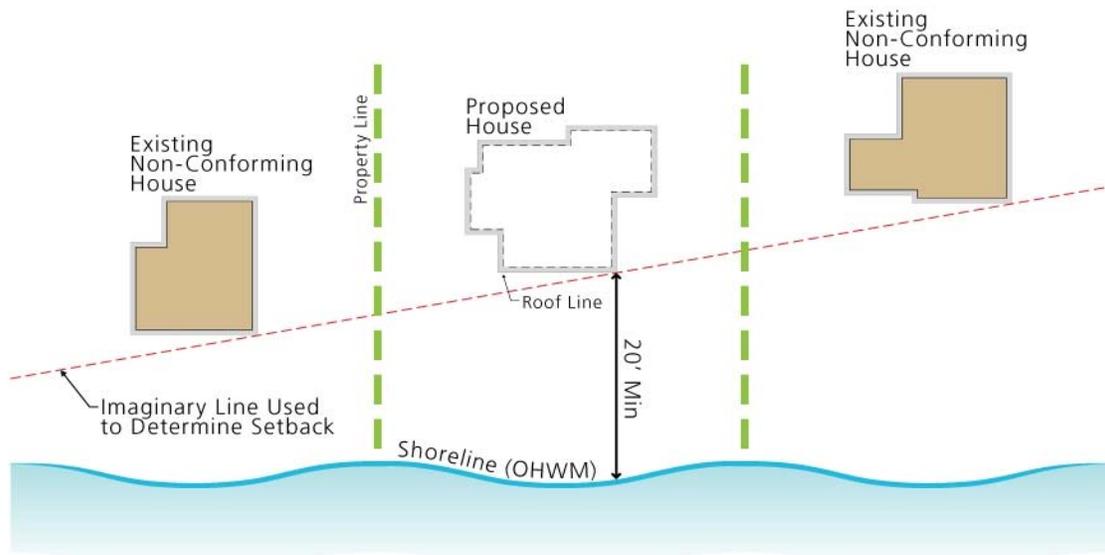
2. Regulations

- a. **General.** Residential development shall protect existing shoreline and water views, promote public safety, avoid adverse impacts to marine bluffs and nearshore habitat and not result in a net loss of shoreline ecological functions.
- b. **Dimensional Standards.** Residential development in shoreline jurisdiction shall conform to the dimensional standards found in BMC 20.30.050.
- c. **Common-line riparian buffer and building setback standards.** Riparian buffer and building setback standards may be reduced through the shoreline conditional use permit process. In addition to the conditional use criteria the Shoreline Administrator may approve reduced buffer and setback for residential development under the following conditions:
 - i. Where there are existing legally nonconforming residences that encroach on the established *OHWM* buffer and setback, within 50 feet of either side of the proposed building site, the required buffer and setback from the *OHWM* of the new or expanded home may be reduced. In such cases, proposed residential structures may be set back from the *OHWM* common to the average of the setbacks of the existing adjacent residences. (see Figure 6)
 - ii. In those instances where only one existing nonconforming single family residence is within 50 feet of the proposed building site, the

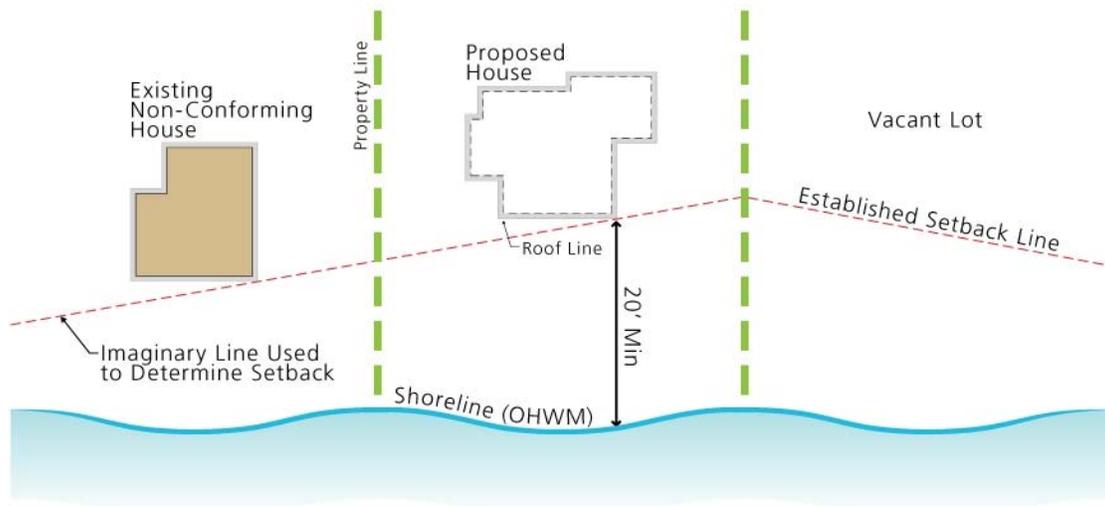
OHWM setback of the proposed structure may be reduced to the average of the *OHWM* setbacks for the existing adjacent residence and the applicable setback for the adjacent vacant parcel (65-feet for marine shorelines, 45-feet for Lake Burien).

- iii. In no case shall the reduced buffer and setback be less than 20 feet landward of the *OHWM* without a variance.
 - iv. In cases where the common line setback does not apply, expansion within the buffer/setback of existing homes may be allowed through a conditional use permit if there is no development waterward of the existing primary structure.
 - v. Any setback reduction beyond that allowed in this section shall require approval of a shoreline variance permit.
- d. **Lot size calculations.** Lot size calculations shall not include portions of the lot that are waterward of the ordinary high water mark.
 - e. **Bluff top protection.** New development located at the top of bluffs in shoreline jurisdiction must be setback to ensure that shoreline stabilization is unlikely to be necessary for the life of the structure as demonstrated by a geotechnical analysis.
 - f. **Vegetation removal for access.** Private access from single family detached residences to the shoreline shall avoid removal of trees and other woody vegetation when *feasible*.
 - g. **Accessory structures.** Accessory structures that are not normal appurtenances as defined at the end of this chapter must be proportional in size and purpose to the residence and compatible with onsite and adjacent structures, uses and natural features.
 - h. **Floating homes or houseboats.** Floating homes or houseboats are prohibited in shoreline jurisdiction.
 - i. **Stairs and trams.** Stairs and trams to the beach are allowed, except on feeder bluffs, provided the project proponent demonstrates that existing shared, public or community facilities are not adequate or available for use and the possibility of a multiple-owner or multiple-user facility has been thoroughly investigated and is not *feasible*.
 - j. **Beach stairs and trams design.** Beach stairs and trams shall be designed and located such that no fill or other modification waterward of the ordinary high water mark is necessary to construct or use the structure. Stairways, trams and landings shall be located upland of existing bulkheads.

Figure 6 Common-line Riparian Buffer and Building Setback Reduction Examples



OHWM = Ordinary High Water Mark



OHWM = Ordinary High Water Mark

20.30.100 Transportation Facilities and Parking

Transportation facilities are those structures and developments that aid in land and water surface movement of people, animals, goods and services. They include streets, bridges, bikeways, trails and other related facilities.

1. Policies

- a. All new or expanded roadways should be designed and located to minimize impacts to shoreline ecological functions including riparian and nearshore areas, and the natural landscape.
- b. Parking is not a preferred use in shorelines and should only be allowed to support authorized uses where no feasible alternatives exist.

(For additional policy guidance please see Chapter II General Goals and Policies, pg. 7 & 8.)

2. Regulations

- a. Unless in support of public access or other authorized use, new transportation and parking facilities shall be located outside of the shoreline jurisdiction or as far landward from the ordinary high watermark as feasible.
- b. Transportation facilities shall be designed and maintained to minimize erosion, preserve natural drainage ways and utilize low impact development techniques.
- c. Require transportation and utility facilities share use of rights-of-way to minimize disturbance in shoreline areas.
- d. The City shall give preference to mechanical means rather than the use of herbicides for roadside brush control on City streets in shoreline areas.
- e. Construction debris, overburden and other waste materials shall not be allowed to enter into any water body by disposal or erosion from drainage, high water or other means.
- f. Transportation facilities shall provide public access appropriate to the location and extent of the facility.
- g. All shoreline areas disturbed by road construction and maintenance shall be replanted and stabilized. Such vegetation shall be maintained by the agency or developer constructing or maintaining the road until established.

- h. Landscaping shall be provided to minimize visual impacts for all new and expanded transportation facilities in shorelines. A landscape plan shall be provided in conjunction with review and issuance of a shoreline substantial development permit.

20.30.105 Utilities

Utilities are services and facilities that produce, convey, transmit, store, or process water, sewage, communications, electric power, fuel, natural gas, and the like. On-site utility features serving a primary use, such as a water, sewer or gas lines to a residence, are "accessory utilities" and shall be considered a part of the primary use.

1. Policies

- a. On-site utility features serving a primary use, such as a water, sewer or gas lines to a residence, are considered a part of the primary use.
- b. Utilities production and processing facilities, such as sewage treatment plants, or parts of those facilities that are nonwater-oriented should not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.
- c. Utilities should be located and designed to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.
- d. New development of pipelines and cables on tidelands, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance which would disrupt shoreline ecological functions should be discouraged except where no other feasible alternative exists.

(For additional policy guidance please see Chapter II General Goals and Policies, pg. 4 & 9.)

2. Regulations

- a. Utilities shall be placed underground whenever *feasible*.
- b. New development of underwater pipelines and cables on tidelands is prohibited except for deepwater outfalls and facilities where no other reasonable alternative exists.
- c. New cable crossings for telecommunications and power lines entering or leaving a body of water shall be bored or buried below the surface of the water body's bed

from the ordinary high water mark out to a minimum water depth of minus ten feet (-10') below mean lower low water.

- d. Directional boring, instead of excavation or trenching is required where *feasible*.
- 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.
- f. New or altered aerial utility lines and vertical utility facilities shall make maximum use of topography to minimize visual impact on the surrounding area.
- g. Communication and radio towers shall not obstruct or destroy scenic views of the water. This may be accomplished by design, orientation and location of the tower, height, camouflage of the tower, or other features consistent with utility technology.
- h. Culverts shall be located and installed in accordance with City of Burien standards and specifications.
- i. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- j. Except for water lines, all underwater pipelines transporting substances hazardous to aquatic life or water quality are prohibited unless no other practical alternative exists. Such facilities shall include an automatic shut off valve on both shorelines and maintenance procedures are established.
- k. Expansion or repair of existing, underground utilities within shoreline jurisdiction shall include reclamation of areas disturbed during construction including, where *feasible*, replanting and maintenance care until the newly planted vegetation is established.