

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5681

AN ORDINANCE amending the Bellevue Land Use Code to amend the Shoreline Overlay District to recognize shorelines and critical areas and amend certain provisions to protect those critical areas; amending Sections 20.25E.010, 20.25E.017, 20.25E.020, 20.25E.030, 20.25E.040, 20.25E.050, 20.25E.055, 20.25E.060, 20.25E.070, 20.25E.080 of the Bellevue Land Use Code; and establishing an effective date.

WHEREAS, the City of Bellevue is a designated urban growth area under the state's Growth Management Act (GMA); and

WHEREAS, as an urban growth area, the City of Bellevue plans for and accepts its portion of the forecasted growth and development expected in King County; and

WHEREAS, the state Growth Management Act (GMA) requires local jurisdictions to designate and protect critical areas; and

WHEREAS, GMA requires local jurisdictions to include the best available science (BAS) in developing policies and regulations to protect critical area functions and values, and to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries; and

WHEREAS, the City of Bellevue has a long history of protecting environmentally sensitive critical areas, with its first protective regulations adopted in 1987; and

WHEREAS, the City of Bellevue has a long history of developing and protecting exceptional neighborhoods and commercial areas, which contribute to economic development and the citizens' quality of life; and

WHEREAS, the City of Bellevue initiated its Critical Areas Update process in order to review existing regulations and policies protecting critical areas in 2001; and

WHEREAS, following substantial work by the Critical Areas Citizens Advisory Committee and the Planning Commission, the City Council adopted updated critical areas policies into the Environmental Element of the Comprehensive Plan, in November, 2004; and

WHEREAS, the Comprehensive Plan policies directs a regulatory and non-regulatory approach to protecting critical area functions and values; and

WHEREAS, the City of Bellevue protects critical areas with a variety of non-regulatory measures, including acquisition of critical areas, rehabilitation projects,

education programs, and best management practices in city operations and management of city property and rights of way; and

WHEREAS, the proposed amendments to the Land Use Code updating the City's critical areas regulations, together with other regulations, including the City's clearing and grading regulations and stormwater regulations, and together with non-regulatory measures and incentives, provide protection of critical area functions and values; and

WHEREAS, the amendments to Part 20.25E of the Land Use Code recognize that the City's shorelines provide fish and wildlife habitat, and protect the functions and values of such habitat through techniques for avoiding impacts, minimizing impacts and mitigation impacts to such functions and values; and

WHEREAS, the amendments to Part 20.25E of the Land Use Code also significantly increase flexibility and incentives for property owners; and

WHEREAS, the amendments to Part 20.25E recognize the importance of continued recreational use of and public access to the City's shorelines, consistent with the state Shoreline Management Act and the City's Comprehensive Plan and Shoreline Master Program; and

WHEREAS, development of the proposed amendments included BAS, with BAS sources set forth completely in the Planning Commission Transmittal dated September 7, 2005, as updated in the City Council Agenda Memorandum dated June 26, 2006; and

WHEREAS, the City prepared a risk analysis of the proposed amendments, entitled "*City of Bellevue's Critical Areas Update – Risk Analysis of Regulatory, City Programs, and Best Available Science Alternatives for Improving Critical Area Protection,*" dated June 16, 2005 and updated on May 9, 2006, which discloses any departure from best available science and the risks associated with such departures; and

WHEREAS, the Planning Commission held a public hearing on July 6, 2005 with regard to such proposed Land Use Code amendment; and

WHEREAS, the Planning Commission finds that the Land Use Code amendment satisfies the criteria of LUC 20.30J.135 and therefore recommends that the City Council approve such proposed amendment; and

WHEREAS, the City Council held a public hearing on May 15, 2006 with regard to the proposed Land Use Code amendments, as modified by the City Council; and

WHEREAS, the City Council concurs in the analysis of the Land Use Code amendment criteria as set forth in the Planning Commission Transmittal dated September 7, 2005 and finds that the Land Use Code amendment, as modified pursuant to Council direction, satisfies the criteria of LUC 20.30J.135; and

WHEREAS, the City Council adopts the analysis and discussion of GMA and BAS obligations as set forth in the Planning Commission Transmittal dated September 7, 2005, as updated in the City Council Agenda Memorandum dated June 26, 2006; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, BCC 22.02, including preparation of the Draft Environmental Impact Statement dated June 15, 2005 and the Final Environmental Impact Statement dated May 9, 2006; now, therefore,

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

Section 1. Section 20.25E.010 of the Bellevue Land Use Code is hereby amended as follows:

**20.25E.010 Definition of district.**

The Shoreline Overlay District encompasses those lake waters 20 acres in size or greater and those stream waters with a mean annual water flow exceeding 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 200 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:

- A. Lake Washington, including Mercer Slough upstream to Interstate 405 – The lake waters, underlying lands and the area 200 feet landward of the ordinary high water mark, plus associated floodways, floodplains, marshes, bogs, swamps, and river deltas;
- B. Lake Sammamish – The lake waters, underlying lands and the area 200 feet landward of the ordinary high water mark, plus associated floodways, floodplains, marshes, bogs, swamps and river deltas;
- C. Lower Kelsey Creek – The creek waters, underlying lands, and territory between 200 feet on either side of the top of the banks, plus associated floodways, floodplains, marshes, bogs, swamps and river deltas; and
- D. Phantom Lake – The lake waters, underlying lands and the area 200 feet landward of the ordinary high water mark, plus associated floodways, floodplains, marshes, bogs, swamps and river deltas.

Development within the Shoreline Overlay District may also be subject to the requirements of LUC Part 20.25H. In the event of a conflict between the provisions of this Part 20.25E and LUC Part 20.25H, the provisions providing the most protection to critical area functions and values shall prevail.

Section 2. Section 20.25E.017 of the Bellevue Land Use Code is hereby amended as follows:

**20.25E.017 Definitions specific to the Shoreline Overlay District.**

As used in this chapter, the following definitions apply:

**A. Development.**

A use consisting of the construction or exterior alteration of structures, dredging, drilling, dumping, filling, removal of any sand, gravel or minerals, bulkheading, driving of piling, placing of obstructions, or any other project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this Master Program at any state of water level.

**B. Height.**

Measured from average grade level (the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure) to the highest point of a structure; provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where they obstruct the view of a substantial number of residences; provided further, that temporary construction equipment is excluded in this calculation.

**C. Structure.**

A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

**D. Shoreline Critical Area.**

The following water bodies are hereby designated as shoreline critical areas:

1. Lake Washington, including Mercer Slough upstream to Interstate 405 – The lake waters underlying lands plus associated floodways, floodplains, marshes, bogs, swamps and river deltas;
2. Lake Sammamish – The lake waters and underlying lands, plus associated floodways, floodplains, marshes, bogs, swamps and river deltas;
3. Lower Kelsey Creek – The creek waters, underlying lands, plus associated floodways, floodplains, marshes, bogs, swamps and river deltas; and
4. Phantom Lake – The lake waters, underlying lands, plus associated floodways, floodplains, marshes, bogs, swamps and river deltas.

**E. Shoreline Critical Area Buffer.**

That area designated as the shoreline critical area buffer under LUC 20.25H.035. The shoreline critical area buffer may be modified pursuant to the provisions of Part 20.25H.

**F. Shoreline Critical Area Structure Setback.**

That area designated as the shoreline critical area structure setback under LUC 20.25H.035. The shoreline critical area structure setback may be modified pursuant to the provisions of Part 20.25H.

**G. Critical Areas Report.**

The process described in LUC 20.25H.230 that allows for modification of regulations applicable to the shoreline critical area and shoreline critical area buffer. Provisions of this 20.25E may also be modified using a critical areas report where specifically allowed.

Section 3. Section 20.25E.030 of the Bellevue Land Use Code is hereby amended as follows:

**20.25E.030 Interpretation – Administration by City.**

The Bellevue Shoreline Overlay District is supplementary to the underlying land use districts. When conflict arises between regulations of the Shoreline Overlay District and underlying land use districts, regulations of the Shoreline Overlay District shall prevail. When conflict arises between regulations of the Shoreline Overlay District and other special districts, such as the Critical Area Overlay District, the regulations providing the most protection to critical area functions and values shall prevail.

Section 4. Section 20.25E.040 of the Bellevue Land Use Code is hereby amended as follows:

**20.25E.040 Substantial Development Permit required.**

A Substantial Development Permit is required for all development within the Shoreline Overlay District, with the exceptions noted in LUC 20.25E.050. Procedures for securing a Substantial Development Permit shall be as set forth in Chapter 173-14 WAC and Part 20.30R LUC. All information reasonably required to enable the City to make a full evaluation of proposed development in shoreline areas shall be provided by applicants for a Substantial Development Permit.

Section 5. Section 20.25E.050 of the Bellevue Land Use Code is hereby amended as follows:

**20.25E.050 Exemptions from Substantial Development Permit system – Letter of exemption required.**

The following developments shall not require Substantial Development Permits so long as they are consistent with the policy of the State Shoreline Management Act, Chapter 173-14 WAC, the City's Shoreline Master Program, and the applicable requirements of this Part 20.25E. However, a letter of exemption from the City shall be required for any such development, to be forwarded to the Department of Ecology and the Attorney General's Office when required by WAC 173-14-115. Exemptions from the Substantial Development Permit system are as follows:

- A. Any development of which the total cost or fair market value, whichever is higher, does not exceed \$2,500, if such development does not materially interfere with the normal public use of the water or Shoreline Overlay District;
- B. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition; "Normal repair" means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the Shoreline Overlay District resource or environment. Replacement of existing pilings in the same location shall constitute "normal repair" under this section. Although such normal repair or replacement is exempt from the Substantial Development Permit system, certain limitations may apply to the repair or replacement of nonconforming structures, shoreline stabilization measures and moorage. See LUC 20.25E.055 (nonconforming structures), LUC 20.25E.080.E (shoreline stabilization), and LUC 20.25E.080.N (moorage);
- C. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead is constructed at or near the ordinary high water mark to protect a single-family residence and is for protecting land from erosion, not for the purpose of creating land. Where an existing bulkhead is being replaced, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. See LUC 20.25E.080.E for additional provisions regarding shoreline stabilization measures;
- D. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. The director, or the designee thereof, shall designate when such an action constitutes an emergency action. Where the emergency action involves development or disturbance in the shoreline critical area or shoreline critical area buffer, the person or agency undertaking the emergency action shall also comply with LUC 20.25H.070;
- E. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities construction of a barn or similar agricultural structure, and the construction and maintenance of

irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels; provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the property by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

- F. Construction or modification of navigational aids, such as channel markers or anchor buoys;
- G. Construction by an owner, lessee, or contract purchaser of a single-family residence, and/or accessory structure thereto, for his own or his family use which does not exceed a height of 35 feet above average grade level.

“Single-family residence” means a detached dwelling designed for and occupied by one family including those structures and developments within a continuous ownership which are a normal appurtenance.

An “appurtenance” is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the perimeter of a marsh, bog, or swamp. Normal appurtenances include a garage; deck; driveway; utilities; fences; and grading which does not exceed 250 cubic yards (except to construct a conventional drainfield). Construction authorized under this exemption shall be located landward of the line of ordinary high water mark;

- H. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple residence(s), for which the cost or fair market value, whichever is higher, does not exceed \$2,500;
- I. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;
- J. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
- K. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;
- L. Any project with certification from the governor pursuant to Chapter 80.50 RCW; and

The above exemptions shall be construed narrowly and shall not exempt a project from other City of Bellevue ordinance or permit regulations; further, exempted development shall be consistent with the policies and provisions of the Shoreline Management Act, the Shoreline Management Program Element of the Bellevue Comprehensive Plan and this Part 20.25E.

Section 6. Section 20.25E.055 of the Bellevue Land Use Code is hereby amended as follows:

**20.25E.055 Nonconforming development.** See performance standards at 20.25H.180 for provisions relating to the repair, remodeling, expansion or reconstruction of structures located in the Area of Special Flood Hazard. Any alterations to existing structures allowed under this Section 20.25E.055 shall also comply with those provisions. In the event of conflict, the provisions for the Area of Special Flood Hazard shall govern.

- A. Definitions. Nonconforming development means a Shoreline Overlay District use or structure which was lawfully constructed or established prior to the effective date of the Shoreline Management Act or the Bellevue Shoreline Master Program, whichever is applicable, or amendments thereto, but which does not conform to present regulations or standards of the Master Program or policies of the Shoreline Management Act.
- B. Non-conforming Development outside the shoreline critical area and shoreline critical area buffer.
  - 1. Nonconforming development may be continued; provided, that it is not enlarged, intensified, increased, or altered in any way which increases its nonconformity;
  - 2. A nonconforming development which is moved any distance must be brought into conformance with this part and the Shoreline Management Act;
  - 3. If a nonconforming development is damaged to an extent not exceeding 75 percent replacement cost of the original structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, so long as restoration is completed within one year of the date of damage.
- C. Nonconforming Development within the shoreline critical area or shoreline critical area buffer.
  - 1. Existing primary structures. See 20.25H.035.B.
  - 2. Existing non-primary structures (other than docks and bulkheads). A structure (other than a primary structure, a dock or a bulkhead) legally established within a shoreline critical area or critical area structure setback prior to August 1, 2006 shall be considered a nonconforming structure. If no modifications to a nonconforming are proposed, then the structure may

continue without coming into compliance with the regulations of this Part 20.25E and Part 20.25H. Compliance may in whole or in part be required when changes to a structure are proposed, as follows:

- a. Repair and remodeling of a nonconforming structure is limited to minor, non-structural repairs, and repairs of mechanical systems within or supporting the structure. If repair or remodeling exceeds these limits, the structure shall be brought into compliance with existing Land Use Code requirements, including requirements of this Part and Part 20.25H.
- b. Expansion of existing nonconforming structures, other than as allowed under LUC 20.25H.055, into the shoreline critical area and critical area buffer is prohibited.
- c. If an existing nonconforming structure is destroyed by fire, explosion or other unforeseen circumstance requiring repairs consistent with those allowed under subsection (a) above, it may be repaired within the footprint existing at the time of destruction; provided that such repair is commenced within one year of the date of destruction and diligently pursued. Areas of temporary disturbance resulting from the reconstruction shall be restored pursuant to a mitigation plan approved by the Director under LUC 20.25H.210. If such a structure is destroyed and requires structural or other repairs more extensive than those allowed under subsection (a) above, then any reconstruction of such structure shall be in compliance with existing Land Use Code requirements, including requirements of this Part and Part 20.25H.

2. Docks and Bulkheads.

- a. Bulkheads. Legally established bulkheads may be repaired and replaced in accordance with LUC 20.25E.080.E.
- b. Moorage. Legally established covered and uncovered moorage may be repaired and replaced in accordance with LUC 20.25E.080.N

D. Nonconforming Uses.

1. If a nonconforming use is discontinued for 12 consecutive months or for 12 months during any two-year period, any subsequent use shall be conforming. It shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire; and
2. A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed.

Section 7. Section 20.25E.060 of the Bellevue Land Use Code is hereby amended as follows:

### **20.25E.060 Use regulations and policies governing permits.**

The uses established by LUC 20.10.440 for the applicable land use district may be undertaken in the Shoreline Overlay District as allowed for the underlying land use district. In addition, uses and activities established by LUC 20.25H.055 may be undertaken in the shoreline critical area and shoreline critical area buffer. All development associated with the use shall comply with the provisions of this Part 20.25E. General performance standards applying to all permits and specific regulations for certain types of uses are found in LUC 20.25E.080, "Shoreline Performance Standards". In addition, all uses and permits must be in conformance with the Shoreline Master Program Policy Element of the Bellevue Comprehensive Plan. Uses and permits within the shoreline critical area and shoreline critical area buffer must also be in conformance with the applicable performance standards of LUC 20.25H.055.

Section 8. Section 20.25E.070 of the Bellevue Land Use Code is hereby amended as follows:

#### **20.25E.070 Permits.**

Land use approvals in a Shoreline Overlay District shall follow the procedures established for the proposal in the underlying land use district, except as follows: as set forth in LUC 20.25E.080.W (Shoreline Conditional Uses); as set forth in LUC 20.25E.080.V (Variances to the Shoreline Master Program); as set forth in LUC 20.25E.040 (Shoreline Substantial Development); and as set forth in Part 20.25H for uses and development in the shoreline critical area and shoreline critical area buffer (critical areas land use permit, Part 20.30P).

Section 9. Section 20.25E.080 of the Bellevue Land Use Code is hereby amended as follows:

#### **20.25E.080 Shoreline Performance Standards.**

##### **A. Policy and Administration.**

1. The Shoreline Master Program Performance Standards, as adopted by the City of Bellevue by Resolution 2441, as amended by this Code, and as required by Chapter 98.58 RCW, regulate development in the Shoreline Overlay District.
2. The performance standards developed for the Lake Washington, Lake Sammamish, lower Kelsey Creek and Phantom Lake shorelines are derived directly from state policies pertaining to applicable activity. Some of the conditions are designated as mandatory requirements for the various use activities, while others are regarded as factors to guide discretionary decisions.
3. The City through the administration of this Code must advise affected parties, upon application for permits, of the need for compliance with federal and state

law when their existence is known and further must advise the applicants when there is a probability of the existence of regulations administered by other agencies with suspected jurisdiction.

**B. General Regulations Applicable to all Land Use Districts and Activities.**

1. Where applicable, all federal and state water quality and effluent standards shall be met.
2. If a property extends into the Shoreline Overlay District, the Shoreline Master Program Policies and these use regulations shall apply only to that portion of the property lying within the Shoreline Overlay District.
3. All development within the Shoreline Overlay District shall be accompanied by a plan indicating methods of preserving shoreline vegetation and for control of erosion during and following construction in accordance with Part 20.25H, City of Bellevue Clearing and Grading regulations, BCC Ch. 23.76, and the Comprehensive Plan.
4. Special care shall be exercised to preserve vegetation in wetland, shoreline and stream corridor bank areas in order to prevent soil erosion. Removal of vegetation from or disturbance of shoreline critical areas and shoreline critical area buffers, and from other critical area and critical area buffers shall be prohibited, except in conformance with Part 20.25H and the specific performance standards of this section.
5. Maximum height limitation for any proposed structure within the Shoreline Overlay District shall be 35 feet, except in land use districts with more restrictive height limitations. The method of measuring the maximum height is described in WAC 173-14-030(6). Variances to this height limitation may be granted pursuant to Part 20.30H LUC.
6. The Bellevue Shoreline Master Program, in conjunction with existing Bellevue land use ordinances and Comprehensive Plan policies, shall guide all land use decisions in the Shoreline Overlay District.
7. Any development within the Shoreline Overlay District shall comply with all applicable Bellevue ordinances, including but not limited to the Bellevue Land Use Code, Sign Code, and clearing and grading regulations.
8. The dead storage of watercraft seaward of the ordinary high water mark of the shoreline is prohibited.
9. Where applicable, state and federal standards for the use of herbicides, pesticides and/or fertilizers shall be met, unless superseded by City of Bellevue ordinances. Use of such substances in the shoreline critical area and shoreline critical area buffer shall comply with the City's "Environmental Best Management Practices."

10. Adequate storm drainage and sewer facilities must be operational prior to construction of new development within the Shoreline Overlay District. Storm drainage facilities shall be separated from sewage disposal systems.

### **C. Agricultural Use Regulations.**

1. Minimum lot dimensions for a single-family dwelling within those areas of the Shoreline Overlay District designated Agriculture shall be 200 feet, length and width. Minimum setback requirements: front yard, 50 feet minimum; side and rear yards, 25 feet minimum. All structures, accessory buildings and ancillary facilities (e.g., manure stockpiles, retention ponds and storage ponds) shall be located outside of the shoreline critical area buffer.
2. In those areas of the Shoreline Overlay District in which agricultural uses are permitted, habitable structures and accessory buildings may not exceed 35 percent of the lot area, and may not exceed a height maximum of 35 feet.
3. All structures, accessory buildings and ancillary facilities shall be built and located in such a manner so as to prevent agricultural wastes from entering ground and surface water.
4. Unless superseded by stricter City of Bellevue ordinances, erosion control measures shall be applied in accordance with the applicable guidelines and standards established by the Soil Conservation Service, U.S. Department of Agriculture.
5. New agricultural uses in the shoreline critical area and shoreline critical area buffer are prohibited. In addition to the standards of this section, legally established agricultural uses shall also meet the requirements of LUC 20.25H.055.

### **D. Aquaculture Regulations.**

1. When construction of aquaculture structures is permitted, it shall be done with minimum disturbance to the existing shorelines.
2. The quality of water discharged into critical areas from rearing ponds shall not adversely affect the quality of the recipient waters or associated wetlands.
3. No structure which might reasonably hinder the passage of anadromous fish shall be permitted within the Shoreline Overlay District.
4. In addition to the standards of this section, aquaculture uses shall also meet the requirements of LUC 20.25H.055.

- E. Shoreline Stabilization, including existing Bulkheads** Shoreline stabilization is allowed in the shoreline critical area and shoreline critical area buffer in compliance with this subsection E. The requirements of this subsection E may be modified through a critical areas report, LUC 20.25H.230.

## 1. Definitions.

- a. **Hard Shoreline Stabilization Measures.** As used in this Part, hard shoreline stabilization measures include: rock revetments, gabions, concrete groins, retaining walls, bulkheads and similar measures which present a vertical or nearly vertical interface with the water.
- b. **Soft Shoreline Stabilization Measures.** As used in this Part, soft shoreline stabilization measures include: biotechnical measures, beach enhancement, anchor trees, gravel placement, stepped back rockeries, shoreline plantings and similar measures that use natural materials engineered to provide shoreline stabilization while mimicking or preserving the functions and values of the shoreline critical area.
- c. **Shoreline Stabilization Measures.** As used in this Part, shoreline stabilization measures refers collectively to both hard and soft shoreline stabilization measures.
- d. **Avoidance Measures.** As used in this Part, avoidance measures refer to techniques used to minimize or prevent shoreline erosion that do not involve modification of the shoreline at the interface of land and water. Avoidance measures include vegetation enhancement, upland drainage control, and protective walls or embankments placed outside of the shoreline critical area and critical area buffer.
- e. **Technically feasible.** The determination of whether a technique or stabilization measure is technically feasible shall be made by the Director as part of the decision on the underlying permit after consideration of a report prepared by a qualified professional addressing the following factors:
  - i. site conditions, including topography and the location of the primary structure in relation to the Ordinary High Water Mark;
  - ii. the location of existing infrastructure necessary to support the proposed measure or technique;
  - iii. the level of risk to the primary structure, public facility or public use structure or land area presented by shoreline erosion and ability of the proposed measure to mitigate that risk;
  - iv. whether the cost of avoiding disturbance of the shoreline critical area or shoreline critical area buffer is disproportionate as compared to the environmental impact of proposed disturbance, including any continued impacts on functions and values over time; and
  - v. the ability of both permanent and temporary disturbance to be mitigated.
- f. **Allowed land area.** As used in this Part, allowed land area is the land area located within 25 feet of the existing primary structure landward of the ordinary high water mark, or for public and city parks, that land area

used for an active recreational use or developed with recreation facilities, including trails, picnic areas, and playfields.

- g. Minor Repair.** As used in this Part, minor repair refers to modifications or improvements to an existing shoreline stabilization measure that are designed to ensure the continued function of the stabilization measure by preventing failure of any part of the stabilization measure. A repair that is proposed after a significant portion of the stabilization measure has collapsed, eroded away or otherwise demonstrated a loss of structural integrity is not a minor repair.

## **2. New or enlarged shoreline stabilization measures.**

- a. **When Allowed.** New or enlarged shoreline stabilization measures shall be allowed only to protect existing primary structures, public facility or public use structures, and allowed land area. Shoreline stabilization measures shall be allowed only where avoidance measures are not technically feasible.
- b. **Type of Shoreline Stabilization Measure Used.** Where a new or enlarged shoreline stabilization measure is allowed, soft shoreline stabilization measures shall be used, unless the applicant demonstrates that soft shoreline stabilization measures are not technically feasible. An applicant asserting that soft stabilization measures are not technically feasible shall provide the information relating to each of the factors set forth in subsection 1.e. for a determination of technical feasibility by the director. Only after a determination that soft shoreline stabilization measures are not technically feasible shall hard shoreline stabilization measures be permitted.
- c. **Location.** Shoreline stabilization measures shall be located at or behind the ordinary high water mark. Soft shoreline stabilization measures may also be located waterward of the ordinary high water mark.
- d. **Height limit.** The height of any new or expanded hard shoreline stabilization measure shall not exceed 30 inches from average grade of actual or existing topography or, if at the ordinary high water mark, the ordinary high water mark; except that bulkhead heights may be increased if approved by the Director if the following criteria are satisfied:
  - i. Increased height does not negatively impact abutting properties; and
  - ii. Increased height is necessary to protect the existing primary structure or allowed land area because of:
    - (1) Slopes of 40% or greater at and immediately landward of the ordinary high water mark. In such instances, increased height shall be limited to the minimum height necessary to protect the existing primary structure and allowed land area, or

(2) Extraordinary wave action as demonstrated in a report prepared by a qualified professional. In such instances, increased height shall be limited to the minimum height necessary to protect the existing primary structure and allowed land area or 45 inches, whichever is less.

e. Mitigation and Restoration. Areas of new permanent disturbance and all areas of temporary disturbance within the shoreline critical area and shoreline critical area buffer shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25H.210.

**3. Repair and Replacement of Existing Shoreline Stabilization.** This section allows repair and replacement of existing legally established shoreline stabilization measures.

a. Minor Repair. Minor repair is permitted. Areas of temporary disturbance within the shoreline critical area or shoreline critical area buffer are restored pursuant to a restoration plan meeting the requirements of LUC 20.25H.210.

b. Major Repair or Replacement. Major repair or replacement shall be treated as a new shoreline stabilization measure, subject to the provisions of subsection 2 above.

4. Bulkheads shall be designed to minimize the transmission of wave energy to other properties.

**5. Critical Area Buffer Modification.** Where an applicant replaces a legally established existing hard shoreline stabilization measure with a soft shoreline stabilization measure or an avoidance measure, the critical area buffer and any applicable structure setback shall continue to be measured from the ordinary high water mark that existed with the hard shoreline stabilization measure. Such ordinary high water mark shall be located by a survey prior to removal of the hard shoreline stabilization measure.

**F. Breakwaters, Jetties and Groins Regulations.** Breakwaters, jetties and groins may be located in the shoreline critical area and shoreline critical area buffers in compliance with this subsection F.

1. Solid landfill breakwaters shall be prohibited within the Shoreline Overlay District.

2. Breakwaters, jetties, groins, and weirs located waterward of the ordinary high-water mark shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose. Breakwaters, jetties, groins, weirs, and similar structures in the

shoreline critical area or shoreline critical area buffer require a shoreline conditional use permit.

3. Breakwaters, jetties, groins, and weirs shall be designed by a qualified professional to protect the functions and values of the shoreline critical areas.
4. Areas of new permanent disturbance and all areas of temporary disturbance within the shoreline critical area and shoreline critical area buffer shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25H.210.

#### **G. Clearing and Grading Regulations.**

1. All clearing, grading, excavating, and fill in the Shoreline Overlay District shall comply with the provisions of BCC Ch. 23.76, now or as hereafter amended.
2. No clearing, grading, excavating, or fill shall be allowed within the shoreline critical area or shoreline critical area buffer except as permitted by this Part 20.25E, or in association with activities allowed under Part 20.25H.
3. Wherever the City determines that the act or intended act of clearing, grading, excavation or fill has become or will constitute a hazard in life or limb, or endangers property, or adversely affects the safety, use of, or stability of a public way, drainage channel or natural stream corridor, including siltation and sedimentation therein, the owner of the property upon which the clearing, excavation or fill is located or other person or agent in the City shall, within the period specified therein terminate such clearing, grading, excavation, embankment or fill, or eliminate the same from the development plan, or modify the plans, as may be required so as to eliminate the hazard and be in conformance with the requirements of this Code.

#### **H. Commercial Development Regulations.**

1. Regardless of the provisions of LUC 20.10.440 and the underlying land use district, commercial development is not permitted on the City's Lake Sammamish shoreline.
2. The maximum building height in areas of the Shoreline Overlay District which are zoned for commercial uses shall be 35 feet, except in those zoning districts with more restrictive height limitations.
3. Tanks for the distribution and sale of petroleum products are not permitted in the Shoreline Overlay District except for marinas. When permitted, such tanks shall be located on dry land, and designed to preclude and contain spills. Such tanks shall not be permitted in corrosive soil areas.
4. Any commercial development located within the Shoreline Overlay District shall be equipped to contain and clean up pollutant spills, as required by state and federal regulations.

5. Parking facilities shall not be permitted over water or within the shoreline critical area or shoreline critical area buffer and structured parking shall not be permitted within the shoreline critical area structure setback. Parking areas shall be permitted only when accessory to commercial uses. Provisions must be made to control and cleanse surface water runoff from the parking areas in order to comply with state water quality standards.
6. Commercial development along shorelines shall provide for erosion control.
7. Commercial development permitted within the Shoreline Overlay District, other than that related to water use, shall be located landward of the shoreline critical area buffer and landward of any applicable shoreline critical area structure setback.
8. Commercial development in the Shoreline Overlay District oriented to the use of watercraft shall provide restrooms and hookups for toilet facilities. No watercraft shall flush toilet refuse into the lake at such locations. For the purposes of this section, commercial development shall include yacht clubs, commercial and private marinas, boat repair shops, fueling facilities and other similar uses. Unless allowed under a critical areas report, LUC 20.25H.230, any structure associated with such commercial development shall be located landward of the shoreline critical area buffer, except moorage facilities allowed under subsection N.

**I. Dredging Regulations.** Dredging in the shoreline critical area or shoreline critical area buffer is allowed in compliance with this subsection I.

1. Dredging for the sole purpose of obtaining fill or construction material is prohibited.
2. Dredging shall be permitted only in the following cases:
  - a. To maintain navigability to the extent of previously dredged and/or existing authorized location, depth, and width; or
  - b. To improve water flow or water quality; or
  - c. To mitigate conditions which could endanger public health or safety; or
  - d. To carry out a habitat improvement project approved pursuant to LUC 20.25H.070; or
3. To provide for the drainage of surface waters for approved development purposes, including existing legally established agricultural activities.

Dredging shall be limited to the minimum extent necessary to accomplish its permitted purpose.

3. The lateral spread of resuspended sediment created by a dredging operation shall be contained within previously approved limits.

4. Dredging spoils shall be deposited at dumping sites which are set back an adequate distance to prevent impairment of water quality. Dumping sites shall not be allowed except in areas designated by the City of Bellevue.
5. Dredging spoils stored at the dredging site shall be adequately contained to prevent leakage. Any drainage of the spoils shall be filtered sufficiently to prevent reentrance of sediments into the water.
6. Areas of new permanent disturbance and all areas of temporary disturbance within the shoreline critical area and shoreline critical area buffer shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25H.210.

**J. Ecological and Historical Sites.**

1. The designation of historical sites and related preservation activities is permitted in the Shoreline Overlay District.
2. Water fowl and wildlife preserves are a permitted use within the Shoreline Overlay District.

**K. Landfill Regulations.** Landfill within the shoreline critical area and shoreline critical area buffer is allowed in compliance with this subsection K.

(Note: Prohibited landfill materials are defined by the International Building Code, as adopted and subsequently amended by the City of Bellevue.)

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 International Building Code, as adopted and subsequently amended by the City of Bellevue, are prohibited.
3. Landfill is prohibited except where necessary for:
  - a. Improvement of water quality in the event no other possible alternatives are available;
  - b. Replenishment of sand on public and private beaches;
  - c. Establishment of an interpretive center when undertaken by, or in cooperation with, the City of Bellevue, if permitted under Part 20.25H LUC;
  - d. In connection with an approved shoreline stabilization or avoidance measure, where permitted under LUC 20.25E.080.E;
  - e. Where necessary to support a legally established water-dependent use;

- f. In connection with the cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan,
- g. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources;
- h. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible; and
- i. Required mitigation actions.

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 shoreline stabilization measures shall be limited to the height of bulkheads and shall be in compliance with paragraph E of this section.
- 5. No landfill shall be permitted waterward of the ordinary high water mark, except in connection with a habitat enhancement project approved pursuant to LUC 20.25H.055, or in connection with an approved shoreline stabilization measure in compliance with paragraph E of this section.
- 6. Landfill is prohibited within marshes, bogs and swamps and within wetlands except as provided for in Chapter 20.25H LUC.
- 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, Chapter 23.76 BCC.
- 9. Landfills shall be permitted only when they are in complete conformance with all conditions of site development approval.

#### **L. Mining Regulations.**

Mining is not a permitted activity within the Bellevue Shoreline Overlay District.

#### **M. Outdoor Advertising, Sign and Billboard Regulations.** Signs may not be located within the shoreline critical area or shoreline critical area buffer.

- 1. Signs in residential areas of the Shoreline Overlay District shall be for identification only, noncommercial, unobtrusive in character and nonilluminated. Lighting from an external source shall be shielded from view.

2. Signs in the Shoreline Overlay District shall not obstruct the shoreline views of upland properties.
3. Signs in that portion of the Shoreline Overlay District which permits commercial activities shall be permitted provided such signs are physically oriented internally to the district and meet the requirements of the Bellevue Sign Code. No water-oriented advertising is permitted.
4. Any permitted use within that portion of the Shoreline Overlay District which permits commercial activities and which actually fronts on Lake Washington, will be permitted one identification sign oriented to the lake. Such sign may identify the business complex itself or gasoline service associated with the complex.
  - a. If located on dry land, the signs shall comply with the size and placement requirements of the Bellevue Sign Code and illumination of the sign may be low-level internal illumination.
  - b. If such sign is located on a pier, maximum size shall be 25 square feet and maximum height 10 feet above pier deck, and such sign may not be illuminated.
5. Off-premises signs, nonappurtenant, illuminated and freestanding signs extending above the roof line are not permitted in the Shoreline Overlay District.
6. Sign structures must meet all other conditions of the Bellevue Sign Code.

**N. Moorage Regulations.** Moorage facilities are allowed in the shoreline critical area and shoreline critical area buffer in compliance with this subsection N. The requirements of this subsection N may be modified through a critical areas report, LUC 20.25H.230, except where otherwise noted.

**1. New or Expanded Residential Moorage Facilities.**

- a. **When Allowed.** Construction of one noncommercial, residential moorage facility per upland residential waterfront lot or one joint-use moorage facility for two or more adjacent waterfront lots is allowed in accordance with this subsection N. Expansion of any legally established existing moorage facility is permitted only to the extent the expansion complies with the development standards of subsection b below, and does not cause the moorage facility to exceed, or further exceed, any of the limitations in subsection b.

Moorage shall only be permitted within:

- i. 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;

- ii. Lots created prior to the effective date of this ordinance; or
- iii. Nonbuilding tracts platted for the purpose of providing common moorage for a group of contiguous properties.

For the purposes of meeting the requirements of subsection 1(a)(i) 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.

**b. Development Standards.**

- i. The only structures permitted in the first 30 feet waterward of the ordinary high water mark are piers and ramps. All floats and ells must be at least 30 feet waterward of the OHWM.
- ii. No skirting is allowed on any structure.
- iii. Surface Coverage (includes all overwater portions of the moorage structure):
  - (1) Moorage facilities serving only one residential waterfront lot shall not exceed 480 square feet.
  - (2) Moorage facilities serving two residential waterfront lots shall not exceed 700 square feet
  - (3) Moorage facilities serving three or more residential waterfront lots shall not exceed 1000 square feet.
- iv. Location, width and length regulations. Docks with configurations that do not include any or all of the elements below shall be subject to the overall length and square footage limitations of this section. No portion of a dock shall exceed four feet in width, unless allowed in this subsection iv.
  - (1) Piers shall not exceed four feet wide and shall be fully grated.
  - (2) Ramps shall not exceed three feet wide and shall be fully grated.
  - (3) Ells.
    - (a) Ells are allowed only over water with depths of 9 feet or greater at the landward end of the ell.
    - (b) Ells may be up to six feet wide by 20 feet long with a two-foot wide strip of grating down the center; or

(c) Ells may be up to six feet wide by 26 feet long with grating over the entire ell.

(4) Floats.

(a) Floats are allowed only over water with depths of 10 feet or greater at the landward end of the float.

(b) Floats may be up to six feet wide by 20 feet long, with a two-foot wide strip of grating down the center.

(5) Total facility length. In no case may any moorage facility extend more than 150 feet waterward of the ordinary high water mark.

**v. Structural Piling Specifications.** The first (nearest shore) piling shall be steel, four inch piling and at least 18 feet waterward of the ordinary high water mark. Piling sets beyond the first are not required to be steel, shall be spaced at least 18 feet apart and shall not be greater than 12 inches in diameter. Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ACZA piling are proposed, the applicant will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. Steel piles will be installed using approved sound attenuation measures.

**vi. Shoreline Critical Area and Critical Area Buffer Functions.**

(1) Existing habitat features. Existing habitat features (e.g., large and small woody debris, substrate material, etc.) shall be retained and new or expanded moorage facilities placed to avoid disturbance of such features.

(2) Invasive weeds (e.g., milfoil) may be removed with non-chemical means only.

(3) Shoreline Planting. In order to mitigate the impacts of new or expanded moorage facilities, the applicant shall plant emergent vegetation (if site appropriate) and a buffer of vegetation a minimum of 10 feet wide along the entire length of the lot immediately landward of ordinary high water mark. Planting shall consist of native shrubs and trees and, when possible, emergent vegetation. At least five native trees will be included in a planting plan containing one or more evergreen trees and two or more trees that like wet roots (e.g., willow species). Such planting shall be monitored for a period of five years consistent with a monitoring plan approved pursuant to LUC 20.25H.210. This subsection is not intended to prevent reasonable access through the shoreline critical

are buffer to the shoreline, or to prevent beach use of the shoreline critical area.

**vii. Setback.** No private moorage or other structure waterward of the ordinary high water mark, including structures attached thereto, shall be closer than 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 inches in height measured from ordinary high water mark.

## **2. Repair and Replacement of Existing Residential Moorage Facilities.**

- a. Certain repairs requiring partial compliance with development standards. Proposals described in this subsection to repair legally established moorage facilities that do not meet the requirements of subsection 1 above require partial compliance with such requirements, as follows. A proposal includes any and all actions proposed within a twelve month period.
  - i. Proposals requiring partial compliance. The following proposals shall require the need for partial compliance with subsection 1. If a proposal requires partial compliance, the applicant shall perform one of the improvements listed in subsection ii below.
    - (A) Proposals to replace more than 50% of the decking and the above-water decking substructure (e.g. stringers) within the first 30 feet waterward of the ordinary high water mark, or of the existing access ramp, whichever is less; or
    - (B) Proposals to replace more than 50% of the decking and decking substructure of the entire moorage; or
    - (C) Proposals involving the combination of either subsection (A) or (B) with a proposal to replace more than two but less than 50 percent of the existing piles.
  - ii. Improvements required. If the proposal requires the need for partial compliance, the applicant may choose one of the following improvements. The improvement shall be completed with the original proposal:
    - (A) Reduce of the width of that portion of the facility within the first 30 feet waterward of the ordinary high water mark, or of any access ramp to no more than 4 feet wide; or
    - (B) Fully grate the affected portion of the facility; or
    - (C) Remove skirting from the entire facility; or
    - (D) Remove existing piles from the first 18 feet of the facility; or

- (E) Enhance the shoreline critical area buffer to meet the shoreline plantings requirements of (1)(b)(vii)(3) above.
- iii. Proposals involving replacement of moorage piles shall require full compliance of replacement moorage piles with the development standards of subsection 1(b)(vii) above.
- iv. Proposals involving replacement of more than 50% of the structural piles of the moorage facility shall be considered a new moorage facility and shall comply with the provisions of subsection 1 above.
- b. Other repairs. Proposals to repair existing legally established moorage facilities where the nature of the repair is not described in subsection 2.a shall be considered minor repairs and are permitted, consistent with any applicable standards of the Land Use Code, International Building Code, as adopted and subsequently amended by the City of Bellevue, and any other applicable codes or regulations.

### **3. New and Expanded Commercial, Public Access, Marina and Yacht Club Moorage.**

- a. **When Allowed.** New commercial moorage facilities for a water-dependent use, and new moorage for marinas and yacht clubs are allowed as a shoreline conditional use in accordance with this Paragraph N where the use has been legally established. Expansion of any legally established existing moorage facilities is permitted only to the extent the expansion complies with the development standards of subsection b below or as approved through a critical areas report, LUC 20.25H.230.

#### **b. Development Standards.**

- i. The only structures permitted in the first 30 feet waterward of the ordinary high water mark are piers and ramps. All floats and ells must be at least 30 feet waterward of the OHWM.
- ii. No skirting is allowed on any structure.
- iii. Location, width and length regulations.
  - (1) Piers shall incorporate grating to the maximum extent feasible considering accessibility requirements.
  - (2) Ramps shall incorporate grating to the maximum extent feasible considering accessibility requirements.
  - (3) Ells.
    - (a) Ells are allowed only over water with depths of 9 feet or greater at the landward end of the ell.

(b) Ells shall be the minimum size necessary to allow for the use and access of marina facilities.

(c) Ells shall incorporate grating to the maximum extent feasible considering accessibility requirements.

(4) Floats.

(a) Floats are allowed only over water with depths of 10 feet or greater at the landward end of the float.

(b) Floats shall be the minimum size necessary to allow for use and access of marina facilities.

(c) Floats shall incorporate grating to the maximum extent feasible considering accessibility requirements.

(5) Total facility length. In no case may any moorage facility extend more than 150 feet waterward of the ordinary high water mark.

**iv. Structural Piling Specifications.** The first (nearest shore) piling shall be steel, four inch piling and at least 18 feet waterward of the ordinary high water mark. Piling sets beyond the first shall be spaced at least 18 feet apart and shall not be greater than 12 inches in diameter. Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ACZA piling are proposed, the applicant will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. Steel piles will be installed using approved sound attenuation measures.

**v. Setback.** No private moorage or other structure waterward of the ordinary high water mark, including structures attached thereto, shall be closer than 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 inches in height measured from ordinary high water mark.

**vi. Shoreline Critical Area and Critical Area Buffer Functions.**

(1) Existing habitat features. Existing habitat features (e.g., large and small woody debris, substrate material, etc.) shall be preserved and new or expanded moorage facilities placed to avoid disturbance of such features.

(2) Invasive weeds (e.g., milfoil) may be removed with non-chemical means only.

(3) Shoreline Planting. In order to mitigate the impacts of new or expanded moorage facilities, the applicant shall plant emergent vegetation (if site appropriate) and a buffer of vegetation a minimum of 10 feet wide along the entire length of the lot immediately landward of ordinary high water mark. Planting shall consist of native shrubs and trees and, when possible, emergent vegetation. At least five native trees will be included in a planting plan containing one or more evergreen trees and two or more trees that like wet roots (e.g., willow species). Such planting shall be monitored for a period of five years consistent with a monitoring plan approved pursuant to LUC 20.25H.210. This subsection is not intended to prevent reasonable access through the shoreline critical area buffer to the shoreline, or to prevent beach use of the shoreline critical area

vii. Uncovered Commercial, Public Access, Marina or Yacht Club Moorage in Meydenbauer Bay. Commercial, public access, marina or yacht club 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  $78^{\circ}51'17''$  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  $37^{\circ}26'00''$  for a distance of 60 feet to a point being the true beginning of this description; thence on an Az of  $316^{\circ}19'15''$  a distance of 495.14 feet; thence on an Az of  $2^{\circ}21'10''$  a distance of 42.52 feet; thence on an Az of  $312^{\circ}06'17''$  a distance of 415.00 feet; thence on an Az of  $37^{\circ}24'19''$  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 terminus of this line description. (See Figure C.)

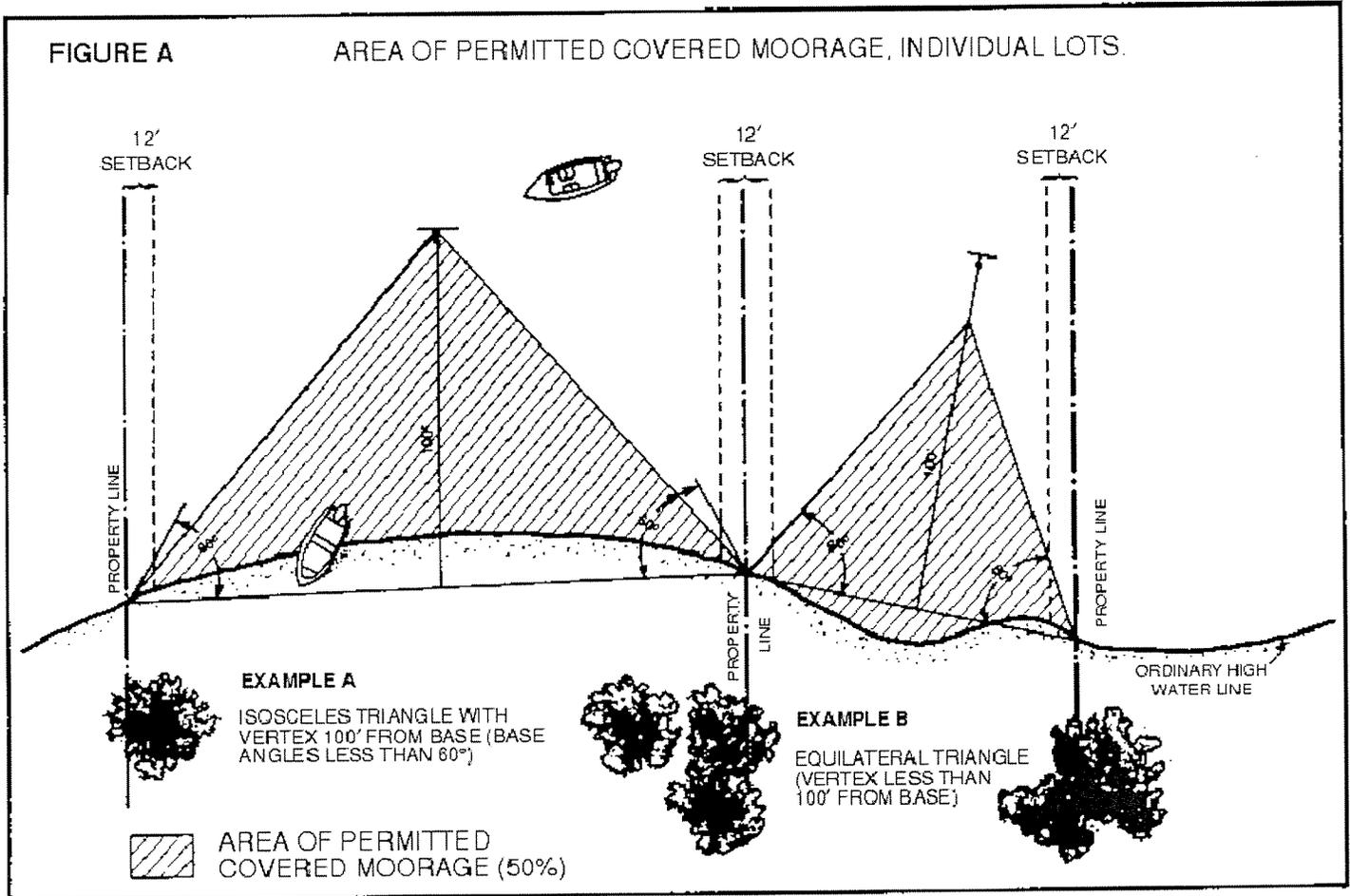
#### **4. Repair and Replacement of Existing Commercial, Public Access, Marina and Yacht Club Moorage.**

Any proposed repair or replacement of existing legally established moorage facilities shall comply to the maximum extent technically feasible with the standards for new facilities set forth in subsection 3 above. A determination of technical feasibility shall consider:

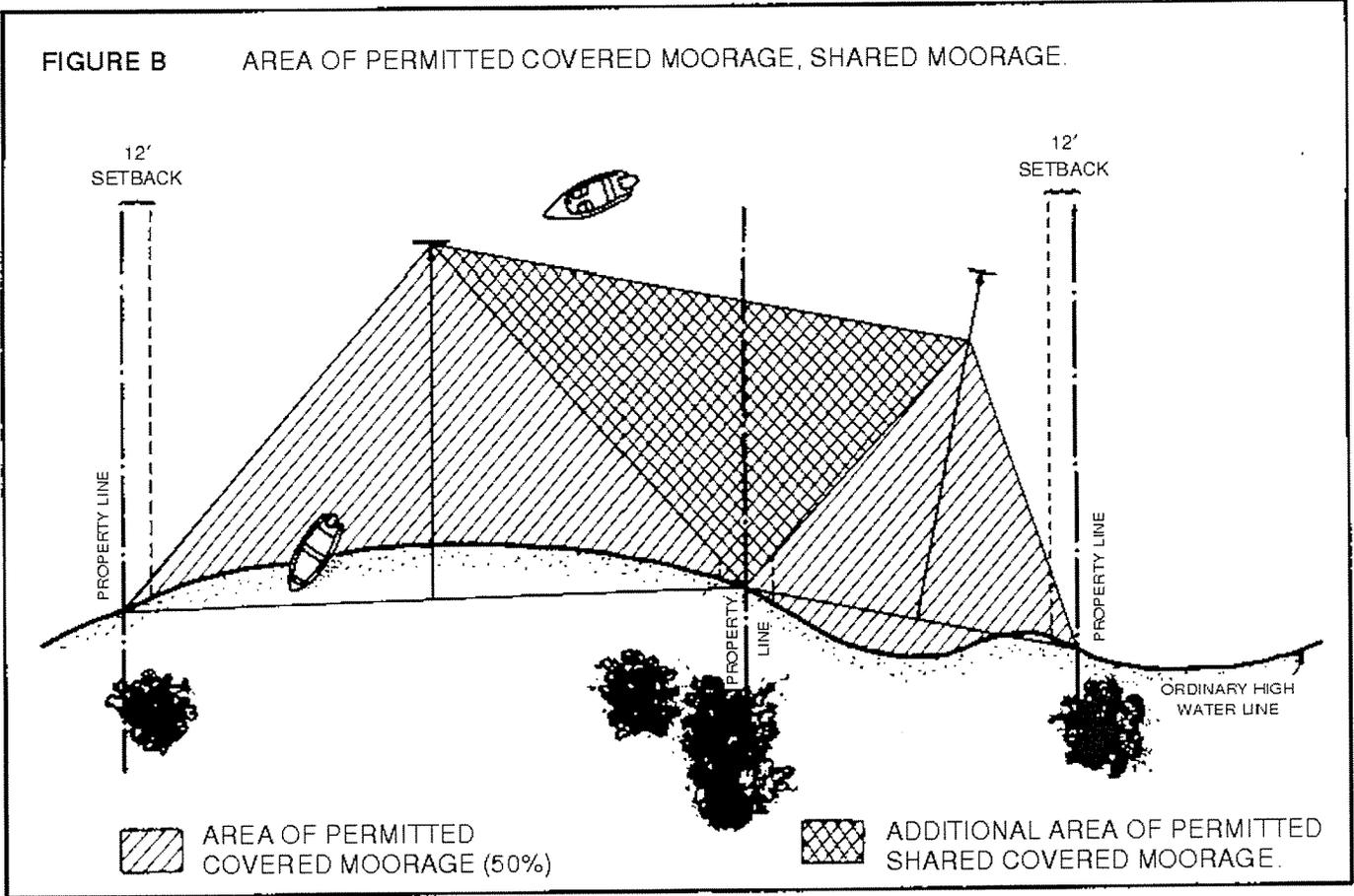
- a. the location of existing infrastructure;
- b. the scope, function or objective of the proposed repair or replacement;

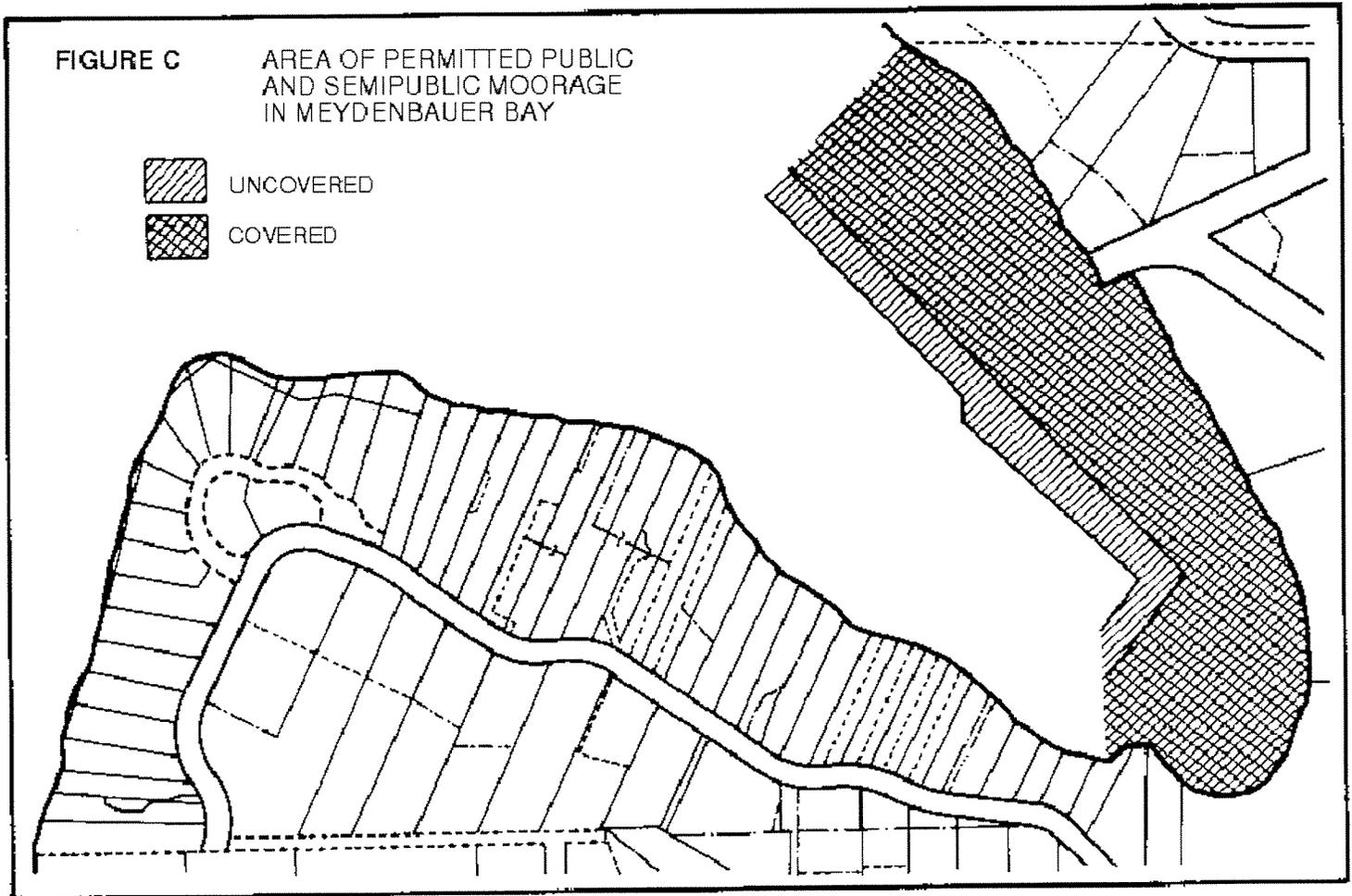
- c. whether the cost of complying with the standards set forth in subsection 3 above is disproportionate as compared to the environmental benefit associated with such compliance; and
  - d. the ability of any impacts on the critical area functions and values of the shoreline arising from a repair or replacement that does not comply with the standards of subsection 3 above to be mitigated.
- 5. Boatlift.** Installation, repair, maintenance, replacement or retention of one ground-based or floating watercraft lift without a canopy, per adjacent upland property and the placement of no more than 2 cubic yards of fill to anchor the lift is permitted.
- a. The fill must be clean.
  - b. The fill must consist of rock or pre-cast concrete blocks.
  - c. The fill must only be used to anchor the watercraft lift.
  - d. The minimum amount of fill must be utilized to anchor the watercraft lift.
- 6. Covered Moorage.** Installation of a translucent canopy on a new or existing watercraft lift is allowed in accordance with this subsection.
- a. Number and Location -- Residential.
    - (1) In fresh waters, the canopy and structure should be located waterward of the 9' depth elevation as established by the OHWM.
    - (2) The lowest edge of the canopy must be at least 8 feet above the plane of OHW.
    - (3) Only one canopy can be installed per single or joint use residential overwater structure.
    - (4) The watercraft lift with the canopy must be oriented with the length in the north-south direction to the maximum extent practicable.
  - b. Area Requirements, Covered Moorage -- Residential. 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 feet 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 feet from the center of said base. The required

12-foot setback from the property sidelines shall be deducted from the triangle area. (See Figure A.)



**FIGURE B** AREA OF PERMITTED COVERED MOORAGE, SHARED MOORAGE.





Covered moorage in no event shall cover more than 50 percent of the permitted covered moorage area.

- c. Area Requirements, Shared Covered Moorage -- Residential. 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 50 percent of the permitted covered moorage area.

- d. Covered Commercial, Public Access, Marina or Yacht Club Moorage in Meydenbauer Bay. The extent of covered commercial, public access, marina or yacht club moorage in Meydenbauer Bay shall comply with the following limitations: On the common line of adjoining private properties, covered moorage shall observe a two-foot-six-inch 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 terminus of this line description. (See Figure C.)

7. **Boathouses.** New boathouses are prohibited. Existing boathouses are subject to the rules for nonconforming structures set forth in LUC 20.25E.050.C., as applicable. A critical areas report may not be used to modify this subsection 7.

**O. Ports and water-related industries are not a permitted use within the Shoreline Overlay District.**

**P. Recreation Activities Regulations.**

1. Swimming shall be separated from public or semipublic boat launching area.
2. Public street ends in the Shoreline Overlay District may be developed for public recreational activities.
3. Recreational activities within the Shoreline Overlay District shall be permitted when designed subject to the provisions of the Bellevue Shoreline Master Program and its use regulations.
4. Public and private recreation activities in the shoreline critical area and shoreline critical area buffer shall comply with the requirements of LUC 20.25H.055.

**Q. Residential Development Regulations.**

1. For purposes of this section, accessory structures shall include swimming pools, tennis courts, spas, greenhouses and similar facilities.

2. No boat, houseboat or watercraft moored seaward of the ordinary high water mark shall be used as a permanent residence.
3. All structures, accessory buildings and ancillary facilities, other than those related to water use (such as moorage) shall be located outside of the shoreline critical area and shoreline critical area buffer, except stairs, handrails, and a trail or path providing access to the shoreline. The requirements of this subsection may be modified through a critical areas report, LUC 20.25H.230.
4. Fences essentially parallel with the shoreline are not permitted within critical area buffer or critical area structure setback.
5. Maximum building height in those areas of the Shoreline Overlay District which are zoned for residential uses shall be 35 feet, except in land use districts where more restrictive height limitations exist.
6. All residential development shall be accompanied by a plan indicating methods for preserving shoreline vegetation and control of erosion during and following construction as required by City of Bellevue clearing and grading regulations, Chapter 23.76 BCC, and the Comprehensive Plan.

#### **R. Road and Railroad Designs and Construction Regulations.**

1. Construction of new railroad corridors in the Shoreline Overlay District is prohibited. Repair and reconstruction of existing facilities is permitted.
2. Development of pedestrian and bicycle pathways within the Shoreline Overlay District shall avoid those areas which are too fragile for normal trail construction. When development design is shown to mitigate adverse impact, it may be permitted.
3. New parking facilities within the Shoreline Overlay District shall not be permitted over water or within the shoreline critical area buffer. Provisions must be made to control and cleanse surface water runoff from parking areas in order to comply with state water quality standards.
4. Parking facilities shall be set back a sufficient distance from the ordinary high water mark so as not to require the creation or protection of such parking facilities by shoreline protective measures.
5. Roads, railroads and trails proposed or located in the shoreline critical area and shoreline critical area buffer shall comply with the requirements of LUC 20.25H.055.

- S. Shoreline Critical Area and Critical Area Buffer regulations.** Additional uses and activities are allowed in the shoreline critical area and shoreline critical area buffer, as set forth in LUC 20.25H.055.

#### **T. Solid Waste Regulations.**

1. The disposal of nuisance materials, as defined by the City of Bellevue Nuisance Ordinance, Chapter 9.10 BCC, within the Shoreline Overlay District is prohibited.
2. The dumping of toxic materials within the Shoreline Overlay District is prohibited.

#### **U. Utilities Regulations.**

1. Compatible utilities shall be consolidated within a single right-of-way. After construction, all areas shall be restored to their pre-project configuration, replanted with suitable vegetation, and provided maintenance until newly planted vegetation is established.
2. Utilities proposed or located in the shoreline critical area and shoreline critical area buffer shall comply with the requirements of LUC 20.25H.055.

#### **V. Variances – Special Procedures.**

Where there is a Shoreline Overlay District, variances from the requirements of the underlying use district regulations will follow the requirements and procedures specified in Part 20.30G LUC. A variance from the Shoreline Master Program will not be required in addition to the variance from the requirements of the underlying use district unless the proposal would constitute a variance from the Shoreline Master Program. Where the variance sought is from the requirements of the Shoreline Master Program, the procedures and requirements specified in Part 20.30H LUC will be followed.

#### **W. Conditional Uses – Special Procedures.**

Uses which are shown as Conditional Uses on Chart 20.10.440 for the underlying use district shall, where there is also a Shoreline Overlay classification on the property, follow the requirements and procedures of Part 20.30C LUC.

#### **X. Administration and Enforcement.**

The administration and enforcement of this section shall be in conformance with the rules and procedures set forth in Chapter 20.40 LUC and with those found in WAC 173-14-180 or its successor. When conflict arises between regulations of the Shoreline District and underlying land use districts, regulations of the Shoreline Overlay District shall prevail.

Section 11. This ordinance shall take effect on August 1, 2006.

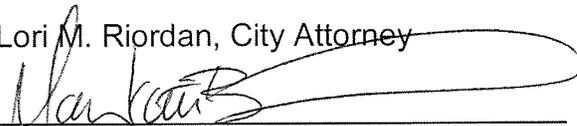
ORIGINAL

PASSED by the City Council this 26<sup>th</sup> day of June, 2006,  
and signed in authentication of its passage this 26<sup>th</sup> day of June,  
2006.

(SEAL)

  
\_\_\_\_\_  
Grant Degginger, Mayor

Approved as to form:

Lori M. Riordan, City Attorney  
  
\_\_\_\_\_  
Mary Kate Berens, Deputy City Attorney

Attest:

  
\_\_\_\_\_  
Myrna L. Basich, City Clerk

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