



DATE: June 3, 2010

TO: Chair Sheffels and Members of the Planning Commission

FROM: Michael Paine, Environmental Planning Manager, 425-452-2739
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SUBJECT: Shoreline Master Program, Residential Setbacks—Planning Commission Study Session

The June 9th study session, will present a discussion on options for designating an appropriate shoreline setback on residential properties. This memorandum includes a summary of the requirements under the Shoreline Management Act (SMA), how other local jurisdictions have addressed residential setbacks, and key citizen concerns articulated to date. At this study session, staff is requesting direction from the Commission on a generalized approach to addressing setbacks on residential development. Specific policies and code language, based on the Commissions' direction, will be developed and introduced at later in the summer.

BACKGROUND

At the May 12 study session, staff introduced the first working draft of the update SMP. As you recall, staff stressed the preliminary nature of the working draft and noted that it *does not represent a staff recommendation*. The transmittal of the SMP working draft was intended to provide a starting point for the interactive policy and code development phase of the SMP update process that begins in earnest tonight and culminates in a Public Hearing before the Commission in the fall.

At the same study session, staff proposed that the Commission begin their more detailed review by focusing on those areas of most community interest first, thereby ensuring ample time for a thorough airing of views. To this end, staff recommended the following topic areas for detailed review: setbacks and vegetation conservation, piers and docks, shoreline stabilization, marinas, nonconformities, and restoration planning. The Commission agreed that this approach made sense and directed staff to begin this work as soon as possible.

Bellevue has had an SMP since 1974 and one of its stated goals is:

“To ensure that the City’s shorelines and wetlands are planned and coordinated to afford optimal use of these limited resources; and to ensure that the shorelines and wetlands provide natural amenities within an urban environment.”

From the SMP’s first adoption, structure setbacks and limits on the location of development were seen as integral to protecting and preserving the shorelines. Prior to 2006, the City’s SMP included provisions for a 25-foot structure setback on all properties and required all development to prepare a “plan indicating methods for preserving shoreline vegetation and for control of

erosion during and following construction”. Likewise residential development was discouraged from disrupting soils and creating erosion problems; instead, residential development was encouraged to contain disturbance using plant material as a first option. Furthermore, landfill was limited and the use of vegetation for stabilizing the water’s edge from erosion was encouraged over the use of bulkheads.

The City’s current critical area provisions include a shoreline buffer and setback because under the Growth Management Act lakes are considered habitat that support state species of importance. The current Bellevue buffer on a developed site is 25 feet, with an additional 25-foot structure setback; vacant lands require a 50-foot buffer. Numerous exceptions and administrative provisions are included (see LUC 20.25H) to allow these dimensions to be modified. The critical area provisions, as they apply to shoreline, are discussed in more detail in the section on regulatory options below.

SUMMARY OF THE SHORELINE MANAGEMENT ACT AND WAC GUIDELINES

The Shoreline Management Act (SMA), Chapter 90.58 RCW, was approved by voters in 1971. Although the SMA embodies a legislatively-determined and voter-approved balance between protection of state shorelines and development, its primary purpose is to protect shorelines as fully as possible.¹ On shorelines of statewide significance, such as Lake Sammamish and Washington, the legislature declared that “the interest of all people shall be paramount in the management of shorelines of statewide significance.” RCW 90.528.020. The legislature provided specific requirements to both Ecology and local jurisdictions when managing these shorelines:

[T]he department in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the statewide interest over the local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shoreline;
- (6) Increase recreational opportunities for the public in the shoreline; and
- (7) Provide for any other element defined in RCW 30.58.100 deemed appropriate or necessary.

RCW 90.58.020. The SMA establishes the state requirements for managing shorelines, and the Washington State Department of Ecology’s implementing regulations, or Guidelines, provide process and substantive direction to local jurisdictions when preparing their shoreline master programs. The state requirements provide the regulatory framework under which the City must

¹ *Samson v. City of Bainbridge Island*, 149 Wn. App. 33, 49 (2009).

develop its shoreline master program.² Specific guidance for shorelines of statewide significance is provided in the Guidelines. WA 173-26-251.

Consistent with the SMA, and specifically, RCW 90.58.020, Ecology's Guidelines, as stated in Title 173-26 WAC, requires each jurisdiction to include development standards for residential development along the shoreline. Ecology acknowledges that single-family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. WAC 173-26-241(3)(J)

Ecology also states that without proper management, single family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal. *Id.* Shoreline Master Programs are required to include policies and regulations for residential development that assure no net loss of shoreline ecological functions. *Id.* Additionally, provisions that include specific shoreline setbacks requirement for residential structures, buffer areas, density requirements, standards for shoreline armoring and vegetation conservation are required. *Id.*; *see also* WAC 173-26-211(f) (describing management policies for shoreline residential environment). Finally residential development, including appurtenant structures and uses, are to be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses. *Id.*

POLICY GUIDANCE FROM WORKING DRAFT SMP

At the Planning Commission's May 12th meeting staff presented the SMP working draft with the purpose of giving the Commission a glimpse at the breadth of work required and a sense of the potential policy direction for consideration. In addition to the environment designation criteria that establishes the need for standards for residential development, the following is an excerpt of relevant working draft policies to consider when discussing the regulatory options for setbacks.

Use Policies – General

POLICY SH-42. Provide adequate setbacks from the City's lake shores to protect sensitive features and functions typical to the City's shorelines while recognizing accessory uses typical to the use that occupies the site.

POLICY SH-43. Guide development activity through dimensional and density standards appropriate to the shoreline jurisdiction. Standards should include setbacks, building heights, lot coverage, impervious surface, and other land use controls essential to provide guidance for future growth and development within the shoreline jurisdiction. Development regulations should, when possible, avoid, minimize, and mitigate impacts from development to ecological functions.

Residential Use Policies

² *Biggers v. City of Bainbridge Island*, 162 Wn.2d 683, 694-696 (2007)(holding that local jurisdiction's ability to manage shorelines, flows from the state because local governments do not possess any inherent constitutional police power over state shoreline use)..

POLICY SH-90. New primary residential structures should be prohibited in the setback from the shoreline; except where significant shoreline enhancement or restoration is proposed.

POLICY SH-92. New or expanded residential development in the shoreline jurisdiction should be located and designed to minimize adverse effects on shoreline process and functions.

POLICY SH-93. Design of new residential development should protect, enhance, and restore shoreline ecological functions. Encourage use of low impact development stormwater management techniques, shoreline restoration, and other conservation measures.

POLICY SH-95. New residential development and expansions to existing residential structures shall be designed and located to eliminate the need for shoreline armoring and stabilization.

POLICY SH-100. Allow existing, legally-established primary residential structures that encroach into the setback from the ordinary high water mark to be redeveloped within the existing footprint, provided, the redevelopment complies with the Shoreline Master Program.

POLICY SH-101. Create incentives and provide flexibility to encourage development and redevelopment to incorporate native vegetation, shoreline restoration, low impact development techniques, or softened shoreline stabilization, or other restoration measures determined by the Director.

Working draft policies generally reflect the concept of minimizing impacts on ecological function while allowing some flexibility for alternative development based on site conditions. The policies recognize the existing developed condition of Bellevue's shorelines but also acknowledge the ability of these shorelines to provide ecological benefits. Residential uses and their associated activities, make up the majority of the shoreline uses in Bellevue. Consequently, how these uses are developed is important to the character and health of Bellevue's shoreline. Although Bellevue's shorelines are considered relatively developed there are varying degrees of encroachment (i.e. setbacks) on the shoreline. Policies need to not only consider the character of the shorelines today, and accommodate where possible existing structures, but also the address future development. Because the existing development pattern varies, future development on sites with structures located far from the shoreline today may result in larger structures and development closer to the water in the future. In keeping with our established principles, the Commission must balance property rights with environmental protection and neighborhood character when making policy choices for setbacks and residential development.

Staff will review these policies with the Commission at the meeting as an introduction to the regulatory options presented below. The policies will be edited to reflect the regulatory concept the Commission supports as a result of their discussion. In Attachment 1 staff has included a complete excerpt from the relevant sections pertaining to residential development.

CITIZEN CONCERNS

The Commission and staff have heard numerous concerns regarding existing and pending regulations pertaining to residential properties. Although many of these concerns relate to the authority of critical areas ordinances to be applied in shorelines, there is a range of more specific issues that the Commission should consider in its deliberations. These include the following:

- The use of "no-touch" buffers instead of less restrictive setbacks;
- Sizing buffers or setbacks to minimize impact on private property;

- Regulatory standards should reflect existing developed conditions in Bellevue and not attempt recreate predevelopment conditions;
- Regulatory standards should reflect existing environmental conditions which are thought to be heavily affected by watershed-scale impacts;
- There is significant interest in retaining the ability to maintain and rebuild existing nonconforming structures;
- There is interest among some property owners that residential property rights trump environmental protection in the shoreline.

OTHER JURISDICTIONS' APPROACHES

Staff reviewed several local jurisdictions who have either received DOE approval for an updated SMP or who have an SMP which was approved by local ordinance. A detailed description of their standards is included in Attachment 2. On balance, all nearby jurisdictions chose not to place a “no-touch” buffer on their lake shorelines opting instead for a shoreline structure setback with a wide variety of sizes, restrictions, conservation requirements, and incentives.

Redmond has a 35-foot setback and allows, with revegetation, for a reduction to 20 feet. Kirkland has a slightly more complicated system, based on zoning district and lot depth. In low density residential, the requirement is 30 percent of lot depth but in no case less than 30 feet or more than 60 feet. For higher residential densities the rule is 25 feet or 15 percent of the parcel depth, whichever is greater. Sammamish requires a 45-foot setback. In most cases, all three jurisdictions have options to reduce setbacks based on restorative actions by the property owner.

The cities of Kirkland and Redmond also employ a range of approaches to preserving existing vegetation and to installing more. Kirkland sets retention standards for existing habitat trees and landscape standards for new shoreline development. Redmond has tree retention and vegetation requirements for commercial and multi-family zones. A vegetation standard is triggered on single family lots with the reconstruction and development of residences. Sammamish limits clearing and thinning and encourages vegetation retention.

In the draft SMP, staff presents a comparable approach that ties modest levels of replanting to new development or redevelopment to offset loss of shoreline function.

PROPOSED REGULATORY APPROACH

The SMP applies to that part of a property or properties 200 feet from the ordinary high water mark and the aquatic area waterward of that mark to the jurisdictional boundary. Associated floodways and wetlands area also included. While the entire shoreline area is subject to regulation under the SMP, and each increment of development should be mitigated under the Guidelines’ policy of no net loss, the impact on property owners can be greatly reduced, and the benefit to aquatic habitat potentially increased, if regulations and incentives are targeted to protecting a smaller area on either side of the ordinary high water mark. Regulations aimed at moderating development impacts to this interface between land and water may result in the most positive effects on a range of critical water quality and habitat functions, including those

components most important to juvenile Chinook survival in Lake Washington and Lake Sammamish.

This emphasis is justified because the coupling between terrestrial and aquatic systems is particularly strong along the lakeshore where human activities and their impacts can interfere with this relationship. Shorelines that are heavily modified with bulkheads, devoid of native vegetation or covered by structures, concrete, and pavers simply cannot contribute to this crucial interaction between land and water in the same manner less developed shorelines can. While not the only source of inputs, the absence of shoreline inputs can negatively affect the productivity of benthic habitats supporting both rooted and floating vegetation zone within littoral or photic zone (the depth to which light penetrates). This is important because the array of species found in the littoral zone is generally more diverse than in either open or deep water areas and is attributed to the variety of substrates and vegetation comprising the habitats present. The littoral zone provides habitat for a variety of attached microbes, worms, invertebrates (crayfish, shrimp and insects), and both juvenile and adult fish, amphibians, and reptiles. Lack of some measure of protection may prove especially damaging if future investment in shoreline property pushes even larger structures closer to the shoreline. Other areas on a shoreline property, being further removed from this sensitive zone, are simply more resilient, suggesting that policies and regulations aim at protecting an area around this interface between land and water should be the chief interest under Bellevue's proposed SMP, with a lesser focus on activities within the shoreline area outside this zone. Absent this emphasis, a more comprehensive, lot-scale approach might be justified to ensure no net loss of ecological function as properties redevelop.

WHY SETBACKS ARE NECESSARY

While there is little question that watershed-level effects have the greatest impact on aquatic areas, there is still benefit in protecting the interface between the land and water at the property scale to ensure no net loss of ecological function. Regulatory setbacks provide the best means to ensuring maintenance of the crucial connection between land and shore and the habitat and water quality benefits that come with it. Moreover, setbacks buffer aquatic areas from impacts associated with increased intensity of development. Shoreline setbacks serve a range of purposes, including, but not limited to:

- Protecting existing shoreline process and functions including shoreline habitat
- Avoiding damage from flooding and erosion
- Preventing excess nutrients from flowing into surface water
- Reducing inputs of pollutants found in oil, herbicides, pesticides and fertilizer
- Constraining inputs of trace metals and foreign chemicals of all kinds
- Ensuring that new development is adequately sited to avoid and minimize need for new shoreline stabilization features
- Preserving and enhancing views of the water
- Preventing permanent preclusion of restoration of shoreline functions and habitat, with the overall goal of achieving new State requirements for no net loss
- Maintaining existing character and the scenic quality of Bellevue's shorelines.

In general terms, a minimum of 25-to-50 feet is needed to provide an appropriate transition between the water and improvements in order to provide protection from erosion, account for flooding, and provide for the connection between shoreline vegetation and the littoral zone. When Bellevue adopted its SMP in 1974, it established a 25-foot setback. This was subsequently expanded to 50 feet in 2006 when an additional 25-foot buffer was added in response to new research suggesting that additional protection might be warranted. It was also recognized that the ability of setbacks to remove some pollutants carried by runoff can be improved by planting a portion of the shoreline in native shrubs and groundcovers and some smaller trees while also providing food sources for shoreline wildlife and nutrient inputs to littoral zone. Use of native vegetation will also help to reduce application of chemicals normally used in lawn and garden care close to the shoreline area.

Though a review of scientific literature based on function may suggest the need for larger shoreline buffers to protect more ecological functions (WDFW recommends aquatic buffers up to 250 feet wide in many cases), application of these recommendations is often heavily influenced by specific site characteristics and the intensity of existing development. Moreover, the efficiency with which buffers perform their work—for example removing pollutants or creating habitat—drops for some functions with lateral distance from the aquatic zone. As a consequence, staff has identified setback options that as much as possible recognize existing conditions and are focused on meeting a no net loss standard. For example, roughly 76 percent of structures (greater than 800 square feet) on Lake Sammamish and 67 percent of similar structures on Lake Washington are located at more than 35 feet from ordinary high water (OHW). Similarly about 89 percent of structures on Phantom Lake are located more than 50 feet away and 68 percent of structures at Newport Shores Canals are farther than 35 feet.

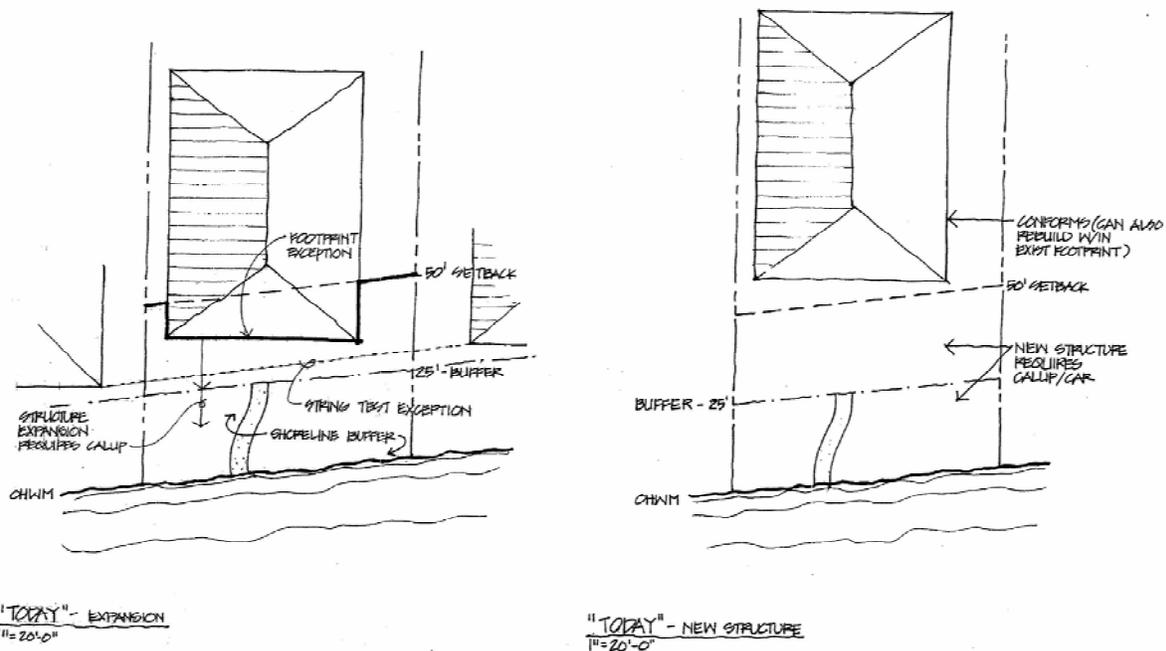
The potential regulatory options try to balance private property rights and environmental protection by incorporating setback options that are based on an evaluation of existing conditions while providing protection for shoreline functions.

SETBACK OPTIONS

In crafting setback options, staff relied on the SMA, the Guidelines, draft SMP policies outlined above, and the previously introduced principles for review that state regulations should: (1) be Bellevue appropriate; (2) should focus on neighborhood character, (3) balance regulatory interest with private property rights; (4) be predictable and user-friendly while preserving flexibility for those that want it; and, (4) take notice of citizen issues. With this in mind, staff developed two options (A and B) for the Planning Commission's consideration. We have also included our current code option for comparison purposes. As discussed at our May 12 study session, staff has not developed detailed code language at this time. Instead staff seeks direction from the Commission on the broad outline of a preferred approach; staff will return at a later date with detailed policy and code language.

Current Code

The current shoreline setback provisions were developed as part of the 2006 Critical Areas Code update. While a key component was the addition of a 25-foot shoreline buffer to the preexisting 25-foot setback, the new provisions also contained two additional elements that were unique when compared to previous critical areas regulation in Bellevue. The first was the concept that no legally existing structure would be rendered nonconforming—the so-called “footprint” rule. And the second was the nearly infinite flexibility allowed a property owner to depart from the existing prescriptive regulations and tailor regulations to their specific circumstance. Other notable provisions included an allowance for modest expansion without additional study and a string test rule that permitted new development to move to a line established by previous development so long as it was not less than 25 feet from ordinary high water.

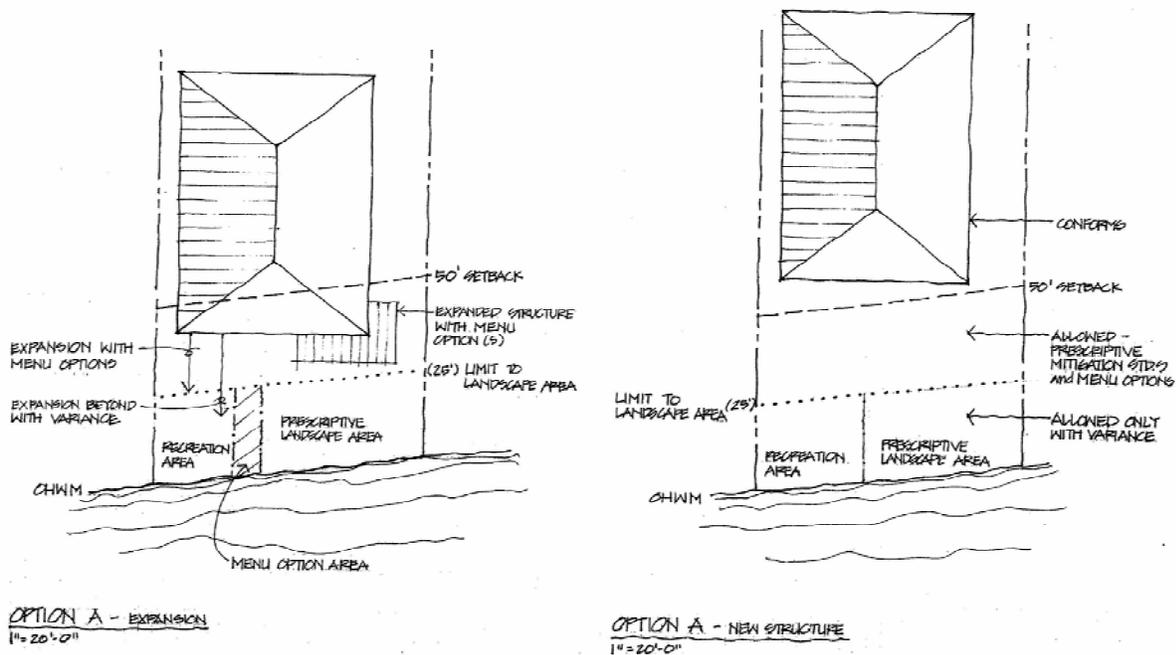


As outlined in the diagram above expansion of an existing residence toward the water is allowed provided an applicant can demonstrate, by means of a scientific study, that the impacts to ecological functions are mitigated. Typically, this analysis resulted mitigation involving aquatic and buffer planting, full or partial bulkhead removal, soft stabilization or other improvements that provided ecological lift. Similarly, a property owner building a new residence on an undeveloped lot and facing a 50-foot setback could choose to propose a different dimension and move forward provided a scientific study demonstrated net ecological improvement.

Option A – Maximum Flexibility with Incentive Options

Option A is attempts to capture most of the protection provided by the larger setback in our current code while substituting a set of preapproved mitigation menu options for the inherent flexibility of detailed site-specific scientific reports now required. No buffer is recommended;

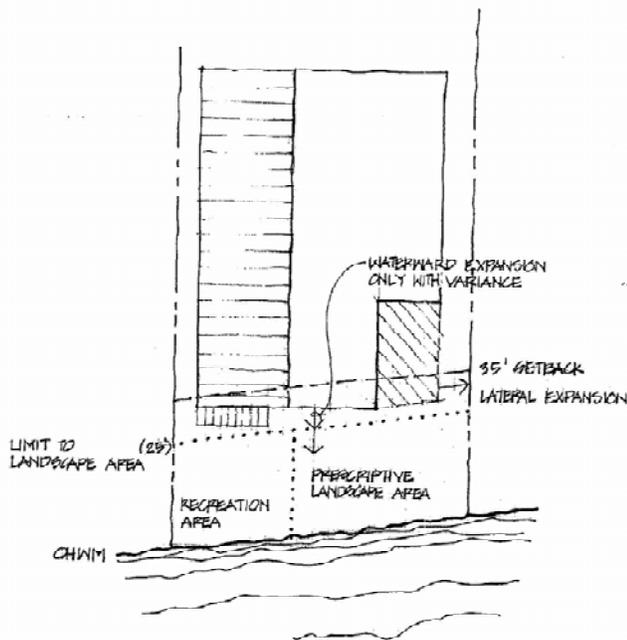
however, this option includes a setback of 50 feet for lakes Sammamish, Washington, and Phantom, mimicking current code, and a setback of 25 feet for Newport Shores Canals. Setback reductions for new and existing development up to 25 feet from OHW are possible based on selection from a range of incentive actions in the mitigation option menu. New construction or tear down and reconstruction must start at the 50-foot line and implement a required landscape standard. Movement beyond this line requires participation in the options menu. In contrast with current code, expansion beyond 25 feet would require a shoreline variance. (The landscape standard resembles similar approaches involving landscaping and tree preservation found elsewhere in the land use code that is triggered by certain redevelopment actions. In this case, new construction or complete redevelopment requires planting the landscape reserve space noted below.)



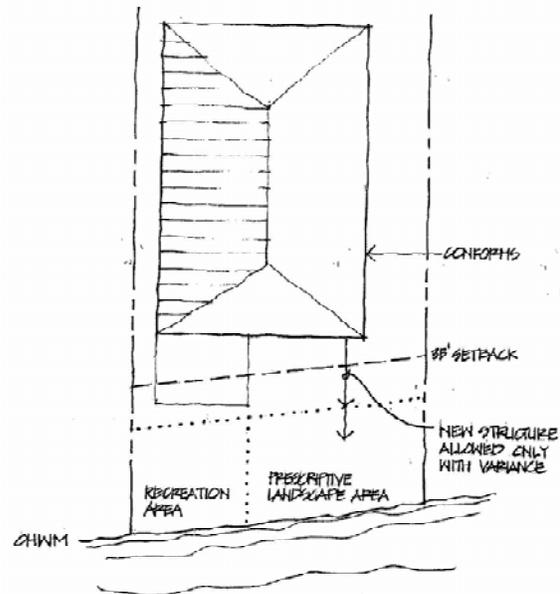
Option A divides the first 25 feet of setback from OHW into a management area divided between a recreation area and a landscape reserve area. This concept responds to a concern heard from many shoreline property owners regarding the inflexibility of buffers by dedicating an area of up to 40 percent of the first 25 feet of from OHW to shoreline recreational uses. (The remaining 60 percent is dedicated to vegetation conservation—for example, preservation of existing vegetation—or serves as a receiving area for required landscaping or future mitigation from the options menu.) The idea is to provide property owners freedom to use the shoreline area as they see fit within some minimal guidelines while maintaining the means to mitigate impacts of new development. Of course, absent development activity, existing legal uses and activities may persist and property owners may continue to use their property as they do currently.

Option B – Maximum Predictability

Option B depicts an alternative designed to provide maximum predictability by setting a bright line and prohibiting new development beyond this point except with a variance. No buffer is suggested but minimum setbacks are 50 feet for Phantom Lake, 35 feet for lakes Sammamish and Washington, and 25 feet for Newport Shores Canals.



OPTION B - EXPANSION
1" = 20'-0"



OPTION B - NEW STRUCTURES
1" = 20'-0"

In general, expansion within the required setback would be limited and structures already within the setback would be considered nonconforming. However, for those existing structures situated at less than the required setback but more than 25 feet from OHW, minor lateral expansion with partial prescriptive mitigation (landscaping) would be allowed without triggering full compliance with the required setback. In contrast, for structures already closer than 25 feet to OHW, no expansion waterward within the 25 feet would be permitted without a variance. New construction, including a tear down and rebuild, would have to meet the setback limit and provide prescriptive landscaping to standard.

As in Option A, a management area divided between a recreation area and a landscape reserve is identified. This option responds to the concern from many shoreline property owners regarding the inflexibility of buffers and the need to use their shoreline for recreational and water enjoyment activities. Again, absent development activity, existing legal uses and activities may persist and property owners may continue to use their property as they do currently.

Table 1:

COMPARISON OF RESIDENTIAL DEVELOPMENT STANDARDS			
	TODAY	OPTION A	OPTION B
SETBACK³	All water bodies	Lake WA, Sammamish, Phantom Lake, & Mercer Slough/Kelsey Creek	Phantom Lake & Mercer Slough/Kelsey Creek 50'
	Developed site- 25' buffer/25' setback	50'	
	Undeveloped site- 50' buffer/0 setback	Newport Shores Canals 25'	Lake WA and Sammamish 35'
			Newport Shores Canals 25'
PROPERTY STATUS	Conforming	Nonconforming/Existing Development	Nonconforming w/ exceptions
PROCESS TO MODIFY SETBACKS	<p><i>Exceptions-</i></p> <ul style="list-style-type: none"> • Footprint exception • String Test to no less than 25' <p><i>Prescriptive-</i></p> <ul style="list-style-type: none"> • Allowed uses, 500 sq. ft under limited circumstances. <p><i>Administrative-</i></p> <ul style="list-style-type: none"> • Critical Land Use Permit (CALUP) w/ Critical Areas Report-(CAR) 	<p><i>Prescriptive-</i></p> <ul style="list-style-type: none"> • Menu options to 25' <p><i>Administrative-</i></p> <ul style="list-style-type: none"> • Variance beyond 25' 	<p><i>Prescriptive –</i></p> <ul style="list-style-type: none"> • None for new structures • Minor lateral expansion for nonconforming <p><i>Administrative-</i></p> <ul style="list-style-type: none"> • Variance beyond 35'
CERTAINTY	Low	Moderate	High
FLEXIBILITY	Moderate	High	Low
ECOLOGICAL FUNCTION	Moderate/High	Moderate	Moderate/Low
COST TO PROPERTY OWNER	High	Moderate	Low
COMPLEXITY OF ADMINISTERING	High	Moderate	Low

NEXT STEPS

Staff seeks Commission direction on proceeding with a setback option introduced in this memorandum. Selection of an option would allow staff to return with detailed policy and code

³ Floodplain, wetland and buffers overlay setbacks.

language for Commission review. Meetings that follow this summer will focus on the specific topics previously identified and will work towards refining those related sections of the draft SMP as the processes progresses. This process could result in a revised draft being released in late September with a formal review of the draft to occur at a public hearing in October or November.

Table 1: The Tentative Work Schedule for the SMP Update

June 9	Introduce working draft Continue review working draft and identify target areas for detailed review
June/July	Setbacks and shoreline stabilization
September/October	Piers, nonconformities and other issues Introduce revised draft Continue review of revised draft
October/November	Open house Public Hearing on revised draft
November	Make recommendation to City Council

ATTACHMENTS

1. Excerpt from working draft
2. Comparison of other jurisdictions

ATTACHMENT 1
Excerpt from Shoreline Master Program working draft 5-12-2010

2.B.4. Shoreline Residential (SR) Environment

2.B.4.a. Purpose of the SR Environment

The purpose of the Shoreline Residential environment is to accommodate single or multifamily residential development and associated accessory structures that are consistent with this shoreline master program.

2.B.4.b. SR Designation Criteria

A Shoreline Residential environment designation will be assigned to City of Bellevue's shorelands if they are predominantly residential development or are planned for residential development, and exhibit moderate to low levels of ecological functions because of historic shoreline modification.

2.B.4.c. SR Management Policies

Policy SH-21. Establish standards for density, minimum frontage width, setbacks, lot coverage limitations, shoreline stabilization, vegetation conservation, critical area protection, and water quality. Standards must be established to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

Policy SH-22. New multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities. This policy is not intended to apply to existing residential uses.

Policy SH-23. Water-oriented recreational uses should be allowed.

2.B.5. Shoreline Residential Canal (SRC) Environment

2.B.5.a. Purpose of the SRC Environment

The purpose of the Shoreline Residential Canal environment is to maintain single-family residential development adjacent to artificially-created canals in the Newport Shores Community. The SRC designation acknowledges the unique characteristics of that portion of the Newport Shores Community that is dependent on the artificial canals for access to waters of the state for the purpose of navigation. This environment also identifies specific physical and biological constraints related to the presence of engineered bulkheads to support the artificial canal system and the filled lands behind the bulkheads.

2.B.5.b. SRC Designation Criteria

A Shoreline Residential Canal environment designation is assigned to those properties within the Newport Shores community with frontage along an artificial canal system which is dependent upon engineered bulkheads for structural support. These areas are characterized by a relatively low-level ecological function. The SRC environment does not include those Newport Shores properties that are located along sections of Lake Washington shoreline and not on canals.

ATTACHMENT 1
Excerpt from Shoreline Master Program working draft 5-12-2010

2.B.5.c. SRC Management Policies

Policy SH-24. Allow for the maintenance, repair, and replacement of the canal structural bulkheads to retain the canals in their existing configuration as necessary to preserve the original design; provided the objective of no net loss of ecological function is satisfied.

Policy SH-25. Develop standards for density or minimum shoreline frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

Policy SH-26. Allow water-oriented recreational uses.

3.B.1.b. General Use Policies

POLICY SH-38. The City should ensure that all proposed shoreline development will protect the public's health, safety, and welfare, and should endeavor to protect property rights while implementing the policies of the Shoreline Management Act and the City's SMP.

POLICY SH-39. The City should give preference to those uses that are consistent with the City's SMP, or are unique to or dependent upon uses of the state's shoreline areas.

POLICY SH-40. Single family development is the most common land use along Bellevue's shorelines and is a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment (WAC 173-26-142(3)(j)).

POLICY SH-41. The City should reduce use conflicts by prohibiting or applying special conditions to those uses which are inconsistent with this SMP, or are not unique to or dependent upon use of the state's shoreline. In implementing this policy, preference should be given first to water-dependent uses, then to water-related uses, and water-enjoyment uses.

POLICY SH-42. Provide adequate setbacks from the City's lake shores to protect sensitive features and functions typical to the City's shorelines while recognizing accessory uses typical to the use that occupies the site.

POLICY SH-43. Guide development activity through dimensional and density standards appropriate to the shoreline jurisdiction. Standards should include setbacks, building heights, lot coverage, impervious surface, and other land use controls essential to provide guidance for future growth and development within the shoreline jurisdiction. Development regulations should, when possible, avoid, minimize, and mitigate impacts from development to ecological functions.

POLICY SH-44. Locate, design, and manage shoreline uses to prevent significant adverse impacts to ecological functions, such as water quality, and fish and wildlife habitat.

POLICY SH-45. Ensure that the objective of no net loss of ecological function is met through establishment of appropriate use regulations in response to findings of the City's shoreline inventory and assessment.

ATTACHMENT 1
Excerpt from Shoreline Master Program working draft 5-12-2010

3.B.1.c. General Use Regulations (PROPOSED REGULATIONS AND REGULATORY CONCEPTS)

Proposed Regulations:

1. Any development within the shoreline jurisdiction shall comply with this SMP and all applicable Bellevue codes and policies, including but not limited to the Comprehensive Plan, the Bellevue Land Use Code, Sign Code, and clearing and grading regulations. When conflicts exist, the more protective rule shall apply.
2. Where applicable, all federal and state water quality and effluent standards shall be met.
3. If an upland portion of a property extends into the shoreline jurisdiction, SMP policies regulations shall apply only to that portion of the property lying within shoreline jurisdiction.
4. All development within shoreline jurisdiction shall be accompanied by a plan indicating methods of preserving shoreline vegetation and for control of erosion during and following construction in accordance with this SMP, the City of Bellevue Clearing and Grading regulations, Chapter 23.76 BCC, Storm Code, Chapter 24.06 BCC, and the Comprehensive Plan.
5. Accept for human propelled small unlicensed watercraft (such as kayaks or skiffs), the dead storage of watercraft water ward of the ordinary high water mark of the shoreline is prohibited.
6. Where applicable, state and federal standards for the use of herbicides, pesticides and/or fertilizers shall be met, unless superseded by more restrictive City of Bellevue codes. Use of such practices in the shoreline shall comply with the City's "Environmental Best Management Practices."
7. Adequate storm drainage and sewer facilities must be operational before construction of new development within shoreline jurisdiction. Storm drainage facilities shall be separated from sewage disposal systems.

Proposed Regulatory Concepts:

- Create siting standards applicable to all uses.
- Simplify existing density and dimensional standards (LUC 20.20.10) to include requirements appropriate for application in the shoreline jurisdiction and appropriate to protect shoreline features and functions.
- Develop appropriate shoreline setback standards.

3.B.8. Residential Development

Residential development means one or more buildings, structures, lots, parcels or portions thereof which are designed for and used or intended to be used to provide a place of abode, including single-family residences, duplexes, other detached dwellings, floating homes, multi-family residences, mobile home parks, residential subdivisions, residential short subdivisions, and residential planned unit development, together with accessory uses and structures normally applicable to residential uses, including, but not limited to, garages, sheds, tennis courts,

ATTACHMENT 1
Excerpt from Shoreline Master Program working draft 5-12-2010

swimming pools, parking areas, fences, cabanas, saunas, and guest cottages. Residential development does not include hotels, motels, or any other type of overnight or transient housing or camping facilities.

Single family residences are a preferred use under the Shoreline Management Act when developed in a manner consistent with this Shoreline Master Program.

3.B.8.a. Applicability of Residential Development Policies and Regulations

These policies and regulations apply to residential uses and structures in the shoreline uses. For purposes of this section, accessory structures shall include garages, sheds, swimming pools, tennis courts, spas, greenhouses and similar facilities.

3.B.8.b. Residential Development Policies

POLICY SH-89. Single-family residential development is a preferred shoreline use, when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.

POLICY SH-90. New primary residential structures should be prohibited in the setback from the shoreline; except where significant shoreline enhancement or restoration is proposed.

POLICY SH-91. Develop standards for both major and minor replacement, repair, and maintenance of existing structures and features.

POLICY SH-92. New or expanded residential development in the shoreline jurisdiction should be located and designed to minimize adverse effects on shoreline process and functions.

POLICY SH-93. Design of new residential development should protect, enhance, and restore shoreline ecological functions. Encourage use of low impact development stormwater management techniques, shoreline restoration, and other conservation measures.

POLICY SH-94. All residential development, including appurtenant structures and uses, should be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements or armoring are not required to protect such structures and uses.

POLICY SH-95. New residential development and expansions to existing residential structures shall be designed and located to eliminate the need for shoreline armoring and stabilization.

POLICY SH-96. Over-water residences, including floating homes, are not a preferred use and should be prohibited.

POLICY SH-97. New multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access.

POLICY SH-98. Allow maintenance of legally-established landscaping consistent with the Shoreline Master Program, and encourage conversion of landscaping to native vegetation.

POLICY SH-99. Acknowledge and address distinctive patterns of historic shoreline conditions and characteristics and respond to these conditions and characteristics by developing appropriate development standards.

POLICY SH-100. Allow existing, legally-established primary residential structures that encroach into the setback from the ordinary high water mark to be redeveloped within the existing footprint, provided, the redevelopment complies with the Shoreline Master Program.

ATTACHMENT 1
Excerpt from Shoreline Master Program working draft 5-12-2010

POLICY SH-101. Create incentives and provide flexibility to encourage development and redevelopment to incorporate native vegetation, shoreline restoration, low impact development techniques, or softened shoreline stabilization, or other restoration measures determined by the Director.

POLICY SH-102. When subdividing waterfront property into 5 or more lots, require the reallocation of density away from sensitive shoreline resources to more appropriate upland locations.

POLICY SH-103. Balance vegetation management, conservation, or restoration objectives, with residential shoreline uses, including recreation.

3.B.8.c. Residential Development Regulations (PROPOSED REGULATORY CONCEPTS)

- Develop standards for new single-family residential addressing siting, height, location, construction, repair, and maintenance (including legally-established landscaping).
- Develop standards that balance vegetation management, conservation, or restoration with the recreational use associated with residential shoreline.
- Develop standards to allow maintenance and repair of existing legally-established appurtenant structures.
- Develop standards prohibiting new appurtenant structures in the shoreline setback.
- Develop standards allowing limited intrusions into the setback, such as stairs, handrails, and trails providing access to the shoreline.
- Develop standards prohibiting the use of boats, houseboats, or watercraft as a permanent residence; except, for those proposed in the Marina Environment designation.
- Develop standards for new multifamily residential development addressing siting, height, location, construction, repair, maintenance, and public access (where applicable).
- Develop shoreline subdivision regulations that include requiring the clustering of density through subdivision of waterfront land into 5 or more lots. Provide incentives for property owners subdividing less than 5 lots with a flexible standard.
- Develop prescriptive criteria to allow modification of dimensional standards.

ATTACHMENT 2
Jurisdiction Comparisons

	Kirkland (DOE Hearing)	Sammamish (Submitted to DOE- no DOE Hearing yet)	Redmond (approved by DOE)
Buffer	None	None	None
SETBACK	<p>Residential-L 30% of the average parcel depth, except in no case is the shoreline setback permitted to be less than 30 feet or required to be greater than 60 feet</p> <p>Residential-M/H The greater of: a. 25' or b. 15% of the average parcel depth</p>	<p>Shoreline Setback 45'</p> <p>Building setback 5'</p>	<p>Lake Sammamish 35'</p>
MINIMUM SETBACK AFTER PRESCRIPTIVE MODIFICATIONS	No less than 25'	No less than a 15' structure setback plus 5' building setback (total of 20')	No less than 20'
PRESCRIPTIVE REQUIREMENTS TO EXPAND BEYOND SETBACK	<p>Menu of options to reduce setback:</p> <ul style="list-style-type: none"> • Non/soft structural stabilization • Opening of piped streams • Sloping hard structural stabilization • LID techniques as an alternative to direct lake discharge • Increased landscape strip along water • Pervious materials for all pollution generating surfaces • Limit lawn area w/in setback • Preserve or restore 20% of site w/ native vegetation 	<p>Menu of improvement options to reduce setback:</p> <ul style="list-style-type: none"> • Bulkhead removal • Restoration of shoreline to a natural or seminatural state • Preservation of existing natural features • Establishment of 15- vegetation enhancement area • Establishment of 5-feet of native vegetation waterward of bulkhead • Limit impervious surface • Limit lawn area • Additional vegetation enhancement area 	20' setback area revegetated with primarily native vegetation. Establishment of a tree canopy is encouraged.

ATTACHMENT 2
Jurisdiction Comparisons

	Kirkland (DOE Hearing)	Sammamish (Submitted to DOE- no DOE Hearing yet)	Redmond (approved by DOE)
		<ul style="list-style-type: none"> BMPs for vegetation management 	
NEW AND TEAR DOWN STRUCTURES	Required to meet minimum setbacks	Can be rebuild in existing footprint	Required to meet 35' but may take advantage of reduction to 20' with planting. New construction or reconstruction that involves greater than 50% of the value of existing improvements adhering to 35-foot setback- requires 50% of the minimum 20foot building setback with native vegetation.
VEGETATION STANDARDS	<p>Trees w/in setback must be preserved</p> <p>Plant native vegetation in 75% of the nearshore area- (10-15 feet in width)</p> <p>Nonconforming Shoreline Setback Vegetation: Must be brought into conformance when the cost of which exceeds 50 percent of the replacement cost of all structures on the subject property.</p>	<p>Vegetation enhancement area- Vegetation enhancement area means an area immediately landward of the OHWM in which existing trees and native vegetation are preserved or native vegetation is restored</p> <p>Lake Sammamish Vegetation Enhancement Area. The fifteen (15) foot-wide portion of the shoreline setback immediately landward of the OHWM is reserved as a vegetation enhancement area.</p> <p>Triggered:</p> <ul style="list-style-type: none"> Construct or expand the footprint by more than two hundred (200) sq ft Construct or expand an existing bulkhead or other stabilization structure by more than ten percent (10%). 	<p>Trees within building setback must be maintained.</p> <p>20' setback area with native vegetation. Establishment of a tree canopy is encouraged.</p>

ATTACHMENT 2
Jurisdiction Comparisons

	Kirkland (DOE Hearing)	Samamish (Submitted to DOE- no DOE Hearing yet)	Redmond (approved by DOE)
		<p>The vegetation enhancement area, (75%) by area of the vegetation consisting of native trees, shrubs, and groundcover. Up to (25%) by area of the vegetation in the vegetation enhancement area may be composed of non-native or ornamental plantings.</p>	
<p>PROPERTY STATUS</p>	<p>Legally established nonconforming structures may be maintained, altered, remodeled, repaired and continued; provide that nonconforming structures cannot be enlarged, intensified, increased, or altered in any way that increases the nonconformity.</p> <p>Expansion or enlargement in shoreline setback requires a variance.</p> <p>Specific circumstances where a nonconforming structure can be expanded without a variance:</p> <ul style="list-style-type: none"> ○ Constructed prior to City's Final Shoreline Report in 12-2006 ○ Implement setback reduction provisions for all structures. ○ Structure located landward of the OHWM. ○ Enlargement of footprint within 	<p>Expansion, reconstruction, replacement of legally established structure allowed if doesn't increase the degree of non-conformity.</p> <p>Replacement may be allowed if City determines that new location results in less impact to shoreline functions than replacement in existing footprint.</p> <p>Existing non-conforming with regard to setback, area, bulk, ht. or density may be maintained, reconstructed or repaired provided that:</p> <ul style="list-style-type: none"> ● Maint./recon./repair does not increase non-conformity by encroaching on or into building or shoreline setback <p>If non conforming is damaged, it may be reconstructed to match the footprint that existed immediately prior to the event provided:</p> <ul style="list-style-type: none"> ● Owner submit complete 	<p>Nonconforming structure may not be expanded or altered so as to increase nonconformity.</p> <p>Nonconforming structures may be maintained & repaired & may be enlarged or expanded provided that expansion does not extend the structure close to the shoreline.</p> <p>Structure shall be brought into full compliance with code when alteration or expansion of the structure takes place and the following takes place within any 3-yr period:</p> <ul style="list-style-type: none"> ● The GFA is increased by 100% or more, <u>OR</u> ● The costs stated on approved building permit equal or exceed the assessed value of the structure at the beginning of that 3-yr. period.

ATTACHMENT 2
Jurisdiction Comparisons

	Kirkland (DOE Hearing)	Sammamish (Submitted to DOE- no DOE Hearing yet)	Redmond (approved by DOE)
	<p>shore. setback not exceed 10% of GFA. Upper floor additions may be permitted</p> <ul style="list-style-type: none"> ○ Enlargement cannot extend waterward than existing structure. ○ Applicant must restore a portion of shoreline setback area with riparian veg. ○ Comply with BMP's ○ Must use fully shielded cut off light fixtures ○ Remodel not cause adverse impact to ecological functions and/or processes. ○ Provision can only be used once within any 5 year period 	<p>application within 24 months of date of damage</p> <ul style="list-style-type: none"> ● All permits issued within 2 yrs. Of initial submittal of complete application and restoration is completed within 2 yrs. Of permit issuance. May be extended 1 yr. ● If above criteria not met, City may require applicant to plant vegetation enhancement with native trees and shrubs <p>Non-conforming structure that is moved outside the existing footprint must be brought into compliance with SMP.</p>	

section, 20D.150.60-010 and other applicable portions of the Shoreline Master Program.

- (5) In any High Intensity/Multi-Use location within a buffer where the land is actively being used as part of a legitimate business operation, such land including either structures or active operational areas, established prior to January 1, 2003, may continue to operate. New structures, pavement, and other improvements are permitted within this area so long as incremental environmental benefit is provided and no net loss of shoreline ecological functions is demonstrated.

20D.150.60-020 Lake Sammamish Setback.

Lake Sammamish has no buffer (as noted in 20D.150.60-010 above) but rather has a building setback. The waterfront-building setback for new development and redevelopment (tear downs) along Lake Sammamish shall be a minimum of 35 feet. The building setback can be reduced to 20 feet if the setback area is revegetated with primarily native vegetation. Establishment of a tree canopy is encouraged. No constructed structures other than those required for waterfront access/docks are allowed within the 20-foot setback. New development adhering to the 35-foot setback and/or reconstruction that involves greater than 50% the value of existing improvements shall be required to plant 50% of the area in the minimum 20 foot building setback with native vegetation.

20D.150.60-030 Buffer and Setback Measurements

Shoreline buffers and waterfront-building setbacks are measured from the ordinary high water mark.

20D.150.70 In-Water Structures

20D.150.70-010 Purpose.

The purpose of this chapter is to provide standards and guidelines for the location and design of docks, marinas, boat launches, and similar in-water structures that have the potential to adversely impact natural shoreline resources.

20D.150.70-020 Applicability.

- (1) All in-water structures shall comply with the standards of this chapter.
- (2) Critical Areas Restrictions. In-water structures are also subject to the requirements of RCDG 20D.140.30-030, Alteration of Wetlands, and RCDG 20D.140.20-040, Alteration of Riparian Stream Corridors.

20D.150.70-030 Permitted In-Water Structures.

- (a) They shall not interfere with existing in-water recreational activities;
 - (b) They shall not significantly damage fish and wildlife habitats;
 - (c) They shall be designed to achieve no net loss of shoreline ecological functions.
 - (d) They shall be aesthetically and functionally compatible with the shoreline area and nearby uses. Aesthetic impacts shall be avoided, or if not possible, aesthetic impacts shall be mitigated.
 - (e) They shall be located only at sites with suitable environmental conditions, shoreline configuration, access, and neighborhood uses.
- (5) Boat launch ramps and vehicle access to the ramps shall be paved. Access to the ramp and parking for the ramp shall be located a sufficient distance from any frontage road to provide safe maneuvering of boats and trailers, and shall not be located through public beaches, or through critical habitat areas, including, but not limited to, Category I and II wetlands.
- (6) Boat launch ramps shall be designed to minimize areas of landfill or shoreline protective structures.
- (7) All facilities shall meet health, safety, and welfare requirements of appropriate state agencies.
- (8) Covered moorage is prohibited.
- (9) Commercial marinas are prohibited. Recreational marinas are permitted and shall provide public access.
- (10) If a recreational marina allows live-aboard vessels, a Shoreline Conditional Use Permit shall be required.
- (11) Marinas and boat launches shall not interfere with the rights of navigation.
- (12) Vessels shall be restricted from extended mooring on waters of the state except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

20D.150.70-070 Water-Oriented Accessory Structures.

Accessory structures that are water-oriented and accessory to a shoreline or water-dependent use shall meet the following standards.

- (1) Water-oriented accessory structures are not subject to the waterfront building setbacks or side yard setbacks of the underlying zone (see RCDG 20C.30.25), unless otherwise noted below.

- (2) Boathouses and similar water-oriented structures may extend no further waterward than the ordinary high water line. Such structures shall meet the minimum side yard setback required in the underlying zone, unless they are a joint use facility that serves more than one adjoining waterfront lot.
- (3) Water-oriented accessory structures shall not exceed ten feet in height and 250 square feet in area. However, multiuse structures that include storage and changing rooms may be a maximum of 500 square feet. The area of such covered structures shall be included in the maximum lot coverage and impervious surface limits of the zone in which they are located.
- (4) Uncovered boat lifts and similar equipment or structures used for watercraft may be located waterward of the ordinary high water mark to the waterward limit of the associated pier or dock. Such structures associated with docks shall have a height limit of four feet above ordinary high water. Such structures associated with piers shall have a height limit of four feet above the deck of the pier. Where a boatlift is used in lieu of a pier, it may extend waterward of the ordinary high water mark, provided it does not exceed four feet above the OHWM in height and meets the side yard setback of the underlying zoning district. Covered boat lifts shall not exceed 96 inches in height as measured from the ordinary high water mark.
- (5) Joint Use Accessory Structures. Water-oriented accessory structures that serve more than one adjoining waterfront lot may be constructed with a zero side setback from the common boundary, provided that the owners of such property enter into a reciprocal use agreement recorded with the King County Auditor.

20D.150.80 Shoreline Protective Structures

20D.150.80-010 Purpose.

The purpose of this chapter is to provide standards and guidelines for the location and design of bulkheads, levees and other shoreline protective structures that have the potential to adversely impact the shoreline natural environment. New development, however, should be located and designed to avoid the need for future shoreline stabilization to the extent feasible.

20D.150.80-020 Permitted Shoreline Protective Structures.

- (1) New and replacement shoreline protective structures shall be allowed under the following circumstances only:

RCDG 20D.140.30-040, Wetlands Performance/Design Standards and RCDG 20D.140.20-060, Riparian Stream Corridor Performance Standards.

- (c) Any removal of trees within the shoreline jurisdiction shall also meet the requirements of RCDG 20D.150.110, Tree Protection, Landscaping and Screening Within Shorelines.

20D.150.100 Fences

20D.150.100-010 Prohibited Locations

Fences are prohibited in stream buffers.

20D.150-110-020 General Regulations

Fences in residential and other zones are regulated in RCDG 20D.50, Fences.

20D.150.110 Tree Protection, Landscaping and Screening Within Shorelines.

20D.150.110-010 Tree Protection

In addition to RCDG 20D.80, Landscaping and Tree Protection, all development within the shoreline jurisdiction shall comply with the additional tree protection, landscaping and screening requirements of this section. Where there is a conflict between regulations, the more restrictive regulation shall apply.

- (1) Tree Protection Requirements. To maintain the ecological functions that trees provide to the shoreline environment, including air quality, wildlife habitat, temperature and glare attenuation, and aquifer recharge, significant trees shall be retained as follows:
 - (a) Consistent with 20D.180.20-070, Tree Protection Standards, a minimum of 35% of the existing significant trees shall be preserved on site.
 - (b) Within the waterfront building setback, significant trees shall be retained, except where the tree is dead, diseased, dying or hazardous.
 - (c) Within the shoreline buffer, trees shall be removed only where allowed under RCDG 20D.140.10-160, Buffer Areas, and 20D.140.20-020, Stream Buffers.
 - (d) Within the shoreline jurisdiction, significant trees shall not be removed or topped for the purpose of creating views. Non-destructive thinning of lateral branches to enhance views is allowed.

- (2) Tree Replacement. Significant trees that are removed, or significant trees designated for protection that are irreparably damaged or destroyed shall be replaced. Replacement trees shall be planted as follows:
- (a) Each existing significant tree shall be replaced with two new trees.
 - (b) For each additional three inches d.b.h. above six inches d.b.h., one additional replacement tree shall be planted, up to six trees.
 - (c) Where on-site tree replacement is not feasible, the Administrator may allow up to 60% of the required replacement trees to be planted off-site, pursuant to RCDG 20D.80.20.080, Tree Replacement. Replacement trees shall be planted within or adjacent to the shoreline jurisdiction. Trees planted in proposed landscaping of the site perimeter, vehicle use areas, shoreline buffers and other areas of the site may be counted as replacement trees.
 - (d) See RCDG 20D.80.20-080(5) for size, species and condition of replacement trees.
- (3) Trees planted within shoreline public open space areas and public trail corridors shall be maintained only under the supervision of Redmond Parks Department.

20D.150.110-020 Landscaping and Screening in Shorelines

- (1) Landscaping Within Stream Buffers.
Within stream buffers, landscaping shall meet the additional requirements of RCDG 20D.140.30-040, Wetlands Performance/Design Standards in RCDG 20D.140.20-060, Riparian Stream Corridor Performance Standards.
- (2) Landscape Area Requirements. In Business (CO, CB, NC & GC) zones, 25% of the site shall be landscaped. In the Business Park Zone, 22% of the site shall be landscaped if the site is less than one acre and 20% of the site shall be landscaped if the site is one acre or larger in size. In Industrial (MP & I) zones, 20% of the site shall be landscaped if the site is less than one acre and 18% of the site shall be landscaped if the site is one acre or larger in size. In multi-family residential zones (R12, R18, R20 & R30), 50% of the site shall be landscaped. Vegetated buffers may be used to meet the site area landscaping requirements.
- (3) Screening of Storage and Service Areas.
- (a) All outdoor storage areas shall be screened on all sides, pursuant to 20D.120.10-040, Screening.
 - (b) All vehicle use areas located adjacent to, or visible from public parks or open space, the water body, or shoreline trails or public access features shall be screened from the water body, shoreline trails and public access features. Screening is intended to create a

(3) Additional Shoreline View Requirements.

- (a) Public shoreline views along the Sammamish River corridor are provided by the Sammamish River Trail along the east side of the river and the informal trail along the west side of the river. Because of this public facility and the established Citywide Shoreline Public Views identified in (1) above, additional public shoreline view regulations and provisions within proposed developments for public views are not required along the Sammamish River.
- (b) Public shoreline views along the Bear/Evans Creek Valley are protected to some degree by Citywide Shoreline Public Views identified in (1) above. Potential public physical access will eventually be provided by the Bear/Evans Creek Trail Greenway System, which in turn will provide public visual access.
- (c) Public shoreline views along the north side of Bear Creek (between the Sammamish River and Union Hill Road) are provided by the Bear Creek Trail. Additional public shoreline view regulations are not required for this reach of Bear Creek.
- (d) One public shoreline view of Lake Sammamish is identified in (1) above via Idylwood Park. Public view corridor regulations of single family homes along Lake Sammamish shall not be required.

20D.150.190-020 Shoreline Cultural Access. – Reserved.

20D.150.200 Shoreline Administration and Procedures

20D.150.200-010 Administrative Interpretations

The Administrator may adopt such code interpretations as necessary to administer the shoreline master program policies and regulations. Any formal written interpretations of shoreline policies or regulations shall be submitted to the Department of Ecology for review.

20D.150.200-020 Nonconformances

- (1) Nonconformities, as defined in Chapter 20A.20 RCDG, Definitions, may continue to be used and maintained in accordance with the provisions of this chapter except as otherwise provided in RCDG 20D.150.150-020, Amortization of Off-premise Signs within the Shoreline and, RCDG 20D.160.10-110, Amortization of Nonconforming Sandwich Board Signs. The use and maintenance is permitted as a result of vested rights obtained through the legal establishment of the nonconforming use or structure.

- (2) **Nonconforming Shoreline Uses.** A nonconforming use located within the shoreline jurisdiction may not be enlarged or expanded. If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming.
- (3) **Nonconforming Shoreline Structures.** A nonconforming structure may not be expanded or altered in any way so as to increase that nonconformity. Provided, however, that nonconforming shoreline structures may be maintained and repaired and may be enlarged or expanded provided that said enlargement or expansion does not extend the structure closer to the shoreline. A nonconforming structure shall be brought into full compliance with the Redmond Community Development Guide (meaning the development shall be modified to make it code compliant) when alteration or expansion of the structure takes place and the following takes place within any three-year period:
 - (a) The gross floor area of the structure is increased by 100 percent or more; or
 - (b) The costs stated on all approved building permit applications for the structure equal or exceed the assessed value of the structure at the beginning of that three-year period.

20D.150.200-030 Shoreline Permits

- (1) **Purpose.** It is the purpose of this section to describe the procedures and requirements for development within specified areas related to lakes, rivers, streams, wetlands, and floodplains as required to implement the Shoreline management Act, as amended, Chapter 90.58 RCW, and to aid in implementation of the Federal Flood Insurance Program and the State Flood Control Zone Program.
- (2) **Permit Required.** Within the shoreline jurisdiction, as described in 20D.150.20, development shall be allowed only as authorized in a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit or Shoreline Variance Permit unless specifically exempted from obtaining such a permit under Section 20D.150.200-030(3), Exemptions. Enforcement action by the City or Department of Ecology may be taken whenever a person has violated any provision of the Shoreline Management Act or any Redmond Shoreline Master Program provision, or other regulation promulgated under the Act. Procedures for enforcement action and penalties shall be as specified in 1.14 Redmond Municipal Code. In addition, where here a single integrated development encompasses both shoreline and non-shoreline areas, a shoreline substantial

(5) **Mitigation.** Property owners proposing new shoreline use or development shall mitigate adverse environmental impacts in accordance with this Program and other applicable regulations whether or not the use/development requires or is exempt from a shoreline substantial development permit. Mitigation measures are listed in SMC 25.06.020(10) in the table showing shoreline setback reductions.

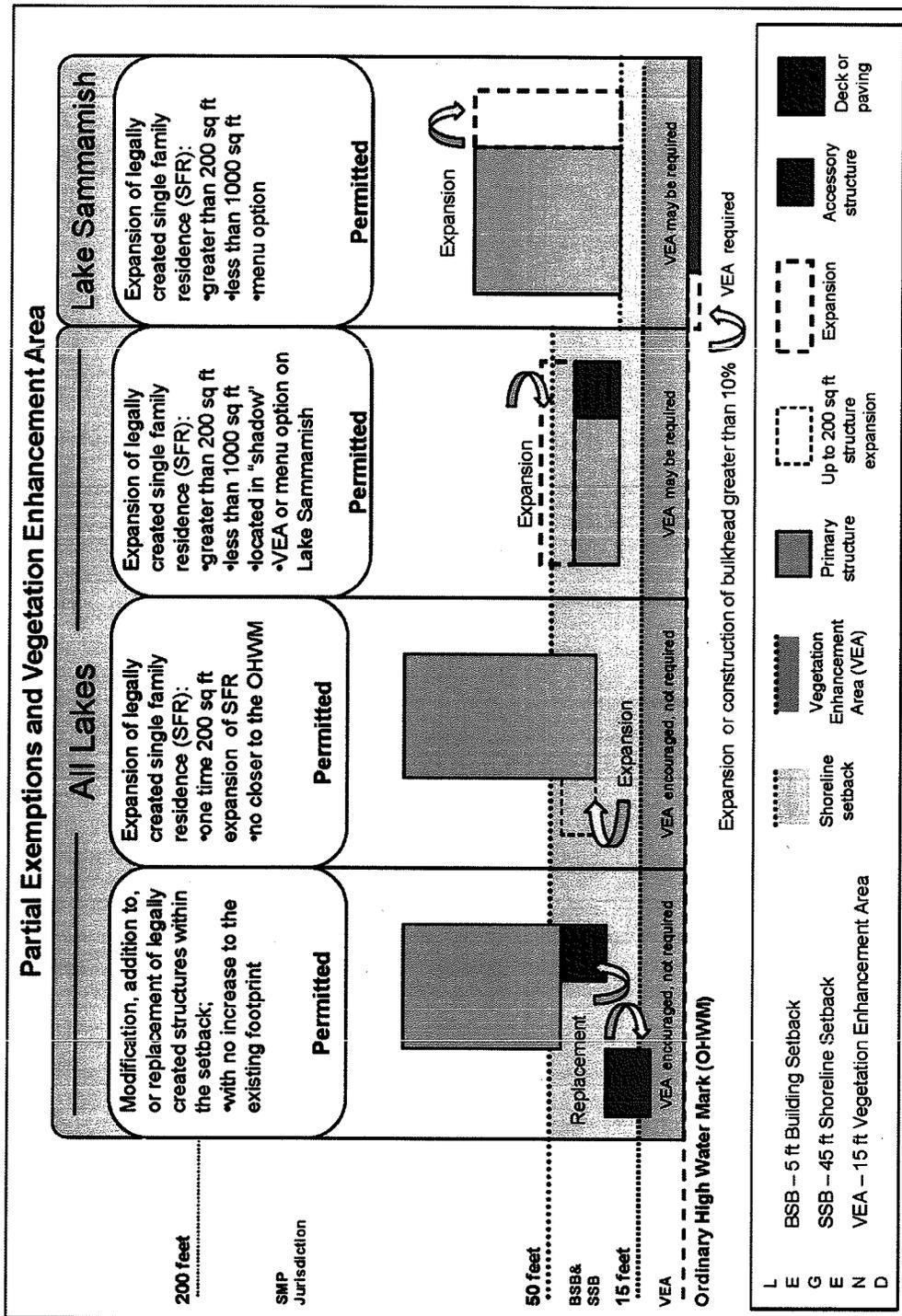
(6) **Building setback.** A five (5) foot-wide building setback shall be established from the landward edge of the shoreline setback required in SMC 25.06.020(7). The following may be allowed in the building setback subject to the square footage limits of SMC 25.07.08:

- (a) Landscaping;
- (b) Uncovered decks that are less than eighteen (18) inches above grade;
- (c) Building overhangs if such overhangs do not extend more than eighteen (18) inches into the building setback area;
- (d) Impervious ground surfaces, such as driveways and patios;
- (e) Trails.

(7) **Shoreline Setback.** A shoreline setback is established for Lake Sammamish, Pine Lake, and Beaver Lake. The shoreline setback area is the area extending forty-five (45) feet (or as reduced by SMC 25.06.020(10)) landward from the OHWM. The following regulations shall apply:

- (a) Accessory uses and structures, including uncovered decks less than eighteen (18) inches above ground and impervious ground surfaces, are allowed as specified in this Program;
- (b) Non-water dependent shoreline uses and developments, including residential developments, shall be located landward of the shoreline setback unless otherwise specified by this Program;
- (c) Docks and shoreline stabilization structures shall be allowed within the shoreline setback as specified in this Program;
- (d) Public access structures, picnic areas, boat launches, docks and shoreline stabilization structures shall be allowed within the shoreline setback as specified in this Program;
- (e) Transportation facilities shall be allowed within the shoreline setback as specified in this Program;
- (f) Utilities shall be allowed within the shoreline setback as specified in this Program.

Figure 1:



(9) **Lake Sammamish Vegetation Enhancement Area.** The fifteen (15) foot-wide portion of the shoreline setback immediately landward of the OHWM is reserved as a vegetation enhancement area. The following regulations apply:

(a) Property owners shall be required to establish and maintain the vegetation enhancement area:

i. As required by SMC 25.06.020(10), if they propose to construct or expand the footprint of a residential structure that is located entirely or partially in the shoreline setback or reduced shoreline setback such that the expanded footprint within the shoreline setback will increase by more than two hundred (200) square feet of footprint including when using the partial exemption of SMC 25.06.020(8); or

ii. If they propose to construct or expand an existing bulkhead or other stabilization structure by more than ten percent (10%).

iii. Excluded from this requirement are changes to a structure that do not expand the footprint. Also excluded from this requirement is rebuilding in the same footprint plus up to two hundred (200) square feet of additional footprint area within the shoreline setback providing the additional footprint area is not closer to the lake.

(b) The vegetation enhancement area, excluding the active use area, shall be planted or maintained with at least seventy-five percent (75%) by area of the vegetation consisting of native trees, shrubs, and groundcover designed to improve ecological functions. Up to twenty-five percent (25%) by area of the vegetation in the vegetation enhancement area may be composed of non-native or ornamental plantings.

(c) An area of up to twenty-five percent (25%) of the vegetation enhancement area may be used as an active use area consistent with the requirements of this Program provided that the active use area is located to avoid areas of greater sensitivity and habitat value. If this 25% limitation would not allow a corridor extending back from the lake measuring at least 15 feet parallel to the lake, a 15-foot wide corridor may be used.

(d) Structures, decks and paved areas within the vegetation enhancement area may only be located within the active use area except as otherwise allowed by this Program.

(e) When the establishment of the vegetation enhancement area is required, the final installation shall be approved by the city.

(10) **Lake Sammamish Reduced Shoreline Setback.** The Lake Sammamish shoreline setback may be reduced in accordance with this Program and as shown in the Table 1 below.

Table 1: Shoreline Setback Reductions

Reduction	Number of feet the standard Lake Sammamish shoreline setback may be reduced	Reduction Criteria Reductions may be cumulative, but in no case shall the resulting shoreline setback be less than fifteen (15) feet*. Planting in accordance with VEA requirements.
1	15 feet	For removal of an existing bulkhead located at, below, or within five feet landward of the lake's OHWM and subsequent restoration of the shoreline to a natural or seminatural state, including the restoration of topography, soil composition, and vegetation; or, For restoration of the shoreline to a natural or seminatural state if no bulkhead is present, but other existing unnatural shoreline contours are present; or, For preservation of the existing natural shoreline conditions if no bulkhead or other unnatural shoreline features are present.
2	10 feet	For establishment of a 15-foot vegetation enhancement area along the shoreline.
3	10 feet	For establishment of at least a 5 foot width of native vegetation along the entire waterward side of a modified bulkhead, including the use of small gravel or rock fill, as part of an Army Corps of Engineer approved plan and in compliance with all WDFW and other appropriate agency regulations.
4	5-10 feet	Reduction of 5 feet for impervious surface coverage 10 percent less than the city standard and 10 feet for impervious surface coverage 20 percent less than the city standard as allowed by SMC 25.07.080(2)(b) or (c).
5	5 feet	For limiting lawn area to no greater than 20 percent of the shoreline jurisdiction area.
6	1-10 feet	For every 50 square feet of native planting area added landward of and adjacent to the VEA, 1 foot reduction (up to 10 feet maximum reduction).
7	5 feet	For preservation of existing native vegetation or restoration of native vegetation, as necessary, in a minimum 5 foot wide nearshore area below the lake's OHWM.
8	5 feet	For preparation of, and agreement to adhere to, a written shoreline vegetation management plan that includes appropriate limitations on the use of fertilizer, herbicides, and pesticides to protect lake water quality.

* Plus the five (5) foot building setback (SMC 25.06.020)

(a) The partial exemption(s) of SMC 25.06.020(8)(b) and (c) may be utilized for modifications, replacements and additions that do not expand the footprint by more than one thousand (1,000) square feet within the shoreline setback in lieu of the reductions authorized in Table 1, with establishment and maintenance of the 15 foot vegetation enhancement area. Establishment of the vegetation enhancement area is encouraged but not required for expansions of two hundred (200) square feet or less.

(b) Reduction measures shall be installed, monitored, maintained and city inspected. Mitigation provisions in SMC 21A.50.140 and SMC 21A.50.145 shall apply and financial guarantees pursuant to SMC 21A may be required.

(11) **Pine Lake and Beaver Lake Tree Retention.** Eighty percent (80%) of the significant trees within the shoreline jurisdiction must be retained. This requirement shall not apply to documented hazard trees.

(12) **Pine and Beaver Lakes Vegetation Enhancement Area.** A vegetation enhancement area immediately landward of the OHWM is encouraged.

(13) **Critical Areas within Shoreline Jurisdiction.** Where critical areas including wetlands, streams, frequently flooded areas, geologically hazardous areas, or fish and wildlife habitat conservation areas designated in SMC 21A.50 occur in the shoreline jurisdiction, the SMC 21A.50 buffer or shoreline setback that provides the greatest protection shall prevail.

(14) **Notice on Title.** The owner of any property required to maintain a vegetation enhancement area on which a development proposal is submitted or any property on which mitigation is established as a result of development, except a public right-of-way or the site of a permanent public facility, shall file a notice approved by the City with the King County records and elections division. The required contents and form of the notice shall be determined by the Director. The notice shall run with the land.

25.06.030 Shoreline Public Access Regulations

(1) Physical and/or visual access should be made available to the public through public parks, rights-of-way and other public lands.

(2) New public access is not required for new single-family residential subdivisions.

(3) Development of public access facilities in, on or over the water shall be constructed using materials that allow light penetration and do not contaminate water. Facilities in, on or over the water shall be of non-reflective materials that are compatible in terms of color and texture with the surrounding area. The underside of over-water facilities should incorporate reflective materials where necessary to reduce the effects of shadowing.

(4) Public access should be located adjacent to other public areas, accesses and connecting trails, and connected to the nearest public street end or other public access point.

	Lake Sammamish Shoreline Residential	Lake Sammamish Urban Conservancy	Pine and Beaver Lakes Shoreline Residential	Pine and Beaver Lakes Urban Conservancy
Single Family Residential (SMC 25.07.080) (SMC 25.06.020)				
Height	35 feet	35 feet	35 feet	35 feet
Setbacks	15% of lot width, minimum setback 5 feet	15% of lot width, minimum setback 5 feet	R-4	R-4
Impervious surface (max.)	R-4, no additional % for lots under 9,076 square feet	40%	R-4, no additional % for lots under 9,076 square feet	40%
Fences	6 feet	6 feet	6 feet	6 feet
Accessory structures (not ADU) (SMC 25.07.080)				
Height	10 feet	10 feet	10 feet	10 feet
Maximum footprint	200 square feet	200 square feet	200 square feet	200 square feet
Other structures outside shoreline setback				
Height	35 feet	35 feet	35 feet	35 feet
Footprint Maximum	None	None	None	None
Docks: Private Residential (SMC 25.07.050)				
Length	Dock length of 80 feet maximum or length necessary to reach a depth of 8 feet. No dock shall be more than ¼ the distance to the opposite shoreline.	Dock length of 80 feet maximum or length necessary to reach a depth of 8 feet. No dock shall be more than ¼ the distance to the opposite shoreline.	Dock length of 80 feet maximum or length necessary to reach a depth of 8 feet. No dock shall be more than ¼ the distance to the opposite shoreline.	Dock length of 80 feet maximum or length necessary to reach a depth of 8 feet. No dock shall be more than ¼ the distance to the opposite shoreline.
Area: 1 owner	600 square feet	600 square feet	600 square feet	600 square feet
Area: 2 to 9 owners	800 square feet	800 square feet	700 square feet	700 square feet
Area: 10 or more owners	1,000 square feet	1,000 square feet	700 square feet	700 square feet
Width	Up to 50% of lot width	Up to 50% of lot width	Up to 50% of lot width	Up to 50% of lot width
Placement	At least 15 feet from property line			
Subdivision (25.07.080)	Shared use docks are required (see above for shared use dock allowances).	Shared use docks are required (see above for shared use dock allowances).	Shared use docks are required (see above for shared use dock allowances).	Shared use docks are required (see above for shared use dock allowances).
Canopy (25.07.050)				

	Lake Sammamish Shoreline Residential	Lake Sammamish Urban Conservancy	Pine and Beaver Lakes Shoreline Residential	Pine and Beaver Lakes Urban Conservancy
Coverage	25 x 15 feet	25 x 15 feet	-----	-----
Height above OHW	10 feet	10 feet	-----	-----
Docks: Public Recreational (25.07.060)				
Length	No limit	No limit	No limit	No limit
Area	3, 000 square feet	3, 000 square feet	3,000 square feet	3,000 square feet
Setbacks (25.06.020)				
Shoreline setback	45 feet	45 feet	45 feet	45 feet
Building setback	5 feet	5 feet	5 feet	5 feet
Vegetation enhancement area (VEA)	15 feet	15 feet	Encouraged	Encouraged
Active use area	25% of VEA	25% of VEA	No limit	No limit
Subdivision (25.07.050)				
Minimum area	12,500 square feet	12,500 square feet	12,500 square feet	12,500 square feet
Minimum lot width	50 feet	50 feet	50 feet	50 feet

(9) Subdivisions shall be designed to assure that future development of the established lots will not require armoring. Use of a bulkhead, wall, or similar structure to protect a platted lot where no structure presently exists shall be prohibited.

(10) Breakwaters, jetties, rock weirs, groins and similar structural modifications shall be prohibited.

(11) New bulkheads on vacant lands are prohibited.

25.07.080 Residential Use Regulations

(1) **Preferred use.** Single-family residential use is a preferred shoreline use and shall be permitted when consistent with this Program and the Act, including the goal to ensure no net loss of shoreline ecological functions.

(2) **New Residential Development.** New residential development and normal appurtenances shall be located sufficiently landward of the OHWM to preclude the need for new structural shoreline stabilization and/or flood protection for the useful life of the structure in accordance with the following:

(a) New residential development and normal appurtenances shall be located landward of the shoreline setback, or if applicable the reduced shoreline setback, or as otherwise allowed, in accordance with this Program.

(b) For Shoreline Residential areas, impervious surface allowances shall be in accordance with R-4 zoning requirements, with the exception that no additional impervious surface percentage is allowed for lots less than 9,076 square feet. See SMC 21A.25.030 Note 4.c.

(c) For Urban Conservancy areas, the maximum amount of impervious surface shall not exceed 40% of the lot area above OHWM.

(d) New accessory structures, excluding accessory dwelling units, may be located waterward of the shoreline setback provided that all of the following criteria are met:

- i. The maximum total footprint is not more than two hundred (200) square feet; and,
- ii. The maximum height is not more than ten (10) feet above existing average grade level; and,
- iii. The structure is located outside of wetlands, streams, other ecologically sensitive areas and associated buffers.
- iv. Square footage of non-fixed landscaping features (single and clustered rocks used in landscaping, birdhouses, and items such as party tents, umbrellas and outdoor furniture, garden boxes, planters, and trellises) is not regulated.

(3) Expansion of Existing Legally Established Residential Use.

(a) **Lake Sammamish.** An existing legally established residential structure may be expanded or reconfigured. Expansion/modification shall be subject to the requirements of SMC 25.06.020. Expansion shall be allowed in accordance with SMC 25.06.020(8). The minimum distance between the OHWM and the waterward edge of the footprint of the expansion (not including a maximum of eighteen (18) inches of overhanging eaves) shall be at least twenty (20) feet in accordance with SMC 25.06.020.

(b) **Pine and Beaver Lakes.** An existing legally established residential structure may be expanded or reconfigured. Expansion into the shoreline setback shall occur only as allowed in SMC 25.06.020(8). Expansion/modification shall be subject to the requirements of SMC 25.06.020.

(4) Interior setbacks.

(a) **Lake Sammamish.** Interior setbacks within shoreline jurisdiction shall total fifteen percent (15%) of the width of the lot, with a minimum setback of five (5) feet on either side of the lot.

(5) **Fences.** No portion of any fences within shoreline jurisdiction shall exceed six (6) feet in height, as measured from the existing ground elevation along the proposed fence alignment, and shall not be located within wetlands, streams, or SMC 21A.50 buffers.

(6) **Subdivision.** Shoreline lots may be subdivided in accordance with SMC Title 19.

(a) The minimum lot width required for subdivision within shoreline jurisdiction shall be fifty (50) feet as measured by scaling a circle of the applicable diameter within the boundaries of the lot. For lots fronting directly on the OHWM, the lot width circle shall touch the OHWM. An access easement may be included in the lot width circle; and

(b) Landward portions of all lots created through subdivision shall have a minimum size of twelve thousand five hundred (12,500) square feet, provided that all other applicable regulations are met, including this Program, SMC 21A.25 and the King County Department of Health, (septic system siting standards); and

(c) All new subdivisions shall be allowed one additional shared use dock. An existing dock may remain for either shared use or use by one lot in the subdivision.

25.07.090 Public Recreational Use Regulations

(1) Public recreational development on public land is a preferred shoreline use and is permitted when consistent with underlying zoning pursuant to SMC 21A.10, this Program, and the Act, including the goal to ensure no net loss of shoreline ecological functions.

(2) New public recreational activities and facilities proposed within shoreline jurisdiction shall be water-oriented, and shall provide physical and/or visual access to the shoreline.

25.08.070 Administration – General Standards

- (1) Unless otherwise stated, this Program shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27.

25.08.080 Permit Process – Land Use Decisions

- (1) Shoreline substantial development permits, statements of exemption, shoreline variances and shoreline conditional use permits shall be subject to all of the applicable requirements of SMC 20.05.

25.08.090 Permit Process – Appeals

- (1) Appeals of the final decision of the City with regard to shoreline management shall be governed by the provisions of RCW 90.58.180.
- (2) Appeals to the Shoreline Hearings Board of a decision on a shoreline substantial development permit, shoreline variance or shoreline conditional use permit may be filed by the applicant/property owner or any aggrieved party pursuant to RCW 90.58.180.
- (3) The effective date of the City's decision shall be the date of filing with the Department of Ecology as defined in RCW 90.58.140.

25.08.100 Non-conforming Use and Development – Alteration or Reconstruction

(1) Non-conforming Structures

- (a) Reconstruction, replacement, or expansion of the exterior footprint of an existing, legally established non-conforming structure is allowed provided that the addition or reconstruction does not increase the degree of non-conformity except as allowed in SMC 25.06.020.
- (b) Replacement may be allowed in a different non-conforming location if a determination is made by the City that the new location results in less impact to shoreline functions than replacement in the existing footprint.
- (c) Existing structures that were legally established but which are non-conforming with regard to the setback, area, bulk, height or density standards established by this Program may be maintained, reconstructed, or repaired, provided that:
 - i. The maintenance/reconstruction/repair does not increase the extent of non-conformity by encroaching upon or extending into the building setback area or shoreline setback or other area where new construction or use would not be allowed except as specifically allowed in SMC 25.07.080.

(d) Existing legally established structures that are non-conforming as to SMC 21A.50 buffer requirements for wetlands, streams, ponds, or landslide hazard areas and their building setbacks may be modified, expanded, and/or replaced according to SMC 21A.50.060, sections (1)(a) and (1)(b). Structure non-conformity for any reason other than SMC 21A.50 buffer requirements for wetlands, streams, ponds or landslide hazard areas and their building setbacks must comply with the regulations of this section.

(e) If a non-conforming structure is damaged by fire, explosion, or other casualty and/or natural disaster, it may be reconstructed to match the footprint that existed immediately prior to the time the damage occurred or in accordance with (b) of this section, provided that all of the following criteria are met:

i. The owner(s) submit a complete application within twenty-four (24) months of the date the damage occurred; and

ii. All permits are issued within two years of initial submittal of the complete application, and the restoration is completed within two (2) years of permit issuance. This period may be extended for one additional year by the Director if the applicant has submitted the applications necessary to establish the use or activity and has provided written justification for the extension; and

iii. If a non-conforming structure is damaged by fire, explosion, or other casualty and/or natural disaster and these criteria are not met, the City may require the applicant to plant the vegetation enhancement area with native trees and shrubs in accordance with SMC 25.06.020.

(f) A non-conforming structure that is moved outside the existing footprint must be brought into conformance with this Program and RCW 90.58, except as allowed by (b) of this section.

(g) If the repair or maintenance of a non-conforming dock changes the location of the structure or alters any dimension of the structure by more than ten percent (10%), it shall be subject to the regulations for new docks.

(2) Non-conforming lots

(a) An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM that was legally established prior to the effective date of this Program, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations. Such development shall conform to all other requirements of this Program.

(3) Non-conforming uses

(a) Uses that were legally established prior to the adoption or amendment of this Program - and are non-conforming with regard to the use regulations of this Program may continue as legal non-conforming uses.

(b) An existing use designated as a conditional use that lawfully existed prior to the adoption or amendment of this Program and which has not obtained a conditional use permit shall be considered a legal non-conforming use and may be continued subject to the provisions of this section without obtaining a conditional use permit.

(c) If a non-conforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming unless in compliance with this Program.

25.08.110 Rules of Director

(1) The Director is authorized to adopt administrative rules as are necessary and appropriate to implement this Program. The Director may prepare and require the use of such forms as are necessary to its administration.

25.08.120 Enforcement, Violations and Penalties

(1) The Director is authorized to enforce the provisions of this Program, including any rules and regulations promulgated thereunder, pursuant to the enforcement and penalty provisions of WAC 173-27.

25.08.130 Initiation of Development

(1) Development pursuant to a shoreline substantial development permit, shoreline variance, or shoreline conditional use shall not begin and shall not be authorized until twenty one (21) days after the "date of filing" or until all appeal proceedings before the Shoreline Hearings Board have terminated.

25.08.140 Permit Revisions

(1) A permit revision is required whenever the applicant/property owner proposes substantive changes to the design, terms or conditions of a use or development from those as approved in the existing and approved permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the existing and approved permit, this Program or the Act. Changes that are not substantive in effect do not require a permit revision.

(2) An application for a revision to a shoreline permit shall be submitted to the Director. The application shall include detailed plans and text describing the proposed changes. The City shall review and process the request in accordance with the requirements of WAC 173-27-100.

83.190 Lot Size or Density, Shoreline Setback, Lot Coverage and Height

1. Calculation of Minimum Lot Size or Maximum Density –

- a. Development shall not use lands waterward of the OHWM to determine minimum lot size or to calculate allowable maximum density.
- b. For properties that are only partially located within the shoreline jurisdiction, the allowed density within the shoreline jurisdiction shall be based upon the land area located within the shoreline jurisdiction only. If dwelling units will be partially located within the shoreline jurisdiction, the City may approve an increase in the actual number of units in the shoreline jurisdiction, provided that the total square footage of the units within the shoreline jurisdiction does not exceed the allowed density multiplied by the average unit size in the proposed development on the subject property.
- c. If a maximum density standard is used, the number of permitted dwelling units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.50.
- d. For detached dwelling units, the provisions addressing lot size, lot size averaging, and historic preservation contained in Chapter 22.28 KMC shall apply within the shoreline jurisdiction.

2. Shoreline Setback –

- a. General – This section establishes what structures, improvements, and activities may be in or take place in the shoreline setback established for each use in each shoreline environment.
- b. Measurement of Shoreline Setback –
 - 1) The shoreline setback shall be measured landward from the OHWM on the horizontal plane and in the direction that results in the greatest dimension from the OHWM (see Plate XX).
 - 2) In those instances where the OHWM moved further upland pursuant to any action required by this Chapter, or in accordance with permits involving a shoreline habitat and natural systems enhancement project approved by the City, a state or federal agency, the shoreline setback shall be measured from the location of the OHWM that existed immediately prior to the action or enhancement project.
 - 3) For those properties located along Lake Ave West south of the Lake Ave W Street End Park in the Residential – L environment, in instances where the shoreline setback of adjacent dwelling units has been reduced through a shoreline reduction authorized under KZC Section 83.380, the shoreline setback of these adjacent dwelling units, for the purpose of calculating a setback average, shall be based upon the required setback that existed prior to the authorized reduction.
 - 4) In those instances where there is an intervening property that is 60 feet in depth between the OHWM and an upland property, a shoreline setback shall be provided on the upland property based on the average parcel depth of the upland property. The setback on the upland property shall be measured from the OHWM across the intervening property and the upland property.
- c. Exceptions and Limitations in Some Zones – KZC Sections 83.190 through 83.250 contain specific regulations regarding what may be in or take place in the shoreline setback. Where applicable, those specific regulations supersede the provisions of this section.
- d. Structures and Improvements – The following improvements or structures may be located in the shoreline setback, except within the Natural shoreline environment, provided that they are constructed and maintained in a manner that meets KZC 83.360 for avoiding or at least minimizing adverse impacts to shoreline ecological functions:

- 1) For public pedestrian access required under KZC 83.420, walkways, benches, and similar features, as approved by the Planning Official.
- 2) For private pedestrian access to the shoreline, walkways within the shoreline setback are permitted, subject to the following standards:
 - a) The maximum width of the walkway corridor area shall be no more than 25 percent of the property's shoreline frontage, except in no case shall the corridor area required be less than 15 feet in width (see Plate XX).
 - b) The walkway corridor area shall be located outside of areas of higher ecological and habitat value.
 - c) The walkway in the corridor area shall be no more than 8 feet wide, and be constructed of a pervious walking surface, such as unit pavers, grid systems, pervious concrete, or, equivalent material approved by the Planning Official.
 - d) The walkway corridor area may contain minor improvements, such as garden sculptures, light fixtures, trellises and similar decorative structures that are associated with the walkway, provided that these improvements comply with the dimensional limitations required for the walkway corridor area and any view corridor requirements under KZC Section 83.410. Light fixtures approved under this subsection shall comply with the provisions contained in KZC 83.470.
- 3) Those portions of a water-dependent development that require improvements adjacent to the water's edge, such as fueling stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and motor repair and service, boat ramps for boat launches or other similar activities.
- 4) Public access facilities or other similar public water-enjoyment recreational uses, including swimming beaches.
- 5) Underground utilities accessory to a shoreline use approved by the Planning Official, provided there is no other feasible route or location.
- 6) Bioretention swales, rain gardens, or other similar bioretention systems that allow for filtration of water through planted grasses or other native vegetation.
- 7) Infiltration systems provided that installation occurs as far as feasible from the OHWM.
- 8) Bay windows, greenhouse windows, eaves, cornices, awnings, and canopies may extend up to 18 inches into the shoreline setback, subject to the following limitations:
 - a) Eaves on bay windows may extend an additional 18 inches beyond the bay window.
 - b) Chimneys that are designed to cantilever or otherwise overhang are permitted.
 - c) The total horizontal dimension of these elements that extend into the shoreline setback, excluding eaves and cornices, shall not exceed 25 percent of the length of the facade of the structure.
- 9) Decks, patios and similar improvements may extend up to 10 feet into the shoreline setback but shall not be closer than 25 feet to the OHWM, except no closer than 15 feet to the OHWM within the Residential – L environment south of the Lake Ave West Street End Park, subject to the following standards:
 - a) The improvement shall be constructed of a pervious surface, such as wood with gaps between boards and a pervious surface below, unit pavers, grid systems, pervious concrete, or, alternatively, equivalent material approved by the Planning Official.
 - b) The total horizontal dimension of the improvement that extends into the shoreline setback shall not exceed 50 percent of the length of the facade of the residence structure.

- c) The improvement shall be located on the ground floor of the building and shall not be elevated more than necessary to allow for grade transition from the structure to the deck or to follow the existing topography.
 - 10) In the Urban Mixed environment, balconies at least 15 feet above finished grade may extend up to 4 feet into the required shoreline setback, but no closer than 21 feet to the OHWM.
 - 11) Outdoor seating areas for restaurants, hotels and other water enjoyment commercial uses may extend up to 10 feet into the shoreline setback, but shall be no closer than 16 feet to the OHWM, subject to the following standards:
 - a) The improvement shall be constructed of a permeable surface, such as wood with gaps between boards and a pervious surface below, unit pavers, grid systems, porous concrete, or equivalent material approved by the Planning Official.
 - b) The total horizontal dimension of the improvement that extends into the shoreline setback shall not exceed 50 percent of the length of the facade of the primary structure.
 - c) The improvement shall be located on the ground floor of the building and shall not be elevated more than necessary to allow for grade transition from the structure to the seating area or to follow the existing topography.
 - d) All outdoor lighting is required to meet the lighting standards of KZC 83.470.
 - e) The seating area is required to be fenced off from the shoreline by rope stanchions, portable planters, or similar device approved by the City, with openings through the fencing for customer entry. The floor plan of the seating area shall be designed to preclude the seating area from being expanded.
 - f) The applicant is required to provide one (1) or more approved trash receptacles and one (1) or more ashtrays.
 - g) The area of the seating shall be considered new gross floor area for the purposes of determining whether vegetation is required under the provisions of KZC 83.400.
 - 12) Retaining walls and similar structures that are no more than four (4) feet in height above finished grade; provided the following standards are met:
 - a) The structure shall be designed so that it does not interfere with the shoreline vegetation required to be installed under the provisions of KZC 83.400;
 - b) The structure shall not be installed to provide the function of a hard shoreline stabilization measure unless approved under the provisions of KZC 83.300 and shall be located, on average, five (5) feet landward or greater of the OHWM, and
 - c) The structure shall meet the view corridor provisions of KZC 83.410.
 - 13) Public bridges and other essential public facilities that must cross the shoreline.
 - 14) Parking as authorized by the Planning Official under the provisions of KZC 83.440.
 - 15) Shoreline stabilization measures approved under the provisions of KZC 83.300.
 - 16) Fences, swimming pools, tool sheds, greenhouses and other accessory structures and improvements are not permitted within the shoreline setback, except those specifically listed above in subsection 83.190 2.d.2).d).
3. Maximum Lot Coverage –
- a. General –
 - 1) KZC 83.180.3, Development Standards Chart, establishes the maximum lot coverage by use and shoreline environment.

83.370 Federal and State Approval

1. All work at or waterward of the OHWM requires permits or approvals from one or more of the following state and federal agencies: U.S. Army Corps of Engineers, Washington Department of Fish and Wildlife, Washington Department of Natural Resources, or Washington Department of Ecology.
2. Documentation verifying necessary state and federal agency approvals must be submitted to the City prior to issuance of a building permit, including shoreline exemption. All activities within shorelines jurisdiction must comply with all other applicable laws and regulations.
3. If structures are proposed to extend waterward of the inner harbor line, the applicant must obtain an aquatic use authorization from the Washington State Department of Natural Resources and submit proof of authorization with submittal of a Building Permit.

83.380 Shoreline Setback Reduction

1. Improvements permitted within the Shoreline Setback - See standards contained in KZC 83.190.2.
2. Shoreline Setback Reductions –
 - a. In the Residential – L shoreline environment, the shoreline setback may be reduced by two (2) feet if subject to the Historic Preservation provisions of KMC 22.28.048, but in no case closer than 25 feet with the exception in the Residential L - shoreline environment south of the Lake Ave West Street End Park where the minimum shoreline setback is 15 feet.
 - b. The required shoreline setback may be reduced to a minimum of 25 feet when setback reduction impacts are mitigated using a combination of the mitigation options provided in the chart below to achieve an equal or greater protection of lake ecological functions. In the portion of the Residential-L environment located south of the Lake Ave W Street End Park, the required shoreline setback may be reduced to a minimum of 15 feet. The following standards shall apply to any reduced setback:
 - 1) The minimum setback that may be approved through this reduction provision is 25 feet in width, except that properties in the Residential L – shoreline environment south of the Lake Ave West Street End Park may reduce to a minimum setback of 15 feet. Any further setback reduction below 25 feet or 15 feet, respectively, in width shall require approval of a shoreline variance application.
 - 2) The City shall accept previous actions that meet the provisions established in the setback reduction option chart in KZC 83.380.d. below as satisfying the requirements of this section, provided that all other provisions are completed, including but not limited to, the agreement noted in Section 83.380.2.b.4 below. The reduction allowance for previously completed reduction actions may only be applied once on the subject property.
 - 3) Prior to issuance of a certificate of occupancy or final inspection, the applicant shall provide a final as-built plan of any completed improvements authorized or required under this subsection.
 - 4) Applicants who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions, including maintenance of the conditions throughout the life of the development, unless otherwise approved by the City, in a form acceptable to the City Attorney, and recorded with the King County Bureau of Elections and Records. The applicant shall provide land survey information for this purpose in a format approved by the Planning Official.
 - 5) The shoreline setback reduction mechanisms shall not apply within the Natural shoreline environment.
 - c. The reduction allowance shall be applied to the required shoreline setback. For instance, if a reduction is proposed in the Residential – L environment, where the shoreline setback requirement is 30% of the average parcel depth, the shoreline setback could be reduced to

20% of the average parcel depth, but in no case less than 25 feet, if Reduction Option 1 in the chart below is used.

d. The chart below describes the setback reduction options:

Shoreline Setback Reduction Options		Reduction Allowance	
		Standard Reduction (min. 25 ft. setback)	Residential-L, south of Lake Ave W Street End Park (min. 15 ft. setback)
Water Related Conditions or Actions			
1	Presence of non-structural or soft structural shoreline stabilization measures located at, below, or within 5 feet landward of the lake's OHWM along at least 75 percent of the linear lake frontage of the subject property. This can include the removal of an existing hard structural shoreline stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, and beach/substrate composition. This option cannot be used in conjunction with Option 2 below	Reduce required setback by 15 percentage points, or in cases where the required setback is 60' reduce setback by 30 ft.	Reduce required setback by 15 ft.
2	Presence of non-structural or soft structural shoreline stabilization measures located at, below, or within 5 feet landward of the lake's OHWM along at least 15 linear feet of the lake frontage of the subject property. This may include the removal of an existing hard structural shoreline stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including creation or enhancement of nearshore shallow-water habitat, beach/substrate composition. This option cannot be used in conjunction with Option 1 above;	Reduce required setback by 5 percentage points, or in cases where the required setback is 60' reduce setback by 10 ft.	Reduce required setback by 5 ft.
3	Opening of previously piped on-site watercourse to allow potential rearing opportunities for anadromous fish for a minimum of 25 feet in length. Opened watercourses must be provided with a native planted buffer at least 5 feet wide on both side of the stream, and must not encumber adjacent properties with a 5 foot wide buffer without express written permission of the adjacent property owner. A qualified professional must design opened watercourses. The opened watercourse shall be exempt from the buffer provisions of KZC 83.490. The opened watercourse is exempt from the buffer requirements and standards of KZC 83.510.	Reduce required setback by 5 percentage points, or in cases where the required setback is 60' reduce setback by 4 ft.	Reduce required setback by 5 ft.
4	Hard structural shoreline stabilization measure is setback from the OHWM between 2 ft. to 4 ft based on feasibility and existing conditions and/are sloped at a maximum 3 vertical (v):	Reduce required setback by 5	Reduce required

Shoreline Setback Reduction Options		Reduction Allowance	
		Standard Reduction (min. 25 ft. setback)	Residential-L, south of Lake Ave W Street End Park (min. 15 ft. setback)
	1 horizontal (h) angle to provide dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat.	percentage points, or in cases where the required setback is 60 ft. reduce setback by 4 ft.	setback by 5 ft.
5	Soft structural shoreline stabilization measures are installed waterward of the OHWM. They may include the use of gravels, cobbles, boulders, and logs, as well as vegetation. The material shall be of a size and placed to remain stable and accommodate alteration from wind- and boat-driven waves and shall be graded to a maximum slope of 1 vertical (v): 4 horizontal (h).	Reduce required setback by 2 percentage points, or in cases where the required setback is 60 ft. reduce setback by 4 ft.	Reduce required setback by 2 ft.
Upland Related Conditions or Actions			
6	Installation of biofiltration/infiltration mechanisms in lieu of piped discharge to the lake, such as mechanisms that infiltrate or disperse surface water on the surface of the subject property. These mechanisms shall be sized to store a minimum of 70% of the annual volume of runoff water from the subject property, for sites with poor soils, or 99% of the annual volume of runoff water from the subject property, for sites with well-draining soils. This mechanism shall apply to sites where the total new or replaced impervious surface is less than or equal to 5,000 square feet. The mechanisms shall be designed to meet the requirements in the City's current surface water design manual.	Reduce required setback by 2 percentage points, or in cases where the required setback is 60 ft. reduce setback by 4 ft.	Reduce required setback by 2 ft.
7	Increasing the width of the required landscape strip within the reduced shoreline setback a minimum of five (5) additional feet in width.	Reduce required setback by 2 percentage points, or in cases where the required setback is 60 ft. reduce setback by 4 ft.	Reduce required setback by 2 ft.

Shoreline Setback Reduction Options		Reduction Allowance	
		Standard Reduction (min. 25 ft. setback)	Residential-L, south of Lake Ave W Street End Park (min. 15 ft. setback)
		ft.	
8	Installation of pervious material for all pollution generating surfaces such as driveways, parking or private roads that allows water to pass through at rates similar to pre-developed conditions. Excluded from this provision are the vehicular easement roads, such as 5 th Ave West or Lake Ave West in the Residential – L shoreline environment.	Reduce required setback by 2 percentage points, or in cases where the required setback is 60 ft. reduce setback by 4 ft.	Reduce required setback by 2 ft.
9	Limiting the lawn area within the shoreline setback to no more than 50 percent of the reduced setback area.	Reduce required setback by 2 percentage points, or in cases where the required setback is 60 ft. reduce setback by 4 ft.	Reduce required setback by 2 ft.
10	Preserving or restoring at least 20 percent of the total lot area outside of the reduced setback and any critical areas and their associated buffers as native vegetation.	Reduce required setback by 2 percentage points, or in cases where the required setback is 60' reduce setback by 4 ft.	Reduce required setback by 2 ft.

83.390 Site and Building Design Standards

1. Water-enjoyment and non-water oriented commercial and recreational uses shall contain the following design features to provide for the ability to enjoy the physical and aesthetic qualities of the shoreline:
 - a. Buildings are designed with windows that orient toward the shoreline.

- b. Buildings are designed to incorporate outdoor areas such as decks, patios, or viewing platforms that orient toward the shoreline.
 - c. Buildings are designed with entrances along the waterfront façade and with connections between the building and required public pedestrian walkways.
 - d. Service areas are located away from the shoreline.
 - e. Site planning includes public use areas along waterfront public pedestrian walkways, if required under the provisions established in KZC 83.420, that will encourage pedestrian activity, including but not limited to:
 - 1) Permanent seating areas;
 - 2) Vegetation, including trees to provide shade cover; and
 - 3) Trash receptacles.
2. Exemptions – The following are exempt from the requirements of KZC 83.390.1 above:
- a. Non-water oriented commercial and recreational uses that are located on the east side of Lake Washington Blvd. NE/Lake Street or on the east side of 98th Avenue NE.
 - b. Non-water oriented commercial and recreational uses where there is an intervening development between the shoreline and the subject property.
3. Buildings shall not incorporate materials that are reflective or mirrored.

83.400 Tree Management and Vegetation in Shoreline Setback

1. Tree Retention - The following provisions shall apply to significant trees located within the shorelines jurisdiction, in addition to the provisions contained in Chapter 95 KZC. Provisions contained in Chapter 95 KZC that are not addressed in this section continue to apply.

To maintain the ecological functions that trees provide to the shoreline environment, significant trees shall be retained or, if removed, the loss of shoreline ecological functions shall be mitigated for, subject to the following standards:

- a. No Development Activity –

For tree removal in the shoreline setback when no development activity is proposed or in progress, the following tree replacement standards and requirements shall apply:

- 1) Healthy, diseased or nuisance trees that are removed or fallen trees in the shoreline setback shall be replaced as follows:

Removed Tree Type	Replacement Requirement
1 conifer tree less than 24 inches in diameter as measured at breast height	For removal of conifer tree up to 12 inches in diameter, replace with 1 native conifer tree at least 6 ft. in height measured from existing grade. For removal of conifer tree greater than 12 inches in diameter but less than 24 inches in diameter, same replacement requirements as for conifer tree 12 inches in diameter or less, but also a riparian vegetation area at least 80 square feet at the time of planting. Riparian area shall contain at least 60% shrubs and be a minimum of 3 ft. wide in all dimensions at the time of planting.
1 deciduous tree less than 24 inches in	For removal of deciduous tree up to 12

<p>diameter as measured at breast height</p>	<p>inches in diameter replace with 1 deciduous tree at least 2 inches in caliper measured 6 inches above existing grade or 1 native conifer tree at least 6 feet in height measured from existing grade..</p> <p>For removal of deciduous tree greater than 12 inches in diameter but less than 24 inches in diameter, same replacement requirements as for deciduous tree 12 inches in diameter or less, but also a riparian vegetation area of at least 80 square feet at the time of planting. Riparian area shall contain at least 60% shrubs and be a minimum of 3 feet wide in all dimensions at the time of planting.</p>
<p>1 conifer or deciduous tree 24 inches in diameter or greater as measured at breast height</p>	<p>Only tree meeting the criteria found in KZC Chapter 95 for a nuisance or hazard tree may be removed. A report, prepared by a qualified professional certified arborist, must be submitted showing how tree meets the criteria. The City arborist shall make the final determination if tree meets the criteria and may be removed.</p> <p>If the City arborist approved removal of the tree, tree replacement shall be:</p> <p>For removal of 1 conifer tree, replace with 2 native conifer trees at least 6 ft. in height at the time of planting.</p> <p>For removal of 1 deciduous tree, replace with 2 trees of either type. Native conifer tree shall be at least 6 ft. in height and deciduous tree shall be at least 2 inches in caliper measured 6 inches above existing grade at the time of planting.</p>
<p>A significant tree that has fallen as a result of natural causes, such as a fire, flood, earthquake or storm</p>	<p>If the subject property complies with the minimum tree density requirement established in KZC Chapter 95, no replacement is required. Otherwise, replace with 1 tree. Native conifer tree shall be at least 6 ft. in height and deciduous tree shall be at least 2 inches in caliper measured 6 inches above existing grade at the time of planting.</p>

- 2) A tree removal request shall be submitted in writing to the City prior to any tree removal within the shoreline setback. The request shall include the location, number, type and size of tree(s) being removed and the proposed replacement tree(s) and riparian vegetation planting plan meeting the standards required in KZC 83.400.1.a) above. The City shall inspect the tree replacement once installation is complete.
- 3) An alternative replacement option shall be approved if an applicant can demonstrate that:

- a) It is not feasible to plant all of the required mitigation trees in the shoreline setback of the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the property, and minimum spacing requirements for the trees to be planted, or
- b) The required tree replacement will obstruct existing views to the lake, at the time of planting or upon future growth that cannot otherwise be mitigated through tree placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the City to determine whether the tree replacement will obstruct existing views to the lake.

The alternate replacement option must be equal or superior to the provisions of this section in accomplishing the purpose and intent of maintaining shoreline ecological functions and processes. This may include, but shall not be limited to, a riparian restoration plan consisting of at least 60% shrubs and some groundcovers selected from the Kirkland Native Plant List that shall equal at a minimum 80 square feet for each tree to be replanted. The applicant shall submit a planting plan to be reviewed by the Planning Official or Urban Forester, who may approve, approve with conditions, or deny the request.

If the alternative plan is consistent with the standards provided in this subsection, the Planning Official or Urban Forester shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.

- 4) In circumstances where the proposed tree removal includes a tree that was required to be planted as a replacement tree under the provisions of this subsection or as part of the required vegetation in the shoreline setback established in KZC 83.400.3 below, the required tree replacement shall be addressed under the provision below that requires only a 1:1 replacement.
- 5) For required replacement trees, a planting plan showing the location, size and species of the new trees is required to be submitted and approved to by the Planning Official. All replacement trees in the shoreline setback must be selected from the Kirkland Native Plant List, or other native or shoreline appropriate species approved by the Planning Official or Urban Forester.

b. Development Activity –

For tree removal in the shoreline setback when development activity is proposed or in progress.

1) Submittal Requirements in the Shoreline Setback –

- a) A site plan showing the approximate location of significant trees, their size (DBH) and their species, along with the location of existing structures, driveways, access ways and easements and the proposed improvements.
- b) An arborist report stating the size (DBH), species, and assessment of health of all significant trees located within the shoreline setback. This requirement may be waived by the Planning Official if it is determined that proposed development activity will not potentially impact significant trees within the shoreline setback.

- 2) Tree Retention Standards in the Shoreline Setback - Within the shoreline setback, existing significant trees shall be retained, provided that the trees are determined to be healthy and windfirm by a qualified professional, and provided the trees can be safely retained consistent with the proposed development activity. The Planning Official is authorized to require site plan alterations to retain significant trees in the shoreline setback. Such alterations include minor adjustments to the location of building footprints, adjustments to the location of driveways and access ways, or adjustment to the location of walkways,

easements or utilities. The applicant shall be encouraged to retain viable trees in other areas on-site.

3) Replanting Requirements in the Shoreline Setback –

- a) If the Planning Official approves removal of a significant tree in the shoreline setback area, then the tree replacement requirements of KZC 83.400.1.a above shall be met. See alternative mitigation option in KZC 83.400.1.b.3) c) below that may be proposed.
- b) For required replacement trees, a planting plan showing location, size and species of the new trees is required. All replacement trees in the shoreline setback must be selected from the Kirkland Native Plant List, or other native or shoreline appropriate species approved by the Planning Official or Urban Forester.
- c) An alternative mitigation option may be approved if an applicant can demonstrate that:
 - i. It is not feasible to plant all of the required mitigation trees on the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the property, and minimum spacing requirements for the trees to be planted, or
 - ii. The required tree replacement will obstruct existing views to the lake, at the time of planting or upon future growth that cannot otherwise be mitigated through tree placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the City to determine whether the tree replacement will obstruct existing views to the lake.

The alternate mitigation must be equal or superior to the provisions of this subsection in accomplishing the purpose and intent of maintaining shoreline ecological functions and processes. This may include, but shall not be limited to, a riparian restoration plan consisting of at least 60% shrubs, perennials and groundcovers selected from the Kirkland Native Plant List that shall equal at minimum 80 square feet for each tree to be replanted. The applicants shall submit a planting plan to be reviewed by the Planning Official or Urban Forester, who may approve, approve with conditions, or deny the request.

If the alternative plan is consistent with the standards provided in this subsection, the Planning Official or Urban Forester shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.

2. Tree Pruning - Non-destructive thinning of lateral branches to enhance views or trimming, shaping, thinning or pruning of a tree necessary to its health and growth is allowed, consistent with the following standards:
 - a. In no circumstance shall removal of more than one-fourth (1/4) of the original crown be permitted;
 - b. Pruning shall not include topping, stripping of branches or creation of an imbalanced canopy;
 - c. Pruning shall retain branches that overhang the water to the maximum extent feasible.
3. Required Vegetation in Shoreline Setback – Riparian vegetation contributes to shoreline ecological functions in a number of different ways, including maintaining temperature, removing excessive nutrients and toxic compounds, attenuating wave energy, removing and stabilizing sediment and providing woody debris and other organic matter. In order to minimize potential impacts to shoreline ecological functions from development activities, the following shoreline vegetation standards are required:

- a. For properties that do not comply with the shoreline vegetation standards contained in this subsection, refer to KZC 83.550 to determine when compliance is required.
- b. Minimum Vegetation Standard Compliance –
 - 1) Location –
 - a) Water-dependent Uses or Activities - The applicant shall plant native vegetation, as necessary, in at least 75 percent of the nearshore riparian area located along or near the water's edge, except for the following areas, where the vegetation standards shall not apply: those portions of water-dependent development that require improvements adjacent to the water's edge, such as fuel stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and motor repair and service, boat ramps for boat launches, swimming beaches or other similar activities shall plant native vegetation on portions of the nearshore riparian area located along the water's edge that are not otherwise being used for the water-dependent activity.
 - b) All Other Uses - The applicant shall plant native vegetation, as necessary, in at least 75 percent of the nearshore riparian area located along or near the water's edge.
 - c) In the instance where there is an intervening property between the shoreline and an upland property and the portion of the intervening property abutting the upland property has an average parcel depth of less than 25 feet, shoreline vegetation along the west property line area of the upland property shall be provided within the shoreline setback pursuant to KZC 83.400, unless:
 - i. The required shoreline vegetation already exists on the intervening lot;
 - ii. The intervening property owner agrees to installing the shoreline vegetation on their property; or
 - iii. A proposal for alternative compliance is approved under the provisions established in KZC 83.400.3.f.
 - 2) Planting Requirements –
 - a) For uses other than those list below in KZC 83.400.2) b) for Detached, Attached and Stacking Dwelling units, the vegetated portion of the nearshore riparian area shall average ten (10) feet in depth from the OHWM, but may be a minimum of five (5) feet wide to allow for variation in landscape bed shape and plant placement. Total square feet of landscaped area shall be equal to a continuous 10-foot wide area.
 - b) For Detached, Attached or Stacked Dwelling Units within the Residential – M/H shoreline environment, the vegetated portion of the nearshore riparian area shall average 15 feet in depth from the OHWM. Total square feet of landscaped area shall be equal to a continuous 15-foot wide area.
 - c) The public access walkway required under KZC 83.420 may extend into the required landscape strip as necessary to meet the public pedestrian access requirements, provided that the overall width of the landscape strip is maintained.
 - d) Installation of native vegetation shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. At least 3 trees per 100 linear feet of shoreline must be included in the plan, with portions of a tree rounded up to the next required tree. At least 60 % of the landscape bed shall consist of shrubs.
 - e) Plant materials must be native and selected from the Kirkland Native Plant List, or other native or shoreline appropriate species approved by the Planning Official or Urban Forester.

- c. Use of Existing Vegetation - The City shall accept existing native trees, shrubs and groundcover as meeting the requirements of this subsection, including vegetation previously installed as part of a prior development activity, provided that the existing vegetation provides a landscape strip at least as effective in protecting shoreline ecological functions as the required vegetation. The City may require the applicant to plant trees, shrubs, and groundcover according to the requirements of this subsection to supplement the existing vegetation in order to provide a buffer at least as effective as the required buffer.
- d. Landscape Plan Required - The applicant shall submit a landscape plan that depicts the quantity, location, species, and size of plant materials proposed to comply with the requirements of this subsection, and shall address the plant installation and maintenance requirements set forth in KZC 95. Plant materials shall be identified with both their scientific and common names. Any required irrigation system must also be shown.
- e. Vegetation Placement – When required either by this subsection or as a mitigation measure, such as for a new pier or dock or structural shoreline stabilization measure, vegetation selection and placement shall comply with the following standards:
 - 1) Vegetation shall be selected and positioned on the property so as not to obscure the public view within designated view corridors from the public right-of-way to the lake and to the shoreline on the opposite side of the lake at the time of planting or upon future growth.
 - 2) Vegetation may be selected and positioned to maintain private views to the water by clustering vegetation in a selected area, provided that the minimum landscape standard is met, unless alternative compliance is approved.
- f. Alternative Compliance - Vegetation required by this subsection shall be installed unless the applicant demonstrates one of the following:
 - 1) The vegetation will not provide shoreline ecological function due to existing conditions, such as the presence of extensive shoreline stabilization measures that extend landward from the OHWM; or
 - 2) It is not feasible to plant all of the required vegetation on the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the property, or minimum spacing requirements for the vegetation to be planted; or
 - 3) The vegetation will substantially interfere with the use and enjoyment of the portion of the property located between the primary structure and OHWM, such as the existing structure is located in very close proximity to the OHWM; the area in between the primary structure and the OHWM is encumbered by a sanitary sewer, public pedestrian access easement, public access walkway or other constraining factors; or
 - 4) The required vegetation placement will obstruct existing views to the lake, at the time of planting or upon future growth, which cannot otherwise be mitigated through placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the City to determine whether the vegetation placement will obstruct existing views to the lake.

The alternate measures must be equal or superior to the provisions of this subsection in accomplishing the purpose and intent of maintaining and improving shoreline ecological functions and processes.

Requests to use alternative measures shall be reviewed by the Planning Official who may approve, approve with conditions, or deny the request. Cost of producing and implementing the alternative plan, and the fee to review the plan by City staff or the City's consultant shall be borne by the applicant.

If the alternative plan is consistent with the standards provided in this subsection, the Planning Official shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the

applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.

4. Other Standards -

- a. For other general requirements, see Chapter 95 KZC, Tree Management and Landscaping Requirements.
- b. The applicant is encouraged to make significant trees removed under these provisions available for City restoration projects, as needed.

5. Responsibility for Regular Maintenance -

- a. The applicant, landowner, or successors in interest shall be responsible for the regular maintenance of vegetation required under this section. Plants that die must be replaced in kind or with similar plants contained on the Native Plant List, or other native or shoreline appropriate species approved by the Planning Official or Urban Forester.
- b. All required vegetation must be maintained throughout the life of the development. Prior to issuance of a certificate of occupancy or final inspection, the proponent shall provide a final as-built landscape plan and a recorded agreement, in a form approved by the City Attorney, to maintain and replace all vegetation that is required by the City. The agreement shall be recorded with the King County Bureau of Elections and Records.

83.410 View Corridors

1. General - Development within the shoreline areas located west of Lake Washington Boulevard and Lake Street South shall include public view corridors that provide the public with an unobstructed view of the water. The intent of the corridor is to provide an unobstructed view from the adjacent public right-of-way to the lake and to the shoreline on the opposite side of the lake.
2. Standards -
 - a. For properties lying waterward of Lake Washington Boulevard and Lake Street South, a minimum view corridor of thirty (30) percent of the average parcel width must be maintained. A view of the shoreline edge of the subject property shall be provided if existing topography, vegetation, and other factors allow for this view to be retained.
 - b. The view corridors approved for properties located in the Urban Mixed shoreline environment established under a zoning master plan or zoning permit approved under the provisions of Chapter 152 KZC shall continue to comply with those requirements. Modifications to the proposed view corridor shall be considered under the standards established in this Chapter and the zoning master plan.
3. Exceptions - The requirement for a view corridor does not apply to the following:
 - a. The following water-dependent uses:
 - 1) Piers and docks associated with a marina or moorage facility for a commercial use;
 - 2) Piers, docks, moorage buoys, boatlifts and canopies associated with Detached, Attached and Stacked Unit uses; and
 - 3) Tour boat facility, ferry terminal or water taxi, including permanent structures up to 200 square feet in size housing commercial uses ancillary to the facility.
 - 4) Public Access Pier or Boardwalk
 - 5) Boat launch
 - b. Public Parks
 - c. Properties located in the Urban Mixed shoreline environment within the Central Business District zone.

- 2) Reducing the number or size of pilings to the extent allowed by site-specific engineering or design considerations;
 - 3) Softening existing hard shoreline stabilization measures to the extent allowed by site-specific characteristics;
 - 4) Raising the height of the structure off the water, provided that the height of the existing building is not increased; and
 - 5) Incorporating grating into the re-built structure where feasible.
- e. For piers and docks, appropriate measures are taken to mitigate adverse impacts to the maximum extent feasible while still retaining the existing area and dimensions, if desired, including, but not limited to:
- 1) Meeting the standards for height of piers and diving boards, minimum water depth, location of ells, fingers and deck platforms and pilings and moorage piles in KZC 83.270 through 83.290; and
 - 2) installing decking materials that allow a minimum of 40% light transmittance through the material.
- f. For hard shoreline stabilization measures, the applicant shall consult the provisions for emergency actions contained in KZC 83.560. If the work needed does not qualify as an emergency action under these provisions, then the applicant shall comply with the provisions for shoreline stabilization contained within KZC 83.300.

5. Certain Nonconformances Specifically Regulated

a. General -

- 1) The provisions of this section specify when and under what circumstances certain nonconformances must be corrected. If a nonconformance must be corrected under KZC 83.550, the applicant must submit all information necessary for the City to review the correction as part of the application for any development permit. In addition, the City will not permit occupancy until the correction is made.
- 2) If KZC 83.550.4 above of KZC 83.550 applies to a specific nonconformance, then the provisions of this section do not apply to that same nonconformance.

b. Non-conforming structure -

- 1) A nonconforming structure that is moved any distance must be brought into conformance.
- 2) Any structural alteration of a roof or exterior wall that does not comply with height, shoreline setback, or view corridor standards shall be required to be brought into conformance for the nonconforming height, setback or view corridor, except as provided otherwise in this Chapter. Excepted from this subsection is the repair or maintenance of structural members, the alteration to existing windows and/or doors and the addition of new windows and/or doors or other similar features, provided that there is no increase in floor area or that the location of the exterior wall is not modified in a manner that increases the degree of non-conformance.
- 3) Increases in structure footprint outside of the shoreline setback or wetland or stream buffer shall be allowed, even if all or a portion of the previously approved footprint is within the shoreline setback, wetland or stream buffer.
- 4) If accessory structures are located within the shoreline setback, these existing nonconforming structures must be brought into conformance if the applicant is making an alteration to the primary structure, the cost of which exceeds 50 percent of the replacement cost of the structure.

- C If identified historical or archaeological resources are present, site planning and access to such areas shall be designed and managed to give maximum protection to the resource and surrounding environment.
- d. Interpretative signs, historical markers and other similar exhibits providing information about historical and archaeological features and natural areas shall be provided when appropriate.
- e. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 that necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The City shall notify the State Department of Ecology, the State Attorney General's Office and the State Historic Preservation Office of such a waiver in a timely manner.
- f. Archaeological sites are subject to RCW 27.44 (Indian Graves and Records) and RCW 27.53 (Archaeological Sites and Records) and shall comply with WAC 25-48 or its successor as well as the provisions of this Chapter.
- g. Proposed changes to historical properties that are registered on the State or National Historic Register are subject to review under the National and State Registers' review process.

83.550 Nonconformances

1. General - This section establishes when and under what circumstances nonconforming aspects of a use or development must be brought into conformance with this Chapter. The applicant needs to consult the provisions of this section if there is some aspect of the use or development on the subject property that is not permitted under this Chapter.
2. When Conformance is Required - If an aspect, element or activity of or on the subject property conformed to the applicable shoreline regulations in effect at the time the aspect, element or activity was constructed or initiated, that aspect, element or activity may continue and need not be brought into conformance with this Chapter unless a provision of KZC 83.550 requires conformance. Further, nonconforming structures may be maintained, altered, remodeled, repaired and continued; provided that nonconforming structures shall not be enlarged, intensified, increased or altered in any way that increases the extent of the nonconformity, except as specifically permitted under KZC 83.550.
3. Abatement of Nonconformance That Was Illegal When Initiated - Any nonconformance that was illegal when initiated must immediately be brought into conformance with this Chapter. The City may, using the provisions of WAC 173-27, abate any nonconformance that was illegal when initiated.
4. Special Provision for Damaged Improvements - Non-conforming structures that are damaged or destroyed by fire, explosion, flood, earthquake, storm or other casualty may be restored or replaced in kind, provided that, the following are met:
 - a. The permit process is commenced within twenty-four (24) months of the date of such damage; and
 - b. The reconstruction does not expand, enlarge, or otherwise increase the non-conformity, except as provided for KZC 83.550; and
 - c. The reconstruction locates the structure in the same place where it was, or alternatively if moved, then the least environmentally damaging location relative to the shoreline and any critical areas; and
 - d. For existing residential structures built over the water, appropriate measures are taken to mitigate adverse impacts to the maximum extent feasible while still retaining the existing residential density, including but not limited to:
 - 1) Reducing the overwater footprint;

- 5) Non-conforming structures that are expanded or enlarged within the shoreline setback must obtain a shoreline variance; provided that, a non-conforming detached dwelling unit use may be enlarged without a shoreline variance where the following provisions apply:
 - 1) The non-conforming structure must have been constructed prior to December 1, 2006, the date of the City's *Final Shoreline Analysis Report*.
 - 2) Before implementing this provision, the applicant shall determine whether the provisions of KZC 83.380 would allow for a reduced setback, based upon existing conditions on the subject property.
 - 3) The structure must be located landward of the OHWM.
 - 4) Any enlargement of the building footprint within the shoreline setback shall not exceed 10 percent of the gross floor area of the existing dwelling unit prior to the expansion. Other enlargements, such as upper floor additions, may be permitted if the addition is consistent with other provisions contained in this subsection.
 - 5) The enlargement shall not extend further waterward than the existing primary residential structure. For purposes of this subsection, the improvements allowed within the shoreline setback as established in KZC 83.180, such as bay windows, chimneys, greenhouse windows, eaves, cornices, awnings and canopies shall not be used in determining the most waterward location of the building (see Plate XX).
 - 6) The applicant must restore a portion of the shoreline setback area with riparian vegetation to offset the impact, such that the shoreline setback area will function at an equivalent or higher level than the existing conditions. The restoration plan shall be prepared by a qualified professional and shall be reviewed by the Planning Official and/or a consultant who may approve, approve with conditions, or deny the request.

If the proposal is consistent with the standards provided in this subsection, the Planning Official shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the proposal is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and resubmittal. The cost of producing and implementing the restoration plan and the review by City staff and/or a consultant shall be borne by the applicant. Examples include, but are not limited to:

- i. Installation of additional native vegetation within the shoreline setback that would otherwise not be required under this Chapter. At a minimum, the area of shoreline setback restoration and/or enhancement shall be equivalent to the area impacted by the improvement.
 - ii. Removal of an existing hard shoreline stabilization structure covering at least 15 linear feet of the lake frontage that is located at, below, or within 5 feet landward of the OHWM and subsequent restoration of the shoreline to a natural or semi-natural state, including creation or enhancement of nearshore shallow-water habitat.
 - iii. Setting back hard shoreline stabilization structures or portions of hard shoreline stabilization structures from the OHWM and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography and beach/substrate composition.
 - iv. Other shoreline restoration projects that are demonstrated to result in an improvement to existing shoreline ecological functions and processes.
- 7) The applicant must comply with the best management practices contained in KZC 83.480 addressing the use of fertilizer, herbicides and pesticides as needed to protect lake water quality.

- 8) The applicant shall use "fully shielded cut off" light fixtures as defined by the Illuminating Engineering Society of North America (IESNA), or other appropriate measure to conceal the light source from adjoining uses and the lake, and direct the light toward the ground for any exterior light sources located on the west façade of the residence or other façades with exterior light sources that is directed towards the lake.
 - 9) The remodel or expansion will not cause adverse impacts to shoreline ecological functions and/or processes as described on KZC 83.360.
 - 10) The provision contained in KZC 83.550.5.b.5 shall only be used once within any 5-year period.
- 6) A nonconforming detached dwelling unit that is located on a lot that has less than 3,000 square feet of building area lying landward of the required shoreline setback and upland of required wetland or stream buffers, may be rebuilt or otherwise replaced within the shoreline setback and required wetland or stream buffer without a shoreline variance, provided the following standards are met:
- 1) The structure must be located landward of the OHWM.
 - 2) The size of the building footprint shall not be increased and the reconstructed structure shall not extend further waterward than the existing primary residential structure. For purposes of this subsection, the improvements allowed within the shoreline setback as established in KZC 83.180, such as bay windows, chimneys, greenhouse windows, eaves, cornices, awnings and canopies shall not be used in determining the most waterward location of the building (see Plate XX)..
 - 3) The reconstruction does not expand, enlarge, or otherwise increase the non-conformity.
 - 4) The reconstruction locates the structure in the least environmentally damaging location relative to the shoreline and the critical areas.
 - 5) The structure must comply with any requirements of this Chapter, zoning, building, or fire codes in effect when the structure is built, other than allowed in the subsection.
- 7) A primary structure that does not conform to the required shoreline setback and is located on a lot that has less than 3,000 square feet of building area lying landward of the shoreline setback, not including the area located within the required side yard setbacks and up to 10 feet of a required front yard, may be rebuilt or otherwise replaced in its current location within the shoreline setback, provided the following standards are met:
- 1) The structure must be located landward of the OHWM.
 - 2) The size of the building footprint shall not be increased and the reconstructed structure shall not extend further waterward than the existing primary structure. For purposes of this subsection, the improvements allowed within the shoreline setback as established in KZC 83.180, such as bay windows, chimneys, greenhouse windows, eaves, cornices, awnings and canopies shall not be used in determining the most waterward location of the building (see Plate XX)..
 - 3) The reconstruction does not expand, enlarge, or otherwise increase the non-conformity.
 - 4) The structure must comply with any requirements of this Chapter, zoning, building, or fire codes in effect when the structure is built, other than allowed in this subsection.
- c. Nonconforming Use –
- 1) A nonconforming use may be continued by successive owners or tenants.
 - 2) Any nonconforming use, except for a detached dwelling, unit must be brought into conformance or discontinued if:

- 1) The applicant is making an alteration that increases the extent of the non-conformity, such as increasing the gross floor area of any structure that houses or supports the nonconforming use; or
 - 2) The nonconforming use has ceased for 90 or more consecutive days. 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; or
 - 3) The nonconforming use is replaced by another use. The City may allow a change from one nonconforming use to another such use if, through a shoreline conditional use process, the City determines that the proposed new use will comply with the following standards:
 - i. The proposed use will be consistent with the policies and provisions of the Act and this Chapter and is compatible with the uses in the area as the preexisting use;
 - ii. The use or activity is not enlarged, intensified, increased or altered in a manner that increases the extent of the non-conformity;
 - iii. The structure(s) associated with the non-conforming use shall not be expanded in a manner that increases the extent of the non-conformity, including encroachment into areas, such as setbacks, and any wetlands, streams and/or associated buffers established by this Chapter, where new structures, development or use would not be allowed;
 - iv. The change in use will not create adverse impacts to shoreline ecological functions and/or processes as described in KZC 83.360; and
 - v. Uses that are specifically prohibited or that would thwart the intent of the Act or this Chapter shall not be authorized.
- d. Non-conforming wetland or stream buffer –
- 1) If existing structures or other improvements are located within the wetland, stream or associated buffers, these structures and improvements must be brought into conformance if the applicant is making an alteration, change or any other work on the subject property in a consecutive 12-month period and the cost of the alteration, change or work exceeds 50 percent of the replacement cost of all existing structure and improvements on the subject property.
 - 2) If the cost threshold of subsection d above is not exceeded, the alterations or changes may occur provided that the alterations or changes comply with this code and no exterior alterations or changes are made to the nonconforming portion of the structure or improvement, unless otherwise authorized by this Chapter.
- e. Non-conforming lot size - An undeveloped lot, tract, parcel, site or division which was created or segregated pursuant to all applicable laws, ordinances and regulations in effect at the time, but that is nonconforming as to the present lot size or density standards may be developed so long as such development conforms to other requirements of this Chapter and the Act.
- f. Nonconforming public pedestrian walkway -
- 1) If a previously installed public shoreline access walkway is subsequently found not installed to the property line, the walkway shall be extended to the property line consistent with conditions established in the original permit. The City can require the walkway to be extended with or without a building permit proposal.
 - 2) If a previously installed shoreline access trail was subsequently found to have vegetation, fencing, other improvements or accessory structures installed that block connection to an adjacent shoreline access walkway, the blockage shall be removed. The City can require the block connection removed with or without a building permit proposal.

- 3) Nonconforming shoreline pedestrian access walkways that were legally created shall not be required to comply with the dimensional standards or setback standards of this Chapter.
- 4) The shoreline public access walkway requirements established in this Chapter must be brought into conformance as much as is feasible, based on available land area if the applicant completes an alteration to all primary habitable structure(s) in shorelines jurisdiction , the cost of which exceeds 50 percent of the replacement cost of all structures and improvements on the subject property.
- g. Nonconforming Shoreline Setback Vegetation- The vegetation requirements of this Chapter must conform as much as is feasible, based on available land area, in either of the following situations:
 - 1) An increase of at least 10 percent in gross floor area of any structure located in shorelines jurisdiction, excluding detached dwelling unit and public park uses; or
 - 2) An alteration to any structure(s) in shorelines jurisdiction, the cost of which exceeds 50 percent of the replacement cost of all structures on the subject property.
- h. Nonconforming Lighting - Exterior lighting must be brought into compliance with the requirements of this Chapter under the following circumstances:
 - 1) The shielding requirements of KZC 83.470 shall be met when any nonconforming light fixture is replaced or moved.
 - 2) All other requirements of KZC 83.470 shall be met when there is an increase in gross floor area of more than 50 percent of the primary structures on the subject property.
- i. Prior approval of Shoreline Variance - A structure for which a shoreline variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.
- j. Prior approval of Shoreline Conditional Use - A use that is listed in this Chapter as a conditional use, but existed prior to adoption of this Chapter or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use.
- k. Any Other Nonconformance -
 - 1)The applicant is making any alteration or change or doing any other work in a consecutive 12-month period to an improvement that is nonconforming or houses, supports or is supported by the nonconformance, and the cost of the alteration, change or other work exceeds 50 percent of the replacement cost of that improvement; or
 - 2) The use on the subject property is changed and this Chapter establishes more stringent or different standards or requirements for the nonconforming aspect of the new use than this code establishes for the former use.

Replacement costs shall not include costs relating to non-structural interior elements, such as but not limited to appliances, heating and cooling systems, electrical systems, and interior finishes.

83.560 Emergency Actions

1. When Allowed –

Emergency actions are those that pose an unanticipated and imminent threat to public health, safety, or the environment and that require immediate action or within a time too short to allow full compliance with the provisions of this Chapter.

Plate XX

Addition to Nonconforming Detached Dwelling Unit

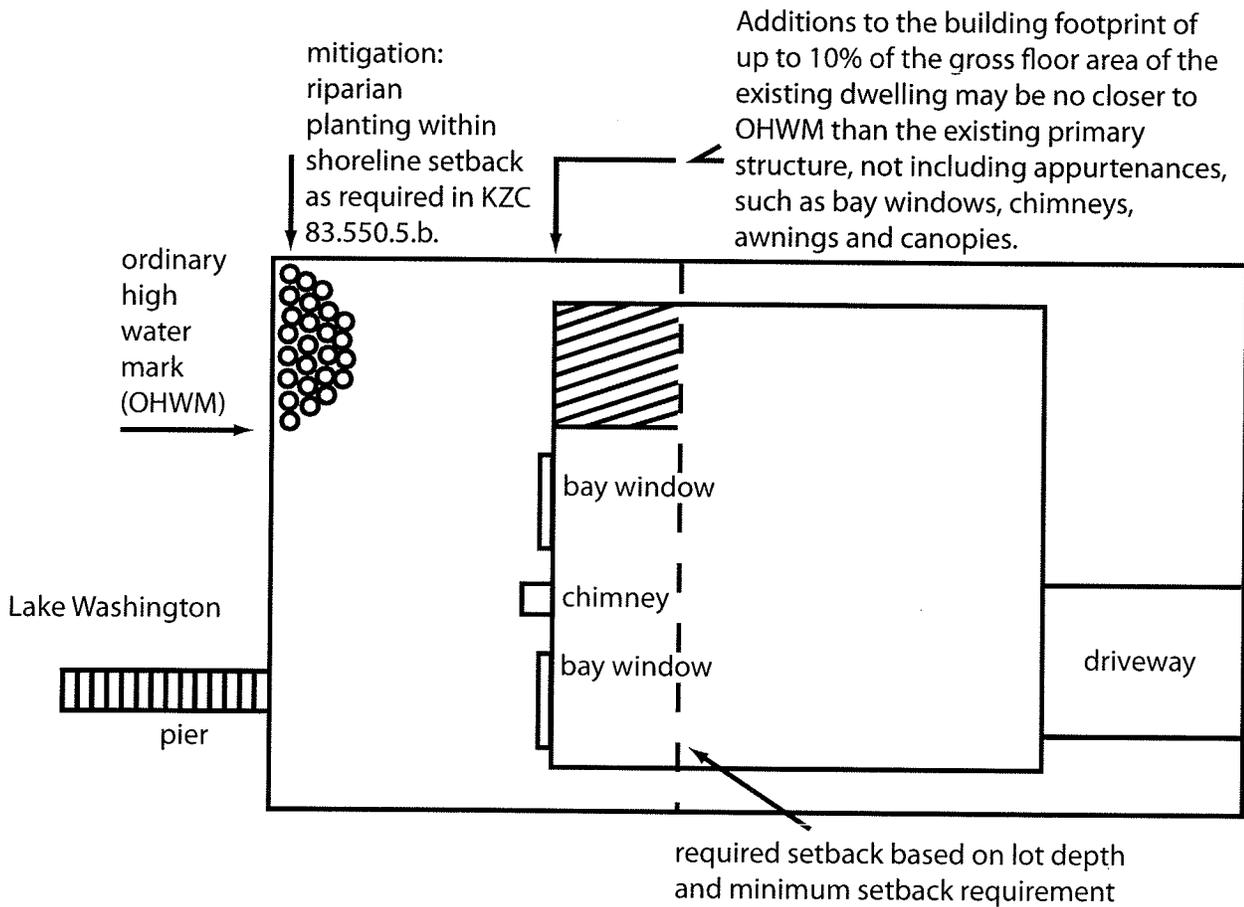


Plate XX

Maximum Shoreline Walkway Corridor

