

## 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, ~~and contains requirements most commonly applied to residential development.~~ This section includes ~~requirements for site planning requirements,~~ general residential standards, residential dimensional requirements, ~~options for reducing residential setbacks, residential landscape standards,~~ vegetation conservation ~~tree preservation~~ requirements for residential uses, residential moorage requirements, and residential nonconforming provisions.

**Comment [hb1]: Bellevue Specific Approach.** Unique compilation of standards in standalone section to address citizen concern about clarity and usability of requirements.

**Comment [c2]:** Clarity Edit

**Comment [H3]:** Clarity Edit

**Comment [dp4]:** Consistency Edit

### B. General Requirements Applicable to all Residential Development.

1. Applicability. ~~This section contains development requirements and standards that apply specifically to all residential uses and development within the Shoreline Overlay District.~~ All residential use and development shall comply with the requirements of this section LUC 20.25E.065 and all other applicable provisions of the ~~Bellevue~~ SMP. All general development requirements and standards governing site development of property city-wide set forth in Chapter 20.20 LUC (General Development Requirements) apply, except to the extent expressly stated in this section and as stated in LUC 20.25E.010.C.1.c. All other applicable City of Bellevue codes, ordinances, and development and engineering standards shall also apply to development and uses in the Shoreline Overlay District. Bellevue City Code provisions of general applicability are not part of the SMP unless specifically adopted by reference.
2. Site Planning. New R Residential development 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 shall be located and designed to avoid the need for new shoreline stabilization over the life of the development.
  - b. Site Sensitivity. Development should be designed in a manner that directs land alteration to the least sensitive portions of the site outside of the shoreline setback. and shall be designed to limit clearing, grading, and alteration of topography and natural features.
  - c. Context Sensitive Design. Design shall minimize topographic modification. Structures shall conform to the natural contour of the slope. Foundations shall be tiered to conform to the existing topography and step down the slope with earth retention incorporated into the structure where feasible. Standard prepared building pads, i.e., slab on grade, shall be avoided.

**Comment [c5]:** WAC 173-27-030(6).

**Comment [hb6]:**  
WAC: 173-26-241 Shoreline Uses  
WAC: 173-26-221 General provisions  
LUC 20.20. Incorporated into SMP and amended for clarity and consistency with state requirements.

**Comment [H7]:** Redundancy Deletion

**Comment [c8]:** Clarity Edit

**Comment [c9]:** Clarity Edit

**Comment [c10]:** Modeled after LUC 20.25H.125.

**Comment [hb11]:**  
WAC: 173-26-231(3)(a)(iii)(A)

- d. Topographic Modification. Changes in existing grade outside the building footprint shall be minimized. Excavation shall not exceed 10 feet. Fill shall not exceed five feet subject to the following provisions: all fill in excess of four feet shall be engineered; and engineered fill may be approved in exceptional circumstances to exceed five feet to a maximum of eight feet. Exceptional circumstances are: (1) instances where driveway access would exceed 15 percent slope if additional fill retained by the building foundation is not permitted; or (2) where the five-foot fill maximum generally is observed but limited additional fill is necessary to accommodate localized variations in topography.
- e. Garage and Driveway Orientation. Residential garages and driveways shall comply with the following applicable standards:
- i. Uphill Slopes. Garages on sites sloping uphill ~~from the street~~ should be placed below the main floor elevation where feasible to reduce required grading and to fit structures into existing topography.
  - ii. Downhill Slopes. Garages on sites sloping downhill from the street ~~may require being~~ should be located as close to the right-of-way as feasible and at or near street grade. Intrusion into the front setback, as provided in LUC 20.20.025.B (Garages/Carports on Slopes), may be required.
  - iii. Slopes Exceeding 25 Percent. On slopes exceeding 25 percent, driveways shall be designed to minimize disturbance and should provide the most direct connection between the building and the public or private street.
- f. Parking and Driveways. Driveways and garages associated with residential uses shall comply with the following applicable standards:
- i. Residential parking shall not be permitted overwater ~~and~~ or within the shoreline setback.
  - ii. Minimum Necessary. Parking and driveways shall be the minimum size necessary to support the approved residential use or development.
  - iii. Parking surfaces and driveways should be designed to incorporate Natural Drainage Practices and Low Impact Development practices where feasible. (Refer to the City of Bellevue Storm and Surface Water Utility Code, Chapter 24.06 BCC, and the Storm and Surface Water Engineering Standards (2011), now or hereafter amended).
  - iv. Construction, maintenance, and repair of parking surfaces and driveways shall prevent surface water runoff from contaminating water bodies by using best management practices as set forth in the City of Bellevue Storm and Surface Water Utility Code, Chapter 24.06 BCC, and the City's Storm and Surface Water Engineering Design Standards (2011); now or hereafter amended.

Comment [c12]: Clarity edit

g. Accessory Utilities. To minimize disturbance in the ~~shoreline jurisdiction~~ Shoreline Overlay District, and to reduce the impact on shoreline ecological functions, utilities serving residential development shall be co-located within existing or proposed roadway and driveway corridors that provide access to the development, ~~except when the consolidation of the utilities with the roadway and driveway corridor will not realize the intended function of the utility, or the cost of avoiding disturbance is substantially disproportionate~~ as when compared to the environmental impact of proposed disturbance. ~~If co-location is not possible, impacts related to new utility corridors and connections shall be mitigated in accordance with LUC 20.25E.060.D (Mitigation Sequencing).~~

**Comment [c13]:** Clarity edit

**Comment [dp14]:** Consistency Edit

**Comment [c15]:** Modeled on existing regulations- LUC 20.25E.080.B.7; 20.25E.080.G; 20.25E.080.K

**Comment [c16]:** Redundancy deletion

h. 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.h, LUC 20.25H.180 (Areas of Special Flood Hazard), 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 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.

~~i. Tree Retention Standards. Outside of the Shoreline Vegetation Conservation Area. In areas other than the vegetation conservation area, the tree retention and replacement standards of LUC 20.20.900 shall apply. If a tree to be removed provides habitat associated with species of local importance, such as an eagle perch, a qualified wildlife biologist shall be consulted consistent with LUC 20.25H.150 (Habitat Associated with Species of Local Importance).~~

**Comment [H17]:** P.C. SMP Redraft Direction

~~j.i.~~ i. Critical Areas. Critical areas in the ~~shoreline jurisdiction~~ Shoreline Overlay District shall be regulated in accordance with Part 20.25H LUC, Critical Areas Overlay District. In the event of a conflict between Part 20.25H LUC and the ~~Bellevue~~ 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.

**Comment [c18]:** Consistency Edit

~~k-j.~~ j. 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 within land located in the Shoreline Overlay District. The purpose of this section is to prevent impacts to

**Comment [c19]:** Redundant to 20.25E.060.L to create stand-alone residential section. Could be cross referenced and deleted instead.

**Comment [H20]:** P.C. SMP Redraft Direction

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](#), Chapter 24.06 BCC (Storm and Surface Water Utility Code), the City of Bellevue Utilities' Department, Storm and Surface Water Engineering Standards (Jan. 2011 or as hereafter amended), Chapter 23.76 BCC (Clearing and Grading Code), and the Clearing and Grading Development Standards. The Director and the Director of Utilities may condition city approvals and permits to ensure consistency with the provisions of applicable land use, development, and utility codes and standards.
- iii. To avoid water quality degradation by malfunctioning or failing septic systems located within the ~~shoreline jurisdiction~~ [Shoreline Overlay District](#), on-site sewage systems shall be located and designed to meet all applicable water quality, utility, and health standards required by the state and local public health agencies. Property owners with septic systems must comply with Chapter 24.05.160 WAC – Operation and Maintenance.

**Comment [c21]:** Modeled after current SMP, intended to provide clarity for applicant.

- iv. ~~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. Deck 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. Materials used for construction of moorage facilities shall conform to the provisions of LUC 20.25E.065.I.3.a. 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~~

**Comment [c22]:** Intended to provide clarity for homeowners.

prohibited in or above shoreline water bodies. 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 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.

**Comment [c23]:** Consistency amendment. Refer to 20.25E.060.L.5.

~~iv.v.~~ The use of cold tar sealants that contain Polycyclic Aromatic Hydrocarbons is prohibited.

~~h.k.~~ Shoreline Residential Subdivision and Short Subdivision Standards. In addition to requirements set forth in Part 20.45 LUC, dDevelopment of new subdivisions and short subdivisions on land within the Shoreline Overlay District shall ensure no net loss of ecological functions by complying with the following criteria:

**Comment [H24]:** P.C. SMP Redraft Direction

- ~~i. Cluster lots to limit site disturbance and confine development of residences to the area outside the shoreline setback;~~
- ~~ii. Comply with the vegetation conservation requirements in paragraph G of this section;~~
- ~~iii. Comply with the public access standards as required by LUC 20.25E.060.ii;~~
- ~~i. Retain and maintain at least 30 percent of the existing diameter inches of significant trees on the site,~~
- ~~iv. outside the vegetation conservation area, but within the shoreline jurisdiction.~~

**Comment [c25]:** Consistency Edit

~~v.ii.~~ Special Requirements for Subdivisions and short subdivisions of four lots or more:

**Comment [c26]:** Consistency Edit: city-wide standard kept in SMP to comply with vegetation conservation requirements in SMP Guidelines.

- ~~a. The applicant receiving subdivision or short subdivision approval within the shoreline pursuant to this part shall dedicate the vegetation conservation area as a separate tract and delineate it on the final plat recorded with the King County Division of Records and Elections.~~

~~b. Prior to final plat approval, the applicant shall comply with the landscape development standards of section 20.25E.F.1.f and F.2.a.i requiring planting of 60 percent of the vegetation conservation area.~~

~~e.a.~~ Shared moorage is required. The final subdivision or short subdivision shall contain a note requiring shared moorage meeting the requirements of 20.25E.065.H.4 and Chart 20.25E.065.H.4.

~~e.b.~~ An area reserved for shared moorage shall be delineated on the face of the final plat and incorporated into that portion of the vegetation conservation area that may be developed with non-structural water enjoyment recreation as allowed by 20.25E.065.G.2.a.v.

Comment [c27]: Consistency Edit

**C. Shoreline Dimensional Requirements for Residential Uses in Shoreline Residential and Shoreline Residential Canal Environments.**

1. Applicability. This paragraph C applies to all new residential uses and residential uses that are proposed for modification and located in the Shoreline Residential and Shoreline Residential Canal environments. Additionally, the general development requirements and standards governing site development of property city-wide, contained in Chapter 20.20 LUC apply, except to the extent expressly stated in this section I and as stated in LUC 20.25E.010.C.1.c.

Comment [hb28]:  
WAC: 173-26-241  
P.C. Direction. Planning Commission direction to develop tailored regulations based on unique characteristics of different shoreline areas.

Comment [c29]: Clarity Edit

Comment [H30]: Consistency Edit

~~except when located on Phantom Lake. Residential uses located on Phantom Lake are regulated pursuant to the substantive requirements contained in Part 20.25H LUC (Critical Areas Overlay District), although permits shall be issued under Part 20.25E LUC (Shoreline Overlay) if required by LUC 20.25E.150 through 20.25E.190.~~

Comment [H31]: Redundancy Deletion

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. Additional requirements applicable to all residential land use districts are located in the Chart of Dimensional Requirements (LUC Chart 20.20.010). 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 special limitation or 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 jurisdictionShoreline Overlay District, the provisions of this section shall apply.

Comment [c32]: Clarity Edit

**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)(45)	Maximum Impervious Surface (percent)
Shoreline Residential Canal (SRC)	25' (7)	(34)	35'	(5.66.7)
Shoreline Residential (SR)	2550' (2)(3)	(34)	35'	(5.66.7)

**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).
- ~~(1) Requests to exceed the established building height within the shoreline jurisdiction Shoreline Overlay District through the Shoreline Variance process (LUC 20.25E.190) must demonstrate that the increase will not obstruct the view of a substantial number of residences.~~
- (2) Phantom Lake and Lower Kelsey Creek are also regulated pursuant to the substantive requirement contained in Part 20.25H LUC, Critical Areas Overlay District.
- ~~(3) In the Shoreline Residential environment, the shoreline structure setback for residential uses consists of a 50-foot structure setback overlaid by a 25-foot vegetation conservation area, as measured from the ordinary high water mark. Refer to paragraph E of this section for specific performance standards and limitations applicable to the structure setback and the vegetation conservation area.~~
- (4)(3) The allowed maximum lot coverage by structures in the Shoreline Residential and Shoreline Residential Canal environments shall not exceed the maximum lot coverage by structure established for the underlying land use district. (Refer to LUC Chart 20.20.010 Dimensional Requirements, Residential).
- ~~(5)(4) Building height in the shoreline jurisdiction Shoreline Overlay District is measured in accordance with the definition of height as defined in LUC 20.25E.280.~~
- (5) The allowed amount of maximum impervious surface in the Shoreline Residential and Shoreline Residential Canal environments shall not exceed the maximum impervious surface established for the underlying residential land use district (refer to LUC Chart 20.20.010 Dimensional Requirements, Residential).
- (6) The allowed amount of maximum impervious surface within the 25 foot structure setback of the Shoreline Residential and Shoreline Residential Canal environments 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.
- ~~(6)(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.~~
- ~~(7) In the Shoreline Residential Canal environment, the shoreline structure setback consists of a 25-foot structure setback overlaid by a vegetation conservation area, as measured from the~~

**Comment [H33]:** Consistency Edit

**Comment [j34]:** P.C. Direction. Planning Commission direction to develop tailored regulations based on the unique characteristics of different shoreline areas.

**Comment [c35]:** P.C. SMP Redraft Direction

**Comment [c36]:** Clarity Edit

**Comment [dp37]:** P.C. SMP Redraft Direction. Taken from Mercer Island Draft SMP.

**Comment [dp38]:** P.C. SMP Redraft Direction. Taken from Mercer Island Draft SMP.

~~ordinary high water mark. Refer to paragraph E of this section for specific performance standards and limitations applicable to the structure setback and the vegetation conservation area.~~

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#### D. Residential Impervious Surfaces

Comment [c39]: P.C. SMP Redraft  
Direction

Impervious surfaces in the Shoreline Overlay District are regulated pursuant to LUC 20.20.460, except that the impervious surface limits contained in LUC Chart 20.25E.065.C may only be modified through the shoreline variance process.

- ~~1. Existing Impervious Surfaces. Impervious surfaces in the shoreline jurisdiction that were legally established on or before [insert effective date of ordinance], and that exceed the limits contained in LUC Chart 20.25E.065.C, shall not be considered nonconforming. Proposals to increase impervious surface on a site shall conform to the limits of LUC Chart 20.25E.065.C. Where a site already exceeds the limits on impervious surfaces, new impervious surface shall not be approved unless an equal amount of existing impervious surface is removed such that the net amount of impervious surface does not increase. All new impervious surfaces shall comply with standards applicable to shoreline setbacks, landscape development, and the vegetation conservation area.~~
- ~~2. Modifications to Impervious Surface Limits. The impervious surface limits contained in LUC Chart 20.25E.065.C may be modified pursuant to approval of a shoreline variance through the Special Shoreline Report process (refer to LUC 20.25E.160.E), provided the report demonstrates that the effective impervious surface on the site does not exceed the limit established.~~
- ~~3. Exceptions. The following structures and improvements are excepted from the calculation of maximum impervious surface. These exceptions do not apply to any other City of Bellevue ordinance, code, or engineering or development standards.
  - ~~a. Decks/Platforms. Decks and platforms constructed with gaps measuring one-eighth inch or greater between boards, provided the surface below the deck or platform is pervious;~~
  - ~~b. Rockeries/Retaining Walls. Rockeries and retaining walls constructed in compliance with applicable City of Bellevue ordinances, codes, and standards;~~
  - ~~c. Stabilization Measures. Legally established shoreline stabilization measures; and~~
  - ~~d. Landscape Features. Fences, arbors with lattice or open roof materials and similar structures, individual stepping stones placed in the ground, but not cemented or held together with an impervious material, and gravel mulch.~~~~
- ~~E. Innovative Techniques — Excluded from Calculation of Maximum Impervious Surface. Surfaces paved with pervious pavement or other innovative techniques designed to mimic the function of a pervious surface are excluded from the calculation of maximum impervious surface, provided the technique is designed by~~

~~a professional engineer licensed by the State of Washington and the plans are approved by the Director. The Director may require a maintenance plan and long-term performance assurance device to ensure the continued function of the pervious pavement or other technique.~~

**F.E. Residential Structure Setback.**

~~3. Applicability. This paragraph E applies to residential structure setbacks in the Shoreline Residential and Shoreline Residential Canal environments, except when located on Phantom Lake or Lower Kelsey Creek. Residential uses located on Phantom Lake or Lower Kelsey Creek are regulated pursuant to the substantive setback requirements contained in Part 20.25H LUC (Critical Areas Overlay District), although permits shall be issued under Part 20.25E LUC (Shoreline Overlay) if required by LUC 20.25E.150 through 20.25E.190.~~

1. General Setback Requirements Applicable to all Residential Development Regulated Pursuant to paragraph E.1 of this section.

a. The Shoreline Structure Setback shall be 25 feet.

~~a. Measurement of Shoreline Structure Setback. The shoreline structure setback shall be measured landward from the ordinary high water mark on a horizontal plane and to a point that results in the required dimension. On Lake Sammamish, the shoreline structure setback may shall be measured landward from elevation 30.631.8 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 ordinary high water mark determination completed by a qualified professional. On Lake Washington the shoreline structure setback shall be measured landward from elevation 25.10 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. Structure setbacks on Phantom Lake, the shoreline structure setback shall may 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. Structure setbacks on Lower Kelsey Creek shall be established in conformance with Part 20.25H LUC (Critical Areas Overlay District) 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.~~

b.

c. Footprint Exception - Existing Residential Dwellings Structures. When a legally established residential dwelling 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

**Comment [c40]: P.C. SMP Redraft Direction**

**Comment [hb41]:**  
P.C. Direction. Planning Commission direction given on June 9<sup>th</sup> and October 20<sup>th</sup>, 2010.

**Comment [j42]: P.C. Direction.** Planning Commission direction to develop tailored regulations based on the unique characteristics of different shoreline areas

**Comment [j43]: Direction.** Planning Commission direction to develop tailored regulations based on the unique characteristics of different shoreline areas

**Comment [hb44]:**  
P.C. Direction. Planning Commission direction to incorporate footprint exception from Critical Areas Overlay District provisions. June 9<sup>th</sup> and October 20<sup>th</sup> 2010.

~~modified to exclude the footprint of that portion of the primary structure located outside the vegetation conservation area 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 or building setback area more than 200 square feet over that existing before [insert the effective date of ordinance the Program]; 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 area impacted is required through consolidated planting of native vegetation within the structure setback adjacent to the OHWM in accordance with the standards developed by the Director; and
- b. This allowance may only be used once for the life of the structure.

**Comment [dp45]:** P.C. SMP Redraft Direction. Taken from City of Sammamish SMP.

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~~b. Structure Height. Structure height shall be 35 feet measured from average existing grade. Development shall comply with the requirements of this paragraph E. Additionally, the general development requirements and standards governing site development of property city wide, contained in Chapter 20.20 LUC apply, except to the extent expressly stated in this section I and as stated in LUC 20.25E.010.C.1.c.~~

~~c. Measurement of Shoreline Structure Setback. The shoreline structure setback shall be measured landward from the ordinary high water mark on a horizontal plane and to a point that results in the required dimension. On Lake Sammamish, the shoreline structure setback may be measured landward from elevation 31.8 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 ordinary high water mark determination completed by a qualified professional.~~

~~d. Footprint Exception – Existing Residential Dwellings. When a legally established residential dwelling 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~~

**Comment [j46]:** P.C. SMP Direction. Planning Commission direction to develop tailored regulations based on the unique characteristics of different shoreline areas

**Comment [hb47]:** P.C. Direction. Planning Commission direction to incorporate footprint exception from Critical Areas Overlay District provisions. June 9<sup>th</sup> and October 20<sup>th</sup> 2010.

~~exclude the footprint of that portion of the primary structure located outside the vegetation conservation area.~~

- ~~e. Expansion into Shoreline Structure Setback Outside of the Vegetation Conservation Area. Expansion of any existing residential primary structure into the shoreline structure setback outside of the vegetation conservation area shall be allowed only pursuant to paragraph E.4 of this section. Modifications of the prescriptive requirements of paragraph E.4 of this section are permitted only pursuant to LUC 20.25E.160.E (Special Shoreline Report process).~~
- ~~f. Expansion into the Vegetation Conservation Area of the Shoreline Structure Setback. Expansion of a residential dwelling into the vegetation conservation area requires a Shoreline Variance (refer to LUC 20.25E.190). For primary structures subject to a critical areas restriction, see LUC 25.25H.035.B for footprint exclusion provisions.~~
- ~~g.~~
- ~~h. <Insert Graphic>~~
- ~~i.~~
- ~~j. Setback Requirements Specific to the Shoreline Residential Environment~~
- ~~k. New and Existing Development Allowed in the Shoreline Residential Environment.~~
- ~~l. New Development in the Shoreline Setback – No Setback Reduction Required. The following development is allowed within the required 50-foot shoreline setback without a setback reduction and without compliance with the landscape standards set forth in paragraph F this section, except when in conflict with the vegetation conservation area requirements of paragraph G.2 of this section (Vegetation Conservation Area). If a conflict occurs between the landscape standards and the vegetation conservation area standards, the vegetation conservation standards shall apply.~~
- ~~m. Hardscape surfaces are allowed up to a maximum of 25 percent of the total setback area; provided that total impervious surfaces shall not exceed 1,000 square feet;~~
- ~~n. Retaining walls less than 30 inches (refer to LUC 20.20.025.D).~~
- ~~o. Minor Building Elements as described in LUC 20.20.025.C.~~
- ~~p. Fences located on the property boundary and perpendicular to the ordinary high water mark or parallel to the ordinary high water mark and located outside of the vegetation conservation area.~~
- ~~q. Landscape features such as fountains, statues, walkways, stairs, and walls.~~
- ~~r. Barbeques or fire pits.~~
- ~~s. Primary structures may be expanded up to and equaling 500 square feet over the lifetime of the structure. Expansions shall occur in a parallel direction from or behind the existing building line, and outside of the vegetation conservation area (refer to Figure X).~~
- ~~t.~~
- ~~u. <Insert Figure X>~~

~~v.~~

~~w. Accessory structures are allowed in the structural setback when the total square feet of the structure(s) is equal to or less than 200 square feet and the accessory structure(s) is located outside of the vegetation conservation area. (Refer to Figure XX).~~

~~x.~~

~~y. <Insert Figure XX>~~

~~z.~~

~~aa.~~

~~bb. New Development in the Shoreline Setback—Setback Reduction Required. The following development and improvements listed below are allowed within the 50-foot shoreline setback only when in compliance with the setback reduction provisions set forth in paragraph E.3 of this section, and outside of the vegetation conservation area.~~

~~cc. Expansion of primary structures greater than 500 square feet; and~~

~~dd. Accessory structures larger than 200 square feet.~~

~~ee. Existing Development—Maintenance. Maintenance and repair of existing legally established structures and improvements such as, residential fences, retaining walls and rockeries less than 30 inches in height and similar improvements of a minor nature, located within the shoreline structure setback is allowed, provided the maintenance or repair complies with paragraph G.2 of this section (Vegetation Conservation Area). Compliance with the landscape standards set forth in paragraph F of this section is not required for maintenance and repair of existing legally established structures and improvement. Nonconforming structures shall comply with the provisions of LUC 20.25E.065.J (Nonconforming Residential Development).~~

~~a. Reduction of Setbacks in the Shoreline Residential Environment.~~

~~i. Applicability. Setbacks as established in LUC Chart 20.25E.065.C for the Shoreline Residential environment may only be reduced as provided in paragraph E.3.b.iii of this section.~~

~~ii. Requirements to Reduce the Shoreline Setback. Reduction of Non-shoreline Setbacks. Before a shoreline setback may be reduced, the applicant shall demonstrate that non-shoreline setbacks have been modified to the maximum extent allowed in Chart 20.25E.065.E.3.b.ii; provided that the modification shall be the minimum necessary to allow avoidance of the shoreline setback and all other provisions of LUC 20.20.010 shall apply, including the applicable footnotes from the general dimensional chart. LUC Chart 20.25E.065.E.3.b.ii may not be modified using a shoreline special report.~~

**Chart 20.25E.065.E.3.b.ii - Maximum Reductions to Residential Setbacks**

Land Use District	R-1	R-1.8	R-2.5	R-3.5 R-4 R-5 R-7.5*	R-10 R-15 R-20	R-30
Front Yard (ft) (1)	25	20	10	10	10	10
Side Yard (ft)	5	5	5	5	5	5 (2)
2-Side Yards (ft)	15	10	10	10	10	10

**Comment [hb48]:**  
LUC 20.25H. Incorporated into SMP for clarity and consistency.

**Notes: Maximum Reductions to Residential Setbacks**

- (1) — Any garage or other structure shall be set back the minimum necessary to allow on-site parking on any driveway without blocking a sidewalk. For proposals without garages, there shall be sufficient area on the site to allow for required on-site parking without blocking a sidewalk.
- (2) — A side yard setback in R-30 Districts increases to 20 feet on any side yard where the structure exceeds 30 feet above average finished grade.

iii. — Setback Reduction Option Menu. The overall 50 foot shoreline setback in the Shoreline Residential environment may only be reduced to a minimum of 25 feet when setback reduction impacts are mitigated using a combination of the mitigation options provided in LUC Chart 20.25E.065.E.3.b.iii below to achieve an equal or greater protection of lake ecological functions.

**Chart 20.25E.065.E.3.b.iii - Setback Reduction Menu Options**

	MENU OPTION (*)	RELATIVE SETBACK REDUCTION
1.	Presence of unmodified shoreline or installed soft shoreline stabilization located at or landward of the ordinary high water mark along at least 75 percent of the linear lake frontage of the subject property. This option can include the removal of existing hard shoreline stabilization and conversion to soft stabilization using the options for soft stabilization at LUC 20.25E.080.F.4 c. This option cannot be used in conjunction with any options below.	25 feet
2.	Presence of unmodified shoreline or installed soft shoreline stabilization located at or landward of the ordinary high water mark along at least 15 linear feet of the lake frontage of the	10 feet

**Comment [hb49]:**  
P.C. Direction. Planning Commission direction to provide prescriptive approach to setback reduction. June 9<sup>th</sup> and October 20<sup>th</sup> 2010. **Modeled After.** Modeled after City of Kirkland adopted SMP.

	subject property. This may include the removal of an existing hard shoreline stabilization and conversion to soft stabilization using the options for soft stabilization at LUC 20.25E.080.F.4 c. This option cannot be used in conjunction with Option 1 above. (*)	
3.	Opening of previously piped on-site stream to allow improvement to habitat function for fish for a minimum of 25 feet from OHWM within the vegetation conservation areas. Opened streams must be provided with a native planted buffer at least 5 feet wide on both side of the stream. A qualified professional must design opened watercourses. (*)	10 feet
4.	Installation of soft structural shoreline stabilization measures waterward of the ordinary high water mark. These measures may include the use of gravels, cobbles, boulders, and logs, as well as vegetation. The material shall be sized and placed to remain stable and accommodate alteration from wind and boat-driven waves and shall be graded to a maximum slope of 1 vertical (v): 4 horizontal (h). (*)	10 feet
5.	Installation of pervious material for all pollution-generating surfaces such as driveways, parking or private roads that allows water to pass through at rates similar to pre-developed conditions. Area must be greater than 1000 square feet. (*)	10 feet
6.	Preserving or restoring at least 20 percent of the total lot area as native vegetation, located outside of the reduced setback and any critical areas and their associated buffers.. (*)	10 feet
7.	Replacement of existing hard shoreline stabilization in accordance with LUC 20.25E.080.G.4.d.1 to provide dissipation of wave energy and increase the quality or quantity of nearshore shallow water habitat. (*)	5 feet
8.	Increasing the depth of the vegetation conservation area by 5 feet. (*)	5 feet
9.	Limiting total site impervious coverage to at least 10% less than maximum allowed. (*)	5 feet
10.	Installation of pervious material for a minimum of 1000 square feet of new or replaced hardscape. (*)	5 feet

**Note: ~~Setback Reduction Menu Options~~**

~~\*Options 2-10 cannot be combined to total more than 20 feet. In no event shall the shoreline setback measure less than 25 feet from the ordinary high water mark.~~

- ~~iv. **Special Shorelines Report.** A Special Shoreline Report (LUC 20.25E.160.E) may be used to modify residential shoreline setbacks only when the applicant demonstrates that the development proposal objectives cannot be accommodated through a non-shoreline structure setback reduction or use of the menu option to reduce shoreline setbacks. The Special Shorelines Report shall also demonstrate that the proposal with the requested setback reduction leads to equivalent or better protection of shoreline ecological functions than would result from the application of the standard requirements. In no event shall the shoreline setback measure less than 25 feet from the ordinary high water mark. The Special Shorelines Report may not be used to modify the Menu Option set forth in LUC Chart 20.25E.065.E.3.b.iii.~~
- ~~v. **Shoreline Variance.** If the applicant demonstrates that the shoreline setback may not be reduced using the menu options described in paragraph E.3.b.iii of this section and LUC Chart 20.25E.065.E.3.b.iii, or the Special Shorelines Report process (LUC 20.25E.160.E), then the applicant may apply for a Shoreline Variance to process the proposed expansion (refer to LUC 20.25E.190).~~
- ~~vi. **Additional Setback Reduction Requirements.** When setback reductions are approved the applicant shall comply with the following applicable requirements:
  - ~~(1) Prior to the issuance of a construction permit, applicants who request approval for a setback reduction shall execute a hold harmless agreement in a form approved by the City Attorney releasing the City from liability for any damage arising from the location of improvements within the shoreline setback.~~
  - ~~(2) Before final inspection or issuance of a certificate of occupancy, the applicant shall provide a final as-built plan of any completed improvements authorized or required under this subsection.~~
  - ~~(3) Applicants who obtain approval to reduce the setback, must record the final approved setback and corresponding conditions, including maintenance of the conditions throughout the life of the development, unless otherwise approved by the City, in a form acceptable to the City Attorney, and recorded with the with the King County Division of Records and Elections or its successor agency.~~~~

~~4. Setback Requirements Specific to the Shoreline Residential Canal Environment Regulated Pursuant to paragraph E.1 of this section~~

~~a. New and Existing Development Allowed in the Shoreline Residential Canal Environment.~~

- ~~i. New Development. The development and improvements listed below are allowed within the required 25-foot shoreline setback without compliance with landscape standard requirements set forth in paragraph F of this section, except when in conflict with the vegetation conservation requirements of paragraph G.2.b this section (Vegetation Conservation Area). If a conflict occurs between the landscape standards and the vegetation conservation standards, the vegetation conservation standards shall apply.~~
- ~~(1) Hardscape surfaces are allowed up to a maximum of 25 percent of the total setback area; provided that any impervious surface shall not exceed 1,000 square feet;~~
  - ~~(2) Retaining walls less than 30 inches (refer to LUC 20.20.025.D).~~
  - ~~(3) Minor Building Elements as described in LUC 20.20.025.C.~~
  - ~~(4) Fences located on the property boundary and perpendicular to the ordinary high water mark or parallel to the ordinary high water mark when located behind the canal bulkhead as needed for safety.~~
  - ~~(5) Landscape features such as fountains, statues, walkways, stairs, and walls.~~
  - ~~(6) Landscape vegetation.~~
  - ~~(7) Structural elements considered essential and associated with canal bulkheads.~~
  - ~~(8) Barbeques or fire pits.~~
- ~~ii. Existing Development – Maintenance. Maintenance and repair of existing legally established structures and improvements such as, residential fences, retaining walls and rockeries less than 30 inches in height and similar improvements of a minor nature, located within the shoreline structure setback is allowed, provided the maintenance or repair complies with paragraph G.2 of this section (Vegetation Conservation Area). Compliance with the landscape standards set forth in paragraph F of this section is not required for maintenance and repair of existing legally established structures and improvements. Nonconforming structures shall comply with the provisions of LUC 20.25E.065.J (Nonconforming Development).~~

- ~~b. Reduction of Shoreline Structure Setback – Shoreline Residential Canal Environment.
  - ~~i. Limitations. Shoreline setbacks in the Shoreline Residential Canal environment may not be reduced except through a Shoreline Variance (LUC 20.25E.190).~~
  - ~~ii. The additional requirements set forth in paragraph E.3.b.vi of this section apply when the shoreline setback is reduced using a Shoreline Variance.~~~~

#### **G. Landscape Development.**

- ~~1. When Required. Development meeting the criteria below shall comply with the landscape standards established in paragraph F.2 of this section within the shoreline vegetation conservation area:
  - ~~a. Construction of a new primary structure on an undeveloped site within shoreline jurisdiction;~~
  - ~~b. Reconstruction of a primary structure whose lot coverage is greater than the existing structure;~~
  - ~~c. Expansion of an existing primary structure by more than 500 square feet laterally within the setback;~~
  - ~~d. Expansion of an existing primary structure when the expansion is proposed waterward of the structures existing façade and located within the structure setback; or~~
  - ~~e. Construction of an accessory structure greater than 200 square feet within the structure setback.~~
  - ~~f. Development of a subdivision or short subdivision with more than four lots.~~~~
- ~~2. Landscape Standard Required. Development meeting the criteria in paragraph F.1 of this section, an applicant shall provide landscaping in compliance with following standards:
  - ~~a. Development in the Shoreline Residential Environment:
    - ~~i. For new or reconstructed primary structures described in paragraphs F.1 a and F.1 b of this section, the applicant shall plant landscaping in the amount of 60 percent required for the shoreline vegetation conservation area.~~
    - ~~ii. For expansions of primary structures by more than 500 square feet laterally within the setback, construction of hardscape surfaces exceeding the limits in paragraphs E.3.a.i. of this section, or construction of an accessory structure greater than 200 square feet within the primary structure setback, the applicant shall plant landscaping in the amount equal to the area of expansion or the area of the proposed accessory structure. Landscaping shall be installed within the vegetation conservation area.~~
    - ~~iii. For expansions of an existing primary structure into the setback waterward within the shoreline setback, the applicant shall plant landscaping in the amount equal to two times the area of expansion. Landscaping shall be installed in the vegetation conservation area.~~~~~~

**Comment [hb50]:** ???Add Mercer Island Standard here. DAVID

**Comment [hb51]: Modeled After.**  
Modeled after LUC 20.20.520 Landscape Development.

- ~~b. Landscaping Required for Development in the Shoreline Residential Canal Environment. New or reconstructed primary structures described in paragraphs F.1.a and F.1.b of this section shall plant landscaping in the amount of 35 percent of the area of the required shoreline setback.~~
- ~~c. Previously Approved Landscaping and Mitigation. Landscaping in the vegetation conservation area that has been planted as required as part of a prior development approval or as mitigation for a prior approval, may not count towards compliance with the required landscape standard. When this condition exists, an equivalent area of landscaping shall be planted outside the vegetation conservation area. Refer to Figure XXX.~~

~~<Insert Figure XXX>~~

- ~~d. Stewardship Recognition. The Director shall accept existing native trees, shrubs, and groundcover (not associated with a previously approved mitigation action) towards meeting the requirements of paragraph F.2.a and F.2.b of this section, provided that the existing vegetation provides a landscape strip at least as effective in protecting shoreline ecological functions as the required vegetation. The Director may require the applicant to plant trees, shrubs, and groundcover according to the requirements of this section to supplement the existing vegetation to provide a landscape area at least as effective as the required standard.~~
- ~~e. Consolidation of Landscaping. In order to provide the required benefit to shoreline ecological functions, landscaping installed under the requirements of paragraph F.2.a and F.2.b this section shall be consolidated in a single area unless approved through the alternative landscape option in paragraph F.2.g of this section.~~
- ~~f. Species Choice. Plant materials must be native and selected from the City of Bellevue Shoreline Handbook, now or hereafter amended; except the Director may approve the use of non-native species that replicate the structural habitat and ecological functions provided by native species.~~
- ~~g. Alternative Landscape Option. The applicant may request a modification of the landscaping requirements set forth in paragraph F.2 of this section; provided that modification of the provisions shall not allow disturbance of a critical area or critical area buffer. The Director may administratively approve a modification of the landscaping requirements of paragraph F.2 of this section provided the following criteria have been met:
  - ~~i. Leads to equivalent or better protection of shoreline ecological functions than would result from the application of the standard requirements; and~~
  - ~~ii. The applicant demonstrates that the proposed alternative landscaping:
    - ~~(1) Incorporates increased retention of significant trees and naturally occurring undergrowth; or~~
    - ~~(2) Incorporates elements to protect or improve water quality; or~~
    - ~~(3) Incorporates native species in a design that better buffers a critical area and critical area buffer from uses on the site.~~~~~~

**Comment [hb52]: P.C. Direction.**  
Planning Commission direction to provide provisions which recognize good stewardship practices.

**Comment [hb53]: P.C. Direction.**  
Planning Commission direction to provide flexible plant species selection. September 22 and October 20, 2010.

## H.F. Vegetation Conservation

—Applicability. The ~~City-wide tree preservation standards in section LUC 20.20.900 requirements of this section~~ shall apply when a land-disturbing activity ~~within the vegetation conservation area~~ is proposed. Additional standards ~~may~~ apply for critical ~~areas, areas~~; refer to Part 20.25H LUC (Critical Areas Overlay District).

~~1. City-wide tree preservation standards in section LUC 20.20.900 shall apply.~~

~~2. Vegetation Conservation Area Requirements.~~

~~a. Shoreline Residential Environment.~~

~~i. General. The shoreline vegetation conservation area shall be designated as the first 25 feet measured perpendicular from the ordinary high water mark.~~

~~ii. Prohibited Improvements. New development such as fences, swimming pools, sport courts, accessory structures, and other non-water enjoyment uses are prohibited in the vegetation conservation area.~~

~~iii. Tree Retention and Native Vegetation Standards in the Shoreline Vegetation Conservation Area. Within the shoreline vegetation conservation area, all native vegetation as defined in the City of Bellevue Shoreline Handbook, now or hereafter amended, and existing trees shall be retained, except that hazard trees may be removed in accordance with paragraph G.2.c.iii of this section. Any removal of significant trees or native vegetation shall be in compliance with this section.~~

~~iv. Replanting Requirements in the Shoreline Vegetation Conservation Area. When vegetation removal is allowed, all significant trees removed within the vegetation conservation area shall be replaced in the conservation area at a ratio of 3:1 with a minimum size as defined in the City of Bellevue Shoreline Handbook, now or hereafter amended. Native vegetation other than trees shall be replaced at a 1:1 area of equivalent and appropriate native vegetation; except the Director may approve the use of non-native species that replicate the structural habitat and ecological functions provided by native species.~~

~~v. Allowed Development in the Vegetation Conservation Area. Development is allowed within the vegetation conservation area when in compliance with the following performance standards:~~

~~(1) No greater than 40 percent of the vegetation conservation area may be developed with non-structural water enjoyment recreation developments, such as lawn, pervious hardscape patios, paths, and walkways and steps to provide water access.~~

~~(2) Improved areas must be consolidated and contiguous and located as far from the ordinary high water mark to the maximum extent feasible.~~

~~(3) Improvements shall be constructed and maintained in a manner that minimizes adverse impacts to shoreline ecological functions.~~

~~(4) When new non-structural recreation developments are proposed, a property owner shall install an area of native or native compatible vegetation in an area~~

Comment [hb54]: WAC: 173-26-221(5) P.C. Direction. Planning Commission direction from meeting on September 22<sup>nd</sup> and October 20, 2010.

Comment [c55]: P.C. SMP Redraft Direction

of no less than 100 square feet, but at least as large as the area of the proposed improvement.

~~b. Shoreline Residential Canal environment.~~

- ~~i. General. The shoreline vegetation conservation area shall be designated as 35 percent of the area within the 25-foot shoreline setback landward of the ordinary high water mark.~~
- ~~ii. Tree retention. All significant trees within the shoreline setback of the shoreline canal environment shall be retained, except that hazard trees may be removed in accordance with paragraph G.2.c. iii of this section.~~
- ~~iii. Prohibited Improvements. New development such as, swimming pools, sport courts, accessory structures and non-water enjoyment uses are prohibited in the vegetation conservation area~~
- ~~iv. Allowed Development Within the Vegetation Conservation Area. Development is prohibited within the shoreline canal environment vegetation conservation area. Development is allowed within the remaining 65 percent of the required setback as set forth in paragraph E.4.a.i of this section.~~

~~c. Vegetation Management Within the Vegetation Conservation Area~~

- ~~i. Existing Landscape Maintenance. Routine maintenance of existing legally established landscaping and landscape features located in the vegetation conservation area and developed prior to [insert effective date ordinance], may be continued in accordance with this paragraph G.2.c. For purposes of this section, "routine maintenance" includes mowing, pruning, weeding, planting annuals, perennials, fruits and vegetables, and other activities associated with maintaining a legally established ornamental or garden landscape and landscape features. Also, for purposes of this section, "landscape features" refers to fences, trellises, rockeries and retaining walls, pathways, arbors, patios, play areas and other similar improvements. To be considered routine maintenance, activities shall have been consistently carried out so that the ornamental species predominate over native or invasive species.~~
- ~~ii. Removal of Noxious Species. Noxious species may be removed from the vegetation conservation area consistent with King County's Noxious Weed Program's best management practices for removal of noxious weeds. Exposed areas shall be replanted with native or native compatible species as necessary to control sediment runoff from areas of exposed soil. The preferred method to remove the following vegetation from the shoreline vegetation conservation area is with hand labor and hand-operated equipment:
  - ~~(1) Invasive and noxious weeds;~~
  - ~~(2) English Ivy (*Hedera helix*);~~
  - ~~(3) Himalayan blackberry (*Rubus discolor*, *R. procerus*); and~~
  - ~~(4) Evergreen blackberry (*Rubus lacinaus*).~~~~

- iii. ~~Hazard Trees. A hazard tree is one posing a threat to public safety, or posing an imminent risk of damage to an existing structure or other permanent improvement. The removal of trees that are hazardous is allowed in accordance with the following requirements:~~
- ~~(1) The applicant submits a report on a form provided by the Director from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;~~
  - ~~(2) Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be converted to wildlife snags and completely removed only where no other option removes the identified hazard;~~
  - ~~(3) All vegetation cut (tree stems, branches, etc.) may be left in vegetated areas within the shoreline vegetation conservation area or, if present, critical area or buffer, unless removal is required to reduce the potential for creating a fire hazard or for disease or pest transmittal to other healthy vegetation.~~
  - ~~(4) Hazard trees removed within the vegetation conservation area shall be replaced at a ratio of 3:1 with a minimum size as defined in the City of Bellevue Shoreline Handbook, now or hereafter amended. Native vegetation disturbed during removal of the hazard tree shall be replaced at a 1:1 area of equivalent and appropriate native vegetation; except the Director may approve the use of non-native species that replicate the structural habitat and ecological functions provided by native species.~~
  - ~~(5) If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods for removal that will minimize impacts; and~~
  - ~~(6) Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the landowner on whose property the tree is located prior to receiving the permits required under Chapter 23.76 BCC (Clearing and Grading Code) provided, that the landowner makes reasonable efforts to notify the City, and within 14 days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this part.~~
- iv. ~~Select Vegetation Pruning. Pruning of existing trees and vegetation within the shoreline vegetation conservation area with hand labor and hand-operated equipment in accordance with this subsection is allowed without a shoreline permit or approval. A Clearing and Grading Permit, Chapter 23.76 BCC, and SEPA review, Chapter 22.02 BCC, may still be required. The pruning allowed by this section shall~~

**Comment [hb56]: P.C. Direction.**  
Planning Commission direction to not require vegetation cut to be left in vegetation conservation area.

~~be performed in accordance with guidelines established by the Director for each of the following pruning techniques: canopy reduction; canopy cleaning; canopy thinning; canopy raising or lifting; structural pruning; and canopy restoration. In no event may a tree or vegetation which is an active nest site for a species of local importance be pruned pursuant to this subsection.~~

#### **I.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.
  - 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. 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.
  - c. Boatlift, Attached. A suspended lift affixed to the structure of a dock with no parts contacting the substrate and located entirely above the established ordinary high water mark.
  - d. Boatlift, Freestanding. A ground based lift supported by the substrate and affixed to the ground by ballast.
  - ~~e. Dock, F Shape. A dock configured in an F design and oriented to provide moorage in a configuration parallel to the shoreline.~~
  - ~~f. Dock, h Shape. A dock configured in an h design and oriented to locate the stern of the watercraft towards open water to facilitate docking and launching of the watercraft with minimal impact on the near shore aquatic ecosystem.~~
  - ~~g. Dock Segment. The walkway, moorage platform, or finger pier portion of a dock.~~
  - ~~h. Moorage Platform. The portion of the dock that is located 30 feet waterward from the ordinary high water mark and located at a depth of 9 feet measured horizontally from the elevation of the established ordinary high water mark.~~
  - ~~i. Repair. As used in this section, repair refers to maintenance to an existing dock designed to restore the dock to its original condition and configuration and ensure its continued function by preventing failure of any part. Repair~~

**Comment [hb57]:** WAC: 173-26-231(3)(a). **P.C. Direction.** Planning Commission direction from July 28<sup>th</sup> and September 8, 2010 meeting.

**Comment [H58]:** Clarity Edit

**Comment [hb59]:** WAC: 173-26-231(3)(b). **P.C. Direction.** Planning Commission direction from July 28, 2010 meeting. **P.C. Direction.** Planning Commission direction to develop different regulations based on unique characteristics of Bellevue's lakes.

~~may include replacement of up to or equal to 50 percent of the dock's piling. Replacement of more than 50 percent of the piling is deemed a new or replacement dock. Repair does not include expansion, reconfiguration, or relocation of a dock.~~

~~j. Walkway. The portion of the dock that is connected to the shoreline at the landward end and extends a distance of either 30 feet waterward or to a depth of 9 feet measured from ordinary high water mark whichever is greater, and provides access to the moorage platform.~~

~~e. Walkway. The portion of the dock that is connected to the shoreline at the landward end and provides access to moorage.~~

~~f. 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.~~

~~k.g. 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.~~

~~h. 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.~~

~~m.i. Watercraft Lift, Attached. A suspended lift affixed to the structure of a dock or pier with no parts contacting the substrate and located entirely above the established ordinary high water mark.~~

~~n.j. Watercraft Lift, Freestanding. A ground-based lift supported by the substrate and affixed to the ground by ballast.~~

3. General Requirements Applicable to all Residential Docks. The following standards apply to all development and repairs related to residential docks ~~and shall not be modified using a Shoreline Special Report.~~

a. Dock Materials. ~~Use of~~ Environmentally neutral materials approved by the Environmental Protection Agency for use in aquatic environments shall be used~~not. No materials treated with known toxic preservatives is allowed 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

Comment [H60]: Consistency Edit

Comment [H61]: Clarity Edit

through precipitation ~~and~~ 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 elevation height necessary above the dock surface, or screened to provide the intended function of walkway illumination, without allowing light emissions to spill outside of the dock surface.
- c. Accidental Destruction - Timing of Construction. Pursuant to paragraph I.4.e of this section, ~~lawfully~~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 such reconstruction is commenced within one year from the date of destruction and diligently pursued. Materials used for reconstruction shall comply with the requirements set forth in paragraph 3.a of this section. Areas of temporary construction disturbance resulting from the reconstruction shall be restored pursuant to a mitigation plan approved by the Director under LUC 20.25E.060.D (Mitigation Sequencing).

~~Shoreline Special Report – Limitation. A Shoreline Special Report, prepared pursuant to LUC 20.25E.160.E, may only be used to modify the requirements set forth in paragraph I.4 of this section, when the proposed modification will result in a net benefit to shoreline ecological functions.~~

- 4. General Requirements Applicable to New or ~~Replacement~~ Reconfigured Residential Docks.
  - i. Paragraph H.4 and LUC Chart 20.25E.065.H.4 of this section contain general requirements that apply to all new and ~~replacement~~ reconfigured residential docks in addition to the general requirements set forth in paragraph H.3 of this section. Each application for a new or ~~replacement~~ reconfigured residential dock shall comply with these requirements.

Comment [c62]: Consistency Edit

Comment [H63]: P.C. SMP Redraft Direction

**Chart 20.25E.065.HI.4 New and Replacement Residential Dock Standards.**

	Residence Location			
	Lake Washington	Lake Sammamish	Phantom Lake (1)	Residential Canal Environment (1)
<b>Number of docks allowed</b>	One per residential lot			
<b>Dock Side Setback Requirements(2)</b>	10'	10'	10'	10'
<b>Maximum Dock Length</b>	150'	150'	100'	<u>40' Platform may not extend greater than 10' from canal bulkhead</u>
<b>Maximum Dock Size - sq. ft.</b>	<del>No</del> Maximum 480 sq. ft. (3*)	<del>No</del> Maximum 480 sq. ft. (3*)	250 sq. ft. (3*)	100 sq. ft.
<b>Dock Walkway Requirements:</b>				
<b>Maximum Walkway width (3)(4)(3*)</b>	<u>4' for portion of pier or dock located within 30 ft. of the OHWM; otherwise, 6 ft. for walkways</u>	<u>4' for portion of pier or dock located within 30 ft. of the OHWM; otherwise, 6 ft. for walkways</u>	4'	<u>Walkway Prohibited</u>  <u>N/A</u>
<b>Maximum Walkway length</b>	30' minimum or at least 9' water depth measured from the ordinary high water mark	30' minimum or at least 9' water depth measured from the ordinary high water mark	Up to 100'	Prohibited
<b>Moorage Platform Requirements(4)</b>				
<b>Minimum EIL</b>	30' minimum	30' minimum	<u>EIL</u>	<u>Platform may</u>

<u>Water Depth</u> <del>(3*)</del> <b>Moorage</b> <b>Platform</b> <b>Location</b> <b>Restrictions (4)</b>	or at least 9' water depth measured from the ordinary high water mark	or at least 9' water depth measured from the ordinary high water mark	Prohibited  <u>N/A</u>	<u>not extend</u> <u>greater than</u> <u>10' from</u> <u>canal</u> <u>bulkhead</u> <u>El</u> <u>Prohibited</u>  <u>N/A</u>
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	<b>Residence Location</b>			
	<b>Lake Washington</b>	<b>Lake Sammamish</b>	<b>Phantom Lake (1)</b>	<b>Residential Canal Environment (1)</b>
<b>Platform Maximum Size- sq. ft. (New docks) (5)</b>	350 sq. ft.	250 sq. ft.	Platform Prohibited on Phantom Lake	100 sq. ft.
<b>Platform Maximum Size- sq. ft. (Existing, reconfiguring, or replacing docks) (6)</b>	No greater than existing moorage platform or the amount allowed for new moorage platform		Platform Prohibited on Phantom Lake	No greater than existing moorage platform or the amount allowed for new moorage platform
<b>Platform Maximum Size- sq. ft. Shared moorage and multi-family Development</b>	100 sq. ft for each additional unit above the maximum square footage allowed for a single dwelling unit up to a maximum of 1000 sq. ft. total			
	<b>Piling Maximum Size:</b>			
<b>Walkway Piling</b>	8"	8"	8"	N/A
<b>Platform Piling</b>	12"	12"	Prohibited	12"
<b>Piling Location</b>	One set allowed to support the walkway within the first 30 feet measured from the ordinary high water mark. (7)			Not located more than 10' from the canal bulkhead (8)
<b>Mooring Pile</b>	2 maximum per residential lot			
<b>Decking</b>	Grated			

**Notes: New and Replacement Residential Dock Standards**

Comment [c64]: P.C. SMP Redraft  
Direction

- (1) Floating docks may be approved on Phantom Lake and in the Shoreline Residential Canal environment when the use of fixed dock is not feasible.
- (2) No private dock or other structure waterward of the ordinary high water mark, including boatlifts, watercraft lifts, and other structures attached thereto, shall be closer than 10 feet to any adjacent property line projection, except where a mutual agreement of adjoining property owners is recorded with the King County Records and Election Division and the Bellevue City Clerk and submitted as part of the permit application for the use or activity.
- (3) Unless a larger dimension is authorized through state and federal approval.
- ~~(2) Walkway width may be increased to 6 feet; provided, the platform area is reduced at a ratio of 2:1 for the walkway length. Example: A homeowner desires to increase the width of an existing walkway from four feet to six feet, and the length of the walkway is 40 feet. The required reduction of the platform area equals the (area of the increased walkway) x (the length of the walkway) x (the ratio for walkway length). For this example, the calculation would be (6 feet - 4 feet) x 40 feet x 2 = 160 square feet.~~
- ~~(3) When the walkway width is reduced to 3 feet, the size of the platform may be increased from the maximum allowed. The allowed increase in the platform area is equal to the amount of area reduced in the walkway. Example: If walkway is 40 feet long and 3 feet in width, the allowed increase in platform area is 40 square feet.~~
- ~~(4) A platform may be located in water depth of less than 9 feet when using an h-dock configuration and applicant demonstrates boat propeller will be located in 9 feet or greater water depth but in no event shall the platform be closer than 30 feet measured from the ordinary high water mark.~~
- ~~(5) Two finger pier platform extensions not exceeding two feet in width may be permitted without deduction from overall moorage platform size limitations when the platform is configured in h shape.~~
- ~~(6) Spacing of piling used for dock construction on Lake Washington and Lake Sammamish located beyond 30 feet from the ordinary high water mark shall be the maximum feasible to minimize shading and avoid a "wall" effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.~~
- ~~(7) Spacing of piling used for dock construction in the residential canal environment shall be the maximum feasible to minimize shading and avoid a "wall" effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.~~

b.          New and Replacement 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. 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 as established in 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 are subject to the rules for nonconforming overwater accessory structures set forth in paragraph J.7 of this section.
- v. Open-sided Boat Moorage Covers. One open-sided structural boat cover may be allowed only through a special shorelines report where the proposal results in a net benefit to shoreline ecological functions. Open-sided boat covers shall be considered as part of the moorage platform, and the total square footage of the open-sided cover and the moorage platform shall not exceed the allowed maximum platform size in Chart 20.25E.065.I.4.

**Comment [cd65]:** Provision added in response to Planning Commission direction

~~New, Expanded, and Replacement Residential Docks—Design Criteria. Design and siting of new or replacement residential moorage facilities shall address, at a minimum, the following design criteria:~~

~~Moorage Design. To protect the near shore environment, docks shall be designed and constructed to ensure boats and watercraft are moored to the moorage platform or that portion of the walkway that is greater than 30 feet from the ordinary high water mark.~~

~~New residential moorage facilities should be located as far as reasonably possible from an existing stream or public stormwater outfall.~~

~~Walkway Orientation. Walkways should be oriented perpendicular to the shoreline to limit overwater coverage in the near shore area and to allow access to deeper water.~~

~~New and Replacement Residential Docks—Performance Standards. In addition to the general requirements for residential docks contained in paragraphs I.3 and I.4 of this section, the following development and use specific performance standards shall be met:~~

~~Impact Avoidance. New or expanded residential moorage facilities shall be designed to avoid impact to existing habitat features, such as native vegetation, large and small woody debris, and emergent vegetation.~~

~~Skirting is prohibited.~~

~~Walkway Form.~~ Walkways may be constructed in the form of ramps or bridges provided the railing height shall not exceed the minimum requirements of the building code.

~~Removal of Invasive Aquatic Weeds.~~ Invasive aquatic weeds shall be removed with new dock construction or dock replacement as required by Chapter 17.10 RCW.

~~Mitigation Required.~~ To mitigate the long-term impacts related to new residential docks, applicants shall select and implement one of the mitigation measures described below. ~~Note:~~ where the 60 percent landscaping area in the vegetation conservation area has been fully planted through separate development actions, applicants may select and implement only options 2-4.

~~In the vegetation conservation area, plant vegetation in an amount, whichever is less, of: (1) 10 feet in depth by 60 percent of the length of the waterfront frontage, or (2) the total square footage of overwater coverage. Plantings shall consist of native shrubs and trees, emergent vegetation, or a combination of native vegetation and non-native compatible ornamental vegetation and shall be located in the vegetation conservation area designated in paragraph G of this section. Plantings shall be monitored for a period of five years consistent with a monitoring plan approved pursuant to LUC 20.25E.060.D (Mitigation Sequencing); Augment beach by providing gravel or sand according to templates approved by the Director and plant emergent native vegetation along 60 percent of the waterfront frontage; Replace a minimum of 15 linear feet of bulkhead with soft stabilization; or Plant a landscaping area that measures 2 times the landscaping area otherwise required in section (1) above in an alternate location on the site within the shoreline jurisdiction. Planting shall consist of native shrubs and trees, emergent vegetation, or a combination of native vegetation and non-native compatible ornamental vegetation, and shall be monitored for a period of five years consistent with a monitoring plan approved pursuant to LUC 20.25E.060.D (Mitigation Sequencing).~~

~~Repair of Existing Residential Docks.~~ Existing, legally established residential docks may be repaired or replaced in the existing configuration in compliance with the following limitations and standards:

~~Limitations.~~ Repair or replacement of existing docks is restricted to the following actions undertaken within a three-year period:

~~Replacement (as repair) of up to and including 50 percent of existing dock piling; and~~

~~Repair of up to 100 percent of existing piling in the same location; and~~

~~Repair or replacement (as repair) of the dock substructure, stringers, or joists; and~~

~~Repair or replacement (as repair) of the dock surface.~~

~~Proposals for repair or replacement that exceed the limits established in paragraph 5.a of this section, or where the proposal includes a reconfiguration of the existing dock are considered a new dock and must comply with the general and new dock requirements set forth in paragraphs I.3 and I.4 of this section.~~

~~Dock Repair and Replacement Standards.~~ Docks may be repaired or replaced when the following standards are met:

~~Piling may be repaired by cutting, splicing, or capping the existing piling.~~

~~Any removal or replacement of a piling is not defined as repair, and is considered replacement that shall comply with the standards and limitations contained in Chart 20.25E.065A and paragraph 5.a.i of this section;~~

~~Grating of the dock surface to allow light transmission is required when the total area of the dock surface being repaired or replaced equals or exceeds 20 square feet. Replacement of surfaces less than 20 square feet may utilize in-kind materials; provided the replacement materials comply with paragraph 3.a, of this section.~~

~~b. Materials used for dock repairs shall meet the requirements established in paragraph 3.a of this section.~~

~~c. Reconfiguration and Replacement of Existing Residential Docks. Existing, legally established residential docks may be reconfigured or replaced when in compliance with paragraphs I.3 and I.4 of this section.~~

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. Grating of the dock surface to allow light transmission is required when the total area of the dock surface being repaired or replaced equals or exceeds 20 square feet. Replacement of surfaces less than 20 square feet may utilize in-kind materials; and

b. Materials used for dock repairs shall meet the requirements established in paragraph H.3.a of this section

4-6. Boat and Watercraft Lifts. To eliminate disturbance of the lake substrate, attached fixed boatlifts and watercraft lifts are preferred over freestanding lifts. Lifts are limited in the number allowed and location:

a. Number. The number of freestanding boat lifts per residential dock is limited to two. The number of freestanding watercraft lifts per dock is limited to four. The number of combined freestanding boat and watercraft lifts is limited to one freestanding boat lift and only two freestanding watercraft lifts per dock.

b. Location. Freestanding boat and watercraft lifts shall be located more on or adjacent to the moorage platform or that portion of the walkway that is greater than 30 feet from the ordinary high water mark.

c. Number of Lift Canopies Allowed. One light-transmitting fabric watercraft or boat lift canopy per dock is allowed unless otherwise approved by State or Federal Agencies.

Comment [cd66]: Modified for clarity

~~2.~~

7. Boathouses. New boathouses are prohibited. Existing boathouses are subject to the rules for nonconforming overwater accessory structures set forth in paragraph J.76 of this section.

Comment [cd67]: Deleted in response to comments.

#### J. Nonconforming Residential Development

1. Purpose. Some existing residential development would not be allowed pursuant to regulations in this Part 20.25E LUC that implement the current Bellevue SMP. The purpose of this section is to allow for continued enjoyment, maintenance and repair of existing residential development that was lawful when constructed, and to allow for replacement of residential development destroyed through no fault of the owner.

2. Applicability

a. This section applies to lawfully legally constructed residential uses and development that existed as of [insert effective date];

b. ~~and~~ The nonconforming provisions of WAC 173-27-080 do not apply within the Bellevue Shoreline jurisdiction.

c. The nonconforming provisions of LUC 20.20.070 and 20.25E.040 do not apply to residential development located within the shoreline jurisdiction Shoreline Overlay District. The nonconforming provisions of LUC 20.20.560 apply to applicable general development requirements of Chapter 20.20 LUC.

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).

3. Documentation. As part of the application process and before undertaking work allowed by this section, the applicant shall submit documentation demonstrating that the nonconforming residential uses or development was legally established and maintained over time. Work undertaken pursuant to this section shall be supported by documentation showing that the residential development was permitted when constructed and has been maintained over time. Using the applicant-supplied documentation and the criteria in The Director shall determine based on paragraphs J.3.a and J.3.b of this section, the Director shall determine whether the documentation is adequate to support a determination that the development constitutes a lawfully legally established residential development to which this section applies. The Director may waive the documentation requirement for documentation when an existing residential use or development has been is clearly established known.

**Comment [ch68]:** Bellevue specific approach to replace application of WAC 173-27-080. Modeled after Bel-Red existing conditions requirements of LUC 20.25D.060, and modified to reflect Planning Commission direction regarding regulation of residential nonconforming uses on November 3, 2010.

**Comment [c69]:** Consistency Edit. State default applies in absence of locally – adopted regulations.

**Comment [H70]:** Consistency Edit.

**Comment [cd71]:** Consistency Edit

- a. Development Permitted when Constructed. Documentation that the residential development was permitted when constructed includes, but is not limited to, the following:
    - i. Building, land use or other development permits; or
    - ii. Land use or zoning codes or shoreline master programs in effect at the time when the residential development was constructed.
  - b. Development Maintained Over Time. Documentation that the residential development has been maintained over time, and not destroyed or discontinued as described in this section includes, but is not limited to, the following:
    - i. Dated title reports;
    - ii. Dated appraisal documents; or
    - iii. Dated photos.
  - c. Appeal of Director Determination. The Director's determination of whether a residential development was lawfully legally established may be appealed pursuant to LUC 20.35.250, Appeal of Process II decisions.
4. Regulations and Thresholds Applicable to ~~all~~ Nonconforming Residential Development
- 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 nonconforming residential development is allowed. "Routine maintenance" includes those usual acts to prevent decline, lapse, or cessation from a lawfully 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 nonconforming residential development that cost more than 50% of the replacement value of any individual structure undergoing improvement are not defined as maintenance and repair, and shall comply with development regulations applicable to new residential development.
    - i. Three-Year Period. Improvements made within a three-year period will be viewed as a single action for the purposes of determining whether regulations applicable to new residential development shall apply.
    - ii. Value of Improvements. The value of improvements is determined by the Director based on the entire project and not individual permits.
  - d. Exemptions from the Calculation of Replacement Value. The following improvements do not count toward the calculation of replacement value thresholds identified in paragraph 4.4.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 lawfullylegally established residential development is damaged or destroyed by fire, explosion, natural disaster, or other unforeseen circumstances outside the control of the property owner, the development may be repaired or reconstructed subject only to the following limitations:
- i. The lawfullylegally established residential development 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 Bellevue-SMP or identified critical areas, and shoreline vegetation or critical area functions are restored in the areas vacated;
  - ii. The repair or reconstruction is initiated within one year of the date of destruction and is diligently pursued;
  - iii. Under no circumstances may the reconstruction expand, enlarge, or otherwise increase a nonconformity, unless expansions are permitted pursuant to the provisions of this Part 20.25E; and,
  - iv. Areas of temporary construction disturbance resulting from reconstruction shall be restored pursuant to a mitigation plan approved by the Director under LUC 20.25E.060.D (Mitigation Requirements and Sequencing).
- f. Loss of Nonconforming Residential Development Status. If a nonconforming residential use or development is abandoned for a period of 12 months with the intention of abandoning that development, any subsequent development shall thereafter conform to this Part 20.25E LUC. Discontinuance of a

nonconforming residential use or development for a period of 12 months or greater constitutes prima facie evidence of an intention to abandon.

- 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.

5. Nonconforming Residential Development within the Shoreline Structure Setback

Primary Residential and Accessory Structures. A lawfully~~legally~~ constructed primary residential or accessory structure that houses a residential use, and encroaches into the primary structure setback, is granted a footprint exception pursuant to the requirements of LUC 20.25E.065.E.21.c and is not considered to be nonconforming. ~~and t~~The maintenance and repair thresholds of paragraph 20.25E.065.J.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.ad. Replacement of a primary residential structure or accessory structure following accidental destruction is permitted pursuant to paragraph J.4.e of this section.

~~a. Accessory Structures over 200 Square Feet. Maintenance and repair of a lawfully constructed accessory structures measuring over 200 square feet is permitted. Improvements to accessory structures measuring over 200 square feet that exceed the cost thresholds contained in paragraph J.4.c of this section are allowed only in conformance with LUC Chart 20.25E.065.E.3.b.iii (Setback Reduction Menu Options) or LUC 20.25E.160.E (Special Shoreline Report). Replacement of an accessory structure over 200 square feet following accidental destruction is permitted pursuant to paragraph J.4.e of this section.~~

~~6. Nonconforming Residential Development within the Vegetation Conservation Area~~

~~a. Primary Structures. Maintenance and repair of lawfully constructed primary structures, or portions of lawfully established primary structures, located in the vegetation conservation area is permitted. Improvements to a primary structure that exceed the cost thresholds contained in paragraph J.4.c of this section require removal of that portion of the primary structure located within the vegetation conservation area. When primary structure removal is required, restoration of the vegetation conservation area is required pursuant to a mitigation plan approved by the Director under LUC 20.25E.065.D (Mitigation Sequencing). When removal or relocation of the portion of the primary structure located within the vegetation conservation area is infeasible due to site constraints not created by the applicant, such as topography or the~~

~~presence of critical areas, approval of a shoreline variance in compliance with LUC 20.25E.190 is required before the improvements can be undertaken.~~

~~b. Accessory Structures. Maintenance and repair of a lawfully constructed accessory structure located in the vegetation conservation area is permitted. Improvements to accessory structures that exceed the cost thresholds contained in paragraph J.4.c of this section shall be considered new development, which is not permitted in the vegetation conservation area. If relocation of the accessory structure outside the vegetation conservation area is infeasible because of site constraints not created by the applicant, such as topography or the presence of critical areas, approval for a shoreline variance in compliance with LUC 20.25E.0190 is required before the improvements can be undertaken.~~

**Comment [H72]:** P.C. SMP Redraft  
Direction

~~76.~~ Nonconforming Overwater Accessory Structures. Maintenance and repair of a lawfullylegally constructed overwater accessory structure is permitted. Improvements to overwater accessory structures that exceed the cost thresholds contained in paragraph ~~J~~.4.c of this section shall be considered new development, which is not permitted below the ordinary high water mark.

~~87.~~ Nonconforming Moorage and Shoreline Stabilization

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