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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4055

AN ORDINANCE relating to management of the City's shorelines; amending sections 20.25E.010, 20.25E.013, 20.25E.080, 20.50.016, and 20.50.046 of the Bellevue City Code (Land Use Code) and sections 1, 2, 11, 12, 14, 22 and 28 of Ordinance No. 3914.

WHEREAS, on May 23, 1988, the City Council adopted Ordinance No. 3914 amending Bellevue's Shoreline Master Plan regulations; and

WHEREAS, pursuant to RCW 90.58.190, Ordinance No. 3914 was submitted to the Washington State Department of Ecology for review; and

WHEREAS, as authorized by law, the Department of Ecology has proposed modifications to certain provisions of Ordinance No. 3914; and

WHEREAS, the City Council concurs with those modifications and desires to effect them through this ordinance; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 1 of Ordinance No. 3914 and Section 20.25E.010 of the Bellevue City Code (Land Use Code) are amended to read as follows:

20.25E.010 Definition of District: The Shoreline Overlay District encompasses those lake waters twenty (20) acres in size or greater and those stream waters with a mean annual water flow exceeding twenty (20) cubic feet per second, the lands underlying them; the lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways associated with such streams and lakes; and marshes, bogs, swamps and river deltas associated with such streams and lakes. Specifically included within the district are the following:

Lake Washington, including Mercer Slough upstream to Interstate 405--The lake waters, underlying lands and the area two hundred (200) feet landward of the ordinary high water mark, plus associated floodways, floodplains, marshes, bogs, swamps, and river deltas;

Lake Sammamish--The lake waters, underlying lands and the area two hundred (200) feet landward of the ordinary high water mark, plus associated floodways, floodplains, marshes, bogs, swamps and river deltas;

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Lower Kelsey Creek--The creek waters, underlying lands, and territory between two hundred (200) feet on either side of the top of the banks, plus associated floodways, floodplains, marshes, bogs, swamps and river deltas; and

Phantom Lake--The lake waters, underlying lands and the area two hundred (200) feet landward of the ordinary high water mark, plus associated floodways, floodplains, marshes, bogs, swamps and river deltas.

Section 2. Section 2 of Ordinance No. 3914 and Section 20.25E.013 of the Bellevue City Code (Land Use Code) are amended to read as follows:

20.25E.013 Relation to State Regulations, Wetlands: The Shoreline Management Act and Department of Ecology Shoreline Regulations use the term "wetlands" to define the portion of the Shoreline Overlay District landward of the line of Ordinary High Water Mark. Please note that the definition is not used by the City of Bellevue. The term "wetlands" as used in the Bellevue City Code is defined in Section 20.50.054.

Section 3. Section 11 of Ordinance No. 3914 and Subsection 20.25E.080.K of the Bellevue City Code (Land Use Code) are amended as follows:

K. Landfill Regulations.

(Note: Prohibited landfill materials are defined by the Bellevue Uniform Building Code.)

1. Landfills within the Shoreline Overlay District shall be controlled to prevent significant adverse alteration in the storage and flow characteristics of the affected area.
2. Landfills which do not meet the requirements of this code and the Bellevue Building Code as amended are prohibited (Uniform Building Code 7010).
3. Landfill is prohibited except where necessary for:
 - a. Maintenance of shoreline property above the ordinary high water mark.
 - b. Improvement of water quality in the event no other possible alternatives are available.

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- c. Enhancement or restoration of habitat in conformance with City of Bellevue standards adopted by the Director of Design and Development and the Director of Storm and Surface Water Utility if permitted under Part 20.25H.
- d. Replenishment of sand on public and private beaches.
- e. Establishment of an interpretive center when undertaken by, or in cooperation with, the City of Bellevue if permitted under Part 20.25H.
- f. Ensuring or preserving the structural integrity of bulkheads permitted under Section 20.25E.080.E.

In such cases, landfill may be permitted provided there is no significant adverse impact upon fish, wildlife and adjacent property and shall be limited to the minimum extent necessary to accomplish its permitted purpose.

- 4. Landfill behind bulkheads shall be limited to the height of bulkheads in compliance with Section 20.25E.080.E.3.
- 5. No landfill shall be permitted below or within the Ordinary High Water Mark, EXCEPT to restore lands lost to unusual erosion within the twelve months prior to the date of permit or exemption application. In no event, however, shall landfill be permitted below the ordinary high water mark established twelve months prior to permit or exemption application. The property owner bears the burden of demonstrating the unusual nature of the precipitating erosion and establishing the location of the earlier ordinary high water mark.
- 6. Landfill is prohibited within marshes, bogs and swamps and within wetlands described in the Sensitive Areas Notebook except as provided for in Chapter 20.25H.
- 7. In those limited instances where landfill is permitted, the waterside perimeter of the fill shall be stabilized with vegetation.
- 8. Applicants for landfills within the Shoreline Overlay District must also secure and perform in accordance with fill permits under the City's clearing and grading regulations (Bellevue City Code Section 23.76).

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9. Landfills shall be permitted only when they are in complete conformance with all conditions of site development approval.

Section 4. Section 12 of Ordinance No. 3914 and Subsection 20.25E.080.N of the Bellevue City Code (Land Use Code) are amended as follows:

N. Moorage Regulations.

1. The height of any moorage structure shall not exceed a maximum of sixteen (16) feet above the ordinary high water mark.
2. Area Requirements, Covered Moorage: The covered portion of a moorage shall be restricted to the area lying within an equilateral triangle, the base of which shall be a line drawn between the points of intersection of the property sidelines with the line of normal high water, except that covered moorage shall not extend beyond 100' from the center of the base of such triangle, the covered portion of such moorage shall be restricted to the area lying within an isosceles triangle of which the base is the line drawn between the points of intersection with the respective sidelines of such property and the line of normal high water with the vertex thereof 100' from the center of said base. The required 12' setback from the property sidelines shall be deducted from the triangle area. (See Figure A.)
Covered moorage in no event shall cover more than fifty (50) percent of the permitted covered moorage area.

3. Area requirements, Shared Covered Moorage: Where a shared covered moorage is built pursuant to the agreement of adjoining owners, the covered moorage area shall be deemed to include, subject to the limitations of such joint agreement, all of the combined building areas included within the triangles extended upon said adjoining properties as augmented by the inverted triangle situated between the aforesaid triangles having as its base a line drawn between the vertices of the respective triangles. (See Figure B.)
Covered moorage in no event shall cover more than fifty (50) percent of the permitted covered moorage area.

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4. Uncovered Public and Semipublic Moorage in Meydenbauer Bay: Public or semipublic moorage in Meydenbauer Bay shall not extend beyond the following boundary line: All Azimuths being South; commencing at the E 1/4 Sec. corner of Sec. 31 T 25N, R 5E, W.M., whose 'X' coordinate is 1,661,520.58 and whose 'Y' coordinate is 225,661.29 of the Washington Coordinate System, North Zone, and running thence on an Az of 78°51'17" a distance of 963.76 feet to a point whose coordinate is 'X' 1,660,575.00, 'Y' 225,475.00 of said coordinate system; thence on an Az of 37°26'00" for a distance of 60 feet to a point being the true beginning of this description; thence on an Az of 316°19'15" a distance of 495.14 feet; thence on an Az of 2°21'10" a distance of 42.52 feet; thence on an Az of 312°06'17" a distance of 415.00 feet; thence on an Az of 37°24'19" a distance of 118.06 feet to an intersection with the northwesterly extension of the northwesterly line of Reserve 'A' at the N. end of Ronda Street between Blocks 29 and 38, Plat of Moorlands, as recorded in Vol. 4 of Plats, Page 103, records of King County, Washington, said point of intersection being the terminum of this line description. (See Figure C.)
5. Covered Public and Semipublic Moorage in Meydenbauer Bay: The extent of covered public or semipublic moorage in Meydenbauer Bay shall comply with the following limitations: On the common line of adjoining private properties, covered moorage shall observe a 2'6" setback; on public street lines, in the water, no setback shall be required; no covered moorage shall extend out in the bay farther than the limits of the following boundary line: All Azimuths being South; commencing at the E 1/4 Sec. corner of Sec. 31, T 25N, R 5E, W.M., whose 'X' coordinate is 1,661,520.58 and whose 'Y' coordinate is 225,661.29 of the Washington Coordinate System, North Zone, and running thence on an Az of 78°51'17" a distance of 963.76 feet to a point being the true beginning whose coordinate is 'X' 1,660,575.00, 'Y' 225,475.00 referred to said coordinate system: thence on an Az of 316°19'15" a distance of 999.87 feet; thence on an Az of 37°24'19" a distance of 217.23 feet to an intersection with the northwesterly extension of the northwesterly line of Reserve 'A' at the N. end of Ronda Street between Blocks 29 and 38, Plats of Moorlands as recorded in Vol. 4 of Plats, Page 103, records of King County, Washington, said point of intersection being the terminum of this line description. (See Figure C.)

6. Boathouses are permitted pursuant to Part 20.30E, Administrative Conditional Use, if meeting the criteria of BCC 20.30E.140 and if not constituting a substantial obstruction of the range of view of neighboring properties.
7. Moorage shall only be permitted within:
 - a. Lots created on or after the effective date of this ordinance having water frontage meeting or exceeding the minimum lot width required in the applicable land use district;
 - b. Lots created prior to the effective date of this ordinance; or
 - c. Non-building tracts platted for the purpose of providing common moorage for a group of contiguous properties.

For the purposes of meeting the requirements of subsection 7.a above, adjoining property owners may combine their water frontage by mutual agreement recorded with the King County Records and Elections Division and the Bellevue City Clerk. Only one moorage facility is permitted pursuant to such a combined frontage agreement, which may connect with the property landward of the ordinary high water mark at only one location.

8. No private moorage or other structure waterward of the ordinary high water mark, including structures attached thereto, shall be closer than twelve (12) feet to any adjacent property line except when a mutual agreement of adjoining property owners is recorded with the King County Records and Elections Division and the Bellevue City Clerk. Excepted from the requirements of this section are boat lifts or portions of boat lifts which do not exceed 30" in height measured from ordinary high water mark.
9. Private Moorage Extension:
 - a. Except as provided in Paragraph 9.b, private moorage may not extend more than 80 feet beyond the ordinary high water mark.
 - b. Private moorage may extend more than 80 feet beyond the ordinary high water mark to the point

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at which ten feet of water depth exists at ordinary high water, if approved through the procedures of Section 20.30E. In making his determination the director shall consider the following criteria instead of the criteria set forth in Section 20.30E.140:

- i. Whether the moorage will extend beyond the point necessary to obtain a reasonable and safe moorage;
 - ii. Whether the increased length will interfere with the public use and enjoyment of the water, or create a hazard to navigation; and
 - iii. Whether the increased length will unreasonably interfere with the use of adjacent piers.
- c. In no case may private moorage extend more than one hundred fifty (150) feet beyond the ordinary high water mark.
10. Boat moorage for semipublic and public use shall be permitted as a shoreline conditional use only.

Section 5. Section 14 of Ordinance No. 3914 and Subsection 20.25E.080.S of the Bellevue City Code (Land Use Code) are amended as follows:

S. Shoreline Protection Regulations.

1. New development in the Shoreline Overlay District shall utilize design and construction methods and practices which will protect such development from damage resulting from a 100 year flood.
2. New development within the Shoreline Overlay District shall provide for the routing of flood waters and shall avoid reducing the flood water storage capacity of the wetlands and marshes, bogs and swamps.
3. Riprapping and bank stabilization measures should be of a sloping design, meeting the criteria set forth in City of Bellevue Clearing and Grading Regulations (Bellevue City Code Chapter 23.76) and should be left ungrouted.

FIGURE A AREA OF PERMITTED COVERED MOORAGE, INDIVIDUAL LOTS.

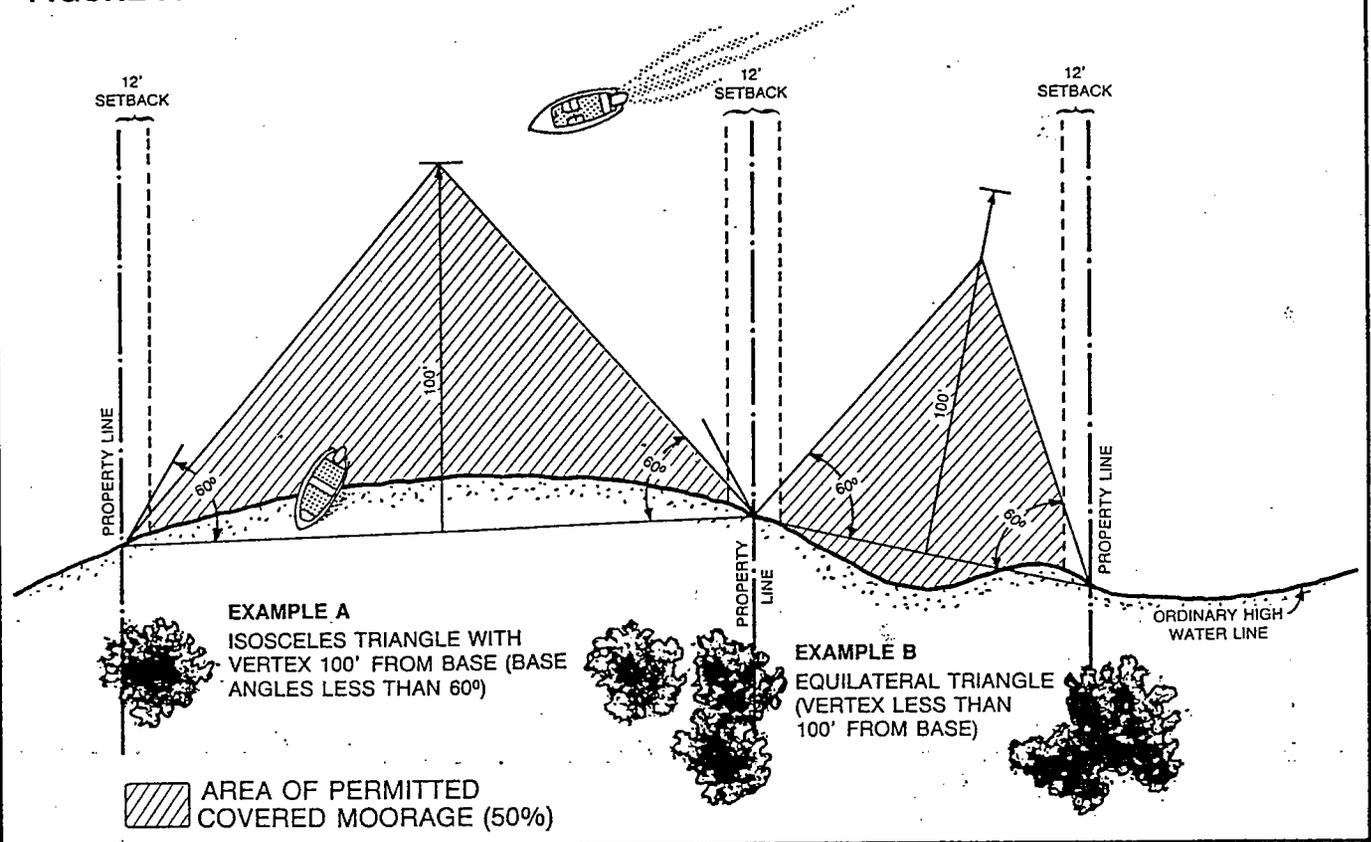
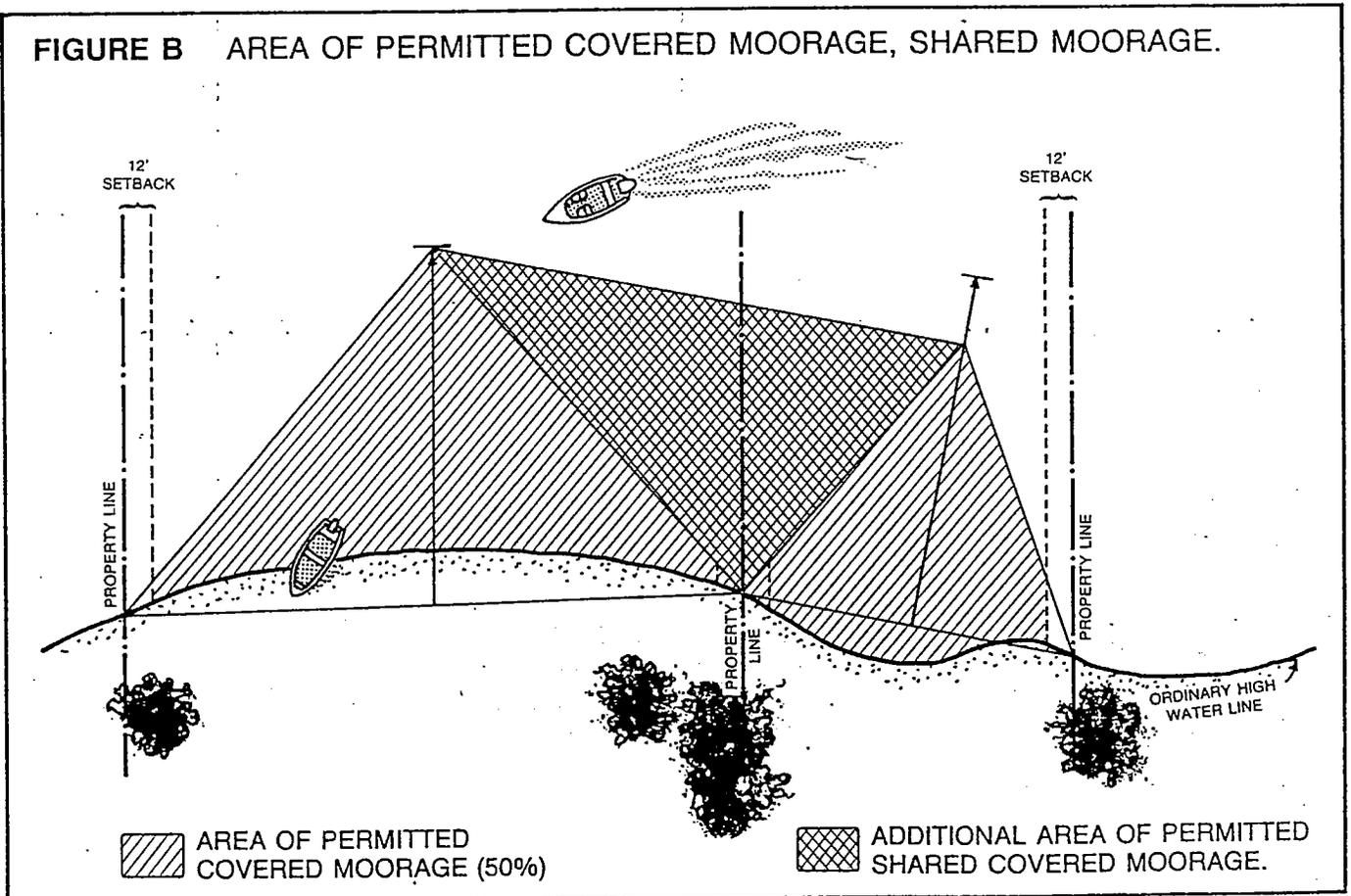


FIGURE B AREA OF PERMITTED COVERED MOORAGE, SHARED MOORAGE.



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Section 5. Section 14 of Ordinance No. 3914 and Subsection 20.25E.080.S of the Bellevue City Code (Land Use Code) are amended as follows:

- S. Shoreline Protection Regulations.
1. New development in the Shoreline Overlay District shall utilize design and construction methods and practices which will protect such development from damage resulting from a 100 year flood.
 2. New development within the Shoreline Overlay District shall provide for the routing of flood waters and shall avoid reducing the flood water storage capacity of the wetlands and marshes, bogs and swamps.
 3. Riprapping and bank stabilization measures should be of a sloping design, meeting the criteria set forth in City of Bellevue Clearing and Grading Regulations (Bellevue City Code Chapter 23.76) and should be left ungrouted.
 4. Development within the Shoreline Overlay District shall exclude those uses which reduce the floodway area to the extent that they either cause a backwater on upstream property or increase the velocity on downstream property.

Section 6. Section 22 of Ordinance No. 3914 and Section 20.50.016 of the Bellevue City Code (Land Use Code) is amended are follows:

20.50.016 ADDITIONAL DEFINITIONS:

* * *

DEVELOPMENT. All structures and other modifications of the natural landscape above and below ground or water, on a particular site. For the purposes of Part 20.25E, regulation for the Shoreline Overlay District, a different definition is used. See Section 20.25E.017.A.

* * *

Section 7. Section 28 of Ordinance No. 3914 and Section 20.50.046 of the Bellevue City Code (Land Use Code) are amended as follows:

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20.50.046 ADDITIONAL DEFINITIONS:

* * *

SPA. A tub, generally with heated and/or jetted water, designed for therapy and relaxation.

* * *

STRUCTURE. A combination of materials constructed and erected permanently on or under the ground or attached to something having a permanent location on or under the ground. Not included are residential fences, retaining walls less than 30 inches in height, rockeries less than 30 inches in height and similar improvements of a minor character. For the purposes of Part 20.35E, regulations for the Shoreline Overlay District, a different definition applies. See 20.25E.017.C.

* * *

Section 8. This ordinance shall take effect and be in force five days after its passage and legal publication.

PASSED by the City Council this 25th day of September 1989, and signed in authentication of its passage this 25th day of September 1989.

(SEAL)

Nan Campbell
Nan Campbell, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

Richard L. Andrews
Richard L. Andrews, City Attorney

Attest:

Marie K. O'Connell
Marie K. O'Connell, City Clerk

Published September 29, 1989