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

A. Applicability.

This section contains development requirements and standards that apply to all development and uses within the Shoreline Overlay District. 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 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. However, Bellevue City Code provisions of general applicability are not part of the SMP unless specifically adopted by reference.

B. No Net Loss of Ecological Function.

Comment [dp1]: WAC: 173-26-201(3)(d)(i)

1. No Net Loss Required. Shoreline uses and development are required to ensure no net loss of ecological functions and processes.
2. Rebuttable Presumption—Standards Presumed to Meet No Net Loss. For development projects that comply with all of the applicable standards, including mitigation required by LUC 20.25E.050 through 20.25E.080, a rebuttable presumption exists that the development project satisfies the no net loss of ecological function standard contained in paragraph B.1 of this section. When a development project satisfies the presumption, no additional mitigation analysis shall be required, provided the Director may require mitigation analysis and additional mitigation if the Director determines that the specific performance standards or required mitigation did not contemplate unforeseeable impacts to shoreline ecological functions.

Comment [cd2]: Provides certainty and regulatory safe harbor for applicants. Modeled after Mercer Island SMP, consistent with Bellevue CAO approach.

3. When Analysis of No Net Loss is Required. Analysis of no net loss of ecological functions is required as part of an application for a Shoreline Conditional Use Permit (LUC 20.25E.180), a Shoreline Variance (LUC 20.25E.190), and as part of a Shoreline Special Report (LUC 20.25E.160), or as required for a site-specific mitigation plan. The presumption described in paragraph B.2 of this section does not apply when analysis is required under this paragraph.

C. Technical Feasibility Analysis.

Comment [cd3]: Modeled After. Modeled after LUC 20.25H.055.C (Critical Areas Overlay District)

1. This paragraph C applies to new or expanded facilities, systems, techniques, or measures identified as allowed when there is no other technically feasible alternative (the Shoreline Use Charts in LUC 20.25E.030 identify when a technical feasibility analysis is required). This paragraph does not apply to residential development governed pursuant to LUC 20.25E.065. The determination of whether an alternative is technically feasible shall be made by the Director as part of the decision on the underlying permit or approval. If a technical feasibility analysis is also required for critical areas located in the Shoreline Overlay District, a single report addressing the criteria contained in LUC 20.25H.055.C.2, and the criteria stated below may be submitted. The

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applicant shall provide a report prepared by a qualified professional addressing the following criteria:

a. Existing site conditions, including, but not limited to, topography and the proposed location of the facility, system, technique, or measure in relation to the ordinary high water mark and any critical areas on the site;

b. The location of existing infrastructure necessary to support the proposed facility, system, technique, or measure;

c. The function or objective of the proposed facility, system, technique, or measure;

d. The level of risk to a primary structure, public facility, or public use structure or area presented by shoreline erosion, and the ability of the proposed facility, system, technique, or measure to mitigate that risk;

e. Whether the cost of avoiding the disturbance of the shoreline area is disproportionate as compared to the environmental impact of proposed disturbance, including any continued impacts on functions and values over time; and

f. The ability of both permanent and temporary construction disturbance to be mitigated.

2. If the applicant demonstrates that no technically feasible alternative exists to provide the function or objective of the proposed facility, system, technique, or measure with less impact on the shoreline setback, then the applicant shall comply with the following; except that if specific standards are provided in LUC 20.25E.070 or LUC 20.25E.080 for the allowed use, the specific standards shall apply.

a. Location and design shall result in the least impacts to shoreline functions and values;

b. Disturbance, including the disturbance of vegetation and soils, shall be minimized;

c. Disturbance shall not occur in habitat used for salmonids rearing or spawning or by any species of local importance unless no other technically feasible location exists;

d. All work shall be consistent with the SMP and with applicable City of Bellevue Codes and standards; and,

e. Areas of new permanent disturbance and all areas of temporary construction disturbance shall be mitigated or restored pursuant to a mitigation restoration plan meeting the requirements of paragraph D of this section and evaluated consistent with the no net loss standard in paragraph B of this section.

D. Mitigation Requirements and Sequencing.

Comment [cd4]: WAC: 173-26-201(2)(e). **Modeled After**. Modeled after Part 20.25H LUC and edited for use in the Shoreline.

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1. Mitigation Plans – When Required: Mitigation plans are required as part of an application for a Shoreline Conditional Use (LUC 20.25E.180), a Shoreline Variance (LUC 20.25E.190), or when required for a Special Shorelines Report. Applicants shall submit as part of the application package, a mitigation plan meeting the performance criteria of this paragraph D. Mitigation plans shall be approved as part of the permit required for the underlying project. To the extent applicable, analysis of environmental impacts and identification of required mitigation shall be consistent with the rules implementing the State Environmental Policy Act (refer to WAC 197-11, Bellevue Environmental Procedures Code Chapter 22.02 BCC, and LUC 20.35.200 through 250).
2. Mitigation Sequencing Analysis Required. When impacts to shoreline ecological functions are identified as part of a proposed action allowed through the SMP, and to assure that development activities contribute to meeting the no net loss provisions by avoiding, minimizing, and mitigating for adverse impacts to shoreline ecological functions or processes, as part of the required mitigation plan the applicant shall demonstrate that mitigation sequencing has been applied through a mitigation analysis that includes the following elements:
    a. Mitigation sequencing. The applicant shall demonstrate compliance with the mitigation sequencing guidelines in the following order of preference:
        i. Avoiding the impact altogether by not taking a certain action or parts of an action;
        ii. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing to avoid or reduce impacts;
        iii. Performing the following types of mitigation (listed in order of preference):
            (1) Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
            (2) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
            (3) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
            (4) Monitoring the hazard or other required mitigation and taking remedial action when necessary.
    b. Failure to demonstrate that the mitigation sequencing standards have been met may result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard and mitigation sequencing guidelines.
3. Mitigation Location Preference. When mitigation is required, the applicant shall demonstrate proposed mitigation has been located in the following order of

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preference:

a. On-site, through direct replacement of lost shoreline functions;

b. On-site, through enhancement of existing shoreline functions and values; or,

c. Off-site, through replacement or enhancement, in the Shoreline Overlay District, subject to the following limitations:

i. Off-site mitigation – Private Project: Off-site mitigation for private projects shall only be permitted through a Special Shorelines Report. Applicants who obtain approval for use of an off-site mitigation location must record the final mitigation requirements and corresponding conditions, including maintenance and monitoring of the mitigation, 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.

ii. Off-site mitigation – Public Project. Off-site mitigation for public projects shall only be permitted through a Special Shoreline Report. Approval for use of off-site mitigation must show that the proposal implements or funds components of the Shoreline Restoration Element of the SMP at a scale commensurate to the impacts identified, or that the proposal provides off-site mitigation for impacts of a public project on shoreline ecological function by providing a commensurate replacement or enhancement of shoreline resources.

4. Shoreline Mitigation Ratio. Unless specified by another section of this SMP, impacted shoreline functions shall be replaced at a ratio of 1:1, and impacted area shall be replaced at a ratio of 1:1.

5. Mitigation Plan Requirements. The applicant shall submit a mitigation plan for approval as part of the review of the underlying permit Where standard mitigation requirements or templates have been approved by the Director for the proposal in question, those requirements or templates may be followed without need for submission of an individual mitigation plan. These general requirements shall be modified for areas of temporary construction disturbance included as part of an allowed use or activity so long as the requirements of paragraph D.5.h of this section are met.

a. Plan Phases. Where a project requires mitigation, the mitigation plan required for the proposal may be submitted in phases. A conceptual plan shall be submitted as part of the administrative review and approved with the decision on the proposal. A detailed plan shall be approved prior to or with approval of the first permit or other approval required to perform work associated with the proposal.

b. Mitigation Plan Details. The plan shall be prepared by a qualified professional and shall at minimum include the content identified in this

paragraph and other applicable sections of the SMP. The Director may waive any of the plan requirements where, in the Director's discretion, the information is not necessary to develop a mitigation plan that addresses the impacts of the proposed action.

i. A written report identifying environmental goals and objectives of the mitigation proposed, based on replacing or restoring the shoreline ecological functions impacted by the proposal;

ii. Measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation plan have been successfully attained and whether or not the requirements of this part have been met; and

iii. Written specifications and descriptions of the mitigation proposed.

(1) When the mitigation plan is submitted as a single-phase, or for the detailed plan phase when submitted to implement a conceptual plan, these written specifications shall be accompanied by detailed site diagrams, scaled cross sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

(2) When the mitigation plan is submitted in phases pursuant to paragraph D.5.a of this section, the written specifications may be general in nature for the conceptual phase, including general identification of areas for work, planting species, size and number. The more precise details shall be provided in subsequent detailed plan phases.

c. Timing of Mitigation Installation. Unless a different time period is established by the Director in the approval for a specific project, all work required in a mitigation plan shall be completed prior to final inspection or issuance of a temporary certificate of occupancy or certificate of occupancy, as applicable, for the development.

d. Monitoring Program. The plan shall include a program for monitoring construction of the mitigation project and for assessing a completed project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than one year for residential projects and five years for non-residential projects. The required monitoring period for a plan involving restoration only shall be reduced to a period of not less than three years for non-residential projects.

e. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met and such failure would result in significant impact shoreline ecological functions.

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f. Assurance Devices. The Director may require the applicant provide assurance devices in compliance with LUC 20.25E.250.B and 20.40.490 to ensure that the approved mitigation plan, monitoring program, contingency plan, and any conditions of approval are fully implemented.

h. Restoration for Areas of Temporary Construction Disturbance. The Director may impose conditions for the restoration of areas of temporary construction disturbance included as part of an approved permit or use or development allowed under the SMP, without requiring a mitigation plan and other measures described in this section, so long as the following requirements are satisfied:

   i. All areas of temporary construction disturbance shall be identified in the plans approved with the permit or allowed use or development and shall be the minimum necessary to allow the completion of the approved use or development. For uses and development involving the repair or renovation of existing structures that can be accessed outside of the shoreline setback, the minimum necessary area of temporary construction disturbance shall be no greater than 10 feet around the perimeter of the existing structure. Proposals involving areas of greater disturbance shall require a full restoration plan under this paragraph D. The Director may impose conditions requiring areas of temporary construction disturbance to be marked in the field through the use of markers, fencing, or other means;

   ii. The condition of the areas of temporary construction disturbance existing prior to undertaking any development activity shall be documented with the proposal. The Director may require photographic evidence, site plans showing the size, location and type of existing vegetation, or other materials to document existing conditions;

   iii. The Director shall impose a condition that the area be restored to existing conditions prior to final approval of the work performed, or within 30 days following completion of the work if no final approval is required; and

   iv. The Director shall impose a condition requiring monitoring of the restored area and additional restoration to achieve existing conditions, consistent with paragraph D of this section; provided that the Director may reduce the monitoring to not less than one year from completion of the original restoration.

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E. Requirements Applicable to Development and Uses in the Shoreline Overlay District.

All development proposals in the Shoreline Overlay District shall comply with the following requirements:

1. Disruption of shoreline resources, including land disturbing activity such as clearing and grading and tree removal, shall be the minimum necessary to accommodate the permitted use or development.
2. New development should be located and designed to avoid the need for shoreline stabilization.
3. All new development shall comply with applicable Bellevue policies, codes and requirements, including but not limited to, Chapter 24.06 BCC (Storm and Surface Water Utility Code), the Storm and Surface Water Engineering Standards (Jan. 2011), now or hereafter amended, Chapter 23.76 BCC (Clearing and Grading Code), and the Clearing and Grading Development Standards, now or as hereafter amended. Bellevue City Code provisions of general applicability are not part of the SMP unless specifically adopted by reference.
4. Repair and Maintenance and/or Construction Staging.
    a. Work shall be consistent with all applicable City of Bellevue codes and standards; and
    b. Areas of temporary construction disturbance associated with the work shall be restored to pre-project conditions, pursuant to a restoration plan meeting the requirements of paragraph D of this section.
5. Project Segmentation – When Prohibited. A single project,shall not be divided into segments or characterized as routine maintenance and repair or a minor expansion to avoid compliance with the procedural or substantive requirements of the SMP.

F. Archaeological and Historic Resources.

1. Applicability. The following provisions apply to archeological and historic resources that are recorded at the Washington State Department of Archaeology and Historic Preservation, identified by the City of Bellevue, or that have been inadvertently uncovered. Archaeological sites located in the Shoreline Overlay District are subject to Chapter 27.44 RCW (Indian Graves and Records) and Chapter 27.53 RCW (Archaeological Sites and Records). Development and uses that may impact archaeological sites located within the Shoreline Overlay District shall comply with the SMP and Chapter 25-48 WAC.
2. Performance Standards. When developing sites containing recorded archeological or historic resources or when such resources are inadvertently uncovered in Shoreline Overlay District, developers shall:
    a. Immediately stop work and notify the City of Bellevue, the Washington State Department of Archaeology and Historic Preservation, and affected

Comment [cd5]: Bellevue Specific Approach. Bellevue specific approach modeled after the Redmond SMP.

Comment [cd6]: Bellevue Specific Approach. Bellevue specific approach modeled after the Redmond SMP.

Comment [dp7]: WAC 173-26-231(A)(iii)

Comment [dp8]: WAC: 173-26-221(1)

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Indian tribes if archaeological or historic resources are uncovered during excavation.

b. Any development permits issued in areas that contain documented archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes.

G. Critical Areas in the Shoreline Overlay District.

Comment [dp9]: WAC: 173-26-221(2)

Comment [c10]: A code amendment will be necessary to Part 20.25H Critical Areas Overlay District to delete provisions related to regulation of Shoreline Critical Areas.

Critical areas in the Shoreline Overlay District shall be regulated in accordance with Part 20.25H LUC (Critical Areas Overlay District (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP). In the event of a conflict between Part 20.25H LUC and the SMP, the provision providing the greatest protection to critical areas shall prevail, consistent with LUC 20.25E.010.C.1.b.ii, unless otherwise described in the applicable provision.

H. Accessory Parking, Loading Space, and Maintenance Access.

Comment [dp11]: Bellevue Specific Approach. WAC: 173-26-241(3)(k)

1. Applicability. This section applies to development of accessory parking, loading space, and maintenance access within the Shoreline Overlay District. The provisions of LUC 20.20.590 also apply, except as they conflict with paragraph H of this section. The requirements of this section do not apply to parking that is accessory to a single-family use.
2. When Allowed. Parking, loading space, and maintenance access is allowed in the Shoreline Overlay District only when accessory to a specific permitted use; otherwise these uses are prohibited in the Shoreline Overlay District.
3. Where Allowed. Accessory parking, loading space, and maintenance access are permitted within the dimensions of the shoreline setback or vegetation conservation area (refer to LUC 20.25E.060.K) only if there is no technically feasible alternative, pursuant to the requirements of LUC 20.25E.060.C. New accessory parking, loading space, and maintenance access is prohibited in the following locations:
   a. On any over-water structure; or
   b. In a shoreline wetland or habitat associated with species of local importance. (Refer to LUC 20.25H.150).
4. Performance Standards.
   a. Development in the Shoreline Overlay District. Development of accessory parking, loading space, and maintenance access anywhere within the Shoreline Overlay District shall comply with the following performance standards.

i. Location. Accessory parking, loading space, and maintenance access should be located outside the Shoreline Overlay District when functional objectives for the allowed shoreline use can be met.

ii. Size. Area devoted to accessory parking, loading space, and maintenance access in the Shoreline Overlay District shall be the minimum necessary to support the allowed shoreline use.

iii. Storm and Surface Water

(1) Surface water runoff from accessory parking and loading spaces shall be prevented from contaminating water bodies and endangering aquatic life by using best management practices as set forth in Chapter 24.06 BCC (Storm and Surface Water Utility Code), and the City's Storm and Surface Water Engineering Design Standards (2011); now or hereafter amended.

(2) Low impact development techniques and natural drainage practices should be incorporated into new and redeveloped accessory parking and areas dedicated to loading space and maintenance access when feasible (refer to the City of Bellevue Storm and Surface Water Engineering Standards (2011), now or hereafter amended).

iv. Pedestrian Circulation from Parking Areas. Accessory parking for shoreline uses shall provide safe and convenient pedestrian circulation within the parking area and to the specific shoreline use that it serves. Conflicts between vehicles and pedestrians using public access facilities should be avoided to the greatest extent feasible.

v. Public Access and View Preservation. Any accessory parking, loading space, and maintenance access shall be designed to avoid impacts to public access, and views to the shoreline and the water from public rights-of-way, parks and public access.

b. Development in the Shoreline Setback or Vegetation Conservation Area. When no other feasible alternative is available, development of accessory parking, loading space, and maintenance access in the shoreline setback or vegetation conservation area within the Shoreline Overlay District may be permitted only as follows.

i. For Accessibility. Accessory parking and loading areas may be approved when necessary to accommodate functional access by handicapped and physically impaired persons to the uses served by the parking or loading areas;

ii. For Recreation Uses. Accessory parking and loading areas may be approved when necessary to serve a functional need associated with a water-dependent recreation use;

iii. For Utility Facilities. Maintenance access may be approved when necessary to serve a functional need associated with a water-dependent component of a utility facility.

iv. For Short Term Loading. Short-term loading space accessory to a marina, yacht club, or community club when managed through a parking management plan to ensure loading space is occupied only so long as is necessary to serve a water dependent recreation use.

v. Accessory parking, loading space, and maintenance access permitted by this section shall comply with the performance standards contained in paragraph H.4 of this section.

vi. Conditions. The Director may impose conditions on the location, design, use, or operation of the parking to mitigate identified impacts to shoreline functions and values associated with accessory parking, loading space or maintenance access areas to ensure no net loss of shoreline ecological functions, and to mitigate impacts on shoreline access.

I. Public Access.

1. Purpose and Scope. The purpose of this section is to protect, preserve, and enhance the public's opportunity to enjoy the physical and aesthetic qualities, including views, of the shoreline and water through public access standards applicable to public transportation, utility and parks projects. Residential development is not required to provide public access.
2. When Required. All proposals for new development, reconstruction, replacement, or expansion of public transportation, utilities and parks projects that propose new uses or the reconstruction or replacement of structures supporting existing uses shall provide public access, or when appropriate, visual access in accordance with the public access requirements of the SMP.
3. When Not Required.
   a. Applications for the following development or uses are not required to comply with paragraph I of this section:
      i. Fully buried utility uses; or
      ii. When an applicant demonstrates that one or more of the following conditions apply:
         (1) Unavoidable health or safety hazards to the public exist that could not be prevented by any practical means; or

(2) Inherent security requirements of the use could not be satisfied through the provision of alternatives identified in paragraph I.6 of this section; or
(3) The cost to provide the public access, easements, alternative public access, or mitigation of the impacts from the public access would be unreasonably disproportionate to the total long-term cost of the proposed development; or
(4) Significant environmental impacts would result from the public access that could not be mitigated

b. Limitation on Exempting Applications from Requirements. Before determining that the public access provisions of this section are not required pursuant to paragraph I.3.a.ii of this section, the Director must determine that all reasonable alternatives have been exhausted, including:
   i. Regulating public access by such means as maintaining a gate or limiting hours of access;
   ii. Designing separation of uses and activities (e.g., fences, terracing, use of one-way glazing, hedges, landscaping, etc.); and
   iii. Providing for access at a site geographically separated from the project such as street end, vista, viewing platform, or trail system as described in paragraph I.6 of this section.

4. Performance Standards. The following performance standards apply when siting and designing public access locations and improvements and, to the extent applicable, alternative visual access.

   a. General. Design of public access locations and public access improvements shall provide opportunities for the public to reach, touch, and enjoy the water's edge and to view the water and the shoreline from adjacent locations. Public access improvements shall be located as close horizontally and vertically to the shoreline's edge as feasible, and consistent with the terms of LUC 20.25E.070.C (Recreation); provided that public access does not adversely affect sensitive ecological features or result in a measureable net loss of shoreline ecological functions.

   b. Street Ends and Public Rights of Way. Public access provided by street ends, above ground public utilities, and rights-of-way located within the Shoreline Overlay District shall not be diminished by any public or private development or use consistent with RCW 35.79.035.

   c. Relation to Other Facilities. Public access improvements shall be located to provide integrated connections to non-shoreline access points, trail connections, public streets and rights-of-way, and other public areas and uses.

   d. Accessibility. Public access improvements shall include accommodations for handicapped and physically impaired persons, where feasible.

e. Trails. Trails within shoreline critical areas and shoreline vegetation conservation areas shall comply with LUC 20.25H.055.C.3.g (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP).

f. Overwater Structures associated with Projects that Require Public Access. Public access on over-water structures located on public aquatic lands shall be provided and may include common use of walkway areas. Moorage facilities with the capacity to serve ten (10) or more vessels shall provide a publicly accessible area of at least 10 percent of the total square footage of the overwater structure, but not less than 200 square feet at or near the end of the structure. Marinas with the capacity to serve 20 or more vessels may restrict access to specific moorage areas for security purposes as long as an area of at least 10 percent of the overwater structure is available for public access and a public access area of at least 200 square feet is provided at or near the end of the structure. Public access areas may be used in common by other users, but must provide generally unobstructed views of the water.

g. Resolution of Different Standards. Where city park or transportation plans specify public access locations and improvements that differ from those in paragraph I.4 of this section, the public access locations and improvements that are adopted in a Council-approved Master Plan, shall control.

h. Privacy. Design of public access improvements shall minimize privacy intrusions on adjacent uses by avoiding locations adjacent to residential windows and/or outdoor private residential open spaces, or by screening or other separation techniques.

Comment [cd12]: Modeled after Whatcom County & Renton SMP, and consistent with Bellevue Trail standards.

5. Modification of Public Access Requirements.

a. The Director may require or grant a modification to the provisions of paragraph I of this section as a component of the shoreline review process for a development or use that is required to provide public access if:

i. The presence of shoreline critical areas or critical areas would preclude construction of the required improvement;

ii. The improvement would interfere with essential operations of the proposed use;

iii. The property contains unusual site constraints, such as size, configuration, topography, of location, not created by the applicant, that would preclude construction of the required improvement;

iv. The public access would create unavoidable health or safety hazards to the public;

v. Significant environmental impacts would result from the public access that could not be mitigated; or

vi. The cost of providing the public access improvement, or mitigating the impacts associated with the improvement, would be unreasonably disproportionate to the total long-term development and operational cost over the life span of the proposed development or use.

b. If a modification is granted, the Director may require that an alternate method be used to provide view access pursuant to paragraph I.6 of this section.

c. The Director may condition a modification request to ensure there is no net loss of shoreline ecological functions.

6. Alternatives to Providing On-site Public Access. The Director may approve a request to provide visual access opportunities at a location not directly adjacent to the water, in lieu of the physical public access required pursuant to paragraph I of this section, if the applicant demonstrates that the:

a. Unobstructed views will be provided from a viewpoint, viewing platform or tower, interpretive center, or other area with means to view public shoreline and/or waters;

b. The alternative visual access shall be located to provide integrated connections to non-shoreline access points, trail connections, public streets and rights-of-way, and other public areas and uses; and

c. A public benefit will be derived from development of the alternative visual access opportunity in the proposed location.

7. Accessibility of Public Access Improvements.

a. Maintenance of Public Access Improvement Required. Public access improvements shall be maintained over the life of the development or use. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.

b. Maintenance Responsibility. Maintenance of public access improvements shall be the responsibility of the owner unless otherwise assigned through a formal recorded agreement.

c. Hours of Access. Public access improvements shall be available to the public 24 hours per day, unless alternate hours are approved though the required shoreline review process for the project. Temporary closures will be allowed as necessary for maintenance with prior notification to the City.

Comment [j13]: Modeled after Bellevue's Downtown Public Access Provisions. LUC 20.25A.100.

d. Signage Required. The public access improvement must be signed to identify the improvement as available for public use and indicate the hours

of access consistent with paragraph I.7.c of this section. Signs shall be installed and maintained by the property owner. Signs shall conform to the City of Bellevue Parks Department's standards for directional signs, and shall be posted in conspicuous locations at public access sites and at the nearest connection to any off-site public rights-of-way.

8. Modifications to Approved Public Access. Requests to modify approved public access or alternative visual access shall be reviewed through the shoreline review process applicable to the original project that required the public access.

J. Signage in the Shoreline.

Comment [j14]: Modeled after Redmond SMP.

1. Applicability. In addition to the requirements set forth in Chapter 22B.10 BCC (For further information about the City wide requirements refer to the City of Bellevue Sign Code), all applications to erect signage in the Shoreline Overlay District shall comply with this section.

2. Shoreline Sign Performance Standards. In addition to the city-wide sign regulations codified in Chapter 22B.10 BCC, the following provisions apply to signs in the Shoreline Overlay District:

   a. Signs shall comply with the shoreline structure setback standards in LUC Chart 20.25E.050.A; except interpretative or directional signs for public access or recreation amenities, or to protect the public health, safety, and welfare, are allowed.
   b. Floating billboards are prohibited.
   c. Signage shall not be permitted to be constructed over water, except:
      i. For water-dependant uses providing gas and oil sales to boats where the facility is accessible from the water;
         (1) One sign, not exceeding 20 square feet per sign face is permitted. Internally-illuminated signs are not permitted. The Director may approve low-wattage external light sources that are not visible from neighboring properties or directed towards the water.
         (2) Signs shall be mounted to a pier or wall-mounted. The maximum height of a free-standing sign mounted to a pier is five feet above the surface of the pier. A wall-mounted sign shall not project above the roofline of the building to which it is mounted.
      ii. Navigational signs, directional signs, and signs displaying a public service message;
      iii. Interpretative signs for public access and recreation amenities; and
      iv. Building addresses mounted flush to the end of a pier.
   d. Signs within the Shoreline Overlay District, except directional, address, and interpretive signs, shall be oriented away from, or screened from public shoreline areas and the water body and shall minimize glare into fish and wildlife habitats, buffers, shoreline views, and public access areas.

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e. The maximum height of a free standing sign within the Shoreline Overlay District is five feet.

K. Vegetation Conservation and Landscape Standards.

Comment [cd15]: WAC: 173-26-221(5). **Modeled After:** Modeled after Vegetation Management provisions in LUC 20.25H.055 (Critical Areas Overlay District).

1. Purpose and Scope. Retention of significant trees and native vegetation as required by this section is necessary to maintain and protect property values, to enhance the visual appearance of the City, to preserve the natural wooded character of the Pacific Northwest, to promote use of natural systems, to reduce the impacts of development on the storm drainage system, water resources and shoreline ecological functions, and to provide a better transition between the various land uses permitted in the City. This section provides standards for vegetation conservation within established vegetation conservation areas and areas outside of the vegetation conservation area but within the Shoreline Overlay District.

2. Applicability. The requirements of this section shall be imposed any time a permit, approval, or review includes land-disturbing activities as defined in BCC 23.76.030 (Clearing and Grading Code), or land development including subdivision, short subdivisions, or planned unit developments, a change in lot coverage, or impervious surface, or a change in the area devoted to parking and circulation is required by the Bellevue City Code. Additional standards apply for critical areas, see LUC 20.25H.055. The requirements of this section do not apply to residential development located in the Shoreline Residential and Shoreline Residential Canal environments. Refer to LUC 20.25E.065.F.

3. Required Review. The Director shall review the proposed removal of significant trees with each application listed within paragraph K.2 of this section.

4. Modification of Standards. The vegetation conservation requirements contained in this section may be modified using the Special Shoreline Report Process (refer to LUC 20.25E.160.E). The Special Shorelines Report shall 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. For the Urban Conservancy and Urban Conservancy Open Space Environments the vegetation conservation area dimension may not be reduced to less than 25 feet.

5. Vegetation Conservation Area Dimensions. For shoreline environments other than Shoreline Residential and Recreational Boating, the dimension of the shoreline vegetation conservation area for the corresponding shoreline environment designation is as follows:

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Vegetation Conservation Area Dimensions

Shoreline Environment	Distance Measured from OHWM
Shoreline Residential	N/A
Urban Conservancy	50 feet
Urban Conservancy Open-Space	50 feet
Recreational Boating	N/A

6. Vegetation Conservation Area Landscape Standards. Upon development or redevelopment within the Urban Conservancy and Urban Conservancy Open Space Environments, the full vegetation conservation area shall be provided with native vegetation as part of the development proposal, except that those portions of the vegetation conservation area where water-dependent uses are located may be developed in accordance with the specific use provisions of LUC 20.25E.070.

7. 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 Critical Areas Handbook (2009), now or hereafter amended, and existing significant trees shall be retained, provided that the trees are determined to be healthy and the trees can be safely retained consistent with the proposed development activity. Any removal of significant trees or native vegetation shall be in compliance with this section.

8. 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 at a ratio of 3:1 with a minimum 5 gallon or 2 inch caliper size for replacement plantings. Native vegetation other than trees shall be replaced at a spatial ratio of 1:1 to replicate the structural habitat and ecological functions provided by native species.

9. Tree Retention Standards outside of the Shoreline Vegetation Conservation Area. Development and uses located outside of the shoreline vegetation conservation area are shall be regulated pursuant to the city-wide tree preservation standards in LUC 20.20.900 (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP. Additional standards may apply for critical areas; refer to Part 20.25H LUC (Critical Areas Overlay District).

10. Landscape Development Standards. Marinas, Community Clubs, Yacht Clubs, Multifamily, and other commercial or high intensity uses shall be regulated pursuant to the city-wide district specific landscape development standards in

LUC 20.20.520 (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP.

11. Tree Protection Required. The applicant shall use tree protection techniques approved by the Director during land-disturbing activities and construction to protect trees from adverse impacts related to land-disturbing activities, and provide for the continual healthy life of retained significant trees.

12. Existing Landscape Maintenance. Routine maintenance of existing legally established landscaping and landscape features developed prior to [insert effective date ordinance], in the shoreline vegetation conservation area may be continued in accordance with this section. 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 subsection, "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.

13. Removal of Noxious Species. Noxious species may be removed from the shoreline 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:

    a. Invasive and noxious weeds;

    b. English Ivy (*Hedera helix*);

    c. Himalayan blackberry (*Rubus discolor*, *R. procerus*); and,

    d. Evergreen blackberry (*Rubus lacintaus).*

14. Hazard Trees within the Vegetation Conservation Area. The removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to an existing structure, public or private road or sidewalk, or other permanent improvement, is allowed; provided, that:

    a. 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;

b. 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;

c. All cut vegetation (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 warranted due to the potential for creating a fire hazard or for disease or pest transmittal to other healthy vegetation.

d. The landowner shall replace any trees that are removed at a ratio of 3:1 with a minimum 5 gallon or 2 inch caliper size for replacement plantings;

e. 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,

f. 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 mitigation plan that demonstrates compliance with the provisions of paragraph K.14.d of this section.

15. 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/or SEPA review, Chapter 22.02 BCC, may still be required. The pruning allowed by this subsection shall 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 paragraph.

L. Water quality, stormwater, and nonpoint source pollution.

Comment [dp16]: Bellevue Specific Approach. WAC: 173-26-221(6)

1. Purpose. The responsibility for control of water quality, storm water, and non point source pollution is a city-wide obligation that is not borne entirely by property owners with land located within the Shoreline Overlay District. The purpose of this section is to prevent impacts to water quality and quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities.

2. Applicability. The following provisions apply to all development and uses in the Shoreline Overlay District, except residential.
3. All shoreline development and uses shall comply with applicable provisions of Chapter 24.06 BCC (Storm and Surface Water Utility Code), the Storm and Surface Water Engineering Standards (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.
4. To avoid water quality degradation by malfunctioning or failing septic systems located within the 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 WAC 24.05.160 - Operation and Maintenance.
5. Construction Materials. All structures that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality, aquatic plants, or animals. Materials used for decking or other structural components shall be approved by the Environmental Protection Agency for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic, or pentachlorophenol is prohibited in or above shoreline water bodies. Preservative and surface treatments are limited to products approved for use in aquatic environments, and must be applied according to label directions. Construction hardware that comes into contact with water either directly or through precipitation that causes discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion. Materials used for construction of moorage facilities shall conform to the provisions of paragraphs LUC 20.25E.065.H.3.a and 20.25E.080.E.3.c.
6. The use of coal tar sealants and other sealants that contain high levels of Polycyclic Aromatic Hydrocarbons is prohibited.

DRAFT