



MEMORANDUM

DATE: November 28, 2012

TO: Chair Carlson and Members of the Planning Commission

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

RE: Planning Commission SMP Redraft

Completion of the Planning Commission Shoreline Master Program Redraft (PC SMP Redraft) was identified as the topic of discussion at the Planning Commission Study Session scheduled for November 28, 2012. Attachment A summarizes the Planning Commission direction received during the November 14 Study Session, and this agenda memo provides additional information requested by the Planning Commission to complete its review of outstanding WSSA requested Action Items.

Five attachments have been provided to support the Planning Commission discussion. Attachment A provides a matrix of Planning Commission direction received on the 16 outstanding WSSA requested revisions, and identifies issues that remain. This matrix is keyed to the "WSSA Action Items" that were presented in the memorandum received from WSSA on November 13, and in the flip chart that WSSA representatives used to track action items discussed by the Planning Commission during the November 14 Study Session. A copy of the full WSSA Memorandum prepared for the Planning Commission Meeting on November 14 is included as Attachment B.

Attachment C provides the November 28 PC SMP Redraft of the Residential Shoreline Regulations contained in section LUC 20.25E.065. This attachment was created by using a clean version of the residential regulations provided for the November 14 Study Session, and by revising that version using redline and strike-draft to reflect new direction received from the Planning Commission. Attachment D provides the PC SMP Redraft of the Shoreline Modification provisions contained in 20.25E.080. No substantive changes have been made to this section of the SMP, but the highlighting has been removed for ease of review. Attachment E provides "Shore Modification" materials that were developed by WSSA to support changes requested to the Shoreline Modification provisions contained in LUC 20.25E.080.

Please note: Due to the short week of Thanksgiving, and required steps necessary to prepare and deliver the November 28 Planning Commission packet, it was not possible to meet with WSSA representatives prior to release of the information contained in the above-referenced

attachments. Staff apprised Charlie Klinge of the approach to be taken for preparation of the November 28 packet materials, and forwarded the materials to Mr. Klinge as soon as they were finalized for printing.

The balance of this memorandum provides options for Planning Commission consideration of outstanding WSSA requested Action Items. A discussion of anticipated schedule and next steps has also been provided for Planning Commission discussion.

Outstanding WSSA Action Items

Action Item 5: Definition of Structure

In Action Item 5, WSSA requested that the Planning Commission consider an amendment to the definition of "Structure" at LUC 20.25E.280 as follows:

Structure. A combination of materials constructed and erected permanently or temporarily on or under the ground or attached to something having a permanent location on, above, or below the surface of the ground or water. Not included in the definition of structure are vessels, shoreline stabilization, docks, residential fences, retaining walls less than 30 inches in height, rockeries less than 30 inches in height, decks/patios/walkways/stairs less than 30 inches in height and associated railings, fire pits/built-in barbeques not greater than 50 square feet combined total, and similar improvements of a minor character.

Additional detail regarding the WSSA request is in the memo included as Attachment B. During the discussion of this item on November 14, staff indicated that a change to the definition of "structure" that departed from the city-wide definition contained in LUC 20.50.046 could result in inconsistencies during permit review based on the principles of statutory construction. As a result, staff recommended that the Planning Commission retain the definition of structure included in the PC SMP Redraft dated July 5, 2012.

Consensus was not reached on Action Item 5, and the discussion raised a related concern about the level of vegetation conservation authority retained in the PC SMP Redraft. In particular, a concern was voiced by some Planning Commission members that the definition of structure could allow shoreline property owners to substantially pave the area between their homes and the ordinary high water mark with only the limitations imposed by applicable lot coverage and impervious surface percentages. The cumulative impact analysis required for submittal of the SMP to Ecology requires a worst case evaluation. As a result, significant paving would need to be assumed in the cumulative impact analysis if additional limitations are not included in the SMP. This worst case assumption could in turn jeopardize Ecology approval of the SMP as discussed by the Planning Commission.

Additional discussion of this Action Item was determined to be necessary, and the Planning Commission requested that staff provide options for its consideration during the November 28 Study Session.

WSSA Option: This option is summarized above and presented in greater detail at Action Item 5 in Attachment B. Administration of the definition with revisions requested by WSSA would exempt fire pits and barbeques from the definition of structure even if they exceed 30 inches in height, subject to a 50 square foot limitation on total coverage associated with these improvements. The requested revision would expand the exemptions to the definition of “structure” that are provided city-wide, for only those properties located within the Shoreline Overlay. This option is not recommended by staff.

Two alternative options have been presented below for Planning Commission consideration if an additional limitation on hardscape is desired within the shoreline setback. The first option would provide for the relocation of the “Greenscape” requirement to the shoreline setback area, the second option would be to include a limitation on impervious surface area consistent with the approach taken by Mercer Island. These options are described in greater detail below.

Greenscape Option: The greenscape requirement is contained in the Dimensional Charts at LUC 20.20.010 and applies to residential lots located in R-1 through R-7.5 land use districts, including those located within the Shoreline Overlay. The dimensional standards require that greenscape amounting to 50% of the front yard setback be provided on lots where the standard applies. Additional guidance regarding the greenscape standard is set forth in Note 40 to the dimensional charts, which is included below for Planning Commission reference. One option for the Planning Commission to limit hardscape adjacent to the shoreline would be to require the greenscape standard to be met within the area of the shoreline setback. This option would not impose a new requirement on shoreline property owners, but would require the currently applicable standard to be met at a location that better serves shoreline and neighborhood character protection objectives. If the Planning Commission wishes to pursue this option, staff would provide updated language to accomplish relocation of the greenscape standard to the shoreline setback on R-1 through R-7.5 lots located within the Shoreline Overlay.

Note 40 to the Dimensional Charts in LUC 20.20.010.

(40) The greenscape requirements of this section 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 single-family front yard setbacks legally established on a site prior to January 1, 2008, which do not meet the minimum greenscape requirements set forth in Chart 20.20.010 shall not be considered nonconforming. The City shall not, however, approve proposals to decrease the greenscape percentage set forth in Chart 20.20.010 where a site already falls below the minimum greenscape requirements. Where an existing site falls below the minimum requirements set forth in Chart 20.20.010, 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 requirements of Chart 20.20.010 for nonconforming lots, corner lots, or lots with unique sizes and shapes. See LUC 20.50.022 for the definition of greenscape.

Definition of “Greenscape” from LUC 20.50.022.

Greenscape. All living plant, tree, hedge, and shrub material. Hardscape materials, whether pervious or impervious by design, shall not be considered greenscape.

Mercer Island Option: Another option for Planning Commission consideration would be to re-apply the limitation on impervious surface that was included in the July 5 PC SMP Redraft. This language was taken from the Mercer Island Draft SMP when the Planning Commission directed staff to use the setback approach employed by Mercer Island on residential properties.

The Mercer Island approach included a 25 foot shoreline setback together with a limitation on the amount of impervious surface area that could occur in the first 50 feet of property located landward of the ordinary high water mark. In Mercer Island, the limitation on impervious surface within 50 feet of the shoreline was viewed as a necessary to justify the 25 foot setback dimension included in its SMP. If the Planning Commission wishes to pursue this option, staff would re-insert the impervious surface language as Notes 6 and 7 to the Shoreline Dimensional Chart contained in LUC 20.25E.065.C to read as follows:

- (6) The allowed amount of maximum impervious surface within the 25 foot structure setback shall not exceed 10%. In no case may the maximum impervious surface of the entire property exceed that referenced in LUC Chart 20.20.010.
- (7) The allowed amount of maximum impervious surface within the area measured 25 to 50 feet landward of the Ordinary High Water Mark shall not exceed 30%. In no case may the maximum impervious surface of the entire property exceed that referenced in LUC Chart 20.20.010.

Action Item 12: Boatlifts and Canopies

The Planning Commission did not have time to consider Action Item 12 during the November 14 Study Session, although Commissioner Sheffels noted that the language regarding maximum number of boat and watercraft lifts was confusing, and could result in unintended consequences. To support Planning Commission consideration of Action Item 12, the WSSA request has been summarized below and additional detail is provided in Attachment B.

Modify 20.25E.065.H.6 to make the following changes:

- a. Number. The combined number of boatlifts and watercraft lifts per dock is four.
- b. [Location] Delete.
- c. [Number and type of Lift Canopies Allowed] Delete.

For further clarification, the following language should be added:

“All other standards or limitations related to lifts and canopies shall be subject to the requirements of the Army Corps of Engineers and/or other applicable State/Federal Agencies.”

Staff recommends that the Planning Commission include the WSSA suggested revision regarding the number of boat and watercraft lifts as a mechanism to address the code clarity issue raised by Commissioner Sheffels (Action Item 12.a). Staff does not recommend that the Planning Commission delete the boat and watercraft lift location requirements, or the maximum number of canopies allowed (Action Items 12.b and c). Deviation from the standard based on state or federal approval is an idea already imbedded in the code. This idea could be clarified as requested by WSSA, or by reference to Note 4 of the Residential Dock Standards contained in Chart 20.25E.065.H.4 if the Planning Commission wishes to maintain internal code consistency.

Action Item 14: Clearing and Grading and Fill in the Shoreline

During the August meetings between WSSA representatives and City staff, WSSA requested staff to include language in LUC 20.25E.080.C that made the clearing and grading and fill provisions inapplicable to residential development governed pursuant to LUC 20.25E.065. Staff included the requested language, but cautioned WSSA representatives that the change could have unintended consequences that create an absolute prohibition against grading and filling on residential property below the ordinance high water mark. The resulting absolute prohibition would prevent beach augmentation, and other beneficial improvements, without first obtaining a variance.

WSSA Option: Action Item 14 is set forth here for reference, with supporting WSSA rationale included in Attachment B. In Action Item 14 WSSA requested the Planning Commission to direct staff to propose a solution to the Clearing and Grading problem that balances allowing appropriate clearing and grading below ordinary high water mark with residential development, but avoiding extensive provisions that are overly complicated because they are designed for non-residential development.

Planning Commission SMP Redraft Option: The option included in the July 5 PC SMP Redraft provides the balance that WSSA seeks. Stream-lined clearing and grading provisions were contained in the residential development section at LUC 20.25E.065.B.2.d, and provisions related to more complex clearing and grading actions were contained in LUC 20.25E.080.C. The provisions contained in the residential section would address the vast majority of clearing and grading activities undertaken by residential homeowners in an uncomplicated way. The clearing and grading and fill section included in LUC 20.25E.080 (before the WSSA requested revision) would address the occasional complex activity undertaken by a residential homeowner without the need to obtain a variance, and would apply appropriate performance criteria to ensure no net loss. Staff recommends that the Planning Commission revert back to the July 5 PC SMP Redraft to achieve WSSA objectives.

Action Item 15-16: Shoreline Stabilization LUC 20.25E.080

WSSA Option: The Planning Commission did not have an opportunity to discuss these Action Items in detail, but raised several concerns in response to comments received from WSSA representatives during the November 14 Study Session. Specifically, some of the Planning Commissioners expressed varying degrees of concern about the following three issues:

1. Lack of distinction between “repair” activities and “replacement” activities that could be undertaken on legally-established shoreline stabilization.
2. Whether wind and wave action on Lake Sammamish and Lake Washington justifies in-kind replacement of a vertical bulkhead without needing to demonstrate that a laid back replacement structure was technically infeasible.
3. Lack of design parameters.

The WSSA comment is extensive. Action Items 15- 16 are set forth in Attachment B and create a significant departure from the July 5 PC SMP Redraft. The significant rewrite needed to operationalize the WSSA request would not be possible within the time that remains before the year end completion date identified for the SMP. Consequently, staff has responded to the issues raised by the Planning Commission on November 14, and provided options for addressing those identified concerns. Staff does not recommend the rewrite requested by WSSA at this point in time.

Planning Commission July 5, 2012 Option: The July 5 PC SMP Redraft provided ultimate flexibility to repair and replace shoreline stabilization without limitation, provided that replacement stabilization was reconstructed in its “existing configuration.” The language in the PC SMP Redraft responded to Planning Commission direction to remove the distinction between repair and replacement that had been included in the Public Hearing Draft SMP. The PC SMP Redraft language is provided below for Planning Commission reference.

LUC 20.25E.080.F – Shoreline Stabilization

5. Repair of Existing Shoreline Stabilization. This section applies to repair of existing legally-established shoreline stabilization measures. Existing legally-established stabilization measures may be repaired or replaced in their existing configuration.

WSSA expressed support for the above-referenced section of the PC SMP Redraft, so the Planning Commission could consider returning to the language of the July 5 version as one available option. This approach would not serve to provide additional clarity regarding the distinction between “repair” and “replacement,” but it would allow in-kind replacement of vertical stabilization without requiring shoreline property owners to demonstrate that a laid back stabilization approach would be infeasible. The risk associated with this option is described in greater detail below. Staff recommends Planning Commission adoption of the staff responsive option to ameliorate that risk and stay on schedule for completion of the SMP. See Attachment C for the recommended code language

Staff Responsive Option to August 2012 WSSA Request: While WSSA was complementary of the PC SMP Redraft described above, during the August meeting between WSSA representatives and City staff, WSSA requested additional flexibility to depart from the “existing configuration” proviso when a replacement would net a “better result.” Staff anticipated that the Planning Commission would agree to such an incentive-based approach, and drafted responsive code language based on the WSSA material entitled “Shore Stabilization.” The Shoreline Stabilization material provided by WSSA to support its request has been included with this agenda memo as Attachment E.

During staff consideration of the WSSA request and review of WSSA materials, staff concluded that the unlimited ability to construct in-kind replacements to vertical bulkheads could jeopardize Ecology approval of the SMP. Referring back to the record, staff could find no support for an incentive-based approach that allowed for the in-kind replacement of vertical walls without limitation. Dr. Pauley, who testified on behalf of WSSA, specifically stated on the record that vertical bulkheads at a minimum should be replaced with battered bulkheads. Therefore, the staffs’ approach to responding to the WSSA request included a “no technical feasibility” clause, which would continue to allow vertical walls to be replaced in-kind when necessity was shown.

The staff responsive option is intended to address issues raised by WSSA within the limitations of the record. This approach would not serve to provide additional clarity regarding the distinction between “repair” and “replacement,” but it would allow in-kind replacement of vertical stabilization when a laid back stabilization approach was demonstrated to be infeasible. An additional reference could easily be added to this option to refer applicants to design parameters contained in LUC 20.25E.080.F.4 to address Planning Commission concerns about lack of design detail.

Anticipated Schedule

- November 28: Final edits and policy direction for transmittal
- December 12: Review of transmittal and agreement to transmit P.C. Draft SMP to City Council for review

Staff Contact Information

Questions or comments regarding the SMP Update may be directed to staff on the Shoreline Master Program Update Team via telephone or email as identified below. Comments may also be submitted electronically via the SMP Update email box at shorelines@bellevuewa.gov.

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Catherine Drews	425-452-6134	cdrews@bellevuewa.gov

Attachments

- A. Matrix of Planning Commission direction received on the 16 outstanding WSSA requested edits
- B. WSSA Memorandum prepared for the Planning Commission Meeting on November 14, 2012
- C. November 28, 2012 Revised PC SMP Redraft of Residential Shoreline regulations contained in LUC 20.25E.065
- D. PC SMP Redraft of Shoreline Stabilization regulations contained in LUC 20.25E.080 (Strikedraft and Final Versions)
- E. WSSA "Shore Stabilization" materials

Matrix of PC Direction on 16 WSSA Action Items

WSSA Action Item	Topic	Summary of WSSA Issue/Need	PC Direction	Code Section
1.	“New” Development	Clarify confusing language	Accept WSSA Option 2.	20.25E.065.B2
2.	Flood Hazards – CAO	Alert City Council to need for reform	None Requested.	N/A
3.	Flood Hazards – CAO	Alert public in the SMP	Agreed to concept- staff to suggest language.	Footnote (5) Chart 20.25E.065.C
4.	“Impervious Surfaces”	Delete confusing language	Delete variance requirement and add Shoreline Special Report process.	20.25E.065.D
5.	“Structures”	Add clarifying language	No direction- see discussion in PC Agenda Memo.	----
6.	Docks – Length	Defer to Corps & WDFW, Not Variance	Keep as drafted.	No change
7.	Docks – Phantom - “Ells”	Defer to WDFW	Modify to allow ells through state approval.	Chart 20.25E.065.H.4
8.	Docks – Phantom - Decking	Defer to WDFW	Modify to allow different decking through state approval.	Chart 20.25E.065.H.4
9.	Docks – Lk.WA/Samm. – Decking	Defer to Corps & WDFW, Not Variance	Delete variance requirement for deck grating. Refer to State and Federal Approval and footnote 4.	Chart 20.25E.065.H.4
10.	Boatlifts	Delete confusing language	Keep as drafted.	No change
11.	Dock Grating – Small Repairs	Clarify – no grating requirement for small repairs	Delete requirement for grating for repair and replacement.	20.25E.065.H.5
12.	Boatlifts,	Simplify &	No direction- see	----

Planning Commission November 28, 2012 SMP Agenda Memo

Attachment A

Matrix of PC Direction on 16 WSSA Action Items

	Canopies, & Covers	Defer to Corps & WDFW	discussion in PC Agenda Memo.	
13.	Nonconforming Development	Clarifications and Allow Boathouse Replacement	Past decision not revisiting.	No change.
14.	Clearing & Grading	Staff's Raised Issue Needs Staff Fix	No direction- see discussion in PC Agenda Memo.	----
15.	Bulkheads – Purpose	Remove confusing language	No direction- see discussion in PC Agenda Memo.	----
16.	Bulkheads – Repair & Replacement	Consider improved provision	No direction- see discussion in PC Agenda Memo.	----

Washington
Sensible
Shorelines
Association



Memorandum

To: Planning Commission for Meeting on November 14, 2012

Re: Shoreline Master Program Update

Dear Commissioners:

The process which the Commission instituted, allowing consideration and inclusion of our input, has worked very well. The attached comments represent the last phase of this process. We regret we have not been able to respond sooner, but the attached comments comprehensively address issues from our prior submissions, including our detailed comments to staff that are provided in your packet as Attachment C. Although staff did not have time to respond in the staff report to these remaining issues, we hope that staff will provide you with their response at the meeting this week so that these issues can be resolved prior to transmission to the Council. WSSA's attached comments encompass input in 5 areas.

- Nonconformity
- Shoreline Stabilization
- Duplicate Permitting Process
- Flood Hazard Review During CAO Update
- Wording Clarifications

Nonconformity - we request that existing boathouses be grandfathered and allowed to be repaired and replaced, since that causes no impacts. New boathouses would not be allowed.

Shoreline Stabilization – we provided comprehensive language to address Repair and Replacement, but staff has apparently been unwilling to consider it without Commission direction.

Duplicate Permitting Process - for all dock and dock related facilities, requirements negotiated with the Corps and WDFW should govern—a variance should not be required.

New Flood Hazard Restrictions – staff recognizes that after Council consideration, implementing changes will be needed to the CAO. We request that the Commission advise the Council that the flood hazard rules need to be reconsidered at that time since Bellevue's rules are now being applied in a more restrictive fashion than required by FEMA, and more restrictive than Redmond and Sammamish.

Wording Clarifications - we've noted the need for a few wording improvements that, while seemingly minor, will provide major clarification on key issues.

Thank you for consideration of these issues.

Sincerely, WSSA Shoreline Team

WASHINGTON SENSIBLE SHORELINES ASSOCIATION

COMMENTS TO PLANNING COMMISSION ON SHORELINE MASTER PROGRAM—NOVEMBER 2012 REDRAFT

This memo summarizes WSSA's comments on the status of the SMP modifications before you. We are pleased to report that great progress has been made. Since the draft was published in July, WSSA representatives have met with staff on multiple occasions and these discussions have resulted in an SMP that WSSA supports. WSSA expresses its appreciation to City Staff for its efforts. The combination of Planning Commission input and the current modifications have reduced the size of the original highly complicated Section .065 down from 33 pages to 14 pages—necessary and greatly appreciated simplification and streamlining. Some minor modifications remain unresolved, however.

Residents continue to request that the Planning Commission make some changes to further improve the SMP. WSSA provided comments within six business days back to staff regarding the current SMP version and those comments were attached to this week's packets as Attachment C. However, staff did not have time to respond to our comments prior to publication of the packet. Thus, it is only natural that there are a few loose ends that WSSA would like to see addressed as set forth below, and WSSA will not repeat suggested minor clarification edits proposed in Attachment C that staff may accept or not, but likely do not affect the overall meaning.

Many of these points have not really been debated by the Commission since the focus was on other issues that needed to be resolved first. We are literally down to the last few items needing Commission attention, these are highlighted in the report below—See **Action Items** 1-16 in text boxes for easy reference. For your convenience, we provide cross-referencing to the SMP Redraft with "WSSA Meeting Edits: by providing page numbers referring to the color coded redline-strikeout version in this week's packets e.g. (See p. __).

INCORPORATION BY REFERENCE (See p. 1 and throughout)

Issue: WSSA was concerned that the SMP was not clear enough in stating what general City regulations were incorporated within the SMP. Though a bit technical, the difference can cause months of delay when disputes arise. (See p. 1).

Issue is Resolved: The Staff Report (Packet page 15-16) states that Staff is hopeful, with respect to incorporation, that the revisions "address the majority of comments provided by WSSA." WSSA agrees that the concerns are substantially eliminated. Staff then clarifies that only four sets of general regulations are to be incorporated into the SMP. The SMP is much clearer about the four sets of regulations to be incorporated, and also provides notice that other general regulations will also apply.

SITE PLANNING REGULATIONS 20.25E.065.B.2 (See p. 1-6)

Issue: WSSA was concerned that the site planning regulations at 20.25E.065.B.2 were too onerous. See pp.1-6. The site planning regulations apply to all "New residential development," but we learned at the July meeting that "New" includes "expansion" and "teardown" projects.

(See p. 1.) This interpretation by staff is particularly confusing since the Land Use Code Definition of “New Development” includes only development of vacant land or teardowns, but not expansions. LUC 20.50.036.N (“**New Development.** Development of a site not previously developed or redevelopment of a site which involves demolition of all existing structures and construction of new structures. (Ord. 4973, 3-3-97, § 402; Ord. 4816, 12-4-95, § 502).”) There was also confusion about various regulations and whether general regulations already addressed these matters.

Almost Resolved: The new version eliminates provisions from 20.25E.065.B.2, however most of these provisions are covered by the Impervious Surface Area provisions at LUC 20.20.460—which are incorporated by reference into the SMP. WSSA is satisfied with this change because the Shoreline area is subject to the same regulations as the rest of the City and staff has made no showing of a need for special regulations on these issues. Although the SMP Site Planning regulations still contain other provisions, these other provisions appear to be sufficiently flexible to address property owner concerns. However, one change needs to be made:

Action Item 1: At Site Planning 20.25E.065.B.2 (see p. 1), the current language begins:

“New residential development shall comply with the following design criteria and development standards related to site planning”

That language is still confusing because staff says that “New” includes “expansion” and “teardown” projects as well as development of vacant sites, even though the LUC applies “New Development” only to development of vacant land and complete teardowns. WSSA proposes two revision options:

Option 1, amend as follows: “New residential development (as defined per LUC 20.50.036 N which includes development of vacant land and teardown projects) shall comply”

Option 2, amend as follows: “New residential development (which includes expansion projects and development of vacant land and teardowns) shall comply”

Option 1 links the reference to “New residential development” to the definition of “New development”. This Option 1 is preferred because it is nonsensical to apply these requirements, i.e. parking, driveways, garages, accessory utilities, etc., to a home expansion to add a family room.

Option 2 provides only an explanatory statement consistent with staff intent to ensure clarification for the public and regulators.

FLOOD HAZARD REGULATIONS IN CAO AND SETBACK

Significant New Issue: Since July, WSSA has learned that staff is interpreting the flood hazard regulations in the Critical Area Overlay (CAO) in a manner that is more restrictive than required by FEMA and more restrictive than the Cities of Sammamish and Redmond. The current CAO rules are complicated, so it is unclear if this was the original intent of the rules or a new approach. Though the flood hazard rule as an overlay concern was brought up by the Commission, the staff has never raised or explained this serious concern.

General Rule: The general FEMA requirement is that any development in the 100-year floodplain must mitigate possible flood impacts typically by providing “compensatory flood storage” and by constructing the lowest occupied floor elevation to be one foot above the flood elevation. This is the rule followed by Redmond and Sammamish.

Bellevue Rule: As interpreted by staff, home construction or expansion beyond/below the 100-year flood line is completely prohibited—no mitigation is possible.

Analysis: This unique and restrictive prohibition is totally unnecessary and is inconsistent with any rational explanation. FEMA does not require this approach. If the project mitigates the impact, then there is no impact to the floodplain. Besides, the required mitigation will cause severe restrictions on building options, so making the rule even more onerous is simply punitive against property owners.

Huge Impact: This Bellevue rule has a huge impact on properties on Lake Sammamish and Phantom Lake, but does not impact Lake Washington homes. The 100 year flood line on Lake Sammamish is 36.6’ NAVD, which is a 6 feet above the OHWM—on a typical property, that might be 50 feet of land from the shore. The flood line intersects possibly 40% of all existing homes on Lake Sammamish and restricts development on more than 70% of all properties. Thus, on Lake Sammamish, the flood hazard regulations, even if modified to be consistent with the typical rule followed in Redmond and Sammamish, will result in home setbacks that are often more than the 25 foot Shoreline Structure Setback.

Additional Information: WSSA and City representatives met with FEMA, and the FEMA representatives confirmed that the 36.6’ elevation is based on an observed elevation in the 1950s prior to the Corps’ 1960s Sammamish Slough channelization project and installation of the weir.

Resolution Proposed: The Planning Commission need not delve into this issue at this time. Staff has confirmed that after the City Council accepts the SMP approach, then the CAO must be revised to implement consistency revisions required by the SMP. Thus, the Planning Commission should advise the City Council that the CAO flood hazard regulations need to be revised for the shoreline as part of the CAO shoreline revisions. Also, a Note should be added to the Shoreline Structure Setback Chart (see p. 7) to alert property owners to this dramatic additional restriction:

Action Item 2: In the transmittal memo to the City Council, advise the Council that the CAO flood hazard regulations need to be revised for the lake shorelines as part of the CAO shoreline revisions.

Action Item 3: At Chart 20.25E.065.C. “Shoreline Dimensional Requirements for Residential Uses” (see p. 7) a change should be made to provide notice to property owners that the setback may be greater than 25 ft. to account for flood hazard regulations:

Add new Note (5) to Shoreline Residential (SR)/Shoreline Structure Setback box and Note (5) should read: **“(5) Flood hazard critical area rules may require, or result in, a larger structure setback for affected properties on Lake Sammamish and Phantom Lake.”**

Comment: This revision adds nothing of substance, but is only a notification. Thus, there is no reason not to add this important information into the SMP.

IMPERVIOUS SURFACE REGULATIONS 20.25E.065.D (See p. 8)

Issue: This issue involves confusing language added recently by staff at 20.25E.065.D relating to impervious surface. (See p. 8). This issue should not be controversial because it is a clarifying revision. The current language states:

“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.065C may only be modified through the shoreline variance process.**”

The concern is the highlighted underlined language. LUC 20.20.460 is comprehensive and addresses all necessary issues. The addition of the “except” language creates serious ambiguity that is not acceptable in the SMP. WSSA initially suggested allowing a Special Shoreline Report as well as the Variance Option, but even that may not get to the core of this concern. What is it in 20.20.460 that would allow modifications that the “except” language is intending to prohibit? One interpretation is that the “except” language would prohibit modification of the impervious surface limitations by using a critical areas report, which is specifically allowed in 20.20.460. Or, is there something else that the variance would apply to? It is simply too confusing and unexplained.

Resolution Proposed: Without effective clarification, the language should be deleted and the generally applicable rules in LUC 20.20.460 would govern.

Action Item 4: At Residential Impervious Surfaces 20.25E.065.D (see p. 8), make the following change, delete from except on:

“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.065C may only be modified through the shoreline variance process.**”

STRUCTURE SETBACK DEFINITION (See p. 9)

Issue: The minimum Shoreline Structure Setback is established as 25 feet by 20.25E.065.E. (See p. 9). At the July meeting, there was discussion about this setback being a “Structure Setback” which is different and potentially more expansive than the traditional “Building Setback.” Staff at first said that for all houses in the City the standard setback precluded patios, but then corrected themselves to clarify that the standard setback applies only to Structures. Further, it was clarified that Structures are defined to include decks 30 inches or greater in height, but does not include patios and decks less than 30 inches in height. As a result, the Shoreline Structure Setback applies to decks 30 inches or greater in height, but not to patios and decks less than 30 inches in height.

The intention is clear. A building setback might be misunderstood to apply only to buildings and not raised decks. So, the important point is to ensure that the definition of Structure is clear because that definition determines what is restricted by the Shoreline Structure Setback. The definition of Structure at 20.25E.280 currently reads:

“Structure. A combination of materials constructed and erected permanently or temporarily on or under the ground or attached to something having a permanent location on, above, or below the surface of the ground or water. Not included in the definition of structure are vessels, shoreline stabilization, docks, residential fences, retaining walls less than 30 inches in height, rockeries less than 30 inches in height, and similar improvements of a minor character.”

Resolution Proposed: The definition of Structure should be amended for clarity on the 30 inch rule in relation to decks. The concern is that decks and patios are not specifically called out and must be interpreted to be within the broad catchall, “and similar improvements of a minor character.” That is unsatisfactory because different staff members could come to different conclusions about what improvements are minor. Also, the Public Hearing draft of the SMP had language clarifying that walkways, stairs, barbeques, and fire pits were allowed in the Shoreline Structure Setback (old 20.25E.065.E.3). In the reworked current version that clarifying language was dropped, but should be re-inserted.

Action Item 5: Amend the definition of Structure at 20.25E.280 as follows:

Structure. A combination of materials constructed and erected permanently or temporarily on or under the ground or attached to something having a permanent location on, above, or below the surface of the ground or water. Not included in the definition of structure are vessels, shoreline stabilization, docks, residential fences, retaining walls less than 30 inches in height, rockeries less than 30 inches in height, decks/patios/walkways/stairs less than 30 inches in height and associated railings, fire pits/built-in barbeques not greater than 50 square feet combined total, and similar improvements of a minor character.

Comment: The revision has two parts. The first is to call out decks, patios, walkways, and stairs as not structures as long as those improvements are less than 30 inches in height with associated railings even if the railings are higher than 30 inches. If stairs are even one foot off the ground, then the railings will be higher than 30 inches.

The second part is to call out fire pits and built-in barbeques, but restricting those to 50 square feet total. A built-in BBQ with the hood or backsplash is likely higher than 30 inches so that restriction would not apply.

RESIDENTIAL MOORAGE (OVERWATER STRUCTURES) (See pp. 23-37)

The current Redraft adds a new fifth column to Chart for New and Reconfigured Residential Dock Standards. (See pp. 27-32). The new fifth column is entitled “*Alternative Standard or Limitation – When Allowed*”. The column includes the Note that allows alternatives when State and/or Federal Approval are obtained. WSSA supports the fifth column approach because it is prominent and clear. Also, the language used in Note (4) for State and Federal Approval is acceptable. However, there are a few remaining issues in the Chart and with other Moorage Regulations.

Issue—Variance for Maximum Dock Length: As noted, the fifth column sets forth the Alternative Standard. However, for length of docks, the fifth column provides that a “**Shoreline Variance**” per Note (3) is the Alternative/Limitation, rather than State and Federal Approval per Note (4). (See p. 27, p. 32).

Resolution Proposed: The variance option for length of docks is too restrictive, since variances are rarely granted and require Ecology approval. Some docks need to be longer due to shallow water in specific locations. At the same time, property owners are not building extensively long docks because the Corps won’t allow it for navigation reasons and due to the huge costs. WSSA requests that length of dock have the flexibility to obtain Federal and State approval, not a variance. WSSA recommends that the Corps and WDFW be the controlling authorities due to their expertise on fish issues. For navigation reasons, the Corps will allow a longer dock only if sufficiently justified.

Action Item 6: Modify the fifth column for Maximum Dock Length in Chart 20.25E.065.H4 “Alternative Standard or Limitation – When Allowed” make the following change (see p. 27):

Delete “Shoreline Variance (3)” and substitute “State and Federal Approval (4).”

Issue—Phantom Lake Dock Size, Walkway Width, Ell Prohibition, and Grated Decking:

The Phantom Lake restrictions in Chart 20.25E.065.H4 would restrict dock length to a maximum of 100 feet, dock size maximum to 250 SF, walkway maximum width of 4 feet, ells would be prohibited, and grated decking required. (See pp. 27, 29, 31). More reasonable limitations would be dock size 400 SF, walkway width 6 feet for stability, ells allowed, and no restriction on decking type.

Comment: Phantom Lake is a privately owned, non-navigable water body that is not salmon bearing, so restrictions on Phantom Lake are not justified. Work in the Lake is regulated by WDFW for fish protection. Without presence of salmon, the requirement for grated decking is not justified.

Partially Resolved: The ability to obtain State approval as an alternative resolves the concerns about restrictions to dock size and walkway width. However, a clarification is needed regarding whether the State approval is effective to alter the prohibition on ells, and the restriction requiring grated decking should be removed.

Action Item 7: Clarify whether the Ell prohibition for Phantom Lake in Chart 20.25E.065.H4 (see p. 29) can be modified, i.e. can an Ell be allowed, through the fifth column “Alternative Standard or Limitation – When Allowed”?

If the answer is no, then make the following change to the Phantom Lake box which states that Ells are prohibited:

Delete “Prohibited” and substitute “State Approval Required (4).”

Action Item 8: For Phantom Lake in Chart 20.25E.065.H4 (see p. 31), make the following change to the box for Decking that states grating is required:

Delete “Grated” and substitute “Grating Not Required.”

Issue—Variance Required for Alternative to Grated Decking: In Chart 20.20E.065.H.4, for grating, the fifth column provides that a “**Shoreline Variance**” per Note (3) is the Alternative. Instead, it should read State and Federal Approval required per Note (4). (See p. 31).

Resolution Proposed: The variance option for grating is unnecessarily restrictive. The current science and technology on its effectiveness is unsettled. It may be that something comparable or better than grated dock decking is created. WSSA requests that decking have the flexibility to obtain Federal and State approval, not a variance.

Action Item 9: Modify the fifth column for Decking in Chart 20.25E.065.H4 (see p. 31) “Alternative Standard or Limitation – When Allowed” make the following change:

Delete “Shoreline Variance (3)” and substitute “State and Federal Approval (4).”

Issue—Chart Note (2) 10 Foot Setback for Boatlifts and Watercraft Lifts: Chart 20.25E.065.H4 at Note (2) establishes the minimum 10 foot setback for docks from the property line, but then goes on to apply that setback to boatlifts and watercraft lifts. (See p. 32). This restriction should be removed. WSSA recognizes that a mutual (neighbor-to-neighbor) agreement is an option, but it is not reasonable to require forced negotiations with the neighbor or deed restrictions on boatlifts when the dock itself complies with the 10 foot setback.

Comment: The primary purpose of the 10 foot setback is to ensure that boats brought in on that side of the dock will not cross the property line when moored. Boatlifts and watercraft lifts simply hold the boat at that location and create no additional intrusion. Requiring an extra 10 feet forces the docks closer to the middle of the property and on narrow 50 foot lots is highly restrictive.

Resolution Proposed: The Note (2) language needs to be adjusted so only private docks are subject to the minimum 10 foot setback and not other structures which the wording explains includes boatlifts and watercraft lifts.

**Action Item 10: Modify the language of Note (2) in Chart 20.25E.065.H4
“Alternative Standard or Limitation – When Allowed” (see p. 32) as follows:**

Current language of Note (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”

Proposed language of Note (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”

Issue—Is Grated Decking Still Required for Small Repairs?: At the July meeting, we had discussion about the problems inherent in requiring grated decking for small repairs. The problem is that grated decking requires a different substructure and avoidance of uneven surfaces, so it is never as simple as tearing off old wood decking boards and replacing those with grated decking. It appeared at the July meeting that the Commission understood this problem. Unfortunately, the current Redraft change makes it unclear whether that Commission direction was carried out.

Technical Analysis: At the Repair and Replacement provision at 20.25E.065.H.5., the old a. was deleted because repairing a small section of decking (20 SF in the deleted provision) was not reasonable threshold. (See p. 36). Old b. became the new a., but the provision has been changed to include compliance with H.4. in addition to the prior reference requiring compliance with H.3.a. The reference to H.3.a. is the requirement that materials be safe for use in the water and is unobjectionable. (Refers to p. 25). The confusion is with requiring compliance with H.4. and also stating that “unless otherwise approved by State or Federal Agencies pursuant to 20.20E.065.H.4 Note 3.” (See p. 36).

Chart 20.20E.065.H.4 applies to New and Reconfigured Docks, but this provision applies to “materials used for dock repairs,” so the reference is inconsistent and confusing. (Compare p. 27 with p. 36). Chart 20.20E.065.H.4 mandates decking to be grated and the fifth column provides that a **Shoreline Variance** per Note (3) is the Alternative, rather than State and Federal Approval per Note (4). (See p. 31). Yet, this provision about repairs references the latter. The concern is that the combination of these provisions is an interpretation that any repair, no matter how small, must comply with the Chart and that means use of grated decking for repairs. Even if State or Federal Approval is

allowed, which is unclear in the Chart, it is totally unreasonable and unworkable to obtain State and Federal Approval for a small repair.

Resolution Proposed: The change to the Repair and Replacement provision at 20.25E.065.H.5.a. is unworkable and must be changed back to the reading of prior b.

Action Item 11: Modify 20.25E.065.H.5.a (see p. 36) to make the following change:

a. Materials used for dock repairs shall meet the requirements established in paragraph H.3.a and H.4 of this section unless otherwise approved by State or Federal Agencies pursuant to 20.25E.065.H.4 Note 3. Delete "Shoreline

Issue—Boatlifts, Canopies and Open Sided Boat Moorage Covers: Discussions with staff resulted in new definitions for "Open Sided Boat Moorage Covers" and "Lift Canopies." The former is typically a roofed structure with open sides. The latter is a fabric canopy above and typically integrated with a boatlift. The current Redraft at 20.25E.065.H.4.b.v. allows one Open-sided Boat Moorage Cover with the overwater coverage limited by the maximum dock size limitation in Chart 20.25E.065.H.4. (See pp. 33-34). Thus, it is WSSA's understanding that this limitation is subject to the Alternative Standard of obtaining State and Federal Approval.

With respect to the provision entitled Boat and Watercraft Lifts at 20.25E.065.H.6, WSSA requested changes to this provision to simplify it and simply defer to the State and Federal Agencies. (See p. 36). The City does not need to add another layer of regulation for the Number and Location of lifts and canopies when WDFW and the Corps strictly regulate both lifts and canopies.

Resolution Proposed: For these reasons, WSSA proposed a general City rule of allowing up to four lifts total whether boatlifts or watercraft lifts, and deferring the other restrictions to the State and Federal Agencies.

Action Item 12: Modify 20.25E.065.H.6 (see p. 36) to make the following changes:

- a. Number. The combined number of boatlifts and watercraft lifts per dock is four.**
- b. [Location] Delete.**
- c. [Number and type of Lift Canopies Allowed] Delete.**

For further clarification, the following language should be added:

"All other standards or limitations related to lifts and canopies shall be subject to the requirements of the Army Corps of Engineers and/or other applicable State/Federal Agencies."

NONCONFORMING RESIDENTIAL DEVELOPMENT (See pp. 37-42)

The current Redraft relating to Nonconforming Residential Development has undergone substantial changes from the July version. This provision is 20.25E.065.I. (See p. 37). The current version, however, is not quite clear in its intent and contains unnecessarily restrictive provisions related to boathouses.

Issue: The purpose provision at I.1. states a clear rule that existing development above Ordinary High Water is to be considered conforming. (See p. 37). But, putting this statement in the purpose section is a bit confusing. Overall, the entire Section I remains confusing. Staff's changes create complicated rules relating to existing boathouses designed to make it very difficult to repair and replace boathouses.

Comment: There is no reason to restrict boathouse repairs which should be allowed outright, and replacement may be the normal way to repair a boathouse. This point is recognized in WAC 173-27-040(2)(b): "Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment." **WSSA supports the ability to repair and replace existing overwater boathouses because that will cause no new impact on shoreline ecological functions.** WSSA has no position on other changes deemed expansion of boathouses.

Resolution Proposed: The current Section I is unworkable.

Action Item 13: Modify 20.25E.065.I subparts 1, 2, and 3 (see p. 37) to read as follows with Comments in brackets []:

- 1. Purpose. The purpose of this section is to clarify the residential development considered conforming and to establish rules for the continued enjoyment, maintenance and repair of existing boathouses.***
- 2. Applicability***
 - a. Existing residential development above the ordinary high water mark of the Shoreline Overlay District that was legally established prior to the effective date of this ordinance is considered to be conforming to Part 20.25E LUC.***

[No change proposed to b., c., d.]

Action Item 13 Continued Below . . .

Action Item 13 (continued):

[The next part is numbered 4 in the Redraft, but there is no part 3 which explains the renumbering here to 3]

- 3. Regulations and Thresholds Applicable to Nonconforming Boathouses.**
 - a. Ownership. The status of a nonconforming boathouse is not affected by changes in ownership.**
 - b. Continued Enjoyment. Nonconforming boathouses 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. Replacement is authorized where replacement is the common method of repair and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.**
 - d. Expansion. Expansion of boathouses is not allowed.**
 - e. Accidental Destruction. [No change proposed]**

[No change is proposed to remaining provisions numbered 5 and 6, except to correct the numbering and make the references consistent. Parts 5 and 6 should be 4 and 5, and the reference to I.4.e at the end of Part 5 should be to I.3.e.]

SHORELINE MODIFICATIONS 20.25H.080

Issue: At Part C. "Clearing, Grading, and Fill in the Shoreline," staff added a comment at C.1. in the margin [CoB4] which states that having this Section not apply to residential development may have "unintended consequences." (See p. 2). Namely, staffs' comment states that the result will be a prohibition against grading below OHWM, which would preclude beneficial filling projects such as beach augmentation. The issue seems to be whether reasonable clearing and grading requirements can be merged into .065. This provision at .080.C. contains numerous items that are not applicable to a residential site.

Comment: Many of the items in .080.C. are not applicable to residential development, and so this provision as written is very confusing when previously applied to residential development, thus the need for a change.

Resolution Needed: For these reasons, the Planning Commission should direct staff to propose a solution.

Action Item 14: Direct staff to propose a solution to the Clearing and Grading problem that balances allowing appropriate clearing and grading below OHW with Residential Development, but avoiding extensive provisions that are overly complicated because they are designed for non-residential development.

Issue—Shoreline Stabilization, Applicability and F.4.a (See pp. 12, 15): The applicability provision starts as follows: “Shoreline stabilization measures **designed to protect existing primary structures, public facilities, or public use structures from shoreline erosion** are allowed” The underlined language adds an unnecessary qualification to the Applicability provision and hence the entire Part F, and so this language should be deleted. (See p. 12). Similar language is used at F.4.a. for New or Enlarged Shoreline Stabilization Measures. (See p. 15). Shoreline stabilization for new development may be allowed too, with more restrictions, but potentially allowed. WAC 173-26-231(3)(a)(iii). Are these Bellevue provisions intending to prohibit shoreline stabilization for new private development in all instances? Similarly, the Repair and Replacement provision applies to all shoreline stabilization whether solely for primary structures or not, so the Applicability provision can be read to be too narrow.

Resolution Proposed: Delete the offending language.

Action Item 15: Modify 20.25E.080. as follows:

F.1. (See p. 12) Delete: “designed to protect existing primary structures, public facilities, or public use structures from shoreline erosion.”

F.4.a. (See p. 15) Delete: “to protect existing primary structures, public facilities, or public use structures.” Replace with: “according to the following requirements.”

Issue—Shoreline Stabilization, 5. Repair and Replacement of Existing Shoreline Stabilization (See pp. 19-20): After discussion with staff WSSA provided language to address its concerns. The Staff proposed language is deficient for the following reasons:

- The provision is confusing and does not provide sufficient guidance about what is allowed.
- The Comparable Location section is too restrictive and prevents improved replacement structures landward of the existing. The State regulation exception should be applied to all such situations and not just to the Shoreline Residential Canal Environment.

- There is no basis to prevent replacement of existing vertical bulkheads, since replacement causes no new impacts.
- The provision on Limitation on Compatibility provides no guidance about what is comparable.

Resolution Proposed: For these reasons, WSSA has provided alternative language.

Action Item 16: Modify 20.25E.080.F.5 (see pp. 19-20) to substitute the entire provision with the **alternative** language set forth following this Action Item.

PROPOSED ALTERNATIVE 20.25E.080.F.5.

5. Repair and Replacement of Existing Shoreline Stabilization. This section applies to repair and replacement of existing legally-established shoreline stabilization measures. Existing legally-established hard stabilization measures may be repaired. Replacement means the construction of a new structure to perform shoreline stabilization functions of the previously existing structure which can no longer adequately serve its purpose. Existing legally-established shore stabilization structures or measures, including hard stabilization measures, may be replaced when the proposal meets the following requirements, which ensure that replacement structures are designed, located, sized, and constructed to assure no net loss of shoreline ecological functions:

a. Lake Washington and Lake Sammamish. Replacement structures are allowed in all circumstances because there is a demonstrated need to protect residential properties and structures from erosion caused by waves due to boat traffic and wind driven storms.

b. Phantom Lake. Replacement structures may be allowed if a qualified professional provides information that there is a demonstrated need to protect residential properties and structures from erosion.

c. Comparable Design. The replacement structure should be comparable to the existing structure and may not constitute an addition or increase. The replacement structure may be an identical replacement. However, a replacement structure need not be exactly the same as the existing structure and can be constructed of different materials or methods, including different design features and modifications to size, consistent with the following requirements:

1. Sloping Rock Revetments Preferred. Property owners are encouraged, but not required, to replace vertical walls with sloping rock revetments, which should be sloped at 3:1 or less unless special circumstances justify a greater slope. Sloping rock revetments must be located so that the top of the revetment is no further waterward than the top of the vertical wall. Sloping rock revetments shall be considered an acceptable replacement structure and not an addition or increase even though the size will be different than the vertical wall.

2. Vertical Walls Not Preferred. Vertical walls are not an acceptable replacement structure for an existing non-vertical wall.

3. No Addition or Increase. Replacement structures shall not add to, or increase, the length of the prior existing structure. Refer to LUC 20.25E.080.F.4 for requirements applicable to enlarged shoreline stabilization measures.

d. Comparable Location. The replacement structure should be at the same location, subject to the follow qualifications:

1. Where the existing structure is waterward of ordinary high water, replacement structures located at any point landward of the existing structure shall be considered an acceptable replacement structure.

2. Sloping rock revetments replacing vertical walls must be located so that the top of the revetment is no further waterward than the top of the vertical wall.

3. An exception or clarification is for replacement structures where the residence was occupied prior to January 1, 1992. For that property, if overriding safety or environmental concerns are shown by a qualified professional, then the replacement structure may be constructed abutting the waterward side of the existing structure even though the existing structure is at or below ordinary high water. For example, a vertical or near vertical wall that is being replaced by construction of a vertical wall fronting the existing wall, then the new wall shall be constructed no further waterward of the existing wall than is necessary for construction of new footings. WAC 173-27-040(2)(c). As an alternative, a rock revetment may be constructed fronting the existing vertical wall as an allowed repair or replacement.

4. Soft shoreline stabilization measures used for replacement that provide restoration of shoreline ecological functions may be permitted waterward of ordinary high water.

e. Replacement With Soft Stabilization Allowed. Nothing in this provision precludes vertical concrete shoreline stabilization measures from being replaced with a soft or hard shoreline stabilization measures as described at 20.25E.080.4.c and d.

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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,

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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 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.

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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 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.

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

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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 Percentage of Structure Setback
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)

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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).

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- (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. (4)(2) 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.

Comment [HB3]: Action Item #3

(6) The greenscape requirements of 20.20.010 do not apply within the shoreline overlay district. This section 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 structure setbacks 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 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 20.50.022 for the definition of greenscape.

Comment [HB4]: Action Item #5

~~(5)~~

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 variance special report process.

Comment [HB5]: Action Item #4

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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 structuresetback 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

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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.

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.

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- 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 elements 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 1.4.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

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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 (2)	10'	10'	10'	10'	N/A
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.	4' for portion of pier or dock located within 30 ft. of	4'	Walkway Prohibited N/A	State and Federal Approval (4)

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Residence Location					
	Lake Washington	Lake Sammamish	Phantom Lake (1)	Residential Canal Environment (1)	Alternative Standard or Limitation – When Allowed
	of the OHWM; otherwise, 6 ft. for walkways	the OHWM; otherwise, 6 ft. for walkways			
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	EII Prohibited N/A	State and Federal Approval (4)
Mooring Pile	2 maximum per residential lot				State and Federal Approval (4) Shoreline Variance (3)
Decking	Grated				State and Federal Approval (4) Shoreline Variance (3)

Comment [HB6]: Action Item #7

Comment [HB7]: Action Items #8 & #9

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

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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 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.7 of this section.

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- 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 when the following standards are met:

- a. Materials used for dock repairs shall meet the requirements established in paragraph H.3.a ~~and H.4 of this section unless otherwise approved by State or Federal Agencies pursuant to 20.25E.065.H.4 Note 3.~~

Comment [HB8]: Action Item #11

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 one freestanding boat lift and only two watercraft lifts per dock.
- b. Location. Boat and watercraft lifts shall be located more than 30 feet waterward of OHWM or in at least 10 feet of water depth measured from the mean low watermark
- c. Number of Lift Canopies Allowed. One light-transmitting fabric watercraft or boat lift canopy per dock is allowed unless additional lift canopies are approved by State or Federal Agencies pursuant to 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

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- 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.
 - 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.

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- 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. g. 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.

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5. 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.

6. 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).

City of Bellevue Shoreline Master Program Update

Revised Planning Commission Draft

LUC 20.25E.080 – Shoreline Modifications

WSSA Meeting Edits and PC Direction released

September 7, 2012

Includes Strikedraft and Final Version

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20.25E.080 SHORELINE MODIFICATIONS

A. Applicability.

This section contains requirements and standards that apply to all shoreline modifications in the Shoreline Overlay District. These requirements and standards are in addition to the procedures, permit requirements, and standards set forth in other sections of the Bellevue SMP.

B. Breakwaters, Jetties, and Groins.

1. Prohibited Development.
 - a. Jetties and groins are prohibited within the Shoreline Overlay District and should be removed when the use for which they were constructed is discontinued or the purpose or function for which the jetty or groin was originally installed no longer exists.
 - b. Solid landfill or rockery breakwaters are prohibited in the Shoreline Overlay District.
2. Breakwaters – Limitations. Breakwaters are allowed only when there is a demonstrated need to protect existing recreation or non-residential moorage uses from damage caused by natural wave action.
3. Breakwaters – Performance Standards. Breakwaters, when allowed, require a Shoreline Conditional Use permit (refer to LUC 20.25E.180), and the following performance standards shall be met.
 - a. The applicant shall demonstrate that no technically feasible alternative exists (refer to LUC 20.25E.060.C).
 - b. Breakwaters shall be designed by a qualified professional using minimally invasive techniques to protect shoreline ecological functions and shall not preclude fish passage or adversely affect sediment migration.
 - c. As part of the application submittal, the qualified professional designing the breakwater must certify that the breakwater is the minimum necessary to accomplish its purpose.
 - d. The applicant shall demonstrate that the design will not result in a net loss of shoreline ecological functions.
 - e. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).

Comment [mnp1]: Bellevue specific approach recognizing limited application of these features. Meets requirements at WAC 173-26-231 (3) (d)

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C. Clearing, Grading, and Fill in the Shoreline

1. Clearing, Grading, and Fill – Limitations. This paragraph C does not apply to residential development governed pursuant to LUC 20.25E.065.
 - a. All clearing, grading, excavating, and filling in the Shoreline Overlay District shall comply with the provisions of this paragraph C ~~of this section~~, LUC 20.25H.180 (Areas of Special Flood Hazard), Chapters 24.06 (Storm and Surface Water Utility Code) and 23.76 (Clearing and Grading Code) BCC, and the City's engineering and clearing and grading development standards, now or as amended. Bellevue City Code provisions of general applicability are not part of the SMP unless specifically adopted by reference.
 - b. Minimum Necessary. Clearing, grading, excavation, and filling is permitted only in association with an approved use or development and shall be the minimum necessary to support the approved use or development. Filling to create dry land is prohibited.
 - c. Filling and excavation, excluding dredging (see LUC 20.25E.080.D), below the ordinary high water mark is allowed only for the following activities, and when the applicant demonstrates the project will result in not net loss of ecological functions using appropriate technical studies:
 - i. Placement of beach or aquatic substrate when part of an approved ecological restoration activity;
 - ii. Replenishing sand on public and private community beaches;
 - iii. Alteration, maintenance, or repair of existing transportation facilities and utilities located within the Shoreline Overlay District, and no technically feasible alternative is available as set forth in LUC 25.25E.060.C.
 - iv. Constructing facilities for public water-dependant uses or public access; provided that the excavation or filling is limited to the minimum required to accommodate the use or facility, and no technically feasible alternative is available as set forth in LUC 25.25E.060.C;
 - v. Activities incidental to the repair of legally-established shoreline stabilization measures;
 - vi. Approved flood control projects;
 - vii. Components of an approved stream restoration project, including vegetation restoration; and
 - viii. Activities that are part of a remedial action plan approved by the Department of Ecology pursuant to Model Toxics Control Act (MTCA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or otherwise authorized

Comment [mnp2]: Bellevue specific approach based on City codes and proposed policies

Comment [CoB3]: Clarity Edit

Comment [CoB4]: Charlie and WSSA Representatives – removal of applicability of this section as directed by the Planning Commission may have unintended consequences, because you will get an absolute prohibition against grading and filling below ordinance high water mark that may prevent beach augmentation, or other beneficial improvements, without first obtaining a variance. As a result, you may wish to reconsider this requested language.

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Comment [CoB5]: Redundancy deletion

Comment [CoB6]: Clarity Edit

Comment [H7]: Clarity Edit

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by the Washington State Department of Ecology, the United States Army Corps of Engineers, or other agency with jurisdiction.

2. **Filling and Excavation – Additional Analysis Required.** The applicant shall provide the following project analysis together with any submittal for a shoreline application that proposes filling or excavation activities.
 - a. The overall value to the public resulting from the excavation or fill as opposed to the value of the shoreline in its existing state and evaluation of alternatives to fill that would achieve some, if not all, objectives of the proposal;
 - b. The effects on shoreline ecological functions, including but not limited to, functions of the substrate of lakes and streams, effects on aquatic organisms, including the food web, effects on vegetation functions, effects on local currents, erosion, and deposition patterns, effects on surface and subsurface drainage, and the effects on floodwaters and the floodplain.
 - c. If the filling or excavation will require shoreline stabilization to protect materials placed or removed and whether such stabilization meets the policies and standards of the shoreline master program;
 - d. Whether the fill or excavation will alter the normal flow of floodwater, including the obstruction of flood control channels or swales; and
 - e. Whether public or tribal rights to the use and enjoyment of the shoreline and its resources are impacted.
3. **Filling and Excavation – Performance Standards.**
 - a. **Fill Material—Suitability.** Fill material shall not be detrimental to water quality or existing habitat, or create any other significant adverse impacts to the environment. Fill shall be properly stabilized and maintained during and following construction to prevent erosion.
 - b. **Stockpiling.** For development occurring outside the shoreline setback, dirt, rocks, and similar material shall not be stockpiled in the shoreline setback. For development occurring within the shoreline setback, stockpiling is allowed and shall be the minimum necessary to support the development and shall be located in an area that having the least impact to shoreline functions. If any stockpiling is required, best management practices shall be implemented to prevent discharge of sediments or pollutants into receiving waters. (Refer to Chapter 23.76 BCC (Clearing and Grading Code) and the City's clearing and grading development standards, now or as amended).
 - c. **Excess Material.** All excess material resulting from clearing, grading, excavation, and filling activities shall be removed from the shoreline site and disposed of in a manner that prevents any of the excess material from entering surface or ground waters in accordance with Chapters 24.06

Comment [mnp8]: Bellevue specific approach based on LUC 20.25E and WAC 173-26-231

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(Storm and Surface Water Utility Code) and 23.76 (Clear and Grade Code) BCC, and applicable engineering and development standards.

D. Dredging and Dredge Material Disposal

1. Prohibited Activities.
 - a. Dredging for the sole purpose of obtaining fill or construction material is prohibited.
 - b. Dredging materials disposal is prohibited in the aquatic environment.
2. Dredging – Limitations. Dredging is allowed only for the following activities, and when the applicant demonstrates the project will result in not net loss of ecological functions using appropriate technical studies:
 - a. To maintain navigability; provided the dredging is limited to the extent of the previously approved dredging and/or existing authorized location, depth, and width;
 - b. To maintain an existing agricultural activity that supports an existing agricultural use within City Parks;
 - c. To remedy conditions endangering the public health, safety or welfare;
 - d. To carry out a habitat improvement project; and
 - e. Dredging performed pursuant to a remedial action plan approved under authority of the Model Toxics Control Act (MTCA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or pursuant to other authorization by the Washington State Department of Ecology, U.S. Army Corps of Engineers, or other agency with jurisdiction.
3. Dredging and Disposal - Performance Standards. Proposals for dredging must comply with each of the following performance standards:
 - a. The proposal, including any necessary mitigation, will result in no net loss of shoreline ecological functions.
 - b. Dredging shall be limited to the minimum necessary and appropriately balance navigational or other needs with impacts to shoreline ecological functions. The minimum necessary proposal shall be determined based on an analysis of technically feasible alternatives and consider both short-term and long-term impacts associated with the action, including mitigation measures.
 - c. The dredging shall not cause long-term adverse impacts to water quality, aquatic habitat, or human health in adjacent areas.
 - d. The lateral spread of re-suspended sediment created by a dredging operation shall be contained within previously approved limits.
 - e. To prevent impairment of water quality any dredge spoil temporarily stored in an upland location must be set back an adequate distance from the water to prevent the discharge of pollutants to the receiving water, and the

Comment [mnp9]: Bellevue specific approach based on LUC 20.25E and WAC 173-26-231

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containment measure shall contain sufficient filtering to prevent discharge of sediments to the receiving water. Temporary disposal sites shall not be allowed except in areas designated by the City of Bellevue.

- f. A permanent dry land disposal site, or submerged disposal site outside of the City of Bellevue, has been approved.
- g. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation or restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).

E. Non-Residential Moorage Facilities, Boat Ramps, and Launches.

1. Applicability. Non-residential moorage facilities, boat ramps and launches are allowed in the Shoreline Overlay District when in compliance with paragraph E of this section. This paragraph E does not apply to residential development governed pursuant to LUC 20.25E.065.
2. Definitions. The following definitions apply only to paragraph E of this section.
 - a. Facility Segment. The walkway, moorage platform, finger-pier, or cover portion of a dock.
 - b. Walkway. The portion of the dock that is connected to the shoreline at the landward end and provides access to the moorage platform.
3. General Requirements Applicable to all Non-residential Moorage Facilities, Boat Ramps and Launches.
 - a. New skirting, covered moorage, including boatlift canopies, is prohibited.
 - b. Minimum necessary. Maintenance and repair shall be the minimum necessary to restore the facility to its original design, function, and capacity.
 - c. Construction Materials. Use environmentally neutral materials not materials treated with known toxic preservatives and approved by the Environmental Protection Agency for use in aquatic environments. Dock materials shall not be treated with pentachlorophenol, creosote, chromate copper arsenate (CCA) or comparably toxic compounds. If (ammoniacal copper zinc arsenate) (ACZA) materials are proposed, the applicant will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. 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 and that discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion.
 - d. Modification of Standards. A Special Shorelines Report may be used to modify the standards of this section E when the modification results in a net

Comment [mnp10]: Bellevue specific approach based on existing code LUC 20.25E.080.N and Planning Commission direction provided on July 28, 2010. Incorporates public comment from property owners, builders and consultants.

Comment [CoB11]: Clarity Edit

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benefit to shoreline ecological functions. Refer to LUC 20.25E.160.E (Mitigation Sequencing).

4. **New and Expanded Non-Residential Moorage Facilities, Boat Ramps and Launches.**

- a. Permit Required. New and expanded non-residential moorage, boat ramps, and launches are permitted in the shoreline jurisdiction pursuant to the process in identified in LUC 20.25E.030 (Shoreline Use Charts).
- b. Moorage facilities shall be located in an area where impacts to shoreline ecological functions can be avoided or mitigated to achieve the standard of no net loss of ecological function. To ensure no net loss of ecological functions occurs, the Director may require a compensatory mitigation plan pursuant to LUC 20.25E.060.D (Mitigation Sequencing), when impacts related to new or expanded moorage facilities are identified and not addressed by the performance standards set forth in paragraph E.4.d of this section.
- c. New or Expanded Non-Residential Moorage Facilities - Design Criteria. Design and siting of new or expanded Non-residential moorage facilities shall address, at a minimum, the following criteria:
 - i. Facilities should be designed to avoid dredging to establish new moorage, and the need for maintenance dredging consistent with LUC 20.25H.080.D
 - ii. Facilities should be designed to avoid impacts to shoreline ecological functions through consideration of water depth, water circulation, sediment inputs and accumulation, and wave action.
 - iii. Facilities should be located to avoid impacts to shoreline ecological functions through avoidance of submerged aquatic vegetation, shoreline associated wetlands, or habitat associated with species of local importance.
 - iv. Facilities shall be designed to minimize overwater coverage and be the minimum size necessary to provide the desired moorage function when considering the beam and draft of the type of boat anticipated to be moored. Preference shall be given to designs that provide two berths per finger pier.
 - v. The ability of the site upland from the ordinary high water mark to accommodate the necessary support facilities.
 - vi. The use of mooring buoys to accommodate additional moorage.
 - vii. Transient Moorage. Transient moorage is allowed within a new or expanded non-residential moorage facility.
 - viii. Liveaboards. Liveaboards are allowed when distributed through the facility. Areas proposed for occupation by liveaboards should include

Comment [mnp12]: Bellevue specific approach following Planning Commission direction from July 23, 2010, public comment, and modeled after existing code LUC 20.25E.080.N, Kirkland SMP, internal city review, guidance from Department of Ecology, DNR, USACE and staff review of marinas region wide. Meets WAC 173-26-231 requirements for water-dependent use or public access, minimum necessary, need, avoidance, minimization, and mitigation of impacts to ecological functions and critical resources.

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- properly planned and designed utility connections and storage facilities for each liveaboard slip.
- ix. Stacked Boat Storage. Facilities should incorporate, to the maximum extent feasible, upland stacked boat storage unless:
- (1) No suitable upland locations exist for such facilities;
 - (2) The applicant demonstrates that water moorage would result in fewer impacts to shoreline ecological functions;
 - (3) The applicant demonstrates that water moorage would enhance public use of the shoreline; or
 - (4) The proposal is part of a non-residential moorage facility development in the Recreational Boating shoreline environment where the objective is enhanced public access and the location of an upland stacked storage facility would conflict with the objective of public use of the shoreline.
- x. Utilities and Services. Utility and service lines serving docks and piers should be located below the pier deck and out of the water.
- d. New and Expanded Non-Residential Moorage Facilities – Performance Standards. The following use-specific performance standards apply in addition to the general performance standards in paragraph E.3 of this section.

- i. Location of Facilities in Meydenbauer Bay. Non-residential moorage facilities shall not extend waterward beyond the point necessary to provide reasonable draft for the boats to be moored. In no event shall a non-residential moorage facility extend to a point that impedes public navigation.
- ii. Existing covered non-residential moorage facilities in Meydenbauer Bay shall not expanded beyond their existing outer limits or the boundary described as:

All Azimuths being South; commencing at the E 1/4 Sec. corner of Sec. 31 T 25N, R 5E, W.M., whose "X" coordinate is 1,661,520.58 and whose "Y" coordinate is 225,661.29 of the Washington Coordinate System, North Zone, and running thence on an Az of 78°51'17" a distance of 963.76 feet to a point whose coordinate is "X" 1,660,575.00, "Y" 225,475.00 of said coordinate system; thence on an Az of 37°26'00" for a distance of 60 feet to a point being the true beginning of this description; thence on an Az of 316°19'15" a distance of 495.14 feet; thence on an Az of 2°21'10" a distance of 42.52 feet; thence on an Az of 312°06'17" a distance of 415.00 feet; thence on an Az of 37°24'19" a distance of 118.06 feet to an intersection with the northwesterly extension of the northwesterly line of Reserve "A" at the N. end of

Comment [mnp13]: Bellevue specific approach to preserve ease of navigation

Comment [mnp14]: Existing code requirement in LUC 20.25E.080.N.6 limiting extent of covered moorage in Meydenbauer Bay

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Ronda Street between Blocks 29 and 38, Plat of Moorlands, as recorded in Vol. 4 of Plats, Page 103, records of King County, Washington, said point of intersection being the terminus of this line description.

- iii. **Setbacks for Facilities.** Moorage facilities constructed with an external dock perimeter where access to public waters is provided through a central point on the waterward end of the facility shall provide a minimum 10-foot setback from property line projections. Moorage facilities constructed with an open-sided design where access to moorage is taken directly from public waters shall provide a minimum of 50 feet of setback from property line projections.

<Insert Graphic>
- iv. **Dock and Pier Access.** Docks and piers shall be accessed from upland support areas through a ramp or gangway and walkway system with the first set of finger piers (ells) located at a depth of 9 feet or greater. Facilities for human-powered vessel launching and moorage may be located in depths of less than 9 feet.
- v. **The width and length of all structures shall be limited to what is reasonable for the intended use; provided that:**
 - (1) Walkways shall not exceed 8 feet in width;
 - (2) Ells shall not exceed 4 feet in width; and
 - (3) Ramps and gangways shall not exceed 6 feet in width.
- vi. **Docks, ramps, piers, and walkways shall be grated or surfaced with light penetrable materials. To the extent feasible, structures shall be designed to minimize overwater coverage and avoid shading of aquatic vegetation.**
- vii. Impacts to shoreline ecological functions shall be minimized through avoidance of submerged aquatic vegetation, shoreline associated wetlands, and nesting and spawning areas.
- viii. Impacts to adjoining residential uses shall be minimized through use of appropriate screening, and by locating high impact areas away from uses on adjacent properties.
- ix. Docks shall be designed with piers and other structures placed to facilitate, rather than to obstruct, water circulation. Basins shall be designed to prevent stagnant water that tends to collect debris or cause shoaling or flushing problems.
- x. Moorage facilities shall be designed to protect against wakes caused by vessel traffic without the need for a breakwater.

Comment [mnp15]: Bellevue specific approach

Comment [mnp16]: Bellevue specific approach meeting PC direction (July 28, 2010) and modeled on existing code LUC 20.25.E and Kirkland SMP

Comment [mnp17]: Meets Ecology mandated no net loss standard by minimizing impacts to ecological functions as required at WAC 173-26-231-(3) (b).

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- xi. Lighting and Safety. Design shall include adequate safety features and be designed to facilitate emergency response, including, but not limited to the following:
 - (1) Design and locate facility security gates and walkways maximizing emergency access to the water and minimizing blockage of the view from the shore. Walkway access locations should be in close proximity to facility loading and short term parking areas;
 - (2) Design and locate lighting to illuminate walkways during the evening hours. Walkway lighting should be flush mounted to the dock surface or screened to avoid spillover light emissions;
 - (3) Locate flotation devices in designated areas at regular intervals throughout the non-residential moorage facility to ensure the safety of facility users;
 - (4) Include adequate fire safety apparatus, including dock surface markings and reflectors at intervals and location specified by the City's Fire Department; and
 - (5) Mark the facility with reflectors or other measures to prevent unnecessarily hazardous conditions for water surface users during the day or night.
- xii. Interference with Other Uses. Facilities shall not interfere with the public use and enjoyment of the water or create a hazard to navigation.
- xiii. Public access shall be provided in accordance with LUC 20.25E.060.I (Public Access).
- xiv. Facility Addressing—Waterward. Facilities shall include address signs that are visible from the water. All signage shall conform to the signage requirements contained in LUC 20.25E.060.J (Signage in the Shoreline).
- xv. Aircraft Moorage. Aircraft moorage is allowed as part of a non-residential moorage facility and shall be the minimum size necessary to accommodate the use. All identified and related impacts to shoreline ecological functions shall be mitigated through implementation of a mitigation plan pursuant to LUC 20.25E.060.D (Mitigation Sequencing).
- xvi. Waste Services. At the minimum, Facilities shall provide the following waste services:
 - (1) One marine pump-out facility for use by the general boating public. This facility must be clearly marked for public use; and
 - (2) Each moorage segment shall include a solid waste collection facility, including but not limited to, garbage, maintenance waste, recycling and garbage.

Comment [mnp18]: Bellevue specific approach meeting recommended regional water quality BMPs and modeled after Kirkland and Renton SMP

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- xvii. Facilities shall develop a maintenance, repair, and operations plan that demonstrates compliance with the requirements of this SMP and other applicable codes in accordance with standards established by the Director.
- e. **New and Expanded Motorized Boat Ramps and Launches - Decision Criteria.** In determining whether to approve an application for a motorized boat launch, the City shall the following criteria:
 - i. Adequacy of public streets to serve the facility based on traffic generated from using the facility;
 - ii. Impacts on adjacent uses, including noise, light, and glare are minimized; and,
 - iii. Ramp surfaces may be concrete, precast concrete, or other hard permanent substance. Loose materials, such as gravel or cinders, shall not be used.
- f. **Non-motorized Boat Ramps and Launches - Design Criteria.** Design and siting of non-motorized boat ramps and launches shall address, at a minimum, the following criteria:
 - i. The preferred construction materials for ramps designed for non-motorized boats is gravel or other similar natural material; and
 - ii. Floats or platforms designed to launch non-motorized boats are allowed.
- g. **New and Expanded Boat Ramps and Launches – Performance Standards.** The following use-specific performance standards apply in addition to the general performance standards in paragraph E.3 of this section.
 - i. The proposed size of the boat ramp or launch shall be the minimum necessary to safely launch the intended craft;
 - ii. Removal of native upland vegetation shall be minimized to the greatest extent feasible;
 - iii. Water currents and normal wave action shall be suitable for launch activity;
 - iv. Adequate on-shore parking and maneuvering areas shall be provided based on projected demand. Provisions shall be made to prevent spillover outside designated parking areas. Parking, access, and circulation must be consistent with LUC 20.25E.060.H (Accessory Parking, Loading Space and Maintenance Access);
 - v. Boat launches shall be located so that they do not significantly impact fish and wildlife habitats and shall not occur in areas with native emergent vegetation;
 - vi. Boat launches shall be located to provide access to a sufficient water depth to allow use by boats without maintenance dredging;

Comment [mnp19]: Bellevue specific approach incorporating Planning Commission direction.

Comment [mnp20]: Bellevue specific approach modeled on Renton SMP

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- vii. Ramps shall be designed to allow for ease of access to the water with minimal impact on the shoreline and water surface;
 - viii. Moorage associated with a boat launch or ramp shall meet the applicable performance standards for new or expanded non-residential moorage facilities in section F.4.d; and
 - ix. Mitigation is required for impacts related to the launch facility in accordance with LUC 20.25E.060.D (Mitigation Sequencing).
5. Repair and Maintenance Performance Standards Applicable to Non-Residential Moorage Facilities, Boat Ramps and Launches.
- a. Maintenance and repair as used in this section includes actions to repair a failed or degraded component of a facility with the intent of restoring the facility to its original design condition, function, and capacity. Expansion or reconfiguration of facility components do not constitute repairs and ~~are~~ will be processed as a new or expanded non-residential moorage facility, boat ramp, or launch in accordance with the requirements of this section.
 - b. Existing Non-Residential Moorage Facilities - Repair and Maintenance Performance Standards. Repairs of non-residential moorage facilities shall comply with the following:
 - i. Canopy or Facility Decking Repair. Replacement of more than 50 percent of the surface of any overwater segment of a non-residential moorage facility within a 5-year period requires the segment surface be replaced with light penetrable materials, such as grating or translucent surfaces. Accept that floating docks must use light-penetrable materials to the extent the ~~existing~~ ~~Bellevue specific approach based on LUC 20.25E and WAC 173-26-231~~ structure facilitates light transmission with the addition of the light-penetrating materials. Otherwise, floating docks may use materials similar to those used for original construction unless in conflict with other requirements of this section.
 - ii. Piling Repairs. Capping, collaring, or sleeving, of more than 50 percent of the piling of any overwater segment of a non-residential facility within a 5-year period requires the segment surface be replaced with light penetrable materials (grating or translucent surface).
 - iii. Facility Substructure Repair. Repair or replacement of more than 50 percent of the substructure (stringers, joists, or beams) of any overwater segment of a non-residential moorage facility within a 5-year period requires replacement with light penetrable materials (grating or translucent surface).
 - iv. Piling Repair. Replacement of more than 50 percent of the structural support piling of any overwater segment of a nonresidential moorage facility within a 5-year period requires compliance with new

Comment [mnp21]: Bellevue specific approach based on residential moorage approach

Comment [dp22]: Clarity Edit

Comment [CoB23]: Bellevue specific approach based on LUC 20.25E and WAC 173-26-231

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nonresidential moorage facility standards (requires redesign and reconfiguration).

- v. ~~Moorage Adjustment. Minor moorage facility modifications are permitted as a repair to accommodate a change in vessel size and type when there is no net increase in the overall number of moorage slips. Allowed adjustments include a minor change in dock configuration and the addition or removal of piling as needed to adjust the moorage slip to accommodate a different vessel type or need for an adjusted dock space. No more than 100 square feet of dock surface or 6 piling may be added in a 3 year period as a moorage adjustment. To avoid major modification to a dock, up to two mooring piles per moorage slip may be added or removed as a minor repair to address a change in vessel type.~~

Comment [dp24]: Consistency Edit

- vi. ~~v.~~ Materials Used for Repairs. Repairs may be completed with materials similar to those used for original construction unless in conflict with paragraph E.3.c of this section.

- vii. ~~vi.~~ Alternative mitigation may be allowed in-lieu of use of light penetrable materials through the Special Shoreline Report Process, LUC 20.25E.160.E when the proposal with the requested alternative mitigation leads to an equivalent or better protection of shoreline ecological functions than would result from the application of the standard requirements for light penetrating materials.

- c. Existing Boat Ramps and Launches - Repair and Maintenance Performance Standards. Repair and maintenance of existing boat ramps and launches shall comply with the following:
- i. Repair of existing facilities shall be constructed with materials required for new facilities as described in paragraph E.3.c of this section.
 - ii. No expansion of improved areas is permitted as repair.
 - iii. Removal existing vegetation shall be prohibited; and
 - iv. Dredging is allowed only in accordance with LUC 20.25E.080.D (Dredging and Dredge Material Disposal).

F. Shoreline Stabilization

1. Applicability. Shoreline stabilization measures designed to protect existing primary structures, public facilities, or public use structures from shoreline erosion-are allowed in the shoreline at or above ordinary high water mark only in compliance with paragraph F of this section. The requirements of paragraph F of this section may be modified through a Special Shoreline Report, pursuant to LUC 20.25E.160.E.

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2. Definitions.

- a. **Public facilities or public use structures.** As used in this section, “public facilities” is a general term that encompasses public infrastructure and facilities. “Public use structures” is a general term that refers to structures designed to facilitate public use of the shoreline.
- b. **Shoreline Stabilization.** Nonstructural and structural measures designed to protect existing primary structures, public facilities, or public use structures from the effects of natural shoreline processes, such as wave action, flooding, or erosion. Shoreline stabilization may include vegetation, bioengineered measures combining vegetation with slope modification, angled riprap, revetments, and conventional vertical bulkheads.
- c. **Soft Shoreline Stabilization.** Soft shoreline stabilization combines a range of bioengineered actions, beach enhancement, anchor trees, large rocks, gravel placement, shoreline plantings, and similar measures that use natural materials engineered to provide shoreline stabilization while preserving or mimicking important shoreline ecological functions. Depending on site conditions, a blending of hard and soft methods that includes durable components in combination with softer methods and vegetative plantings may be necessary to provide the needed level of stabilization while providing an enhanced shoreline habitat.
- d. **Hard Shoreline Stabilization.** Hard shoreline stabilization employs rigid structures that armor the shoreline from the effects of water-caused erosion. Such structures typically include rip-rap revetments, gabions, concrete retaining walls, and similar measures that function to prevent wave-caused by a variety of methods ranging from rock revetments sloped at 3:1 or less to near-vertical rockeries and vertical rigid structures constructed of artificial materials like concrete.
- e. **Avoidance Measures.** Techniques used to minimize or prevent shoreline erosion that do not involve modification of the shoreline at the interface of land and water. Avoidance measures are applied through a site design approach, and include vegetation enhancement, upland drainage control, and protective walls or embankments placed outside of the shoreline setback or area of special flood hazard.
- ~~f. **Minor Repair.** As used in paragraph F of this section, minor repair refers to maintenance to an existing shoreline stabilization measure designed to~~

Comment [mnp25]: Modeled after definition in LUC 20.25H.055 (Critical Areas Overlay District)

Comment [mnp26]: Bellevue specific approach modeled after existing definition at LUC 20.25E.080.E.

Comment [mnp27]: Bellevue specific approach modeled after existing definition at LUC 20.25E.080.E and City of Seattle Green Shorelines

Comment [mnp28]: Bellevue Specific Approach based on existing definition at LUC 20.25E.080.E and Chapter 173-26-231 WAC

Comment [mnp29]: Bellevue specific approach modeled after Kirkland SMP and existing LUC 20.25E.080.E

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~~restore the stabilization measure to its original condition and configuration and to ensure its continued function by preventing failure of any part. Minor repair may include actions that extend the useful life of the stabilization measure such as planting vegetation, replacing rocks and logs, placement or repair of wall tiebacks, re-setting or replacement of rip rap rock courses, or limited replacement of wall panels. A repair that involves the cumulative reconstruction or replacement of more than 50 percent of the linear length of the stabilization measure over a three-year period is deemed a major repair.~~

~~g. Major Repair. As used in this part, major repair refers to a repair needed to restore a portion of an existing stabilization measure that has collapsed, eroded away, or otherwise demonstrated a loss of structural integrity sufficient to jeopardize its erosion protection function, or in which cumulative reconstruction or replacement involves more than 50 percent of the linear length of the stabilization measured over a three-year period. Major repair shall be treated as a new shoreline stabilization measure, subject to the provisions of paragraphs F.2, F.3, and F.4 of this section. Activities considered when determining the linear length affected by the repair include, but are not limited to, the replacement or re-setting of the bottom rock course, toe, or footing, the replacement or re-setting of the top or middle course of rocks, or the replacement of concrete wall panels or other significant repairs.~~

Comment [mnp30]: Bellevue specific approach modeled after Kirkland SMP and existing LUC 20.25E.080.E

3. Technically Feasible. The provisions of LUC 20.25E.060.C (Technical Feasibility – General Requirements) do not apply when determining if a new shoreline stabilization method is technically feasible, instead the provisions of paragraph F.3 of this section apply.

- a. The determination of whether a particular avoidance or stabilization measure is “technically feasible” shall be made by the Director as part of the decision on the underlying permit after consideration of a report prepared by a qualified professional addressing the following factors:
- i. Site conditions, including slope, beach configuration, nearshore depth, potential for flooding, and proximity of primary structure to ordinary high water mark;
 - ii. Consideration of wind direction, velocity and frequency, fetch, probable wave height, and frequency;
 - iii. The level of risk to the primary structure, public facility or public use structure presented by the rate of erosion over a three year period and the ability of the proposed measure to mitigate that risk;
 - iv. Whether the cost of avoiding disturbance of shoreline processes and functions is disproportionate as compared to the environmental impact

Comment [mnp31]: Based on existing LUC 20.25E.080.E. Meets requirements of WAC 173-26-231

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- of proposed disturbance, including any continued impacts on functions and values over time; and
- v. The ability of both permanent and temporary disturbance to be mitigated.

- b. Shoreline stabilization measures found to be technically feasible shall comply with the standards set forth in paragraph F.4 of this section.

4. New or Enlarged Shoreline Stabilization Measures.

- a. When Allowed. New or enlarged shoreline stabilization measures shall be permitted only to protect existing primary structures, public facilities, or public use structures. Shoreline stabilization measures shall be allowed only where avoidance measures are not technically feasible.

- b. Type of Shoreline Stabilization Measure Used. Where a new or enlarged shoreline stabilization measure is allowed, soft shoreline stabilization measures shall be used, unless the applicant demonstrates, in accordance with paragraph F.3 of this section, that soft shoreline stabilization measures are not technically feasible. Only after the Director determines that soft shoreline stabilization measures are not technically feasible, will hard shoreline stabilization measures be permitted. Provided, that developed sites with less than 10 feet between the primary structure and the ordinary high water mark are assumed to require some form of hard stabilization and applicants are not required to demonstrate technical feasibility. This provision does not apply to legally-established stabilization measures in the Shoreline Residential Canal environment. ~~(See paragraph F.5.b.iv for repair options applicable in the Shoreline Residential Canal environment.)~~

- c. Options for Soft Stabilization. Plate XX [insert chart from Green Shorelines material] provides guidance on the range of shoreline stabilization measures that may be considered, based on the unique characteristics of the subject property and shoreline. Options for soft stabilization should be based on the practicality and viability of the measure when considering near shore and yard slope, average wave energy and direction, frequency of large erosion-causing events, and shall employ the following hierarchy of preference:

- i. Soft stabilization constructed of natural materials utilizing bioengineering techniques including slope contouring, beach nourishment, protective coconut fiber berms, fascines, live

Comment [mnp32]: Bellevue specific approach modeled after existing LUC 20.25E.080.E and Kirkland SMP; meets the requirements of WAC173-26-231

Comment [mnp33]: Bellevue specific approach following PC direction and public comment modeled after City of Seattle Green Shorelines, Renton SMP, and existing LUC 20.25E.080

Comment [CoB34]: This chart will be prepared when PC has concluded that the information would be useful to applicants.

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- staking, and other vegetative stabilization to hold soil and gravel in place.
- ii. Soft stabilization as described in paragraph F.4.c.i of this section integrated with large boulders, large logs and other coarse woody debris, and partial use of rigid structures where required to protect existing rigid structures on abutting properties.
 - iii. Soft stabilization as described in paragraph F.4.c.ii of this section and incorporating limited use of rigid structures constructed of rock or artificial materials and located as an additional safety measure as far as technically feasible from ordinary high water mark while still ensuring the long-term safety and stability of the primary structure.
- d. Options for Hard **Stabilization**. New or enlarged hard stabilization measures require a demonstration that avoidance or soft stabilization measures are not technically feasible as described in paragraph F.3 of this section. Hard stabilization shall employ the following hierarchy of preference:
- i. Hard stabilization constructed of quarry rock, rip-rap or similar materials at a slope gradient not to exceed 3:1 and utilizing bioengineering techniques including slope contouring, beach nourishment, live staking, and other vegetative enhancement.
 - ii. Hard stabilization as described in paragraph i of this section, but where slope gradient and distance to the primary structure is such that a 3:1 slope cannot reasonably be achieved and where vegetative enhancement is confined to live staking and vegetative enhancement below ordinary high water or at the top of the wall. Such hard stabilization shall not exceed a slope gradient of 2:1.
 - iii. Hard stabilization utilizing rigid, near-vertical structures at a slope gradient not to exceed 1.5:1 constructed of quarry rock or artificial materials and utilized on developed sites where the distance between the primary structure and ordinary high water mark is 10 feet or less. Near-vertical stabilization shall be the minimum height necessary, and shall not exceed 48 inches in height as measured from the bottom of the footing.
- e. **Location**. When allowed, new shoreline stabilization measures shall be located at or behind the ordinary high water mark. Where a documented area of special flood hazard exists, stabilization measures shall be located at the upland edge of the area of special flood hazard, except that soft stabilization

Comment [mnp35]: Bellevue specific approach following PC direction and public comment . Modeled after Renton SMP and existing LUC 20.25E.080

Comment [mnp36]: Bellevue Specific Approach based on PC direction (July 28, 2010) and public comment and existing LUC 20.25E.080, City of Seattle Green Shorelines , and Kirkland and Renton SMP

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measures conforming to paragraph F.4.c of this section may be located in the area of special flood hazard. Where allowed, hard stabilization measures conforming to paragraph F.4.d.iii of this section may be located in the area of special flood hazard provided that their impact on the flood storage capacity of the floodplain is minimal. Stabilization measures are prohibited waterward of the ordinary high water mark, except that soft shoreline stabilization measures may be located waterward of the ordinary high water mark when they incorporate approved aquatic habitat improvement elements. In no event may a shoreline stabilization measure modify the lake bottom waterward of the ordinary high water mark, except for the purpose of gravel or beach augmentation, placement of anchored large woody debris, or other specified habitat enhancements.

~~f. New Hard Stabilization Prohibited with Use of Setback Reduction Menu. Where an applicant removes hard stabilization and replaces it with soft stabilization in compliance with the Options 1 and 2 of LUC Chart 20.25E.065.E.3.b.iii (Setback Reduction Menu Options) with the intention of moving closer to the Ordinary High Water Mark, future use of hard stabilization is prohibited.~~

Comment [mnp37]: Bellevue specific approach based on PC guidance for provision of an "option" menu (June 9, 2010)

~~g.f.~~ Mitigation and Restoration. Areas of new permanent disturbance and all areas of temporary disturbance associated with ~~major repair or~~ new shoreline stabilization measures shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).

~~h.g.~~ Retention of Setback with New Soft Stabilization. Where an applicant replaces a legally-established existing hard shoreline stabilization measure with a soft shoreline stabilization measure or an avoidance measure, any applicable structure setback shall continue to be measured from the ordinary high water mark that existed with the hard shoreline stabilization measure. Such ordinary high water mark shall be located by a survey prior to removal of the hard shoreline stabilization measure. The applicant shall record a survey or other instrument clearly delineating the ordinary high water mark location as it existed prior to the removal of the hard shoreline stabilization measure with the King County Division of Records and Elections, or its successor agency.

Comment [mnp38]: Modeled after existing LUC 20.25E.080.E.5

~~i.h.~~ Expansion of Shoreline Jurisdiction from Shift in the Ordinary High Water Mark. If implementing a shoreline stabilization measure ~~required-allowed by~~

Comment [mnp39]: Bellevue specific approach modeled after Kirkland SMP in response to PC direction received on July 28, 2010) and public concern.

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the Bellevue SMP and intended to improve ecological functions results in shifting the ordinary high water mark landward of the pre-implementation location, and results in an expansion of the shoreline jurisdiction onto any property other than the subject property, then:

- i. The City shall notify the affected property owner in writing; and
- ii. The City may propose to grant relief from the applicable shoreline regulations resulting in expansion of the shoreline jurisdiction. The proposal to grant relief must be submitted to the Department of Ecology with the required shoreline permit under the procedures established at LUC 20.25E.160 and 20.25E.180. If approved, notice of the relief granted, in a form approved by the City Attorney, shall be recorded on title with the King County Division of Records and Elections, or its successor agency.

5. Repair and Replacement of Existing Shoreline Stabilization. ~~This section applies to repair of existing legally established shoreline stabilization measures~~ .

~~a. **Minor Repair.** Minor repair to existing shoreline stabilization measures shall meet the following performance standards:~~

- ~~i. Minor repair is allowed only to existing legally established stabilization measures;~~
- ~~ii. Minor repair is allowed to restore a stabilization measure to its original condition and configuration provided that damage and destruction is not so significant as to cause loss of structural integrity sufficient to jeopardize its erosion protection function. No significant expansion or alteration outside of the original design is allowed, except that minor changes designed to reduce impact on ecological functions are permitted; and,~~
- ~~iii. Minor repair may not result in the cumulative reconstruction or replacement of more than 50 percent of the linear length of the stabilization measure during a three-year period.~~

~~b. **Major Repair.** Major repair shall be treated as a new shoreline stabilization measure, subject to the provisions of paragraphs F.2 through F.4 above, except that legally established shoreline stabilization measures are presumed necessary to protect existing shoreline uses and may be repaired or replaced without having to demonstrate avoidance is not technically feasible. Major~~

Comment [mnp40]: Bellevue specific approach modeled after LUC 20.25E.080 and Kirkland SMP

Comment [mnp41]: Bellevue specific approach modeled after existing LUC 20.25E.080 and Kirkland SMP

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~~repairs to existing shoreline stabilization measures shall be allowed when the proposed repair meets the following performance standards:~~

- ~~i. Major repair is allowed only to existing legally established shoreline stabilization measures;~~
- ~~ii. Major repair is allowed provided repair conforms to paragraph F.4.b of this section, and the preference hierarchies for either new soft or hard stabilization measures set forth in paragraphs F.4.c. and F.4.d. of this section;~~
- ~~iii. Major repair of existing stabilization measures with soft stabilization measures is allowed in the area of major flood hazard subject to the preference hierarchy set forth in paragraph F.4.c of this section. Major repair of existing stabilization measures with hard stabilization measures must be located outside of the area of special flood hazard unless impacts are minimized by using option set forth in paragraph F.4.d.i. of this section or where the distance between the primary structure and ordinary high water mark is 10 feet or less; and,~~

~~Existing legally-established hard stabilization measures in the Shoreline Residential Canal designation may be repaired or replaced in their existing configuration with a comparable structure when the proposal meets the following applicable requirements:-~~

~~a. Comparable Size. Repairs and replacements shall not expand the lateral extent, add to the height or increase the width of an existing stabilization measure unless otherwise permitted by the terms of this paragraph. Refer to LUC 20.25E.080.F.4 of requirements applicable to enlarged shoreline stabilization measures.~~

~~b. Comparable Location. When existing shoreline hard stabilization is being replaced, it shall be located landward of the Ordinary High Water Mark except that replacement stabilization may encroach waterward of the ordinary high water mark provided the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. Soft shoreline stabilization measures that provide restoration of shoreline ecological~~

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functions may be permitted waterward of the ordinary high-water mark.

c. Comparable Design. Existing vertical concrete shoreline stabilization measures may not be replaced with a similar structure unless there is no technically feasible alternative. Except that existing legally-established hard stabilization measures located in the Shoreline Residential Canal environment may be repaired or replaced in their vertical concrete configuration, and the applicant shall not be required to demonstrate that there is no technical feasibility alternative. Nothing in this requirement prevents vertical concrete shoreline stabilization measures from being replaced with a soft or hard shoreline stabilization measures as described at 20.25E.080.4.c and d.

d. Limitation on Comparability. Repairs and replacements meeting the requirements of this paragraph are permitted so long as the materials, size, location and design of the stabilization measure does not result in a net less of shoreline ecological function.

Comment [CoB42]: Charlie and WSSA Representatives. We looked back at the record and have concerns about defensibility of the absolute replacement allowance for vertical walls as the PC directed. I referred to Dr. Pauley's presentation as you suggested, but even he argued that vertical bulkheads should be replaced with battered bulkheads at a minimum. So, I softened this language to include a technical feasibility clause. The feasibility language will still allow vertical wall replacement when necessary.

6. Removal of Existing Shoreline Stabilization. Shoreline stabilization measures may be voluntarily removed in support of shoreline mitigation or restoration, ~~or an approved project to reduce setback requirements~~ when the proposal meets the following applicable requirements:

Comment [mnp43]: Bellevue specific approach aimed at voluntary stewardship efforts.

- a. The area impacted by removal is restored or replanted pursuant to an approved mitigation plan (refer to LUC 20.25E.060.D), designed, located, sized and constructed to ensure no net loss of ecological function;
- b. The impact on adjacent properties is minimized and existing stabilization structures are protected;
- c. The applicant records an agreement recognizing that the installation of future hard stabilization is prohibited; and,
- d. Short-term construction impacts are minimized through the use of appropriate best management practices to minimize impacts to water quality, appropriate timing restrictions, and stabilization of exposed soils following construction.

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20.25E.080 SHORELINE MODIFICATIONS

A. Applicability.

This section contains requirements and standards that apply to all shoreline modifications in the Shoreline Overlay District. These requirements and standards are in addition to the procedures, permit requirements, and standards set forth in other sections of the Bellevue SMP.

B. Breakwaters, Jetties, and Groins.

1. Prohibited Development.
 - a. Jetties and groins are prohibited within the Shoreline Overlay District and should be removed when the use for which they were constructed is discontinued or the purpose or function for which the jetty or groin was originally installed no longer exists.
 - b. Solid landfill or rockery breakwaters are prohibited in the Shoreline Overlay District.
2. Breakwaters – Limitations. Breakwaters are allowed only when there is a demonstrated need to protect existing recreation or non-residential moorage uses from damage caused by natural wave action.
3. Breakwaters – Performance Standards. Breakwaters, when allowed, require a Shoreline Conditional Use permit (refer to LUC 20.25E.180), and the following performance standards shall be met.
 - a. The applicant shall demonstrate that no technically feasible alternative exists (refer to LUC 20.25E.060.C).
 - b. Breakwaters shall be designed by a qualified professional using minimally invasive techniques to protect shoreline ecological functions and shall not preclude fish passage or adversely affect sediment migration.
 - c. As part of the application submittal, the qualified professional designing the breakwater must certify that the breakwater is the minimum necessary to accomplish its purpose.
 - d. The applicant shall demonstrate that the design will not result in a net loss of shoreline ecological functions.
 - e. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).

C. Clearing, Grading, and Fill in the Shoreline

1. Clearing, Grading, and Fill – Limitations. This paragraph C does not apply to residential development governed pursuant to LUC 20.25E.065.
 - a. All clearing, grading, excavating, and filling in the Shoreline Overlay District shall comply with the provisions of this paragraph C, LUC 20.25H.180 (Areas of Special Flood Hazard), Chapters 24.06 (Storm and Surface Water Utility Code) and 23.76 (Clearing and Grading Code) BCC, and the City's engineering and clearing and grading development standards, now or as amended. Bellevue City Code provisions of general applicability are not part of the SMP unless specifically adopted by reference.
 - b. Minimum Necessary. Clearing, grading, excavation, and filling is permitted only in association with an approved use or development and shall be the minimum necessary to support the approved use or development. Filling to create dry land is prohibited.
 - c. Filling and excavation, excluding dredging (see LUC 20.25E.080.D), below the ordinary high water mark is allowed only for the following activities, and when the applicant demonstrates the project will result in not net loss of ecological functions using appropriate technical studies:
 - i. Placement of beach or aquatic substrate when part of an approved ecological restoration activity;
 - ii. Replenishing sand on public and private community beaches;
 - iii. Alteration, maintenance, or repair of existing transportation facilities and utilities located within the Shoreline Overlay District, and no technically feasible alternative is available as set forth in LUC 25.25E.060.C.
 - iv. Constructing facilities for public water-dependant uses or public access; provided that the excavation or filling is limited to the minimum required to accommodate the use or facility, and no technically feasible alternative is available as set forth in LUC 25.25E.060.C;
 - v. Activities incidental to the repair of legally-established shoreline stabilization measures;
 - vi. Approved flood control projects;
 - vii. Components of an approved stream restoration project, including vegetation restoration; and
 - viii. Activities that are part of a remedial action plan approved by the Department of Ecology pursuant to Model Toxics Control Act (MTCA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or otherwise authorized

by the Washington State Department of Ecology, the United States Army Corps of Engineers, or other agency with jurisdiction.

2. Filling and Excavation – Additional Analysis Required. The applicant shall provide the following project analysis together with any submittal for a shoreline application that proposes filling or excavation activities.
 - a. The overall value to the public resulting from the excavation or fill as opposed to the value of the shoreline in its existing state and evaluation of alternatives to fill that would achieve some, if not all, objectives of the proposal;
 - b. The effects on shoreline ecological functions, including but not limited to, functions of the substrate of lakes and streams, effects on aquatic organisms, including the food web, effects on vegetation functions, effects on local currents, erosion, and deposition patterns, effects on surface and subsurface drainage, and the effects on floodwaters and the floodplain.
 - c. If the filling or excavation will require shoreline stabilization to protect materials placed or removed and whether such stabilization meets the polices and standards of the shoreline master program;
 - d. Whether the fill or excavation will alter the normal flow of floodwater, including the obstruction of flood control channels or swales; and
 - e. Whether public or tribal rights to the use and enjoyment of the shoreline and its resources are impacted.
3. Filling and Excavation – Performance Standards.
 - a. Fill Material—Suitability. Fill material shall not be detrimental to water quality or existing habitat, or create any other significant adverse impacts to the environment. Fill shall be properly stabilized and maintained during and following construction to prevent erosion.
 - b. Stockpiling. For development occurring outside the shoreline setback, dirt, rocks, and similar material shall not be stockpiled in the shoreline setback. For development occurring within the shoreline setback, stockpiling is allowed and shall be the minimum necessary to support the development and shall be located in an area that having the least impact to shoreline functions. If any stockpiling is required, best management practices shall be implemented to prevent discharge of sediments or pollutants into receiving waters. (Refer to Chapter 23.76 BCC (Clearing and Grading Code) and the City's clearing and grading development standards, now or as amended).
 - c. Excess Material. All excess material resulting from clearing, grading, excavation, and filling activities shall be removed from the shoreline site and disposed of in a manner that prevents any of the excess material from entering surface or ground waters in accordance with Chapters 24.06

(Storm and Surface Water Utility Code) and 23.76 (Clear and Grade Code) BCC, and applicable engineering and development standards.

D. Dredging and Dredge Material Disposal

1. Prohibited Activities.
 - a. Dredging for the sole purpose of obtaining fill or construction material is prohibited.
 - b. Dredging materials disposal is prohibited in the aquatic environment.
2. Dredging – Limitations. Dredging is allowed only for the following activities, and when the applicant demonstrates the project will result in not net loss of ecological functions using appropriate technical studies:
 - a. To maintain navigability; provided the dredging is limited to the extent of the previously approved dredging and/or existing authorized location, depth, and width;
 - b. To maintain an existing agricultural activity that supports an existing agricultural use within City Parks;
 - c. To remedy conditions endangering the public health, safety or welfare;
 - d. To carry out a habitat improvement project; and
 - e. Dredging performed pursuant to a remedial action plan approved under authority of the Model Toxics Control Act (MTCA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or pursuant to other authorization by the Washington State Department of Ecology, U.S. Army Corps of Engineers, or other agency with jurisdiction.
3. Dredging and Disposal - Performance Standards. Proposals for dredging must comply with each of the following performance standards:
 - a. The proposal, including any necessary mitigation, will result in no net loss of shoreline ecological functions.
 - b. Dredging shall be limited to the minimum necessary and appropriately balance navigational or other needs with impacts to shoreline ecological functions. The minimum necessary proposal shall be determined based on an analysis of technically feasible alternatives and consider both short-term and long-term impacts associated with the action, including mitigation measures.
 - c. The dredging shall not cause long-term adverse impacts to water quality, aquatic habitat, or human health in adjacent areas.
 - d. The lateral spread of re-suspended sediment created by a dredging operation shall be contained within previously approved limits.
 - e. To prevent impairment of water quality any dredge spoil temporarily stored in an upland location must be set back an adequate distance from the water to prevent the discharge of pollutants to the receiving water, and the

containment measure shall contain sufficient filtering to prevent discharge of sediments to the receiving water. Temporary disposal sites shall not be allowed except in areas designated by the City of Bellevue.

- f. A permanent dry land disposal site, or submerged disposal site outside of the City of Bellevue, has been approved.
- g. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation or restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).

E. Non-Residential Moorage Facilities, Boat Ramps, and Launches.

1. Applicability. Non-residential moorage facilities, boat ramps and launches are allowed in the Shoreline Overlay District when in compliance with paragraph E of this section. This paragraph E does not apply to residential development governed pursuant to LUC 20.25E.065.
2. Definitions. The following definitions apply only to paragraph E of this section.
 - a. Facility Segment. The walkway, moorage platform, finger-pier, or cover portion of a dock.
 - b. Walkway. The portion of the dock that is connected to the shoreline at the landward end and provides access to the moorage platform.
3. General Requirements Applicable to all Non-residential Moorage Facilities, Boat Ramps and Launches.
 - a. New skirting, covered moorage, including boatlift canopies, is prohibited.
 - b. Minimum necessary. Maintenance and repair shall be the minimum necessary to restore the facility to its original design, function, and capacity.
 - c. Construction Materials. Use environmentally neutral materials not materials treated with known toxic preservatives and approved by the Environmental Protection Agency for use in aquatic environments. Dock materials shall not be treated with pentachlorophenol, creosote, chromate copper arsenate (CCA) or comparably toxic compounds. If (ammoniacal copper zinc arsenate) (ACZA) materials are proposed, the applicant will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. 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 and that discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion.
 - d. Modification of Standards. A Special Shorelines Report may be used to modify the standards of this section E when the modification results in a net

benefit to shoreline ecological functions. Refer to LUC 20.25E.160.E (Mitigation Sequencing).

4. New and Expanded Non-Residential Moorage Facilities, Boat Ramps and Launches.
 - a. Permit Required. New and expanded non-residential moorage, boat ramps, and launches are permitted in the shoreline jurisdiction pursuant to the process in identified in LUC 20.25E.030 (Shoreline Use Charts).
 - b. Moorage facilities shall be located in an area where impacts to shoreline ecological functions can be avoided or mitigated to achieve the standard of no net loss of ecological function. To ensure no net loss of ecological functions occurs, the Director may require a compensatory mitigation plan pursuant to LUC 20.25E.060.D (Mitigation Sequencing), when impacts related to new or expanded moorage facilities are identified and not addressed by the performance standards set forth in paragraph E.4.d of this section.
 - c. New or Expanded Non-Residential Moorage Facilities - Design Criteria. Design and siting of new or expanded Non-residential moorage facilities shall address, at a minimum, the following criteria:
 - i. Facilities should be designed to avoid dredging to establish new moorage, and the need for maintenance dredging consistent with LUC 20.25H.080.D
 - ii. Facilities should be designed to avoid impacts to shoreline ecological functions through consideration of water depth, water circulation, sediment inputs and accumulation, and wave action.
 - iii. Facilities should be located to avoid impacts to shoreline ecological functions through avoidance of submerged aquatic vegetation, shoreline associated wetlands, or habitat associated with species of local importance.
 - iv. Facilities shall be designed to minimize overwater coverage and be the minimum size necessary to provide the desired moorage function when considering the beam and draft of the type of boat anticipated to be moored. Preference shall be given to designs that provide two berths per finger pier.
 - v. The ability of the site upland from the ordinary high water mark to accommodate the necessary support facilities.
 - vi. The use of mooring buoys to accommodate additional moorage.
 - vii. Transient Moorage. Transient moorage is allowed within a new or expanded non-residential moorage facility.
 - viii. Liveboards. Liveboards are allowed when distributed through the facility. Areas proposed for occupation by liveboards should include

properly planned and designed utility connections and storage facilities for each liveaboard slip.

- ix. Stacked Boat Storage. Facilities should incorporate, to the maximum extent feasible, upland stacked boat storage unless:
 - (1) No suitable upland locations exist for such facilities;
 - (2) The applicant demonstrates that water moorage would result in fewer impacts to shoreline ecological functions;
 - (3) The applicant demonstrates that water moorage would enhance public use of the shoreline; or
 - (4) The proposal is part of a non-residential moorage facility development in the Recreational Boating shoreline environment where the objective is enhanced public access and the location of an upland stacked storage facility would conflict with the objective of public use of the shoreline.
 - x. Utilities and Services. Utility and service lines serving docks and piers should be located below the pier deck and out of the water.
- d. New and Expanded Non-Residential Moorage Facilities – Performance Standards. The following use-specific performance standards apply in addition to the general performance standards in paragraph E.3 of this section.
- i. Location of Facilities in Meydenbauer Bay. Non-residential moorage facilities shall not extend waterward beyond the point necessary to provide reasonable draft for the boats to be moored. In no event shall a non-residential moorage facility extend to a point that impedes public navigation.
 - ii. Existing covered non-residential moorage facilities in Meydenbauer Bay shall not expanded beyond their existing outer limits or the boundary described as:
 - All Azimuths being South; commencing at the E 1/4 Sec. corner of Sec. 31 T 25N, R 5E, W.M., whose “X” coordinate is 1,661,520.58 and whose “Y” coordinate is 225,661.29 of the Washington Coordinate System, North Zone, and running thence on an Az of 78°51’17” a distance of 963.76 feet to a point whose coordinate is “X” 1,660,575.00, “Y” 225,475.00 of said coordinate system; thence on an Az of 37°26’00” for a distance of 60 feet to a point being the true beginning of this description; thence on an Az of 316°19’15” a distance of 495.14 feet; thence on an Az of 2°21’10” a distance of 42.52 feet; thence on an Az of 312°06’17” a distance of 415.00 feet; thence on an Az of 37°24’19” a distance of 118.06 feet to an intersection with the northwesterly extension of the northwesterly line of Reserve “A” at the N. end of

Ronda Street between Blocks 29 and 38, Plat of Moorlands, as recorded in Vol. 4 of Plats, Page 103, records of King County, Washington, said point of intersection being the terminus of this line description.

- iii. Setbacks for Facilities. Moorage facilities constructed with an external dock perimeter where access to public waters is provided through a central point on the waterward end of the facility shall provide a minimum 10-foot setback from property line projections. Moorage facilities constructed with an open-sided design where access to moorage is taken directly from public waters shall provide a minimum of 50 feet of setback from property line projections.

<Insert Graphic>

- iv. Dock and Pier Access. Docks and piers shall be accessed from upland support areas through a ramp or gangway and walkway system with the first set of finger piers (ells) located at a depth of 9 feet or greater. Facilities for human-powered vessel launching and moorage may be located in depths of less than 9 feet.
- v. The width and length of all structures shall be limited to what is reasonable for the intended use; provided that:
 - (1) Walkways shall not exceed 8 feet in width;
 - (2) Ells shall not exceed 4 feet in width; and
 - (3) Ramps and gangways shall not exceed 6 feet in width.
- vi. Docks, ramps, piers, and walkways shall be grated or surfaced with light penetrable materials. To the extent feasible, structures shall be designed to minimize overwater coverage and avoid shading of aquatic vegetation.
- vii. Impacts to shoreline ecological functions shall be minimized through avoidance of submerged aquatic vegetation, shoreline associated wetlands, and nesting and spawning areas.
- viii. Impacts to adjoining residential uses shall be minimized through use of appropriate screening, and by locating high impact areas away from uses on adjacent properties.
- ix. Docks shall be designed with piers and other structures placed to facilitate, rather than to obstruct, water circulation. Basins shall be designed to prevent stagnant water that tends to collect debris or cause shoaling or flushing problems.
- x. Moorage facilities shall be designed to protect against wakes caused by vessel traffic without the need for a breakwater.

- xi. Lighting and Safety. Design shall include adequate safety features and be designed to facilitate emergency response, including, but not limited to the following:
 - (1) Design and locate facility security gates and walkways maximizing emergency access to the water and minimizing blockage of the view from the shore. Walkway access locations should be in close proximity to facility loading and short term parking areas;
 - (2) Design and locate lighting to illuminate walkways during the evening hours. Walkway lighting should be flush mounted to the dock surface or screened to avoid spillover light emissions;
 - (3) Locate flotation devices in designated areas at regular intervals throughout the non-residential moorage facility to ensure the safety of facility users;
 - (4) Include adequate fire safety apparatus, including dock surface markings and reflectors at intervals and location specified by the City's Fire Department; and
 - (5) Mark the facility with reflectors or other measures to prevent unnecessarily hazardous conditions for water surface users during the day or night.
- xii. Interference with Other Uses. Facilities shall not interfere with the public use and enjoyment of the water or create a hazard to navigation.
- xiii. Public access shall be provided in accordance with LUC 20.25E.060.I (Public Access).
- xiv. Facility Addressing—Waterward. Facilities shall include address signs that are visible from the water. All signage shall conform to the signage requirements contained in LUC 20.25E.060.J (Signage in the Shoreline).
- xv. Aircraft Moorage. Aircraft moorage is allowed as part of a non-residential moorage facility and shall be the minimum size necessary to accommodate the use. All identified and related impacts to shoreline ecological functions shall be mitigated through implementation of a mitigation plan pursuant to LUC 20.25E.060.D (Mitigation Sequencing).
- xvi. Waste Services. At the minimum, Facilities shall provide the following waste services:
 - (1) One marine pump-out facility for use by the general boating public. This facility must be clearly marked for public use; and
 - (2) Each moorage segment shall include a solid waste collection facility, including but not limited to, garbage, maintenance waste, recycling and garbage.

- xvii. Facilities shall develop a maintenance, repair, and operations plan that demonstrates compliance with the requirements of this SMP and other applicable codes in accordance with standards established by the Director.
- e. New and Expanded Motorized Boat Ramps and Launches - Decision Criteria. In determining whether to approve an application for a motorized boat launch, the City shall the following criteria:
 - i. Adequacy of public streets to serve the facility based on traffic generated from using the facility;
 - ii. Impacts on adjacent uses, including noise, light, and glare are minimized; and,
 - iii. Ramp surfaces may be concrete, precast concrete, or other hard permanent substance. Loose materials, such as gravel or cinders, shall not be used.
- f. Non-motorized Boat Ramps and Launches - Design Criteria. Design and siting of non-motorized boat ramps and launches shall address, at a minimum, the following criteria:
 - i. The preferred construction materials for ramps designed for non-motorized boats is gravel or other similar natural material; and
 - ii. Floats or platforms designed to launch non-motorized boats are allowed.
- g. New and Expanded Boat Ramps and Launches – Performance Standards. The following use-specific performance standards apply in addition to the general performance standards in paragraph E.3 of this section.
 - i. The proposed size of the boat ramp or launch shall be the minimum necessary to safely launch the intended craft;
 - ii. Removal of native upland vegetation shall be minimized to the greatest extent feasible;
 - iii. Water currents and normal wave action shall be suitable for launch activity;
 - iv. Adequate on-shore parking and maneuvering areas shall be provided based on projected demand. Provisions shall be made to prevent spillover outside designated parking areas. Parking, access, and circulation must be consistent with LUC 20.25E.060.H (Accessory Parking, Loading Space and Maintenance Access);
 - v. Boat launches shall be located so that they do not significantly impact fish and wildlife habitats and shall not occur in areas with native emergent vegetation;
 - vi. Boat launches shall be located to provide access to a sufficient water depth to allow use by boats without maintenance dredging;

- vii. Ramps shall be designed to allow for ease of access to the water with minimal impact on the shoreline and water surface;
 - viii. Moorage associated with a boat launch or ramp shall meet the applicable performance standards for new or expanded non-residential moorage facilities in section F.4.d; and
 - ix. Mitigation is required for impacts related to the launch facility in accordance with LUC 20.25E.060.D (Mitigation Sequencing).
5. Repair and Maintenance Performance Standards Applicable to Non-Residential Moorage Facilities, Boat Ramps and Launches.
- a. Maintenance and repair as used in this section includes actions to repair a failed or degraded component of a facility with the intent of restoring the facility to its original design condition, function, and capacity. Expansion or reconfiguration of facility components do not constitute repairs and will be processed as a new or expanded non-residential moorage facility, boat ramp, or launch in accordance with the requirements of this section.
 - b. Existing Non-Residential Moorage Facilities - Repair and Maintenance Performance Standards. Repairs of non-residential moorage facilities shall comply with the following:
 - i. Canopy or Facility Decking Repair. Replacement of more than 50 percent of the surface of any overwater segment of a non-residential moorage facility within a 5-year period requires the segment surface be replaced with light penetrable materials, such as grating or translucent surfaces. Except that floating docks must use light-penetrable materials to the extent the existing structure facilitates light transmission with the addition of the light-penetrating materials. Otherwise, floating docks may use materials similar to those used for original construction unless in conflict with other requirements of this section.
 - ii. Piling Repairs. Capping, collaring, or sleeving, of more than 50 percent of the piling of any overwater segment of a non-residential facility within a 5-year period requires the segment surface be replaced with light penetrable materials (grating or translucent surface).
 - iii. Facility Substructure Repair. Repair or replacement of more than 50 percent of the substructure (stringers, joists, or beams) of any overwater segment of a non-residential moorage facility within a 5-year period requires replacement with light penetrable materials (grating or translucent surface).
 - iv. Piling Repair. Replacement of more than 50 percent of the structural support piling of any overwater segment of a nonresidential moorage facility within a 5-year period requires compliance with new

nonresidential moorage facility standards (requires redesign and reconfiguration).

- v. Moorage Adjustment. Minor moorage facility modifications are permitted as a repair to accommodate a change in vessel size and type when there is no net increase in the overall number of moorage slips. Allowed adjustments include a minor change in dock configuration and the addition or removal of piling as needed to adjust the moorage slip to accommodate a different vessel type or need for an adjusted dock space. No more than 100 square feet of dock surface or 6 piling may be added in a 3 year period as a moorage adjustment. Materials Used for Repairs. Repairs may be completed with materials similar to those used for original construction unless in conflict with paragraph E.3.c of this section.
 - vi. Alternative mitigation may be allowed in-lieu of use of light penetrable materials through the Special Shoreline Report Process, LUC 20.25E.160.E when the proposal with the requested alternative mitigation leads to an equivalent or better protection of shoreline ecological functions than would result from the application of the standard requirements for light penetrating materials.
- c. Existing Boat Ramps and Launches - Repair and Maintenance Performance Standards. Repair and maintenance of existing boat ramps and launches shall comply with the following:
- i. Repair of existing facilities shall be constructed with materials required for new facilities as described in paragraph E.3.c of this section.
 - ii. No expansion of improved areas is permitted as repair.
 - iii. Removal existing vegetation shall be prohibited; and
 - iv. Dredging is allowed only in accordance with LUC 20.25E.080.D (Dredging and Dredge Material Disposal).

F. Shoreline Stabilization

1. Applicability. Shoreline stabilization measures designed to protect existing primary structures, public facilities, or public use structures from shoreline erosion are allowed in the shoreline at or above ordinary high water mark only in compliance with paragraph F of this section. The requirements of paragraph F of this section may be modified through a Special Shoreline Report, pursuant to LUC 20.25E.160.E.
2. Definitions.

- a. Public facilities or public use structures. As used in this section, “public facilities” is a general term that encompasses public infrastructure and facilities. “Public use structures” is a general term that refers to structures designed to facilitate public use of the shoreline.
 - b. Shoreline Stabilization. Nonstructural and structural measures designed to protect existing primary structures, public facilities, or public use structures from the effects of natural shoreline processes, such as wave action, flooding, or erosion. Shoreline stabilization may include vegetation, bioengineered measures combining vegetation with slope modification, angled riprap, revetments, and conventional vertical bulkheads.
 - c. Soft Shoreline Stabilization. Soft shoreline stabilization combines a range of bioengineered actions, beach enhancement, anchor trees, large rocks, gravel placement, shoreline plantings, and similar measures that use natural materials engineered to provide shoreline stabilization while preserving or mimicking important shoreline ecological functions. Depending on site conditions, a blending of hard and soft methods that includes durable components in combination with softer methods and vegetative plantings may be necessary to provide the needed level of stabilization while providing an enhanced shoreline habitat.
 - d. Hard Shoreline Stabilization. Hard shoreline stabilization employs rigid structures that armor the shoreline from the effects of water-caused erosion. Such structures typically include rip-rap revetments, gabions, concrete retaining walls, and similar measures that function to prevent wave-caused by a variety of methods ranging from rock revetments sloped at 3:1 or less to near-vertical rockeries and vertical rigid structures constructed of artificial materials like concrete.
 - e. Avoidance Measures. Techniques used to minimize or prevent shoreline erosion that do not involve modification of the shoreline at the interface of land and water. Avoidance measures are applied through a site design approach, and include vegetation enhancement, upland drainage control, and protective walls or embankments placed outside of the shoreline setback or area of special flood hazard.
3. Technically Feasible. The provisions of LUC 20.25E.060.C (Technical Feasibility – General Requirements) do not apply when determining if a new shoreline

stabilization method is technically feasible, instead the provisions of paragraph F.3 of this section apply.

- a. The determination of whether a particular avoidance or stabilization measure is “technically feasible” shall be made by the Director as part of the decision on the underlying permit after consideration of a report prepared by a qualified professional addressing the following factors:
 - i. Site conditions, including slope, beach configuration, nearshore depth, potential for flooding, and proximity of primary structure to ordinary high water mark;
 - ii. Consideration of wind direction, velocity and frequency, fetch, probable wave height, and frequency;
 - iii. The level of risk to the primary structure, public facility or public use structure presented by the rate of erosion over a three year period and the ability of the proposed measure to mitigate that risk;
 - iv. Whether the cost of avoiding disturbance of shoreline processes and functions is disproportionate as compared to the environmental impact of proposed disturbance, including any continued impacts on functions and values over time; and
 - v. The ability of both permanent and temporary disturbance to be mitigated.
 - b. Shoreline stabilization measures found to be technically feasible shall comply with the standards set forth in paragraph F.4 of this section.
4. New or Enlarged Shoreline Stabilization Measures.
- a. When Allowed. New or enlarged shoreline stabilization measures shall be permitted only to protect existing primary structures, public facilities, or public use structures. Shoreline stabilization measures shall be allowed only where avoidance measures are not technically feasible.
 - b. Type of Shoreline Stabilization Measure Used. Where a new or enlarged shoreline stabilization measure is allowed, soft shoreline stabilization measures shall be used, unless the applicant demonstrates, in accordance with paragraph F.3 of this section, that soft shoreline stabilization measures are not technically feasible. Only after the Director determines that soft shoreline stabilization measures are not technically feasible, will hard shoreline stabilization measures be permitted. Provided, that developed sites with less than 10 feet between the primary structure and the ordinary high water mark are assumed to require some form of hard stabilization and applicants are not required to demonstrate technical feasibility. This provision

does not apply to legally-established stabilization measures in the Shoreline Residential Canal environment.

- c. Options for Soft Stabilization. **Plate XX [insert chart from Green Shorelines material]** provides guidance on the range of shoreline stabilization measures that may be considered, based on the unique characteristics of the subject property and shoreline. Options for soft stabilization should be based on the practicality and viability of the measure when considering near shore and yard slope, average wave energy and direction, frequency of large erosion-causing events, and shall employ the following hierarchy of preference:
- i. Soft stabilization constructed of natural materials utilizing bioengineering techniques including slope contouring, beach nourishment, protective coconut fiber berms, fascines, live staking, and other vegetative stabilization to hold soil and gravel in place.
 - ii. Soft stabilization as described in paragraph F.4.c.i of this section integrated with large boulders, large logs and other coarse woody debris, and partial use of rigid structures where required to protect existing rigid structures on abutting properties.
 - iii. Soft stabilization as described in paragraph F.4.c.ii of this section and incorporating limited use of rigid structures constructed of rock or artificial materials and located as an additional safety measure as far as technically feasible from ordinary high water mark while still ensuring the long-term safety and stability of the primary structure.
- d. Options for Hard Stabilization. New or enlarged hard stabilization measures require a demonstration that avoidance or soft stabilization measures are not technically feasible as described in paragraph F.3 of this section. Hard stabilization shall employ the following hierarchy of preference:
- i. Hard stabilization constructed of quarry rock, rip-rap or similar materials at a slope gradient not to exceed 3:1 and utilizing bioengineering techniques including slope contouring, beach nourishment, live staking, and other vegetative enhancement.
 - ii. Hard stabilization as described in paragraph i of this section, but where slope gradient and distance to the primary structure is such that a 3:1 slope cannot reasonably be achieved and where vegetative enhancement is confined to live staking and vegetative

enhancement below ordinary high water or at the top of the wall. Such hard stabilization shall not exceed a slope gradient of 2:1.

- iii. Hard stabilization utilizing rigid, near-vertical structures at a slope gradient not to exceed 1.5:1 constructed of quarry rock or artificial materials and utilized on developed sites where the distance between the primary structure and ordinary high water mark is 10 feet or less. Near-vertical stabilization shall be the minimum height necessary, and shall not exceed 48 inches in height as measured from the bottom of the footing.
- e. Location. When allowed, new shoreline stabilization measures shall be located at or behind the ordinary high water mark. Where a documented area of special flood hazard exists, stabilization measures shall be located at the upland edge of the area of special flood hazard, except that soft stabilization measures conforming to paragraph F.4.c of this section may be located in the area of special flood hazard. Where allowed, hard stabilization measures conforming to paragraph F.4.d.iii of this section may be located in the area of special flood hazard provided that their impact on the flood storage capacity of the floodplain is minimal. Stabilization measures are prohibited waterward of the ordinary high water mark, except that soft shoreline stabilization measures may be located waterward of the ordinary high water mark when they incorporate approved aquatic habitat improvement elements. In no event may a shoreline stabilization measure modify the lake bottom waterward of the ordinary high water mark, except for the purpose of gravel or beach augmentation, placement of anchored large woody debris, or other specified habitat enhancements.
- f. Mitigation and Restoration. Areas of new permanent disturbance and all areas of temporary disturbance associated with new shoreline stabilization measures shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).
- g. Retention of Setback with New Soft Stabilization. Where an applicant replaces a legally-established existing hard shoreline stabilization measure with a soft shoreline stabilization measure or an avoidance measure, any applicable structure setback shall continue to be measured from the ordinary high water mark that existed with the hard shoreline stabilization measure. Such ordinary high water mark shall be located by a survey prior to removal

of the hard shoreline stabilization measure. The applicant shall record a survey or other instrument clearly delineating the ordinary high water mark location as it existed prior to the removal of the hard shoreline stabilization measure with the King County Division of Records and Elections, or its successor agency.

- h. Expansion of Shoreline Jurisdiction from Shift in the Ordinary High Water Mark. If implementing a shoreline stabilization measure allowed by the Bellevue SMP and intended to improve ecological functions results in shifting the ordinary high water mark landward of the pre-implementation location, and results in an expansion of the shoreline jurisdiction onto any property other than the subject property, then:
 - i. The City shall notify the affected property owner in writing; and
 - ii. The City may propose to grant relief from the applicable shoreline regulations resulting in expansion of the shoreline jurisdiction. The proposal to grant relief must be submitted to the Department of Ecology with the required shoreline permit under the procedures established at LUC 20.25E.160 and 20.25E.180. If approved, notice of the relief granted, in a form approved by the City Attorney, shall be recorded on title with the King County Division of Records and Elections, or its successor agency.

5. Repair and Replacement of Existing Shoreline Stabilization.

Existing legally-established stabilization measures may be repaired or replaced with a comparable structure when the proposal meets the following applicable requirements:

- a. Comparable Size. Repairs and replacements shall not expand the lateral extent, add to the height or increase the width of an existing stabilization measure unless otherwise permitted by the terms of this paragraph. Refer to LUC 20.25E.080.F.4 for requirements applicable to enlarged shoreline stabilization measures.
- b. Comparable Location. When existing shoreline hard stabilization is being replaced, it shall be located landward of the Ordinary High Water Mark except that replacement stabilization may encroach waterward of the ordinary high water mark provided the residence was occupied prior to January 1, 1992,

and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.

c. Comparable Design. Existing vertical concrete shoreline stabilization measures may not be replaced with a similar structure unless there is no technically feasible alternative. Except that existing legally-established hard stabilization measures located in the Shoreline Residential Canal environment may be repaired or replaced in their vertical concrete configuration, and the applicant shall not be required to demonstrate that there is no technical feasibility alternative. Nothing in this requirement prevents vertical concrete shoreline stabilization measures from being replaced with a soft or hard shoreline stabilization measures as described at 20.25E.080.4.c and d.

d. Limitation on Comparability. Repairs and replacements meeting the requirements of this paragraph are permitted so long as the materials, size, location and design of the stabilization measure does not result in a net less of shoreline ecological function.

6. Removal of Existing Shoreline Stabilization. Shoreline stabilization measures may be voluntarily removed in support of shoreline mitigation or restoration when the proposal meets the following applicable requirements:

- a. The area impacted by removal is restored or replanted pursuant to an approved mitigation plan (refer to LUC 20.25E.060.D), designed, located, sized and constructed to ensure no net loss of ecological function;
- b. The impact on adjacent properties is minimized and existing stabilization structures are protected;
- c. The applicant records an agreement recognizing that the installation of future hard stabilization is prohibited; and,

- d. Short-term construction impacts are minimized through the use of appropriate best management practices to minimize impacts to water quality, appropriate timing restrictions, and stabilization of exposed soils following construction.

DRAFT

SHORE STABILIZATION

BACKGROUND:

The wave action on Lake Washington and Lake Sammamish caused by watercraft and storms is demonstrated to cause erosion to the shoreline that threatens structures and developments located on the upland/shorelands.

Figure 3 - Storm and Wave Impacts Along Lake Shoreline



Shoreline stabilization measures on these lakes are necessary for the preservation of homes and appurtenances due to overriding safety and environmental concerns. Property owners can be encouraged to replace existing hard shoreline stabilization measures with non-vertical bulkheads or soft shoreline stabilization measures or avoidance measures. However, the persistent wave action on these lakes causes a demonstrated need to use hard shoreline stabilization measures to sufficiently protect structures and developments located on the uplands/shorelands, and therefore property owners must be allowed to protect their property with hard shoreline measures.

The only scientific concern identified regarding bulkheads on Lakes Washington and Sammamish is potential wave reflection damage caused by vertical bulkheads depending on the location in relation to the water level, thus restrictions on vertical bulkheads are the only justified restriction.

Additionally, extraordinarily high, artificially created water levels on both Lake Sammamish and Phantom Lake are damaging property which increasingly necessitates protection of these properties with shoreline stabilization features. The City should take proactive steps to eliminate

the artificial lake levels; otherwise the rules must allow property owners on both lakes to protect their properties from water caused damage.

On some properties, removal of a vertical wall bulkhead will cause substantial damage to the property and shoreline creating overriding safety and environmental concerns, so repair by a fronting wall is the necessary and appropriate method of repair (e.g. Meydenbauer Bay).

It must also be noted that the SMA Guidelines allow local government's substantial discretion to adopt master programs reflecting local circumstances.

POLICY:

Existing bulkheads and other shoreline stabilization features for single family properties can be repaired or replaced without requiring categorization as major versus minor repair.

KEY STANDARDS:

1. Replacement: means the construction of a new structure to perform shoreline stabilization function of an existing bulkhead which can no longer adequately serve its purpose.
2. Comparable Standard: The replacement structure should be comparable to the existing and not constitute an addition or increase, however, a replacement structure need not be exactly the same as the existing structure and can be constructed of different materials or methods, including design features, location, and/or sizing modifications that will not result in a net loss of shoreline ecological functions.
3. Repaired bulkhead or replacement structures should be in the same location and not expanded, subject to the follow qualifications:
 - An exception is replacement of a vertical wall with a sloping rock revetment, which shall be considered an allowed replacement structure.
 - Where the existing bulkhead is waterward of ordinary high water, replacement structures located landward of the existing structure shall be considered an allowed replacement structure.
 - An exception or clarification is that if a vertical or near vertical wall that is being repaired by construction of a vertical wall fronting the existing wall, then the new wall shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. WAC 173-27-040(2)(c). As an alternative, a rock revetment may be constructed fronting the existing vertical wall.

4. Property owners may be encouraged, but not required, to replace vertical bulkheads with sloping rock revetments, which shall be considered acceptable replacement structures.
5. Property owners may be encouraged, but not required, to replace bulkheads with soft shoreline stabilization measures, which shall be considered acceptable replacement structures.
6. Repair or replacement of existing shoreline stabilization consistent with the above rules shall not require a shoreline substantial development permit or any other comparable permit or review process.
7. Walls or other features that are **not** at or near, and parallel to, ordinary high water shall not be regulated as shoreline stabilization measures or bulkheads.

The key point here is that repair or replacement of existing shoreline stabilization features will not result in net loss of shoreline ecological functions because a comparable bulkhead will not change existing conditions.

Citations: RCW 90.58.030(3)(e)(ii), WAC 173-26-231(3)(a)(iii)(C), WAC 173-27-040(2)(c).

POLICY

New or expanded bulkheads and other shoreline stabilization features for single family properties can also be constructed with additional standards.

KEY STANDARDS

8. New or expanded shoreline stabilization measures shall be allowed as an exempt activity if construction utilizes sloping rock revetments, soft shoreline stabilization, or other measures identified as providing similar benefits.
9. New or expanded shoreline stabilization measures must be constructed landward of ordinary high water.
10. Other new or expanded bulkheads not complying with the above standards are not normal protective bulkheads common to single family residences and must obtain a shoreline substantial development permit based on:
 - Geotechnical analysis demonstrating that the home, property, or appurtenances are threatened by erosion due to wave or water action, and demonstrating the need for the type of shoreline stabilization proposed. The geotechnical analysis shall be accepted by the City as conclusive on these issues.
 - The applicant shall demonstrate through the geotechnical analysis or otherwise that the proposed shoreline stabilization measure and any

mitigation measures will not result in a net loss of shoreline ecological functions.

11. Walls or other features that are **not** at or near, and parallel to, ordinary high water shall not be regulated as shoreline stabilization measures.

State law declares as an **exempt** activity: —Construction of the normal protective bulkhead common to single family residences.” RCW 90.58.030(3)(e)(ii). The unique local circumstances demonstrated by the Background statement, above, and supplementing information support authorizing new and expanded bulkheads meeting the above criteria as exempt activities consistent with the —substantial discretion” afforded the City under the Shoreline Guidelines. WAC 173-26-171(3)(a) (—The guidelines are guiding parameters, standards, and review criteria for local master programs...”).

New or expanded shoreline stabilization measures consistent with the above standards will not result in net loss of shoreline ecological functions.

Citations: RCW 90.58.030, WAC 173-26-231(a)(iii)(3)(C), WAC 173-27-040(2)(c).

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