

20.25E.065 Residential Shoreline Regulations

A. Purpose.

This section contains development requirements and standards that apply to all development of residential uses within the Shoreline Overlay District. This section is intended to provide a consolidated approach to regulation of shoreline residential development, uses and activities. This section includes site planning requirements, general residential standards, residential dimensional requirements, vegetation conservation requirements for residential uses, residential moorage requirements, and residential nonconforming provisions.

B. General Requirements Applicable to all Residential Development.

1. **Applicability.** All residential use and development located in the Shoreline Overlay District shall comply with the requirements of this section LUC 20.25E.065 and all other applicable provisions of the SMP. Except to the extent expressly stated in this section and as stated in LUC 20.25E.010.C.1.c, Part 20.25E is applied as a supplement to the general development requirements and standards governing site development of property city-wide as set forth in Chapter 20.20 LUC (General Development Requirements). All other applicable City of Bellevue codes, ordinances, and development and engineering standards continue to apply to development and uses in the Shoreline Overlay District. However, Bellevue City Code provisions of general applicability are not part of the SMP unless specifically adopted by reference.
2. **Site Planning.** New residential development (which includes expansion projects and development of vacant land and tear downs) shall comply with the following design criteria and development standards related to site planning within the Shoreline Overlay District:
 - a. **Shoreline Stabilization.** New residential development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible.
 - b. **Parking and Driveways.** New driveways and garages associated with residential development shall comply with the following applicable standards:
 - i. New residential parking shall not be permitted overwater or within the shoreline setback.
 - ii. New parking surfaces and driveway areas should be designed to incorporate Natural Drainage Practices and Low Impact Development practices where feasible. (For further information regarding city-wide requirements, refer to the Storm and Surface Water Utility Code, Chapter 24.06 BCC, and the Storm and Surface Water Engineering Standards (2011), now or as hereafter amended.)
 - iii. Construction, maintenance, and repair of parking surfaces and driveways shall prevent surface water runoff from contaminating water

Comment [cvh1]: Bellevue Specific Approach. Compilation of standards in standalone section to address citizen input regarding clarity and usability of requirements,

Comment [cvh2]: WAC 173-27-030(6) WAC 173-26-241 Shoreline Uses WAC 173-26-221 General provisions LUC 20.20. Incorporated into the SMP and amended for clarity and consistency with state requirements.

Comment [cvh3]: Modeled after LUC 20.25H.125

Comment [cvh4]: WAC 173-26-231(3)(a)(iii)(A)

bodies by using best management practices. (For further information regarding city-wide requirements, refer to the Bellevue Storm and Surface Water Utility Code, Chapter 24.06 BCC, and the Storm and Surface Water Engineering Design Standards (2011); now or as hereafter amended.)

- c. Accessory Utilities. To minimize disturbance in the Shoreline Overlay District, and to reduce the impact on shoreline ecological functions, utilities serving residential development shall be consolidated when reasonable within existing or proposed roadway and driveway corridors that provide access to the development. Consolidation of utilities within the roadway and driveway corridor is not reasonable when consolidation will not achieve the intended function of the utility, or the cost of avoiding disturbance is substantially disproportionate when compared to the environmental impact of proposed disturbance.
- d. Clearing and Grading.
 - i. All clearing, grading, excavating, and filling in the Shoreline Overlay District shall comply with the provisions of this paragraph B.2.d.(For further information regarding city-wide requirements, refer to Chapter 24.06 BCC (Storm and Surface Water Utility Code), Chapter 23.76 BCC (Clearing and Grading Code), and the City's engineering and clearing and grading development standards, now or as hereafter amended.)
 - ii. Minimum Necessary. Clearing, grading, excavation, and filling is permitted only in association with an approved residential use or development and shall be the minimum necessary to support the approved residential use or development. Filling to create dry land is prohibited.
- e. Critical Areas. Critical areas in the Shoreline Overlay District shall be regulated pursuant to Part 20.25H LUC, Critical Areas Overlay District (as set forth in Ordinance No. [INSERT Critical Areas Conformance Ordinance Number and date] which is incorporated by this reference into the SMP). In the event of a conflict between Part 20.25H LUC and the SMP, the provision providing the greatest protection to critical areas shall apply, consistent with LUC 20.25E.010.C.1.b.ii unless otherwise described in the applicable provision. If critical areas are located on the site, the requirements for the associated critical area buffer and buffer setback may impose a larger setback requirement than required under this section.
- f. Water Quality, Stormwater, Non-Point Source Pollution.
 - i. Purpose. The responsibility for water quality and control of stormwater and non-point source pollution is a city-wide obligation that is not borne entirely by property owners of land located within the Shoreline Overlay District. The purpose of this section is to prevent impacts to water quality and quantity that would result in a net loss of shoreline

Comment [cvh5]: Modeled after existing regulations – LUC 20.25E.080.7; 20.25E.080.G; 20.25E.080.K

ecological functions, or a significant impact to aesthetic qualities or recreational opportunities.

- ii. **Applicability.** All shoreline residential development and uses shall comply with applicable provisions of this section. (For further information regarding city-wide requirements, refer to Chapter 24.06 BCC (Storm and Surface Water Utility Code), the Storm and Surface Water Engineering Design Standards (2011), Chapter 23.76 BCC (Clearing and Grading Code), and the Clearing and Grading Development Standards; now or as hereafter amended).
- iii. **Construction Materials.** All structures that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality, aquatic plants, or animals. Materials used for decking or other structural components shall be approved by the Environmental Protection Agency for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic, or pentachlorophenol is prohibited in or above shoreline water bodies. Preservative and surface treatments are limited to products approved for use in aquatic environments, and must be applied according to label directions. Construction hardware that comes into contact with water either directly or through precipitation that causes discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion. Materials used for construction of moorage facilities shall conform to the provisions of paragraphs LUC 20.25E.065.H.3.a.
- iv. The use of cold tar sealants that contain Polycyclic Aromatic Hydrocarbons is prohibited.

Comment [cvh6]: Modeled after current SMP, intended to provide clarity for applicants.

Comment [cvh7]: Intended to provide clarity for homeowners.

C. Dimensional Requirements for Shoreline Residential and Shoreline Residential Canal Environments.

1. **Applicability.** This paragraph C applies to all new residential uses and residential uses that are proposed for modification and located in the Shoreline Residential and Shoreline Residential Canal environments. Additionally, the general development requirements and standards governing site development of property city-wide, contained in Chapter 20.20 LUC apply.
2. **Shoreline Dimensional Requirements for Residential Uses.** Land Use Code Chart 20.25E.065.C sets forth shoreline dimensional requirements for residential uses located in the Shoreline Residential and Shoreline Residential Canal environments. (For further information regarding city-wide requirements applicable to all residential land use districts, refer to the Chart of Dimensional Requirements LUC Chart 20.20.010; now or as hereafter amended). Each residential structure, development, or use in the shoreline shall comply with these requirements, except as otherwise provided in this section. If a number appears

in a box, the dimensional requirement is subject to the provision indicated in the corresponding Note. In the event of a conflict between the dimensional requirements of this section and the requirements of LUC Chart 20.20.010 when applied in the Shoreline Overlay District, the provisions of this section shall apply.

Chart 20.25E.065.C Shoreline Dimensional Requirements for Residential Uses

Shoreline Dimensional Requirements for Residential Uses					
SHORELINE ENVIRONMENTS	Shoreline Structure Setback	Maximum Lot Coverage by Structures (percent)	Maximum Building Height (1)(3)	Maximum Impervious Surface (percent)	Minimum Greenscape Requirement in Structure Setback (percent)
Shoreline Residential Canal (SRC)	25'	35 (2)	35'	50(4)	50(6)
Shoreline Residential (SR)	25' (5)	35/40 (2)	35'	50/55/80(4)	50(6)

Notes: Shoreline Dimensional Requirements for Residential Uses

- (1) Maximum building height may only be modified through the Shoreline Variance process (Refer to LUC 20.25E.190).
- (2) The allowed maximum lot coverage by structures in the Shoreline Residential and Shoreline Residential Canal environments located in R-1, R-1.8, R-2.5, R-3.5, R-4 and R-10 through R-30 shall not exceed 35 percent. The allowed maximum lot coverage by structures in the Shoreline Residential environment located in R-5 and R-7 shall not exceed 40 percent. (For further information regarding city-wide requirements applicable to all residential land use districts, refer to LUC Chart 20.20.010 Dimensional Requirements, Residential; now or as hereafter amended).
- (3) Building height in the Shoreline Overlay District is measured in accordance with the definition of height as defined in LUC 20.25E.280.
- (4) The allowed amount of maximum impervious surface in the Shoreline Residential and Shoreline Residential Canal environments located in R-1, R-1.8, R-2.5, R-3.5 and R-4 shall not exceed 50 percent. The allowed maximum impervious surface established for the Shoreline Residential environment located in R-5 and R-7.5 shall not exceed 55 percent. The allowed maximum lot coverage by structures in the Shoreline Residential environment located in R-10, R-15, R-20 and R-30 shall not exceed 80 percent. (For further information regarding city-wide requirements applicable to all residential land use districts, refer to LUC Chart 20.20.010 Dimensional Requirements, Residential now or as hereafter amended).

- (5) A structure may be required to be located greater than 25 feet from OHWM when a flood hazard critical area exists on the site adjacent to Lake Sammamish or Phantom Lake. See Land Use Code section 20.25H for additional information.

(6) The city-wide greenscape requirements of 20.20.010 shall not apply within the Shoreline Overlay District. In the Shoreline Overlay District, greenscape requirements of this paragraph shall be imposed any time a permit, approval, or review, including land alteration or land development for Single-Family Land Use Districts, is required by the Bellevue City Code or Land Use Code. Existing shoreline structure setbacks legally established on a site prior to [Insert Effective Date of Ordinance], which do not meet the minimum greenscape requirements set forth in Chart 20.25E.060.C shall not be considered nonconforming. The City shall not, however, approve proposals to decrease the greenscape percentage set forth in Chart 20.25E.065.C where a site already falls below the minimum greenscape requirements. Where an existing site falls below the minimum requirements, the removal of greenscape shall not be approved unless an equal amount of existing impervious surface, pervious surface, or hardscape is removed, such that the net amount of greenscape is unchanged. The Director may modify the requirement for nonconforming lots, or lots with unique sizes and shapes. See LUC 20.25E.280 for the definition of Shoreline Greenscape.

D. Residential Impervious Surfaces.

Impervious surfaces in the Shoreline Overlay District shall be regulated pursuant to LUC 20.20.460 (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP, except that the impervious surface limits contained in LUC Chart 20.25E.065.C may only be modified through the shoreline special report process.

E. Residential Structure Setback for Shoreline Residential and Shoreline Residential Canal Environments.

1. General Setback Requirements Applicable to all Residential Development.
 - a. The Shoreline Structure Setback shall be 25 feet.
 - b. Measurement of Shoreline Structure Setback. On Lake Sammamish, the shoreline structure setback shall be measured landward from elevation 30.6 NAVD 88 on a horizontal plane and to a point that results in the required dimension, or from that point identified in a site-specific ordinary high water mark determination completed by a qualified professional. On Lake Washington the shoreline structure setback shall be measured landward from elevation 18.8 NAVD 88 on a horizontal plane and to a point that results in the required dimension, or from that point identified in a site-specific OHWM determination completed by a qualified professional. On Phantom Lake, the shoreline structure setback shall be measured landward from elevation 260.7 NAVD 88 on a horizontal plane and to a point that results in the required dimension, or from that point identified in

a site-specific OHWM determination completed by a qualified professional. If critical areas are located on the site, the requirements for the associated critical area buffer and buffer setback may impose a larger setback than required under this section.

- c. Footprint Exception - Existing Structures. When a legally established structure existing on or before [insert date of ordinance adoption] encroaches into the structure setback established in LUC Chart 20.25E.065.C, the structure setback shall be modified to exclude the footprint of that portion of the structure located within the setback.

2. Residential Structure Setback Allowances.

- a. Expansion of the exterior footprint of an existing legally established structure within the 25 foot shoreline structure setback is allowed when:
 - i. The modification, addition, replacement or related activity does not increase the existing total footprint of the residence and associated impervious surface lying within the shoreline structure setback by more than 200 square feet over that existing before [insert effective date of ordinance]; and
 - ii. No portion of the modification, addition or replacement is located closer to the OHWM; and
 - iii. Vegetation enhancement of an area proportional (1:1) to the setback impacted is required through consolidated planting of native vegetation within the structure setback adjacent to the OHWM in accordance with the standards developed by the Director; and
- b. This allowance may only be used once for the life of the structure.

Comment [cvh8]: Modeled after City of Sammamish SMP.

F. Vegetation Conservation.

Applicability. Vegetation conservation in the Shoreline Overlay District shall be regulated pursuant to the city-wide tree preservation standards in LUC 20.20.900 (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP. Additional standards may apply for critical areas; refer to Part 20.25H LUC (Critical Areas Overlay District).

G. Shoreline Stabilization

Shoreline stabilization measures in the Shoreline Overlay District are regulated pursuant to LUC 20.25E.080.

H. Residential Moorage (Overwater Structures).

1. **Applicability.** Moorage facilities are allowed in the Shoreline Overlay District when in compliance with paragraph H of this section.
2. **Definitions.** The following definitions apply to paragraph H of this section in addition to the definitions contained in LUC 20.25E.280 and Chapter 20.50 LUC (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP.
 - a. **Boat.** A vessel built to travel on water that carries people or goods and is propelled by oars, outboard motor, inboard motor, or by wind.
 - b. **Boathouse.** A boat cover that includes at least one wall. Boathouses may be structurally integrated into or attached to the dock or boatlift or may be freestanding.
 - c. **Boatlift.** A structure or mechanism designed to elevate and dry-store boats above the water. Boatlifts do not include floating boatlifts, which for the purpose of this section, are regulated as a boat. Boatlifts include cradle lifts, platform lifts, and hoist lifts.
 - d. **Open Sided Boat Moorage Cover.** A boat shelter with a permanent structural roof and open sides.
 - e. **Lift Canopy.** A fabric skinned rigid framed boat cover structurally attached to a boatlift or watercraft lift roughly the equivalent in size of the boat or watercraft lift it is designed to protect.
 - f. **Walkway.** The portion of the dock that is connected to the shoreline at the landward end and provides access to moorage.
 - g. **Reconfigure.** Refers to the rearrangement of dock structure elements which result in new length and width dimensions even when the overall square footage remains unchanged from the original dock structure.
 - h. **Watercraft.** A small recreational vessel that the rider sits or stands on, rather than inside of, seats up to three riders, and is powered by an inboard jet propulsion system.
 - i. **Watercraft Lift.** A structure or mechanism that is designed to elevate and dry-store watercraft above the water. The term watercraft lift does not include floating watercraft lifts, which for the purpose of this section, are regulated as watercraft. Watercraft lifts include cradle lifts, platform lifts, and hoist lifts.
3. **General Requirements Applicable to all Residential Docks.** The following standards apply to all development and repairs related to residential docks.
 - a. **Dock Materials.** Environmentally neutral materials approved by the Environmental Protection Agency for use in aquatic environments shall be used. No materials treated with known toxic preservatives is allowed. Dock materials shall not be treated with pentachlorophenol, creosote, chromate

copper arsenate (CCA) or comparably toxic compounds. Preservative and surface treatments are limited to products approved for use in aquatic environments and must be applied according to label directions. Construction hardware that comes into contact with water either directly, or through precipitation that causes discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion.

- b. Dock Lighting. Dock lighting for the purpose of illuminating the dock surface for safety is allowed when the illuminating fixtures are limited to the minimum height necessary above the dock surface, or screened to provide the intended function of walkway illumination, without allowing light emissions to spill outside of the dock surface.
 - c. Accidental Destruction - Timing of Construction. Pursuant to paragraph I.4.e of this section, legally-established structures destroyed by fire, explosion, or other unforeseen disaster beyond the control of the owner may be reconstructed in the same configuration; provided, that complete applications for all required permits are submitted within 2 years from the date of destruction. Materials used for reconstruction shall comply with the requirements set forth in paragraph 3.a of this section. Areas of temporary construction disturbance resulting from the reconstruction shall be restored to pre-construction conditions.
4. General Requirements Applicable to New or Reconfigured Residential Docks.
- a. Paragraph H.4 and LUC Chart 20.25E.065.H.4 of this section contain general requirements that apply to all new and reconfigured residential docks in addition to the general requirements set forth in paragraph H.3 of this section. Each application for a new or reconfigured residential dock shall comply with these requirements.

Chart 20.25E.065.H.4 New and Reconfigured Residential Dock Standards.

Residence Location					
	Lake Washington	Lake Sammamish	Phantom Lake (1)	Residential Canal Environment (1)	Alternative Standard or Limitation – When Allowed
Number of docks allowed	One per residential lot				N/A
Dock Side Setback Requirements	10'	10'	10'	10'	N/A

Residence Location					
	Lake Washington	Lake Sammamish	Phantom Lake (1)	Residential Canal Environment (1)	Alternative Standard or Limitation – When Allowed
(2)					
Maximum Dock Length	150'	150'	100'	Platform may not extend greater than 10' from canal bulkhead	Shoreline Variance (3)
Maximum Dock Size - sq. ft.	480 sq. ft.	480 sq. ft.	250 sq. ft.	100 sq. ft.	State and Federal Approval (4)
Dock Walkway Requirements:					
Maximum Walkway width	4' for portion of pier or dock located within 30 ft. of the OHWM; otherwise, 6 ft. for walkways	4' for portion of pier or dock located within 30 ft. of the OHWM; otherwise, 6 ft. for walkways	4'	Walkway Prohibited N/A	State and Federal Approval (4)
EII location restriction related to Water Depth	30' waterward of OHWM or at least 9' of water depth measured from the ordinary high water mark	30' waterward of OHWM or at least 9' of water depth measured from the ordinary high water mark	State and Federal Approval (4)	EII Prohibited N/A	State and Federal Approval (4)
Mooring Pile	2 maximum per residential lot				State and Federal Approval

Residence Location					
	Lake Washington	Lake Sammamish	Phantom Lake (1)	Residential Canal Environment (1)	Alternative Standard or Limitation – When Allowed
					(4)
Decking	Grated				State and Federal Approval (4)

Notes: New and Reconfigured Residential Dock Standards

- (1) Floating docks may be approved on Phantom Lake and in the Shoreline Residential Canal environment when the use of fixed dock is not feasible.
- (2) No private dock or other structure waterward of the ordinary high water mark, including boatlifts, watercraft lifts, and other structures attached thereto, shall be closer than 10 feet to any adjacent property line projection, except where a mutual agreement of adjoining property owners is recorded with the King County Records and Election Division and the Bellevue City Clerk and submitted as part of the permit application for the use or activity.
- (3) These standards or limitations may be modified through approval of a Variance to the Shoreline Master Program (20.25E.190 LUC).
- (4) These standards or limitations may be modified through approval of larger dimensions or alternative materials authorized by the U.S. Army Corps of Engineers (pursuant to the approval authority provided under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act) or by Washington Department of Fish and Wildlife (pursuant to the approval authority under Hydraulic Project Approvals) through their respective permitting processes.

b. New and Reconfigured Residential Docks - Limitations.

- i. Number of Docks Per Lot. Construction of one residential dock per upland residential waterfront lot or one-joint use dock for two or more adjacent waterfront lots is allowed in accordance with Chart 20.25E.065.H.4. Expansion of any legally-established existing residential dock is permitted; provided the expansion complies with the development standards contained in paragraphs H.3 and H.4 of this section.
- ii. Lot Dimensional Requirements. Residential docks are allowed only on:
 - (1) Lots created on or after [insert effective date of ordinance], and having water frontage meeting or exceeding the minimum lot width required in the underlying land use district (for further information regarding the city-wide standard refer to LUC 20.20.010); or

- (2) Lots created before [insert effective date of ordinance]; or
- (3) Nonbuilding tracts platted for the purpose of providing common residential moorage for a group of contiguous properties; provided the minimum width of the nonbuilding tract is equal to or greater than 24 feet.

- iii. Combining Frontage—Shared Docks. For the purposes of meeting the requirements of paragraph H.4.b.ii of this section, adjoining property owners may combine their water frontage by mutual agreement recorded with the King County Records and Elections Division, or its successor agency, and the Bellevue City Clerk. Only one shared residential dock is permitted pursuant to a combined frontage agreement, which may connect with the property landward of the ordinary high water mark at only one location.
- iv. Boathouses. New boathouses are prohibited. Existing boathouses below OHWM are subject to the rules for nonconforming overwater accessory structures set forth in paragraph I of this section.
- v. Open-sided Boat Moorage Covers. One open-sided structural boat cover is allowed per residential dock. Open-sided boat covers shall be considered as part of the dock, and the total cumulative square footage of the open-sided boat cover and the dock shall not exceed the allowed maximum dock size in Chart 20.25E.065.H.4.

5. Repair and Replacement of Existing Residential Docks.

Existing, legally-established residential docks may be repaired or replaced in the existing configuration. ~~Docks may be repaired or replaced provided that when the following standards are met:~~

~~the M~~materials used for dock repairs shall meet the requirements established in paragraph 20.25E.065.H.3.a ~~of this.~~

6. Boat and Watercraft Lifts. To reduce disturbance of the lake substrate, attached boatlifts and watercraft lifts are preferred over freestanding lifts. Lifts are limited in the number allowed and location:

- a. Number. The number of ~~boat lifts per residential dock is limited to two. The number of watercraft lifts per dock is limited to four. The number of~~ combined boat and watercraft lifts is limited to four ~~one freestanding boat lift and only two watercraft lifts~~ per dock.
- b. Location. ~~The landward stanchion of any b~~Boat ~~and or~~ watercraft lifts shall be located more than 30 feet waterward of OHWM or within 30 feet waterward of OHWM if located in at least 4-9 feet of water depth when measured from the OHWM measured from the mean low watermark unless otherwise approved by State or Federal Agencies pursuant to LUC Chart 20.25E.065.H.4 Note 4.

- c. Number of Lift Canopies Allowed. One ~~light-transmitting~~ fabric watercraft or boat lift canopy is allowed per single use dock ~~is allowed~~. Two fabric watercraft or boat lift canopies are allowed per joint use dock. Canopy fabric shall be light-transmitting, unless alternative materials ~~additional lift canopies~~ are approved by State or Federal Agencies pursuant to LUC Chart 20.25E.065.H.4 Note 4.

I. Nonconforming Residential Development

1. Purpose. Existing residential development above the ordinary high water mark of the Shoreline Overlay District that was legally established prior to effective date of this ordinance is considered to be conforming to the Part 20.25E LUC. The purpose of this section is to allow for continued enjoyment, maintenance and repair of existing boathouses located below the ordinary high water mark when ancillary to residential development that was lawful when constructed, and to allow for replacement of boathouses when destroyed through no fault of the owner.
2. Applicability
 - a. This section applies to legally constructed boathouses located below the ordinary high water mark that existed as of [insert effective date].
 - b. The nonconforming provisions of WAC 173-27-080 do not apply.
 - c. The nonconforming provisions of LUC 20.25E.040 do not apply to residential development located within the Shoreline Overlay District. The nonconforming provisions of LUC 20.20.560 apply only to General Development Requirements of Chapter 20.20 LUC that are applicable city-wide and are not part of the SMP.
 - d. Modifications to residential development located within a critical area or critical area buffer identified pursuant to LUC 25.25H.030 shall comply with the applicable requirements of Part 20.25H LUC Critical Areas Overlay District (as set forth in Ordinance No. (INSERT critical areas conformance ordinance number and date), which is incorporated by reference into the SMP.
3. Regulations and Thresholds Applicable to Nonconforming Boathouses.
 - a. Ownership. The status of a nonconforming residential development is not affected by changes in ownership.

Comment [cvh9]: Bellevue Specific Approach to replace application of WAC 173-27-080.

- b. Continued Enjoyment. Nonconforming residential development may remain unless specifically limited by the terms of this section.
- c. Routine Maintenance and Repair. Routine maintenance and repair associated with a nonconforming boathouse is allowed. "Routine maintenance" includes those usual acts to prevent decline, lapse, or cessation from a legally established condition. "Repair" includes in-kind restoration and modernization improvements to a state comparable to its original condition within a reasonable period after decay has occurred. Improvements to a nonconforming boathouse that cost more than 50% of the replacement value of an individual structure undergoing improvement are not defined as maintenance and repair, and shall be considered a new boathouse, which is not permitted below OHWM.
 - i. Three-Year Period. Improvements made within a three-year period will be viewed as a single action for the purposes of determining whether regulations applicable to new residential development shall apply.
 - ii. Value of Improvements. The value of improvements is determined by the Director based on the entire project and not individual permits.
- d. Exemptions from the Calculation of Replacement Value. The following improvements do not count toward the calculation of replacement value thresholds identified in paragraph I.4.c:
 - i. Alterations related to installation of improved fire prevention measures;
 - ii. Alterations related to removal of architectural barriers pursuant to the Americans with Disabilities Act, or the Washington State Building Code (Chapter 19.27 RCW), now or as hereafter amended;
 - iii. Alterations related to seismic retrofit of existing structures;
 - iv. Improvements to on-site stormwater management facilities in conformance with Chapter 24.06 BCC, now or as hereafter amended;
 - v. Alterations that meet LEED, Energy Star or other industry-recognized standard that results in improved mechanical system, water savings, or operational efficiency; and,
 - vi. Alterations that meet the definition of routine maintenance, including but not limited to, painting, caulking, washing and rewiring.
- e. Accidental Destruction. When a legally established boathouse is damaged or destroyed by fire, explosion, natural disaster, or other unforeseen circumstances, the boathouse may be repaired or reconstructed subject only to the following limitations:
 - i. The legally established boathouse shall be repaired or reconstructed within the footprint existing when the destruction occurred, unless the

- area of the structure footprint is moved to a less sensitive portion of the site, the movement reduces nonconformities to the SMP;
- ii. Complete permit applications for all required permits are submitted within 2 years from the date of destruction and construction is diligently pursued;
 - iii. Under no circumstances may the reconstruction expand, enlarge, or otherwise increase a nonconformity; and,
 - iv. Areas of temporary construction disturbance resulting from reconstruction shall be restored pursuant to a mitigation plan.
- f. Permits. If not otherwise exempt pursuant to the terms of LUC 20.25E.170, a Shoreline Substantial Development Permit shall be obtained prior to undertaking any maintenance and repair, alteration, or replacement authorized by this section.

4. Existing Residential Development within the Shoreline Structure Setback.

Residential and Accessory Structures. A legally constructed residential or accessory structure that encroaches into the structure setback, is granted a footprint exception pursuant to the requirements of LUC 20.25E.065.E.1.c and is not considered to be nonconforming. The maintenance and repair thresholds of paragraph 20.25E.065.I.4.c of this section do not apply. Expansions to this type of residential shoreline development are regulated pursuant to the requirements of LUC 20.25E.065.E.2.a. Replacement of a residential structure or accessory structure following accidental destruction is permitted pursuant to the requirements of paragraph I.4.e of this section.

5. Existing Moorage and Shoreline Stabilization

- a. Legally constructed moorage may be repaired and maintained in accordance with LUC 20.25E.065.H (Residential Moorage).
- b. Legally constructed shoreline stabilization may be repaired and replaced in accordance with LUC 20.25E.080.F (Shoreline Stabilization).