



MEMORANDUM

DATE: January 25, 2012

TO: Chair Turner and Members of the Planning Commission

FROM: Carol Helland, Land Use Director 452-2724
Shoreline Update Team
Development Services Department

RE: Deliberations Regarding the Draft Shoreline Master Program Update –
Nonresidential Sections of the Public Hearing Draft SMP

At the January 11, 2012, meeting the Planning Commission directed a change to the Shoreline Master Program update process to separate the review of the residential and non-residential sections as a means to facilitate consideration of smaller components and identification of those sections that require more in-depth review.

The Commission elected to review the non-residential portions of the draft SMP Update at the upcoming meeting with the intent of making determinations as to whether sections are generally appropriate as drafted, need minor editing, or need substantive rewriting or removal. It is the staff understanding that the intent of the review at this stage is not to edit the sections, but to mark sections that need additional review. In order to support the Planning Commission work, an annotated Table of Contents for the Public Hearing Draft SMP that highlights the non-residential sections of the draft has been prepared. Refer to Attachment A. A copy of the SMP Submittal Checklist that was developed by the Department of Ecology to assist jurisdictions in complying with the SMP approval/amendment procedures has also been included for Planning Commission reference. Refer to Attachment B.

The Shoreline Update Team would like to ask the Planning Commission members to bring their copies of the Public Hearing Draft SMP that was released for the May 25, 2011 public hearing, and the comments document that was assembled after the hearing. The Public Hearing Draft SMP includes the most recent version of the non-residential sections of the draft SMP. At the request of Chair Turner, copies of the Shoreline Overlay District (Land Use Code Part 20.25E) in effect prior to the 2006 Critical Areas Update is attached to these packet materials as well. Refer to Attachment C. These documents together provide a common starting place for discussion regarding how to move non-residential sections of the SMP Update process forward to completion.

We look forward to seeing you on January 25th.

- Attachment A: Annotated SMP Table of Contents – Nonresidential Sections Highlighted
- Attachment B: Department of Ecology Submittal Checklist
- Attachment C: Pre-Critical Areas Update Shoreline Overlay District (Part 20.25E)

Shoreline Element of the Comprehensive Plan

Public Hearing Draft Policies

Comment [ch1]: Policies address both nonresidential and residential uses and development.

Shoreline District Overlay – Part 20.25E.LUC

I. AUTHORITY

20.25E.010 General

- A. Authority
- B. Shoreline Master Program Elements
- C. Scope
- D. Environment Designations (Shoreline Use Districts)
- E. Shoreline Environment Designation Map
- F. Shorelines of Statewide Significance

Comment [ch2]: This section addresses both nonresidential and residential uses and development, but is intended to orient a code user to the statutory authority and organization of the SMP. As a result, the Planning Commission may wish to include this section in its review of nonresidential provisions.

Comment [ch3]: The "Shoreline Residential" and "Shoreline Residential Canal" sections of this code are specific to residential uses and development and the Planning Commission may wish to defer its review of the residential specific paragraphs.

II. USES

20.25E.020 Shoreline Uses

- A. Shoreline Use Preferences
- B. Applicability of the Use Charts
- C. Use Chart Interpretation
- D. Prohibited Uses in Shoreline Jurisdiction

Comment [ch4]: This section addresses both nonresidential and residential uses and development.

20.25E.030 Shoreline Use Charts

Comment [ch5]: This section addresses both nonresidential and residential uses and describes the associated permit/approval process.

20.25E.040 Nonconforming Shoreline Conditions

- A. Purpose
- B. Types of Nonconforming Shoreline Conditions
- C. Applicability
- D. Documentation
- E. Regulations and Thresholds Applicable to All Existing Conditions
- F. Regulations Applicable to Nonconforming Shoreline Uses
- G. Regulations Applicable to Nonconforming Shoreline Development

Comment [ch6]: This section applies exclusively to nonresidential development. Refer to Draft Section 20.25E.040.C.1.

III. DEVELOPMENT REGULATIONS

20.25E.050 Dimensional Requirements

- A. General (includes chart)
- B. Shoreline Setbacks – General
- C. Shoreline Impervious Surfaces
- D. Maximum Building Height in the Shoreline

Comment [ch7]: This section addresses both nonresidential and residential uses and development.

Attachment A

20.25E.060 General Requirements Applicable to All Shoreline Development and Uses

- A. Applicability
- B. No Net Loss of Ecological Function
- C. Technical Feasibility Analysis
- D. Mitigation Sequencing
- E. Requirements Applicable to Development and Uses in the Shoreline Jurisdiction
- F. Archaeological and Historic Resources
- G. Critical Areas in Shoreline Jurisdiction (reference to CAO)
- H. Accessory Parking, Loading Space and Maintenance Access
- I. Public Access
- J. Signage in the Shoreline
- K. Vegetation Conservation
- L. Water Quality, Stormwater, and Nonpoint Pollution

Comment [ch8]: This section addresses both nonresidential and residential uses and development. The Planning Commission reviewed this section of the draft and provided direction to staff on September 14th and 28th, 2011. Staff will include this direction when a revised draft is prepared at the culmination of Planning Commission review of the entire Draft SMP.

20.25E.065 Residential Shoreline Regulations

- A. Purpose
- B. General Requirements Applicable to all Residential Development
- C. Shoreline Dimensional Requirements for SR and SRC Environments
- D. Residential Impervious Surfaces
- E. Residential Structure Setback
- F. Landscape Development
- G. Vegetation Conservation
- H. Shoreline Stabilization
- I. Residential Moorage
- J. Nonconforming Single Family Development

Comment [ch9]: This section was prepared to address only residential uses and development.

20.25E.070 Specific Use Regulations

- A. Purpose
- B. Aquaculture
- C. Recreation
- D. Transportation
- E. Utilities

Comment [ch10]: This section addresses the listed nonresidential uses.

20.25E.080 Shoreline Modifications

- A. Applicability
- B. Breakwaters, Jetties, and Groins
- C. Clearing, Grading and Fill
- D. Dredging and Disposal
- E. Non-Residential Moorage Facilities, Boat Ramps and Launches
- F. Shoreline Stabilization

Comment [ch11]: This section addresses shoreline development that may be undertaken by residential property owners.

IV. PROCEDURES

Comment [ch12]: This part of the draft SMP regulations address process. It is applicable to both nonresidential and residential decisions. The intent of this section was to meet the SMP process mandates in a manner that is fully integrated into the code. The result is a longer document, but code users are not forced to reference out to the state statutes and guidelines for process information. This section is modeled after the procedural sections found under Land Use Code Chapter 20.35.

20.25E.100 Review and Appeal Procedures

- A. Purpose and Scope
- B. Framework for Decisions
- C. General Provisions Applicable to all Shoreline Project Decisions
- D. Notice Procedures Applicable to Shoreline Project Decisions

20.25E.110 Shoreline Process I – Quasi Judicial Decisions

- A. Process Described
- B. Public Meetings
- C. Director’s Recommendation on a Process I Application
- D. Notice of Recommendation, SEPA Determination, and Hearing Examiner Hearing
- E. Hearing Examiner Public Hearing
- F. Hearing Examiner Decisions on Process I Applications
- G. Appeal of Hearing Examiner Shoreline Process I Decision to City Council

20.25E.120 Shoreline Process II – Administrative Decisions

- A. Process Described
- B. Public Meetings
- C. Special Timing Requirement for Issuance of Certain SSDPs
- D. Director’s Shoreline Process II Decision
- E. Notice of Shoreline Process II Decision
- F. Appeal of Director’s Shoreline Process II Decision

20.25E.130 Shoreline Process III – Ministerial Decisions

- A. Process Described
- B. Appeal of Director’s Shoreline Process III Decision

20.25E.140 Legislative Non-Project Actions

- A. Process
- B. Appeal of the City Council Decision

V. PERMITS AND DECISIONS

Comment [ch13]: This part of the draft SMP regulations addresses both nonresidential and residential permits and approvals. The intent of this section was to provide clarity regarding the permit process types that are required by the Land Use Charts. The result is a longer document, but code users are not forced to reference out to general sections of the Land Use Code and translate to the shoreline context. This section is modeled after the permits and decisions sections found under Land Use Code Chapter 20.30.

20.25E.150 Shoreline Project Permits

- A. Scope
- B. Applicability
- C. Review Criteria for all Shoreline Applications

Attachment A

- D. Filing Permit with Ecology/Attorney General – Content Required
- E. Revisions to Issued Shoreline Process I and II Permits and Approvals

20.25E.160 Shoreline Substantial Development Permits

- A. Substantial Development Permit Required
- B. Applicability
- C. Purpose
- D. Decision Criteria
- E. Special Shoreline Report
- F. Effective Date
- G. Commencement of Activity

20.25E.170 Exemptions from Shoreline Substantial Development Permits

- A. Purpose
- B. Letter of Exemption Required
- C. Letter of Exemption from the SSDP Requirements – Projects and Activities Described
- D. Application and Interpretation of Exemptions
- E. Effective Date
- F. Commencement of Activity

20.25E.180 Shoreline Conditional Use Permit

- A. Scope
- B. Applicability
- C. Purpose
- D. Limitation on Filing
- E. Decision Criteria
- F. Effective Date
- G. Appeals of Department of Ecology Final Decisions
- H. Commencement of Activity
- I. Revisions to an Approved Shoreline Conditional Use Permit
- J. Merger with Binding Site Plan
- K. Periodic Review
- L. Modification/Revocation

20.25E.190 Shoreline Variance

- A. Scope
- B. Applicability
- C. Purpose
- D. Limitation on Filing
- E. Decision Criteria

Attachment A

- F. Effective Date
- G. Appeals of Department of Ecology Final Decisions
- H. Commencement of Activity

20.25E.200 Amendments to the Text of the Shoreline Master Program

- A. Scope
- B. Applicability
- C. Purpose
- D. Who May Initiate
- E. Applicable Procedure
- F. Decision Criteria
- G. Effective Date

VI. ADMINISTRATION AND ENFORCEMENT

20.25E.250 Administration

- A. Purpose
- B. Applicability
- C. Administrative Provisions Specific to the Shoreline Master Program

20.25E.260 Enforcement

20.25E.270 Interpretation

- A. Rules of Statutory Construction
- B. Requests for Written Interpretation

20.25E.280 Definitions Specific to the Shorelines Overlay

Comment [ch14]: This part of the draft SMP regulations addresses both nonresidential and residential permits and approvals. The intent of this section was to provide clarity regarding code administrative and enforcement. The result is a longer document, but code users are not forced to reference out to general sections of the Land Use Code and translate to the shoreline context. This section is modeled after the administrative and enforcement sections found under Land Use Code Chapter 20.40 and definitions section that is included in Land Use Code Chapter 20.50

SHORELINE MASTER PROGRAM SUBMITTAL CHECKLIST

This checklist is for use by local governments to satisfy the requirements of WAC 173-26-201(3)(a), relating to submittal of Shoreline Master Programs (SMPs) for review by the Department of Ecology (Ecology) under Chapter 173-26 WAC. The checklist does not create new or additional requirements beyond the provisions of that chapter.

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INSTRUCTIONS

This checklist is intended to help in preparation and review of local shoreline master programs (SMPs). Local governments should include a checklist with all SMPs submitted for review by Ecology.

Information provided at the top of the checklist identifies what local jurisdiction and specific amendment (e.g. comprehensive update, environment re-designation or other topic) the checklist is submitted for, and who prepared it. Indicate in the location column where in the SMP (or other documents) the requirement is satisfied. If adopting other regulations by reference, identify what specific adopted version of a local ordinance is being used, and attach a copy of the relevant ordinance (see *example 1, below*).

Draft submittals: For draft submittals, local governments may use the Comments column to note any questions or concerns about proposed language. Ecology may then use the Comment field to respond (see *example 2, below*).

Final submittals: When submitting locally-approved SMPs for Ecology review, leave the comment field blank. Ecology will use the comment field to develop final comments on the SMP.

Ecology has attempted to make this checklist an accurate and concise summary of rule requirements, however the agency must rely solely on adopted state rules and law in approving or denying a master program. This document does not create new or additional requirements beyond the provisions of state laws and rules [WAC 173-26-201(3)(a)].

EXAMPLE 1: reference other documents if necessary

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
Inventory of existing data and materials. WAC 173-26-201(3)(c)(i) through (x).	Appendix A: Shoreline Inventory and Analysis, Section 2.	
Wetland buffer requirements are adequate to ensure wetland functions are protected and maintained in the long-term, taking into account ecological functions of the wetland, characteristics of the buffer, and potential impacts associated with adjacent land uses. WAC 173-26-221(2)(c)(i)(B)	City Ordinance CA 19.072, adopted July 17 2003, p. 32	

EXAMPLE 2: for draft submittals, use Comments column

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
High-intensity environment designation criteria: Areas within incorporated municipalities, "UGAs," and "rural areas of more intense development" (see RCW 36.70A.070) that currently support or are planned for high-intensity water-dependent uses. WAC 173-26-211(5)(d)(iii)	Urban Industrial, p. 15 Urban Mixed, p. 18 Also see Appendix B, Use Analysis, Chapter 3, p. 12.	Local government: SMP includes two urban designations that meet high-intensity criteria – Urban Industrial, and Urban Mixed. These alternative designations allow more specificity for public access, view and amenity requirements for the mixed use areas. Ecology: Proposed alternative designations are consistent with the purposes and policies of the high-intensity criteria, as per WAC 173-26-211(4)(c).

<p>Acronyms and abbreviations</p> <p>comp plan: Comprehensive Plan CUP: Conditional Use Permit SMA: Shoreline Management Act, RCW 90.58 SMP: Shoreline Master Program SSWS: Shorelines of Statewide Significance WAC: Washington Administrative Code</p>	<p>For more information</p> <p>www.ecy.wa.gov/programs/sea/SMA/index.html</p> <p>Ecology SMA Policy Lead: Peter Skowlund: (360) 407-6522</p>
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SHORELINE MASTER PROGRAM SUBMITTAL CHECKLIST

Prepared for: (Jurisdiction Name)		
Name of Amendment:		
Prepared by: (Name)		
Date: / /		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
DOCUMENTATION OF SMP DEVELOPMENT PROCESS		
Public involvement, communication, and coordination		
Documentation of public involvement throughout SMP development process. WAC 173-26-201(3)(b)(i) and WAC 173-26-090 and 100. For SSWS, see WAC 173-26-251(3)(a)		
Documentation of communication with state agencies and affected Indian tribes throughout SMP development. WAC 173-26-201(3)(b)(ii) and (iii), WAC 173-26-100(3). For saltwater shorelines, see WAC 173-26-221(2)(c)(iii)(B). For SSWS, see WAC 173-26-251(3)(a).		
Demonstration that critical areas regulations for shorelines are based on the SMA and the guidelines, and are at least equal to the current level of protection provided by the currently adopted critical areas ordinance. WAC 173-26-221(2)(b)(ii),(iii) and (c).		
Documentation of process to assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights . See " <i>State of Washington, Attorney General's Recommended Process for Evaluation of Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property.</i> " WAC 173-26-186(5).		
Final submittal includes: evidence of local government approval (or a locally approved "statement of intent to adopt"); new and/or amendatory text, environment designation maps (with boundary descriptions and justification for changes based on existing development patterns, biophysical capabilities and limitations, and the goals and aspirations of the local citizenry); a summary of the proposal together with staff reports and supporting materials; evidence of SEPA compliance; copies of all comments received with names and addresses. WAC 173-26-110 Submittal must include clear identification and transmittal of all provisions that make up the SMP. <i>This checklist, if complete, meets this requirement.</i> WAC 173-26-210(3)(a) and (h).		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
Shoreline Inventory		
<p>Inventory of existing data and materials. WAC 173-26-201(3)(c)(i) through (x).</p> <p>For jurisdictions with critical saltwater habitats, see WAC 173-26-221(2)(c)(iii)(A)&(B).</p>		
Shoreline Analysis		
<p>Characterization of shoreline ecosystems and their associated ecological functions that:</p> <ul style="list-style-type: none"> identifies ecosystem-wide processes and ecological functions; assesses ecosystem-wide processes to determine their relationship to ecological functions; identifies specific measures necessary to protect and/or restore the ecological functions and ecosystem-wide processes. WAC 173-26-201(3)(d)(i)(A). <p>Demonstration of how characterization was used to prepare master program policies and regulations that achieve no net loss of ecological functions necessary to support shoreline resources and to plan for restoration of impaired functions. WAC 173-26-201(3)(d)(i)(E).</p> <p>For vegetation, see WAC 173-26-221(5). For jurisdictions with critical saltwater habitats, see WAC 173-26-221(2)(c)(iii)(B).</p> <p>Description of data gaps, assumptions made and risks to ecological functions associated with SMP provisions. WAC 173-26-201(2)(a)</p> <p>Characterization includes maps of inventory information at appropriate scale. WAC 173-26-201(3)(c)</p>		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>Use analysis estimating future demand for shoreline space and potential use conflicts based on characterization of current shoreline use patterns and projected trends. Evidence that SMP ensures adequate shoreline space for projected shoreline preferred uses. Public access needs and opportunities within the jurisdiction are identified. Projections of regional economic need guide the designation of "high-intensity" shoreline. WAC 173-26-201(3)(d)(ii) & (v); WAC 173-26-211(5)(d)(ii)(B)</p> <p>For SMPs that allow mining, demonstration that siting of mines is consistent with requirements of WAC 173-26-241(3)(h)(i).</p> <p>For SSWS:</p> <p>evidence that SMP preserves adequate shorelands and submerged lands to accommodate current and projected demand for economic resources of statewide importance (e.g., commercial shellfish beds and navigable harbors) based on statewide or regional analyses, requirements for essential public facilities, and comment from related industry associations, affected Indian tribes, and state agencies.</p> <p>Evidence that public access and recreation requirements are based on demand projections that take into account activities of state agencies and interests of the citizens to visit public shorelines with special scenic qualities or cultural or recreational opportunities. WAC 173-26-251(3)(c)(ii) & (iii)</p> <p>Optimum implementation directives incorporated into comp plan and development regulations. WAC 173-26-251(2) & (3)(e)</p> <p>For GMA jurisdictions, SMP recreational provisions are consistent with growth projections and level-of-service standards contained in comp plan. WAC 173-26-241(3)(i)</p>		
<p>Restoration plan that:</p> <ul style="list-style-type: none"> identifies degraded areas, impaired ecological functions, and potential restoration sites; Establishes restoration goals and priorities, including SMP goals and policies that provide for restoration of impaired ecological functions; Identifies existing restoration projects and programs; Identifies additional projects and programs needed to achieve local restoration goals, and implementation strategies including identifying prospective funding sources sets timelines and benchmarks for implementing restoration projects and programs; provides mechanisms or strategies to ensure that restoration projects and programs will be implemented according to plans and to appropriately review the effectiveness of the projects and programs in meeting the overall restoration goals. WAC 173-26-186(8)(c); 201(2)(c)&(f) <p>For critical freshwater habitats: incentives to restore water connections impeded by previous development. WAC 173-26-221(2)(c)(iv)(C)(III).</p> <p>For SSWS, identification of where natural resources of statewide importance are being diminished over time, and master programs provisions that contribute to the restoration of those resources. WAC 173-26-251(3)(b)</p>		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>Evidence that each environment designation is consistent with guidelines criteria [WAC 173-26-211(5)], as well as existing use pattern, the biological and physical character of the shoreline and the goals and aspirations of the community. WAC 173-26-211(2)(a). WAC 173-26-110(3)</p> <p>Lands designated as "forest lands of long-term significance" under RCW 36.70A.170 are designated either natural or rural conservancy shoreline environment designations. WAC 173-26-241(3)(e).</p> <p>For SSWS, demonstration that environment designation policies, boundaries, and use provisions implement SMA preferred use policies of RCW 90.58.020(1) through (7). WAC 173-26-251(3)(c)</p>		
<p>Assessment of how proposed policies and regulations cause, avoid, minimize and mitigate cumulative impacts to achieve no net loss policy. Include policies and regulations that address platting or subdividing of property, laying of utilities, and mapping of streets that establish a pattern for future development. Evaluation addresses:</p> <p>(i) <i>current circumstances</i> affecting the shorelines and relevant natural processes;</p> <p>(ii) <i>reasonably foreseeable future development</i> and use of the shoreline (including impacts from unregulated activities, exempt development, and other incremental impacts); and</p> <p>(iii) <i>beneficial effects</i> of any established regulatory programs under other local, state, and federal laws. WAC 173-26-201(3)(d)(iii) and WAC 173-26-186(8)(d)</p> <p>For jurisdictions with critical saltwater habitats, identification of methods for monitoring conditions and adapting management practices to new information. WAC 173-26-221(2)(c)(iii)(B).</p> <p>For SSWS, evidence that standards ensuring protection of ecological resources of statewide importance consider cumulative impacts of permitted development. WAC 173-26-251(3)(d)(i)</p>		
SMP CONTENTS		
<p>Any goals adopted as part of the SMP are consistent with the SMA. (Note: Goal statements are not required.)</p>		
<p>Policies (A) are consistent with guidelines and policies of the SMA; (B) address elements of RCW 90.58.100; and (C) include policies for environment designations, accompanied by a map or physical description of designation boundaries in sufficient detail to compare with comprehensive plan land use designations. (D) are consistent with constitutional and other legal limitations on regulation of private property. WAC 173-26-191(2)(a)(i)</p> <p>SMP implements preferred use policies of the SMA. WAC 173-26-201(2)(d)</p>		
<p>Regulations: (A) are sufficient in scope and detail to ensure the implementation of SMA, SMP guidelines, and SMP policies; (B) include environment designation regulations; (C) include general regulations, use regulations that address issues of concern in regard to specific uses, and shoreline modification regulations; and, (D) are consistent with constitutional and other legal limitations on the regulation of private property. WAC 173-26-191(2)(a)(ii)</p>		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
ENVIRONMENT DESIGNATIONS		
<p>Each environment designation includes: Purpose statements, classification criteria, management policies, and regulations (types of shoreline uses permitted, conditionally permitted, and prohibited; building or structure height and bulk limits, setbacks, maximum density or minimum frontage requirements, and site development standards). WAC 173-26-211(2)(4).</p>		
<p>An up-to-date map accurately depicting environment designation boundaries on a map. If necessary, include common boundary descriptions. WAC 173-26-211(2)(b); WAC 173-26-110(3);</p>		
<p>Statement that undesignated shorelines are automatically assigned a conservancy environment designation. WAC 173-26-211(2)(e).</p>		
Natural environment. WAC 173-26-211(5)(a)		
<p>Designation criteria: Shorelines that are ecologically intact and performing functions that could be damaged by human activity, of particular scientific or educational interest, or unable to support human development without posing a safety threat. WAC 173-26-211(5)(a)(iii)</p>		
<p>Prohibition on new:</p> <ul style="list-style-type: none"> uses that would substantially degrade ecological functions or natural character of shoreline. WAC 173-26-211(5)(a)(ii)(A) Commercial uses; industrial uses; nonwater oriented recreation; roads, utility corridors, and parking areas. WAC 173-26-211(5)(a)(ii)(B) development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions. WAC 173-26-211(5)(a)(ii)(G) subdivision of property in a configuration that will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. WAC 173-26-211(5)(a)(ii)(G) 		
<p>For single family residential development: limits on density and intensity to protect ecological functions, and requirement for CUP. WAC 173-26-211(5)(a)(ii)(C)</p>		
<p>For commercial forestry: requirement for CUP, requirement to follow conditions of the State Forest Practices Act. WAC 173-26-211(5)(a)(ii)(D)</p>		
<p>For agriculture: low intensity use allowed if subject to appropriate limits or conditions to assure that the use does not expand or practices don't conflict with purpose of the designation. WAC 173-26-211(5)(a)(ii)(E)</p>		
<p>Low intensity public uses such as scientific, historical, cultural, educational research uses, and water-oriented recreational access allowed if ecological impacts are avoided. WAC 173-26-211(5)(a)(ii)(F)</p>		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
Rural conservancy. WAC 173-26-211(5)(b)		
<p>Designation criteria: areas outside municipalities or UGAs with: (A) low-intensity, resource-based uses, (B) low-intensity residential uses, (C) environmental limitations such as steep banks or floodplains, (D) high recreational or cultural value, or (E) low-intensity water-dependent uses. WAC 173-26-211(5)(b)(iii)</p>		
<p>Restrictions on use and development that would degrade or permanently deplete resources. Water-dependent and water-enjoyment recreation facilities are preferred uses. Low intensity, water-oriented commercial and industrial uses limited to areas where those uses have located in the past or at sites that possess conditions and services to support the development. WAC 173-26-211(5)(b)(ii)(A) and (B)</p> <p>For SMPs that allow mining, see WAC 173-26-241(3)(h).</p>		
<p>Prohibition on new structural shoreline stabilization and flood control works except where there is documented need to protect an existing primary structure (provided mitigation is applied) or to protect ecological functions. WAC 173-26-211(5)(b)(ii)(C).</p>		
<p>Development standards for residential use that preserve existing character of the shoreline. Density, lot coverage, vegetation conservation and other provisions that ensure no net loss of shoreline ecological functions.</p> <p>Density or lot coverage limited to a maximum of ten percent total impervious surface area within the lot or parcel, or alternative standard that maintains the existing hydrologic character of the shoreline. (May include provisions allowing greater lot coverage for lots legally created prior to the adoption of a master program prepared under these guidelines, if lot coverage is minimized and vegetation is conserved.) WAC 173-26-211(5)(b)(ii)(D).</p>		
Aquatic. WAC 173-26-211(5)(c)		
<p>Designation criteria: Areas waterward of the ordinary high-water mark (OHWM). WAC 173-26-211(5)(c)(iii)</p>		
<p>New over-water structures:</p> <p>allowed only for water-dependent uses, public access, or ecological restoration. WAC 173-26-211(5)(c)(ii)(A)</p> <p>limited to the minimum necessary to support the structure's intended use. WAC 173-26-211(5)(c)(ii)(B)</p>		
<p>Multiple use of over-water facilities encouraged. WAC 173-26-211(5)(c)(ii)(C)</p>		
<p>Location and design of all developments and uses required to:</p> <p>minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration. WAC 173-26-211(5)(c)(ii)(D)</p> <p>prevent water quality degradation and alteration of natural hydrographic conditions. WAC 173-26-211(5)(c)(ii)(F)</p>		
<p>Uses that adversely impact ecological functions of critical saltwater and freshwater habitats limited (except where necessary for other SMA objectives, and then only when their impacts are mitigated). WAC 173-26-211(5)(c)(ii)(E)</p>		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
High-intensity. WAC 173-26-211(5)(d)		
<p>Designation criteria: Areas within incorporated municipalities, "UGAs," and "rural areas of more intense development" (see RCW 36.70A.070) that currently support or are planned for high-intensity water-dependent uses. WAC 173-26-211(5)(d)(iii)</p>		
<p>Priority given first to water-dependent uses, then to water-related and water-enjoyment uses. New non-water oriented uses prohibited except as part of mixed use developments, or where they do not conflict with or limit opportunities for water oriented uses or where there is no direct access to the shoreline. WAC 173-26-211(5)(d)(ii)(A)</p>		
<p>Full use of existing urban areas required before expansion of intensive development allowed. WAC 173-26-211(5)(d)(ii)(B)</p>		
<p>New development does not cause net loss of shoreline ecological functions. Environmental cleanup and restoration of the shoreline to comply with relevant state and federal laws assured. WAC 173-26-211(5)(d)(ii)(C)</p>		
<p>Visual and physical public access required where feasible. Sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers to achieve aesthetic objectives. WAC 173-26-211(5)(d)(ii)(D) and (E)</p>		
Urban conservancy. WAC 173-26-211(5)(e)		
<p>Designation criteria: Areas within incorporated municipalities, UGAs, and rural areas of more intense development that are not suitable for water-dependent uses and that are either suitable for water-related or water-enjoyment uses, are flood plains, have potential for ecological restoration, retain ecological functions, or have potential for development that incorporates ecological restoration. WAC 173-26-211(5)(e)(iii)</p>		
<p>Allowed uses are primarily those that preserve natural character of area, promote preservation of open space, floodplain or sensitive lands, or appropriate restoration. WAC 173-26-211(5)(e)(ii)(A)</p> <p>Priority given to water-oriented uses over non-water oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses given highest priority. WAC 173-26-211(5)(e)(ii)(D)</p> <p>For SMPs that allow mining, see WAC 173-26-241(3)(h).</p>		
<p>Standards for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications that ensure new development does not result in a net loss of shoreline ecological functions or degrade other shoreline values. WAC 173-26-211(5)(e)(ii)(B)</p>		
<p>Public access and recreation required where feasible and ecological impacts are mitigated. WAC 173-26-211(5)(e)(ii)(C)</p>		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
Shoreline residential. WAC 173-26-211(5)(f)		
<p>Designation criteria: Areas within incorporated municipalities, Urban Growth Areas (UGAs), "rural areas of more intense development," and "master planned resorts" (see RCW 36.70A.360) that are predominantly residential development or planned and platted for residential development. WAC 173-26-211(5)(f)(iii)</p>		
<p>Standards for density or minimum frontage width, setbacks, buffers, shoreline stabilization, critical areas protection, and water quality protection assure no net loss of ecological function. WAC 173-26-211(5)(f)(ii)(A)</p>		
<p>Multifamily and multi-lot residential and recreational developments provide public access and joint use for community recreational facilities. WAC 173-26-211(5)(f)(ii) (B)</p>		
<p>Access, utilities, and public services required to be available and adequate to serve existing needs and/or planned future development. WAC 173-26-211(5)(f)(ii)(C)</p>		
<p>Commercial development limited to water-oriented uses. WAC 173-26-211(5)(f)(ii)(D)</p>		
GENERAL POLICIES AND REGULATIONS		
Archaeological and Historical Resources. WAC 173-26-221(1)		
<p>Developers and property owners required to stop work and notify the local government, state office of archaeology and historic preservation and affected Indian tribes if archaeological resources are uncovered during excavation. WAC 173-26-221(1)(c)(i)</p>		
<p>Permits issued in areas documented to contain archaeological resources require site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes WAC 173-26-221(1)(c)(ii)</p>		
Critical areas. WAC 173-26-221(2)		
<p>Policies and regulations for critical areas (designated under GMA) located within shorelines of the state: (i) are consistent with SMP guidelines, and (ii) provide a level of protection to critical areas within the shoreline area that is at least equal to that provided by the local government's existing critical area regulations adopted pursuant to the GMA for comparable areas other than shorelines. WAC 173-26-221(2)(a) and (c)</p> <p>Planning objectives are for protection <i>and restoration</i> of degraded ecological functions and ecosystem-wide processes.</p> <p>Regulatory provisions <i>protect</i> existing ecological functions and ecosystem-wide processes. WAC 173-26-221(2)(b)(iv)</p> <p>Critical area provisions promote human uses and values, such as public access and aesthetic values, provided they do not significantly adversely impact ecological functions. WAC 173-26-221(2)(b)(v)</p>		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
If SMP includes optional expansion of jurisdiction: Clear description of the inclusion of any land necessary for buffers of critical areas that occur within shorelines of the state, accurately depicting new SMP jurisdiction consistent with RCW 90.58.030(2)(f)(ii) and WAC 173-26-221(2)(a).		
Wetlands. WAC 173-26-221(2)(c)(i)		
Wetlands definition are consistent with WAC 173-22.		
Provisions requiring wetlands delineation method are consistent with WAC 173-22-035.		
Regulations address all uses and activities listed in WAC 173-26-221(2)(c)(i)(A) to achieve no net loss of wetland area and functions including lost time when the wetland does not perform the function. [WAC 173-26-221(2)(c)(i)(A) + (C)]		
Wetlands rating or categorization system is based on rarity, irreplaceability, or sensitivity to disturbance of a wetland and the functions the wetland provides. Use Ecology Rating system or regionally specific, scientifically based method. WAC 173-26-221(2)(c)(i)(B)]		
Buffer requirements are adequate to ensure wetland functions are protected and maintained in the long-term, taking into account ecological functions of the wetland, characteristics of the buffer, and potential impacts associated with adjacent land uses. WAC 173-26-221(2)(c)(i)(B)		
Wetland mitigation requirements are consistent with WAC 173-26-201(2)(e) and which are based on the wetland rating. WAC 173-26-221(2)(c)(i)(E) and (F)		
<p>Compensatory mitigation allowed only after mitigation sequencing is applied and higher priority means of mitigation are determined to be infeasible.</p> <p>Compensatory mitigation requirements include (I) replacement ratios; (II) Performance standards for evaluating success; (III) long-term monitoring and reporting procedures; and (IV) long-term protection and management of compensatory mitigation sites. WAC 173-26-221(2)(c)(i)(F)</p> <p>Compensatory mitigation requirements are consistent with preference for "in-kind and nearby" replacement, and include requirement for watershed plan if off-site mitigation is proposed. WAC 173-173-26-201(2)(e)(B)</p>		
Geologically Hazardous Areas. WAC 173-26-221(2)(c)(ii)		
<p>Prohibition on new development (or creation of new lots) that would:</p> <ul style="list-style-type: none"> cause foreseeable risk from geological conditions during the life of the development prohibited. WAC 173-26-221(2)(c)(ii)(B) require structural shoreline stabilization over the life of the development. (Exceptions allowed where stabilization needed to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result.) WAC 173-26-221(2)(c)(ii)(C) 		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>New stabilization structures for existing primary residential structures allowed only where no alternatives (including relocation or reconstruction of existing structures), are feasible, and less expensive than the proposed stabilization measure, and then only if no net loss of ecological functions will result. WAC 173-26-221(2)(c)(ii)(D)</p>		
Critical Saltwater Habitats. WAC 173-26-221(2)(c)(iii)		
<p>Prohibition on new docks, bulkheads, bridges, fill, floats, jetties, utility crossings and other human-made structures that intrude into or over critical saltwater habitats, except where:</p> <ul style="list-style-type: none"> public need is clearly demonstrated; avoidance of impacts is not feasible or would result in unreasonable cost; the project include appropriate mitigation; and the project is consistent with resource protection and species recovery. <p>Private, non-commercial docks for individual residential or community use allowed if it is infeasible to avoid impacts by alternative alignment or location and the project results in no net loss of ecological functions. WAC 173-26-221(2)(c)(iii)(C)</p>		
<p>Where inventory of critical saltwater habitat has not been done, all over water and near-shore developments in marine and estuarine waters require habitat assessment of site and adjacent beach sections. WAC 173-26-221(2)(c)(iii)(C)</p>		
Critical Freshwater Habitats. WAC 173-26-221(2)(c)(iv)		
<p>Requirements that ensure new development within stream channel, channel migration zone, wetlands, floodplain, hyporheic zone, does not cause a net loss of ecological functions. WAC 173-26-221(2)(c)(iv)(C)(I) and WAC 173-26-221(2)(c)(iv)(B)(II)</p>		
<p>Authorization of appropriate restoration projects is facilitated. WAC 173-26-221(2)(c)(iv)(C)(III)</p>		
<p>Regulations protect hydrologic connections between water bodies, water courses, and associated wetlands. WAC 173-26-221(2)(c)(iv)(C)(IV)</p>		
Flood Hazard Reduction. WAC 173-26-221(3)		
<p>New development within the channel migration zone or floodway limited to uses and activities listed in WAC 173-26-221(3)(b) and (3)(c)(i)</p>		
<p>New structural flood hazard reduction measures allowed only:</p> <ul style="list-style-type: none"> where demonstrated to be necessary, and when non-structural methods are infeasible and mitigation is accomplished. landward of associated wetlands and buffer areas except where no alternative exists as documented in a geotechnical analysis. WAC 173-26-221(3)(c)(ii) & (iii) 		
<p>New publicly funded dikes or levees required to dedicate and improve public access (see exceptions). WAC 173-26-221(3)(c)(iv)</p>		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>Removal of gravel for flood control allowed only if biological and geomorphological study demonstrates a long-term benefit to flood hazard reduction, no net loss of ecological functions, and extraction is part of a comprehensive flood management solution. WAC 173-26-221(3)(c)(v)</p>		
<p>Public Access. WAC 173-26-221(4)</p>		
<p>Policies and regulations protect and enhance both physical and visual access. WAC 173-26-221(4)(d)(i)</p>		
<p>Public entities are required to incorporate public access measures as part of each development project, unless access is incompatible with safety, security, or environmental protection. WAC 173-26-221(4)(d)(ii)</p>		
<p>Non-water-dependent uses (including water-enjoyment, water-related uses) and subdivisions of land into more than four parcels include standards for dedication and improvement of public access. WAC 173-26-221(4)(d)(iii)</p>		
<p>Maximum height limits, setbacks, and view corridors minimize impacts to existing views from public property or substantial numbers of residences. WAC 173-26-221(4)(d)(iv); RCW 90.58.320</p>		
<p>Vegetation Conservation (Clearing and Grading). WAC 173-26-221(5)</p>		
<p>Vegetation standards implement the principles in WAC 173-26-221(5)(b). Methods to do this may include setback or buffer requirements, clearing and grading standards, regulatory incentives, environment designation standards, or other master program provisions. WAC 173-26-221(5)(c)</p>		
<p>Selective pruning of trees for safety and view protection is allowed and removal of noxious weeds is authorized. WAC 173-26-221(5)(c)</p>		
<p>Water Quality. WAC 173-26-221(6)</p>		
<p>Provisions protect against adverse impacts to water quality and storm water quantity and ensure mutual consistency between SMP and other regulations addressing water quality. WAC 173-26-221(6)</p>		
<p>SHORELINE MODIFICATIONS</p>		
<p>SMP: (a) allows structural shoreline modifications only where demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for mitigation or enhancement; (b) limits shoreline modifications in number and extent; (c) allows only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed; (d) gives preference to those types of shoreline modifications that have a lesser impact on ecological functions. Policies promote "soft" over "hard" shoreline modification measures (f) incorporates all feasible measures to protect ecological shoreline functions and ecosystem-wide processes as modifications occur; (g) requires mitigation sequencing. WAC 173-26-231(2); WAC 173-26-231(3)(a)(ii) and (iii);</p>		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
Shoreline Stabilization. WAC 173-26-231(3)(a)		
<p>Definition: structural and nonstructural methods to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. WAC 173-26-231(3)(a)(i)</p> <p>Definition of new stabilization measures include enlargement of existing structures. WAC 173-26-231(3)(a)(iii)(C), last bullet; WAC 173-26-231(3)(a)(iii)(B)(I), 5th bullet</p>		
<p>Standards setting forth circumstances under which shoreline alteration is permitted, and for the design and type of protective measures and devices. WAC 173-26-231(3)(a)(ii)</p>		
<p>New development (<i>including newly created parcels</i>) required to be designed and located to prevent the need for future shoreline stabilization, based upon geotechnical analysis.</p> <p>New development on steep slopes and bluffs required to be set back to prevent need for future shoreline stabilization during life of the project, based upon geotechnical analysis.</p> <p>New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas is prohibited. WAC 173-26-231(3)(a)(iii)(A)</p>		
<p>New structural stabilization measures are not allowed except when necessity is demonstrated. Specific requirements for <i>how to demonstrate need</i> are established for:</p> <p>(I) existing primary structures;</p> <p>(II) new non-water-dependent development including Single Family Residences;</p> <p>(III) water-dependent development; and</p> <p>(IV) ecological restoration/toxic clean-up remediation projects. WAC 173-26-231(3)(a)(iii)(B)</p>		
<p>Replacement of existing stabilization structures is based on demonstrated need. Waterward encroachment of replacement structure only allowed for residences occupied prior to January 1, 1992, or for soft shoreline stabilization measures that provide restoration of ecological functions. WAC 173-26-231(3)(a)(iii)(C)</p>		
<p>Geotechnical reports prepared to demonstrate need include estimates of rate of erosion and urgency (damage within 3 years) and evaluate alternative solutions. WAC 173-26-231(3)(a)(iii)(D)</p>		
<p>Shoreline stabilization structures are limited to the minimum size necessary. WAC 173-26-231(3)(a)(iii)(E)</p>		
<p>Public access required as part of publicly financed shoreline erosion control measures. WAC 173-26-231(3)(a)(iii)(E)</p>		
<p>Impacts to sediment transport required to be avoided or minimized. WAC 173-26-231(3)(a)(iii)(E)</p>		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
Piers and Docks. WAC 173-26-231(3)(b)		
<p>New piers and docks:</p> <p>allowed only for water-dependent uses or public access restricted to the minimum size necessary to serve a proposed water-dependent use.</p> <p>permitted only when specific need is demonstrated (except for docks accessory to single-family residences).</p> <p>Note: Docks associated with single family residences are defined as water dependent uses provided they are designed and intended as a facility for access to watercraft. WAC 173-26-231(3)(b)</p>		
<p>When permitted, new residential development of more than two dwellings required to provide joint use or community docks, rather than individual docks. WAC 173-26-231(3)(b)</p>		
<p>Design and construction of all piers and docks required to avoid, minimize and mitigate for impacts to ecological processes and functions and be constructed of approved materials. WAC 173-26-231(3)(b)</p>		
Fill. WAC 173-26-231(3)(c)		
<p>Definition of "fill" consistent with WAC 173-26-020(14)</p>		
<p>Location, design, and construction of all fills protect ecological processes and functions, including channel migration. WAC 173-26-231(3)(c)</p>		
<p>Fill waterward of the OHWM allowed only by shoreline conditional use permit, for:</p> <ul style="list-style-type: none"> water-dependent use; public access; cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan; disposal of dredged material in accordance with DNR Dredged Material Management Program; expansion or alteration of transportation facilities of statewide significance currently located on the shoreline (if alternatives to fill are shown not feasible); mitigation action, environmental restoration, beach nourishment or enhancement project. WAC 173-26-231(3)(c) 		
Breakwaters, Jetties, and Weirs. WAC 173-26-231(3)(d)		
<p>Structures waterward of the ordinary high-water mark allowed only for water-dependent uses, public access, shoreline stabilization, or other specific public purpose. WAC 173-26-231(3)(d)</p>		
<p>Shoreline conditional use permit required for all structures except protection/restoration projects. WAC 173-26-231(3)(d)</p>		
<p>Protection of critical areas and appropriate mitigation required. WAC 173-26-231(3)(d)</p>		
Dunes Management. WAC 173-26-231(3)(e)		
<p>Development setbacks from dunes prevent impacts to the natural, functional, ecological, and aesthetic qualities of the dunes. WAC 173-26-231(3)(e)</p>		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
Dune modifications allowed only when consistent with state and federal flood protection standards and result in no net loss of ecological processes and functions. WAC 173-26-231(3)(e)		
Dune modification to protect views of the water shall be allowed only on properties subdivided and developed prior to the adoption of the master program and where the view is completely obstructed for residences or water-enjoyment uses and where it can be demonstrated that the dunes did not obstruct views at the time of original occupancy. WAC 173-26-231(3)(e)		
Dredging and Dredge Material Disposal. WAC 173-26-231(3)(f)		
Dredging and dredge material disposal avoids or minimizes significant ecological impacts. Impacts which cannot be avoided are mitigated. WAC 173-26-231(3)(f)		
New development siting and design avoids the need for new and maintenance dredging. WAC 173-26-231(3)(f)		
Dredging to establish, expand, relocate or reconfigure navigation channels allowed only where needed to accommodate existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. WAC 173-26-231(3)(f)		
Maintenance dredging of established navigation channels and basins restricted to maintaining previously dredged and/or existing authorized location, depth, and width. WAC 173-26-231(3)(f)		
Dredging for fill materials prohibited except for projects associated with MTCA or CERCLA habitat restoration, or any other significant restoration effort approved by a shoreline CUP. Placement of fill must be <i>waterward</i> of OHWM. WAC 173-26-231(3)(f)		
Uses of dredge material that benefits shoreline resources are addressed. If applicable, addressed through implementation of regional interagency dredge material management plans or watershed plan. WAC 173-26-231(3)(f)		
Disposal within river channel migration zones discouraged, and in limited instances when allowed, require CUP. (Note: not intended to address discharge of dredge material into the flowing current of the river or in deep water within the channel where it does not substantially effect the geo-hydrologic character of the channel migration zone). WAC 173-26-231(3)(f)		
Shoreline Habitat and Natural Systems Enhancement Projects. WAC 173-26-231(3)(g)		
Provisions that foster habitat and natural system enhancement projects , provided the primary purpose is restoration of the natural character and functions of the shoreline, and only when consistent with implementation of the restoration plan developed pursuant to WAC 173-26-201(2)(f)		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
SPECIFIC SHORELINE USES		
Agriculture. WAC 173-26-241(3)(a)		
Use of agriculture related terms is consistent with the specific meanings provided in WAC 173-26-020. WAC 173-26-241(3)(a)(ii) and (iv)		
Provisions address new agricultural activities , conversion of agricultural lands to other uses, and other development not meeting the definition of agricultural activities. Provisions assure that development in support of agricultural uses is: (A) consistent with the environment designation; and (B) located and designed to assure no net loss of ecological functions and not have a significant adverse impact on other shoreline resources and values. WAC 173-26-241(3)(a)(ii) & (v)		
Shoreline substantial development permit is required for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv)		
Conversion of agricultural land to non-agricultural uses is consistent with the environment designation, and regulations applicable to the proposed use do not result in a net loss of ecological functions. WAC 173-26-241(3)(a)(vi)		
Aquaculture. WAC 173-26-241(3)(b)		
Location and design requirements for aquaculture facilities avoid: loss of ecological functions, impacts to eelgrass and macroalgae, significant conflict with navigation and water-dependent uses, the spreading of disease, introduction of non-native species, or impacts to shoreline aesthetic qualities. Impacts to functions are mitigated. WAC 173-26-241(3)(b)		
Boating Facilities. WAC 173-26-241(3)(c)		
Definition: Boating facility standards do not apply to docks serving four or fewer SFRs. WAC 173-26-241(3)(c)		
Boating facilities restricted to suitable locations . WAC 173-26-241(3)(c)(i)		
Provisions ensuring health, safety, and welfare requirements are met. WAC 173-26-241(3)(c)(ii)		
Provisions to avoid or mitigate aesthetic impacts . See WAC 173-26-241(3)(c)(iii)		
Public access required in new boating facilities. WAC 173-26-241(3)(c)(iv)		
Impacts of live-aboard vessels are limited. WAC 173-26-241(3)(c)(v)		
Provisions assuring no net loss of ecological functions as a result of development of boating facilities while providing public recreational opportunities. WAC 173-26-241(3)(c)(vi)		
Navigation rights are protected. WAC 173-26-241(3)(c)(vii)		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
Extended moorage on waters of the state without a lease or permission is restricted, and mitigation of impacts to navigation and access is required. WAC 173-26-241(3)(viii)		
Commercial Development. WAC 173-26-241(3)(d)		
Preference given first to water-dependent uses, then to water-oriented commercial uses. WAC 173-26-241(3)(d)		
Water-enjoyment and water-related commercial uses required to provide public access and ecological restoration where feasible and avoid impacts to existing navigation, recreation, and public access. WAC 173-26-241(3)(d)		
New non-water-oriented commercial uses prohibited unless they are part of a mixed-use project, navigation is severely limited, and the use provides a significant public benefit with respect to SMA objectives. WAC 173-26-241(3)(d)		
Non-water-dependent commercial uses over water prohibited except in existing structures, and where necessary to support water-dependent uses. WAC 173-26-241(3)(d)		
Forest Practices. WAC 173-26-241(3)(e)		
Forest practices not covered by the Forest Practices Act, especially Class IV-General forest practices involving conversions to non-forest use result in no net loss of ecological functions and avoid impacts to navigation, recreation and public access. WAC 173-26-241(3)(e)		
SMP limits removal of trees on shorelines of statewide significance (RCW 90.58.150). Exceptions to this standard require shorelines conditional use permit. WAC 173-26-241(3)(e)		
Industry. WAC 173-26-241(3)(f)		
Preference given first to water-dependent uses, then to water-oriented industrial uses. WAC 173-26-241(3)(f)		
Location, design, and construction of industrial uses and redevelopment required to assure no net loss of ecological functions. WAC 173-26-241(3)(f)		
Industrial uses and redevelopment encouraged to locate where environmental cleanup and restoration can be accomplished. WAC 173-26-241(3)(f)		
Public access required unless such a requirement would interfere with operations or create hazards to life or property. WAC 173-26-241(3)(f)		
New non-water-oriented industrial uses prohibited unless they are part of a mixed-use project, navigation is severely limited, and the use provides a significant public benefit with respect to SMA objectives. WAC 173-26-241(3)(f)		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
In-Stream Structures. WAC 173-26-241(3)(g)		
<p>Definition: structure is waterward of the ordinary high water mark and either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. WAC 173-26-241(3)(g)</p>		
<p>In-stream structures protect and preserve ecosystem-wide processes, ecological functions, and cultural resources, including, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas. WAC 173-26-241(3)(g)</p>		
Mining. WAC 173-26-241(3)(h)		
<p>Policies and regulations for new mining projects:</p> <ul style="list-style-type: none"> require design and operation to avoid and mitigate for adverse impacts during the course of mining and reclamation achieve no net loss of ecological functions based on required final reclamation give preference to proposals that create, restore or enhance habitat for priority species are coordinated with state Surface Mining Reclamation Act requirements. assure subsequent use of reclaimed sites is consistent with environment designation and SMP standards. <p>See WAC 173-26-241(3)(h)(ii)(A) – (C)</p>		
<p>Mining waterward of OHWM is prohibited unless:</p> <p>(I) Removal of specified quantities of materials in specified locations will not adversely impact natural gravel transport;</p> <p>(II) The mining will not significantly impact priority species and the ecological functions upon which they depend; and</p> <p>(III) these determinations are integrated with relevant SEPA requirements. WAC 173-26-241(3)(h)(ii)(D)</p>		
<p>Renewal, extension, or reauthorization of in-stream and gravel bar mining activities require review for compliance with these new guidelines requirements. WAC 173-26-241(3)(h)(ii)(D)(IV)</p>		
<p>Mining within the Channel Migration Zone requires a shoreline conditional use permit. WAC 173-26-241(3)(h)(ii)(E)</p>		
Recreational Development. WAC 173-26-241(3)(i)		
<p>Definition includes both commercial and public recreation developments. WAC 173-26-241(3)(i)</p>		
<p>Priority given to recreational development for access to and use of the water. WAC 173-26-241(3)(i)</p>		
<p>Location, design and operation of facilities are consistent with purpose of environment designations in which they are allowed. WAC 173-26-241(3)(i)</p>		
<p>Recreational development achieves no net loss of ecological processes and functions. WAC 173-26-241(3)(i)</p>		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
Residential Development. WAC 173-26-241(3)(j)		
Definition includes single-family residences, multifamily development, and the creation of new residential lots through land division. WAC 173-26-241(3)(j)		
Single-family residences identified as a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. WAC 173-26-241(3)(j)		
No net loss of ecological functions assured with specific standards for setback of structures sufficient to avoid future stabilization, buffers, density, shoreline stabilization, and on-site sewage disposal. WAC 173-26-241(3)(j)		
New over-water residences and floating homes prohibited. Appropriate accommodation for existing floating or over-water homes. WAC 173-26-241(3)(j)		
New multiunit residential development (including subdivision of land for more than four parcels) required to provide community and/or public access in conformance to local public access plans. WAC 173-26-241(3)(j)		
New (subdivided) lots required to be designed, configured and developed to: (i) Prevent the loss of ecological functions at full build-out; (ii) Prevent the need for new shoreline stabilization or flood hazard reduction measures; and (iii) Be consistent with applicable SMP environment designations and standards. WAC 173-26-241(3)(j)		
Transportation Facilities. WAC 173-26-241(3)(k)		
Proposed transportation and parking facilities required to plan, locate, and design where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water dependent uses. WAC 173-26-241(3)(k)		
Circulation system plans include systems for pedestrian, bicycle, and public transportation where appropriate. WAC 173-26-241(3)(k)		
Parking allowed only as necessary to support an authorized shoreline use and which minimize environmental and visual impacts of parking facilities. WAC 173-26-241(3)(k)		
Utilities. WAC 173-26-241(3)(l)		
Design, location and maintenance of utilities required to assure no net loss of ecological functions. WAC 173-26-241(3)(l)		
Utilities required to be located in existing rights-of-ways whenever possible. WAC 173-26-241(3)(l)		
Utility production and processing facilities and transmission facilities required to be located outside of SMA jurisdiction, unless no other feasible option exists. WAC 173-26-241(3)(l)		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
SMP ADMINISTRATIVE PROVISIONS		
The statement: "All proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this master program" whether or not a permit is required. WAC 173-26-191(2)(a)(iii)(A)		
Administrative provisions ensure permit procedures and enforcement are conducted in a manner consistent with relevant constitutional limitations on regulation of private property. WAC 173-26-186(5) and WAC 191(2)(a)(iii)(A)		
Identification of specific uses and development that require a shoreline conditional use permit (CUP) . Standards for reviewing CUPs and variances conform to WAC 173-27. WAC 191(2)(a)(iii)(B) and WAC 173-26-241(2)(b)		
Administrative, enforcement, and permit review procedures conform to the SMA and state rules (see RCW 90.58.140, 143, 210 and 220 and WAC 173-27). WAC 191(2)(a)(iii)(C), WAC 173-26-201(3)(d)(vi)		
Mechanism for tracking, and periodically evaluating the cumulative effects of all project review actions in shoreline areas. WAC 173-26-191(2)(a)(iii)(D)		
SMP definitions are consistent with all definitions in WAC 173-26-020, and other relevant WACs.		

Part 20.25E Shoreline Overlay District

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. (Ord. 4055, 3914, 9-25-89, § 1)

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. (Ord. 4055, 3914, 9-25-89, § 3)

20.25E.020 Authority and purpose.

The Shoreline Overlay District for the City is hereby adopted by authority of Chapter 90.58 RCW, the Shoreline Management Act of 1971 as amended, the same being incorporated herein by this reference as though fully set forth in this title, and more particularly, to fulfill the public purpose preserving the state's and City's important shoreline natural resources, and further, to protect and promote the public health, safety and general welfare.

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 Sensitive Area Overlay District, the most restrictive regulations shall prevail. (Ord. 4055, 3914, 9-25-89, § 4)

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. (Ord. 4055, 3914, 9-25-89, § 5)

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 and the City's Shoreline Master Program. 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;
- 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;

- 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;
- 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. (Ord. 4055, 3914, 9-25-89, § 6)

20.25E.055 Nonconforming development.

- A. 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. Nonconforming development may be continued; provided, that it is not enlarged, intensified, increased, or altered in any way which increases its nonconformity;
- C. A nonconforming development which is moved any distance must be brought into conformance with this part and the Shoreline Management Act;
- D. 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;
- E. 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
- F. 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. (Ord. 4055, 3914, 9-25-89, § 7)

20.25E.060 Use regulations and policies governing permits.

General use regulations applying to all permits and specific regulations for certain types of uses are found in LUC 20.25E.080, "Shoreline Use Regulation". In addition, all uses and permits must be in conformance with the Shoreline Master Program Policy Element of the Bellevue Comprehensive Plan.

20.25E.070 Permits.

Land use approvals in a Shoreline Overlay District shall follow procedures found in Parts 20.30C LUC (Shoreline Conditional Uses), 20.30H LUC (Variances to the Shoreline Master Program), and 20.30R LUC (Shoreline Substantial Development). (Ord. 4055, 3914, 9-25-89, § 8; Ord. 3530, 8-12-85, § 63)

20.25E.080 Shoreline use regulation.**A. Policy and Administration.**

1. The Shoreline Master Program Use Regulations, 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 use regulations 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 City of Bellevue Excavation, Clearing and Grading regulations (BCC 23.10.140), and the Comprehensive Plan.
4. Special care shall be exercised to preserve vegetation in wetland and water course bank areas in order to prevent soil erosion.
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.
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 set back a minimum of 25 feet from the ordinary high water mark.
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.

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 water courses 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.

E. Bulkhead Regulations.

1. The use of bulkheads shall be limited to protection of existing areas or facilities landward of the ordinary high water mark, and not for the purpose of creating land by filling behind such bulkheads.
2. Construction of or improvements to bulkheads shall not extend into the lakes or Riparian Corridors beyond the ordinary high water mark, except in case of an approved landfill in compliance with LUC 20.25E.080.K.5, and shall be completed within a timely manner.
3. Bulkheads shall be limited in height to 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 of Planning and Community Development and Director of Storm and Surface Water Utility if they determine the following criteria are satisfied:
 - a. Increased height does not negatively impact abutting properties; and
 - b. Increased height is necessary to protect the existing upland property because of:
 - i. The extraordinary height and/or slope of the natural or existing topography at and immediately landward of the ordinary high water mark. In such instances, increased bulkhead height shall be limited to the minimum height necessary to protect the existing property landward of the ordinary high water mark, or
 - ii. Extraordinary wave action. In such instances, increased bulkhead height shall be limited to the minimum height necessary to protect the existing property landward of the ordinary high water mark or 45 inches, whichever is less.
4. Bulkheads shall be designed to minimize the transmission of wave energy to other properties.

F. Breakwaters, Jetties and Groins Regulations.

1. Solid landfill breakwaters shall be prohibited within the Shoreline Overlay District.
2. The builder of a jetty or groin structure shall be responsible for determining in advance any possible adverse effects to the property of others caused by his construction. Alternative

means for protecting the shoreline shall be outlined by the builder prior to issuance of a Substantial Development Permit.

G. Clearing and Grading Regulations.

1. All clearing, grading, excavating, and fill in the Shoreline Overlay District shall comply with the provisions of BCC 23.10.140.
2. No clearing, grading, excavating, or fill shall be allowed within 25 feet of the ordinary high water mark except as permitted by this Part 20.25E.
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 watercourse, 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. 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. Commercial parking facilities shall not be permitted over water or within 25 feet of the ordinary high water mark. 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 set back a minimum of 25 feet from the ordinary high water mark.
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.

I. Dredging Regulations.

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; or
 - b. To improve water flow or water quality; or
 - c. To mitigate conditions which could endanger public health or safety; or
 - d. To create or improve recreational opportunities; or
 - e. To provide for the drainage of surface waters for approved development purposes.

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. Shoreline vegetation disturbed by dredging projects shall be restored to its original or an improved condition through use of indigenous vegetation.

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.

(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;
 - c. Enhancement or restoration of habitat in conformance with City of Bellevue standards adopted by the Director of Planning and Community Development and the Director of Storm and Surface Water Utility if permitted under Part 20.25H LUC;

- 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 LUC;
- f. Ensuring or preserving the structural integrity of bulkheads permitted under LUC 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 paragraph E.3 of this section.
5. No landfill shall be permitted below or within the ordinary high water mark, except to restore lands lost to unusual erosion within the 12 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 12 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 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.

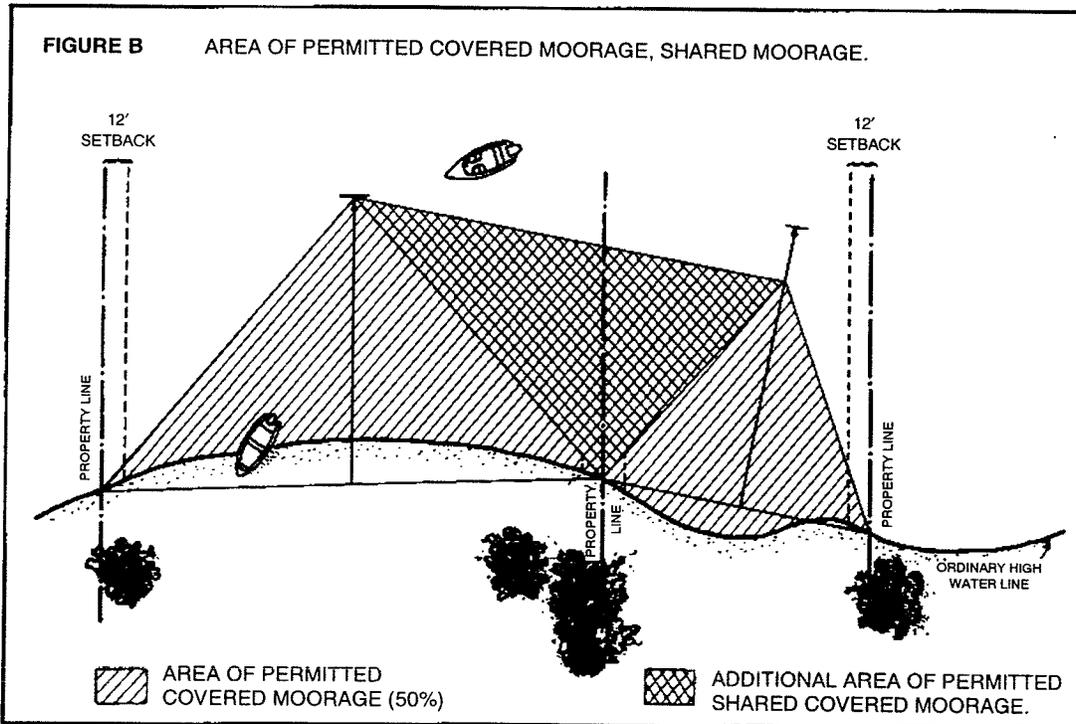
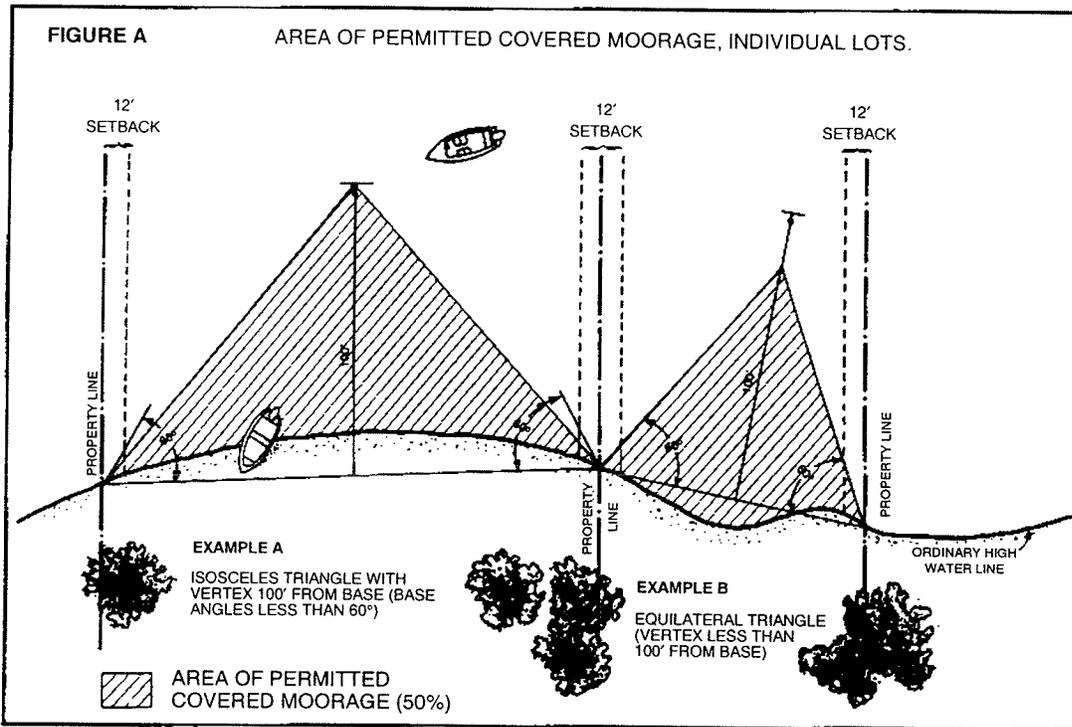
1. Signs in residential areas of the Shoreline Overlay District shall be for identification only, non-commercial, unobtrusive in character and nonilluminated. Lighting from an external source shall be shielded from view.
2. Signs in the Shoreline Overlay District shall not obstruct the shoreline views 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 identifica-

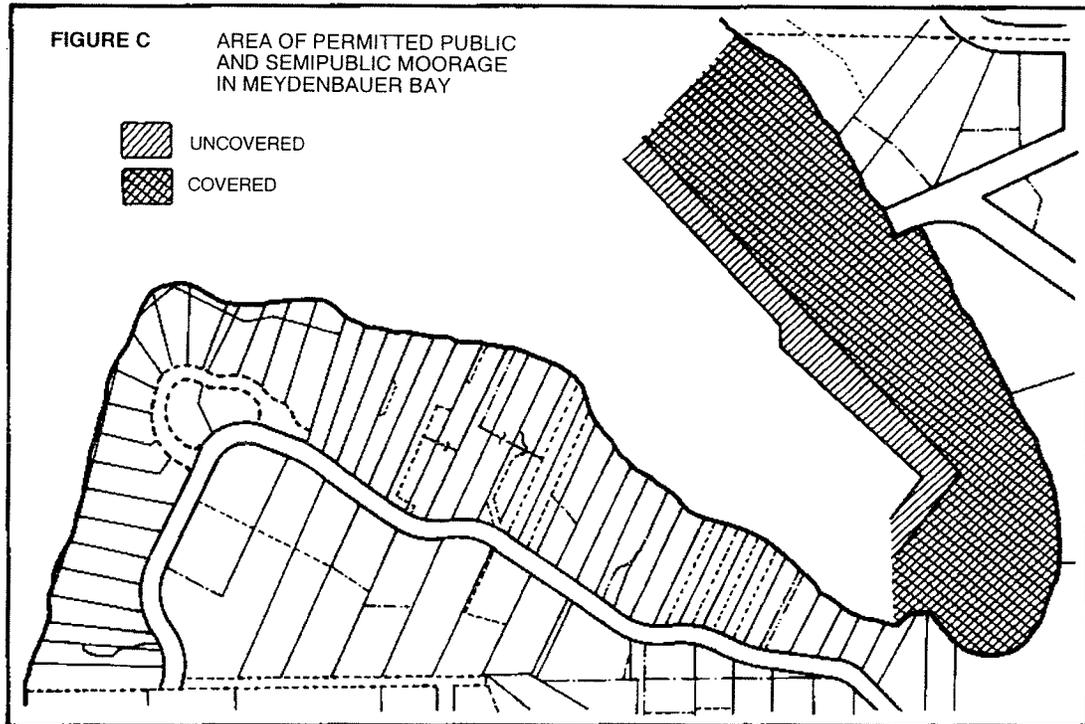
tion sign oriented to the lake. Such sign may identify the business complex itself or gasoline service associated with the complex.

- 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. In those portions of the wetland environment of the Shoreline Overlay District where commercial development is permitted, signs shall be for identification only.
 6. In wetland environment commercial development areas, internally illuminated signs shall be low-level, and external lighting sources shall be shielded from view.
 7. Off-premises signs, nonappurtenant, illuminated and freestanding signs extending above the roof line are not permitted in the Shoreline Overlay District.
 8. Sign structures must meet all other conditions of the Bellevue Sign Code.

N. Moorage Regulations.

1. The height of any moorage structure shall not exceed a maximum of 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 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.)





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

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 terminus 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 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.)
6. Boathouses must be approved by the Director of Planning and Community Development. The Director may approve a boathouse only if the structure does not constitute a substantial obstruction of the range of view for neighboring properties, and the structure complies with the covered moorage restrictions in paragraph N.2 of this section.
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. Nonbuilding tracts platted for the purpose of providing common moorage for a group of contiguous properties.

For the purposes of meeting the requirements of paragraph N.7.a of this section, 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 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.
9. Private Moorage Extension.
 - a. Except as provided in paragraph 9.b of this section, 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 at which 10 feet of water depth exists at ordinary high water, if approved by the

Director of Planning and Community Development. In making his determination the Director shall approve the proposal only if the following criteria are satisfied:

- i. The moorage will not extend beyond the point necessary to obtain a reasonable and safe moorage; and
 - ii. The increased length will not interfere with the public use and enjoyment of the water, or create a hazard to navigation; and
 - iii. The increased length will not unreasonably interfere with the use of adjacent piers.
- c. In no case may private moorage extend more than 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.

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.

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 set back a minimum of 25 feet from the ordinary high water mark, except minor structural elements as defined and regulated under LUC 20.20.025.C, and except stairs, handrails, and fences essentially perpendicular to the shoreline. The setback is measured from the ordinary high water mark of any shoreline regardless of property lines.
4. Fences essentially parallel with the shoreline are not permitted within 25-foot 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. Motorized vehicles including off-trail vehicles, are prohibited within publicly-owned portions of the Shoreline Overlay District except for authorized public service vehicles.
3. 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.
4. Runoff from City streets and roads within the Shoreline Overlay District should be cleansed of sediment and toxic materials before entering watercourses of the Shoreline Overlay District.
5. New parking facilities within the Shoreline Overlay District shall not be permitted over water or within 25 feet of the ordinary high water mark. Provisions must be made to control and cleanse surface water runoff from parking areas in order to comply with state water quality standards.
6. 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.

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 (Chapter 23.76 BCC) 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.

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. When utilities are located within the wetlands environment of the Shoreline Overlay District, sufficient measures must be taken to adequately mitigate all related substantial adverse impacts.

2. 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.

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. (Ord. 4973, 3-3-97, § 888; Ord. 4816, 12-4-95, § 988; Ord. 4255, 6-3-91, §§ 5 – 7; Ord. 4055, 3914, 9-25-89, §§ 9 – 14; Ord. 3690, 8-4-86, §§ 12, 15; Ord. 3530, 8-12-85, §§ 64, 65; Ord. 3145, 9-27-82, § 56)