CALL TO ORDER & ROLL CALL 7:30 PM

APPEARANCES
This is the time set aside for members of the public to speak to the Commission about issues of concern. If you wish to speak, please consider the following points:
- Speak audibly into the podium microphone
- State your name and address for the record
- Limit your comments to three minutes
(Note: The Commission may limit the number of speakers and modify the time allotted. Total time for appearances: 15 minutes)

APPROVAL OF MINUTES Minutes from March 3, 2010

REGULAR BUSINESS 7:45 PM
Agenda Item #1
Shoreline Master Program update – Review of Preliminary Draft Shoreline Master Program

OTHER BUSINESS Council Liaison Report
- Staff Comments
- Planned Absences for Future Meetings
- Announcements & Communications
- Next Regular Meeting: April 7, 2010

ADJOURN

AGENDA TIMES ARE APPROXIMATE
CALL TO ORDER:
Vice Chair Eric Laschever called the meeting to order at 7:34 PM in the Council Chambers, at 9611 SE 36th Street, Mercer Island, Washington.

ROLL CALL:
Vice Chair Eric Laschever, Commissioners Bryan Cairns, Jon Friedman, Steve Marshall, Craig Olson and Kristen White were present. Chair Adam Cooper was excused. City staff was represented by Shane Moloney, Assistant City Attorney; George Steirer, Principal Planner; and Travis Saunders, Planner

APPEARANCES:
Rita Moore of 4509 Ferncroft Road provided comment regarding the Shoreline Master Program update.

David Douglas, Waterfront Construction, 10315 19th Avenue SE, Suite 106, Everett, WA 98208 provided comment regarding the Shoreline Master Program update.

MINUTES:
Commissioner White motioned to approve the minutes from February 17, 2010. Commissioner Cairns seconded the motion. The Commission unanimously approved the minutes as written.

REGULAR BUSINESS:
Agenda Item #1: Shoreline Master Program update workshop – Review of Draft Shoreline Master Program

Travis Saunders, Planner, provided a staff presentation.

The Commission worked through exhibit edits provided in the Commission packet, approving certain staff edits, asking questions of staff, and requesting edits for staff to make in a future draft.

The Commission directed staff to return with a draft that reflects the changes discussed during the meeting.

COUNCIL LIAISON REPORT:
Deputy Mayor El Jahncke gave the Council Liaison’s report. The Council reevaluated the Island Crest Way configuration at its March 1, 2010 meeting. Sound Transit is holding a public input meeting at the Community Center on March 9, 2010. The Council is seeking a briefing from Sound Transit on its plans.
STAFF COMMENTS:
None

PLANNED ABSENCES FOR FUTURE MEETINGS:
Commissioner Olson will be absent on March 17, 2010

ANNOUNCEMENTS AND COMMUNICATIONS:
None

NEXT REGULAR MEETING:
The next Planning Commission meeting is scheduled for March 17, 2010.

ADJOURNMENT:
The Planning Commission meeting was adjourned at 10:27 PM.

Respectfully submitted by Travis Saunders, Planner
To: City of Mercer Island Planning Commission and Deputy Mayor Jahncke
From: Travis Saunders, Planner
Re: March 17, 2010 Shoreline Master Program (SMP) Update Workshop
Date: March 11, 2010

Commissioners and Deputy Mayor Jahncke:

The enclosed Shoreline Master Program update packet contains the following agenda item:

**Agenda item 1 – Review of Draft Shoreline Master Program:**
During the March 3, 2010 Planning Commission meeting, the Commission reviewed their recommended modifications to the existing Mercer Island shoreline regulations, along with draft language for the Comprehensive Plan Shoreline Element. Following a page by page review of the exhibits, the Commission directed staff to return with a revised draft that reflects additional changes discussed during the meeting.

Exhibit 1 in the enclosed packet is a copy of the Draft Shoreline Master Program, shown in an ordinance format. The draft contains edits requested by the Commission at the March 3, 2010 meeting. (Black text represents existing code. Non-bold red text is language approved by the Commission. Non-bold red text with the comment, “Edit per 3-3-10 PC Comments” is specific language changes prescribed by the Commission at the March 3, 2010 meeting. Bold red text with the comment, “Staff edit per 3-3-10 PC direction” is language drafted by staff in response to the Commission’s request of staff to develop language for its review.)

Exhibit 2 in the packet is a copy of text edits to the draft language, as proposed by Sound Transit. Their recommended edits are highlighted in yellow.

Exhibit 3 in the packet is a copy of text edits to the draft language, as proposed by David Douglas, Waterfront Construction. His edits are highlighted in yellow.

Should you have questions regarding the materials or the update process, feel free to contact me.
WHEREAS, the Washington Shoreline Management Act (RCW 90.58, referred to herein as “SMA”) recognizes that shorelines are among the most valuable and fragile resources of the state, and that the state and local government must establish a coordinated planning program to address the types and effects of development occurring along shorelines of state-wide significance; and

WHEREAS, the City of Mercer Island (“City”) is required to update its Shoreline Master Program (“SMP”) pursuant to the SMA and WAC 173-26; and

WHEREAS, on July 20, 2009, the City submitted a Final Shoreline Analysis Report to the Washington State Department of Ecology (“DOE”), which is an inventory and characterization of the City’s shorelines to assess ecological functions and ecosystem-wide processes operating within the City’s shoreline jurisdictions and to serve as a baseline from which future development actions in the shoreline jurisdiction will be measured; and

WHEREAS, there has been extensive public participation opportunities with respect to the SMP update, including but not limited to a public open house, and public meetings.

WHEREAS, on March 8, 2010, the City’s Responsible Official reviewed the proposed amendments to Chapters 19.07.100, 19.07.110, and 19.16 and the Shoreline Element of the Comprehensive Plan, and under the provisions of the State Environmental Policy Act (SEPA), issued a Determination of Non-Significance; and

WHEREAS, the Mercer Island Planning Commission, after numerous meetings and a public hearing, recommended approval of the SMP update at its April 7, 2010 meeting; and

WHEREAS, the Mercer Island City Council considered the SMP at its Regular Meeting of ________ _____, 2010, and Regular Meeting of ________ _____, 2010; and
WHEREAS, the Mercer Island City Council did conclude that the SMP will result in “no net loss” in shoreline ecological function relative to the baseline due to implementation and will ultimately produce a net improvement in shoreline ecological function; and

WHEREAS, on “MONTH DAY YEAR”, the Mercer Island City Council concludes that the SMP is consistent with and meets the guidelines established under WAC Chapter 173.26; and

WHEREAS, the Mercer Island City Council concludes that the SMP is consistent with and implements Shoreline Management Act (RCW 90.58 and the Growth Management Act (RCW 36.70; and

WHEREAS, the Washington State Department of Ecology is authorized under the SMA to approve, deny or propose modifications to the City’s SMP; and

WHEREAS, after considering all public testimony and written comments, the City Council adopts the following Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: Amendments to 19.07.100 MICC, Shoreline Areas. MICC 19.07.100

“Shoreline Areas” is hereby amended as follows:

Shorelands directly impact water quality as surface and subsurface waters are filtered back into the lake. Additionally, shorelines are a valuable fish habitat area characterized by lake bottom conditions, erosion tendencies, and the proximity to watercourse outfalls. These may combine to provide a suitable environment for spawning fish.

A. Critical Areas Delineations.
   1. A survey to determine the line of ordinary high water (OHW) shall be current to within one year of the application for single lots, short subdivisions, long subdivisions, or lot line revisions.
   2. The survey may be included in the site construction plan (see MICC 19.07.060, Reports and Surveys) or waived by city staff if the OHW has been delineated by an existing bulkhead.
   3. Mark the shoreline setback on the site prior to the preconstruction meeting.

B. Site Development.
   1. A 25-foot setback from OHW is required.
   2. If a wetland is adjacent to the shoreline, measure the shoreline setback from the wetland’s boundary.

   3. 25% of the 20 feet closest to the OHW shall contain vegetation coverage. The five feet nearest the OHW shall contain at least 25% native coverage. A shoreline vegetation plan shall be submitted to the City for approval. A variety of ground cover, shrubs, and trees that provides lake shading is encouraged.

   C. Site Coverage. The amount of impervious surfaces which will be permitted is as follows:
Distance from OHW | Impervious Surface Limitations
---|---
0 – 25 feet | 10% – No building(s) allowed
26 – 50 feet | 30% – Structure(s) allowed

D. Storm Water and Erosion Control. Erosion control devices shall be installed along the boundaries of the shoreland setback following the preconstruction meeting and prior to clearing or grading.

E. Alteration. Any alteration in this area requires either: (1) a shoreline exemption or (2) a substantial development permit, a building/grading permit, and storm water permit. Some development or alteration may also require a conditional use permit. (Ord. 08C-01 § 3; Ord. 05C-12 § 6; Ord. 02C-09 § 6; Ord. 99C-13 § 1. Formerly 19.07.050).

Section 2: **Amendments to 19.07.110 MICC, Shoreline Management Master Program.**

MICC 19.07.110 “Shoreline Management Master Program” is hereby amended as follows:

A. General Information.

1. Introduction and Purpose. The Washington State Legislature enacted the Shoreline Management Act (SMA) of 1971 (Chapter 90.58 RCW) to provide a uniform set of rules governing the development and management of shoreline areas. As a basis for the policies of the SMA, the Legislature incorporated findings that “the shorelines are among the most valuable and fragile” of the state’s resources, that they are under “ever increasing pressure of additional uses” and that “unrestricted construction on the privately or publicly owned shorelines of the state is not in the best public interest.” The Legislature further finds that “coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state, while, at the same time, recognizing and protecting private property rights consistent with the public interest.”

The SMA sets up a process for managing development of the state’s shorelines through state-monitored, locally administered permitting program. Local governments are required to prepare shoreline master programs to manage shoreline development within their jurisdiction. The SMA specifies that each local shoreline master program includes goals and policies that take into account the specific local conditions influencing the shoreline jurisdiction.
The purpose of the shoreline master program is to implement the Shoreline Management Act of 1971 and to establish regulations for development based on the local shoreline goals and policies.

a. The shoreline master program specifies boundaries of a shoreline jurisdiction and shoreline designated environments;

b. The shoreline master program establishes regulations for development within the shoreline jurisdiction;

c. The shoreline master program specifies requirements for public participation in decisions about shoreline development.

2. Shoreline Jurisdiction. The shoreline jurisdiction is geographically defined as:

a. All lands extending landward 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark and all associated shorelands (RCW 90.58.030).

b. All lands under Lake Washington extending waterward to the line of navigability/inner harbor line as established in 1984 by the Board of Natural Resources No. 461, middle of Lake Washington, pursuant to RCW 35.21.160.

The following illustration shows the applicability of the shoreline master program jurisdiction:
Mercer Island. These regulations are adopted under the authority of the Chapter 90.58 RCW and Chapter 173-1626 WAC.

5. Relationship to Land Use Code and Other Ordinances.
   a. The shoreline master program regulations are supplemental to the city of Mercer Island comprehensive plan, the Mercer Island development code and various other provisions of city, state and federal laws. Applicants must comply with all applicable laws prior to commencing any use, activity, or development.
   b. The shoreline jurisdiction and the shoreline designated environments are superimposed upon the existing zoning classifications. The zoning regulations specified in the development code and this section are intended to operate together to produce coherent and thorough regulations. All uses, activities and developments must comply with both the Mercer Island development code and shoreline master program. If there is a conflict between the two, the more restrictive regulation applies.

6. Shoreline Master Program Goals and Policies. In 1974 the city of Mercer Island adopted shoreline goals and policies. These goals and policies are consistent with the city’s comprehensive plan adopted in 1993. The goals and policies contained within the City’s Comprehensive Plan Shoreline Chapter shall constitute Mercer Island’s Shoreline Master Program goals and policies.

7. Shoreline Master Program Regulations. The following regulations shall constitute the City of Mercer Island shoreline development regulations:
   a. MICC 19.07.100, Shoreline Areas
   b. MICC 19.07.110, Shoreline Master Program
   c. MICC 19.07, Critical Areas (Ord. No. 05C-12)
   d. MICC 15.09, Storm Water Management Program
   e. Definitions -- Those specific to shorelines shall have the meaning ascribed to them below. Terms not defined in this section shall be defined as set forth in MICC 19.16

   **Boat Lift:** A structure or device used to raise a watercraft above the waterline for secure moorage purposes.
   **Boat Ramp:** An inclined structure upon which a watercraft is raised or pulled onto land or a dock.
   **Breakwater:** A protective structure usually built offshore for the purpose of protecting the shoreline or harbor areas from wave action.
   **Bulkhead:** A solid or open pile of rock, concrete, steel, timber or other materials erected parallel to, and normally erected at, the ordinary high water line for the purpose of protecting adjacent property from waves or currents.
   **Covered Moorage:** A pier, dock, boatlift, series of piles, or other structure intended for moorage over which a roof or canopy is erected.
   **Ecological functions or shoreline functions:** means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline’s natural ecosystem.
   **Ecosystem-wide processes:** means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.
Feasible: means an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions: (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (b) The action provides a reasonable likelihood of achieving its intended purpose; and (c) The action does not physically preclude achieving the project's primary intended legal use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

Fill: means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

Finger Pier: An extension from a dock used to create moorage slips.

Floating Platform: A flat structure or device moored or anchored, not permanently secured by piles, which floats upon the water.

Geotechnical report or geotechnical analysis: means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the Washington State Shoreline Master Program Guidelines, Chapter 173-26 WAC 96 of 100 impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

Groin: A structure used to interrupt sediment movement along the shore.

Jetty: A barrier used to protect areas from accumulations of excess sediment.

Landward: Any point located inland from the ordinary high water mark.

Lateral Line: The extension waterward of a property line into Lake Washington beyond the ordinary high water mark. How property lines extend waterward from the ordinary high water mark is an area of misconception. If the title does not clearly state the location of the property lines waterward from the ordinary high water mark, waterfront owners are not allowed to unilaterally project the upland boundaries out into the shorelands (waterward). There are no statutes defining the direction of the lateral lines waterward from the ordinary high water mark. The Supreme Court has the final word to decide location of lateral line on case-by-case basis.

Marina: A commercial basin providing rental or sale of docks, watercraft, moorage, and/or supplies. Casual single-family renting of moorage is excluded from this definition.

May: means the action is acceptable, provided it conforms to the provisions of this chapter.

Mean Low Water: The level of Lake Washington during the fall and winter when the water level is lowered to minimize winter storm damage to lakeside properties. Mean low water is one and one-half feet lower than ordinary high water.
Moorage Facility: Any device or structure used to secure a boat or a vessel, including piers, docks, piles, lift stations or buoys.

Must: means a mandate; the action is required.

Nonwater-oriented uses: means those uses that are not water-dependent, water-related, or water-enjoyment.

Ordinary High Water (OHW): The point on the shore that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter in accordance with permits issued by a local government or the department.

Ordinary Repairs and Maintenance: An activity in response to the effects of aging or ordinary use, wear and tear that restores the character, scope, size, footprint or design of a serviceable area, structure, or land use to its previously existing, authorized or undamaged condition; however, this is not intended to allow total replacement, substitution or reconstruction of a nonconforming structure. Activities that change the character, size, footprint or scope of a project beyond the original shall not be considered ordinary repairs and maintenance and shall result in loss of nonconforming status. For piers and docks, if more than 40% of the pilings that make up a dock are replaced, the activity is not considered ordinary repair and maintenance and the dock shall be brought into compliance with regulations in place at the time of the action; piles that are repaired through splicing techniques are not counted in the 40% threshold. Individual mooring piles that are non-conforming and are not physically connected to a dock are considered individual structures and such piles may only be repaired. Replacement piles may be placed in a non-conforming location only if the total number of such piles is determined to be less than the number of replacement piles than would be required if the dock was brought more into conformance. For pier and dock decking, if more than 50% of the decking is replaced, the replacement is not considered ordinary repair and maintenance and it shall be brought into compliance with regulations in place at the time of the replacement.

Public Access: A means of physical approach to and along the shoreline, or other area, available to the general public. Public access may also include visual approach.

Restoration or ecological restoration: means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

Shall: means a mandate; the action must be done.

Shoreline areas and shoreline jurisdiction: means all shorelines of the state and shorelands as defined in RCW 90.58.030.

Shoreline master program or master program: means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the

Comment [ts3]: Edit per 3-3-10 PC

Comment. Language added: Ordinary Repairs and Maintenance: An activity in response to the effects of aging or ordinary use, wear and tear that restores the character, size, footprint or design of a serviceable area, structure, or land use to its previously existing, authorized or undamaged condition; however, this is not intended to allow total replacement, substitution or reconstruction of a nonconforming structure. Activities that change the character, size, footprint or scope of a project beyond the original shall not be considered ordinary repairs and maintenance and shall result in loss of nonconforming status.

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For pier and dock decking, if more than 50% of the decking is replaced, the replacement is not considered ordinary repair and maintenance and it shall be brought into compliance with regulations in place at the time of the replacement.
shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

Shoreline modifications: means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

Should: means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

Water-Dependent: A use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

Water-enjoyment use: means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

Water-oriented use: means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

Water-related use: means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because: (a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or (b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient. Washington State Shoreline Master Program Guidelines, Chapter 173-26 WAC 100 of 100.

Waterfront Structure: Docks, piers, wharves, floats, mooring piles, anchor buoys, bulkheads, submerged or overhead wires, pipes, cables, and any other object passing beneath, through or over the water beyond the line of ordinary high water.

Waterward: Any point located in Lake Washington, lakeward from the ordinary high water mark.

B. Shoreline Designated Environments.

1. Designated Environments. Different areas of the city’s shoreline have different natural characteristics and development patterns. As a result, three shoreline designated environments are established to regulate developments and uses consistent with the specific conditions of the designated environments and to protect resources of the Mercer Island shoreline jurisdiction. They are:

   a. Conservancy Environment. This environment constitutes large undeveloped areas with some natural constraints such as wetland conditions, containing a variety of flora and fauna. The purpose of this environment is to protect and manage the existing natural resources in order to achieve sustained resource utilization and provide recreational opportunities.
ba. Urban Park. This environment consists of shoreline areas designated for public access and active and passive public recreation. It includes, but is not limited to, street ends, public utilities and other publicly owned rights-of-way. The uses located in this environment should be water-dependent and designed to maintain the natural character of the shorelines.

eb. Urban Residential. The purpose of this environment is to provide for residential and recreational utilization of the shorelines, compatible with the existing residential character in terms of bulk, scale and type of development.

2. Shoreline Environment Map. The map in Appendix F of this development code is the official map of the city designating the various shoreline environments and the shoreline jurisdiction within the city.

3. Permit Requirements for Shoreline Uses and Development within the Designated Environments. All proposed development within the shoreline jurisdiction shall be consistent with the regulations of this Shoreline Master Program, the Shoreline Management Act of 1971 and the Mercer Island development code. In addition all development shall conform to permit requirements of all other agencies having jurisdiction within the designated environments.

The following table specifies the shoreline uses and developments which may take place or be conducted within the designated environments. It also specifies the type of shoreline permit required and further states the necessary reviews under the State Environmental Policy Act (SEPA). The uses and developments listed in the matrix are allowed only if they are not in conflict with more restrictive regulations of the Mercer Island development code and are in compliance with the regulations specified in subsection D of this section.

<table>
<thead>
<tr>
<th>Designated Environments</th>
<th>Shoreline Use Conservancy Environment</th>
<th>Urban Park Environment</th>
<th>Urban Residential Environment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family residential and associated appurtenances</td>
<td>NP</td>
<td>NP</td>
<td>CE or SDP if the construction is not by an owner, lessee or contract purchaser for his/her own use or if alteration applies.</td>
</tr>
<tr>
<td>Multifamily residential</td>
<td>NP</td>
<td>NP</td>
<td>SDP, SEPA</td>
</tr>
</tbody>
</table>

Key:

- CE: Categorically Exempt
- SEP: Shoreline Exemption Permit
- SDP: Substantial Development Permit
- SEPA: Required Review under the State Environmental Policy Act
- NP: Not Permitted Use

The regulations of the shoreline master program apply to all shoreline uses and development, whether or not that development is exempt from the permit requirements (CE, SEP, or SDP).
<table>
<thead>
<tr>
<th>Use</th>
<th>SDP, SEPA</th>
<th>SDP, SEPA</th>
<th>SDP, SEPA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public and private recreational facilities and parks</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
</tr>
<tr>
<td>Moorage facilities (including piers, docks, piles, lift stations, or buoys)</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
</tr>
<tr>
<td>Commercial marinas, moorage and storage of commercial boats and ships</td>
<td>NP</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Bulkheads and shoreline protective structures</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
<td>SEP, SEPA</td>
</tr>
<tr>
<td>Breakwaters and jetties</td>
<td>NP</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Utilities</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
<td>CE, SEP or SDP, SEPA</td>
</tr>
<tr>
<td>Dredging</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
</tr>
<tr>
<td>Alterations over 250 cubic yards – outside the building footprint</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
</tr>
<tr>
<td>Boating Facilities</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
</tr>
<tr>
<td>Transportation and Parking</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
</tr>
</tbody>
</table>

If a use is not listed in this matrix, it is not permitted, shall be considered as a conditional use, pursuant to WAC 173-26-160.

C. Administration and Procedures.
1. Administrative Responsibility. Except as otherwise stated in this section, the code official is responsible for:
   a. Administering the shoreline master program.
   b. Approving, approving with conditions or denying shoreline exemption permit, substantial development permits, variances and permit revisions in accordance with the provisions of this shoreline master program.
   c. Determining compliance with Chapter 43.21C RCW, State Environmental Policy Act.
2. Permits and Decisions. No development shall be undertaken within the shoreline jurisdiction without first obtaining a permit in accordance with the procedures established in the shoreline master program. In addition such permit shall be in compliance with permit requirements of all other agencies having jurisdiction within the shoreline designated environment.
a. Shoreline Exemption Permit. A shoreline exemption permit (SEP) may be granted to the following development as long as such development is in compliance with all applicable requirements of this shoreline master program, the city of Mercer Island development code and WAC 173-27-040:

i. Any development of which the total cost or fair market value, whichever is higher, does not exceed $5,718 or as periodically revised by the Washington State Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state;

ii. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. “Normal maintenance” includes those usual acts established to prevent a decline, lapse, or cessation from a lawfully established condition. “Normal repair” means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment. Normal maintenance of single-family dwellings is categorically exempt as stated above;

iii. Construction of the normal protective bulkhead common to single-family dwellings. A “normal protective” bulkhead is constructed at or near the ordinary high water mark to protect a single-family dwelling and is for protecting land from erosion, not for the purpose of creating land. Where an existing bulkhead is being replaced, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings;

iv. Emergency construction necessary to protect property from damage by the elements. An “emergency” is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this section;

v. Construction or modification of navigational aids such as channel markers and anchor buoys;

vi. Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single-family dwelling, for which the cost or fair market value, whichever is higher, does not exceed $10,000;

vii. Any project with a certification from the governor pursuant to Chapter 80.50 RCW.

If a development is exempt from the requirements of the substantial development permit, but a deviation or variance from the provisions of the shoreline master program is required, the applicant must request said deviation or variance through the procedures established in this section.

b. Substantial Development Permit. A substantial development permit (SDP) is required for any development within a shoreline jurisdiction not covered under a categorical exemption or shoreline exemption permit. Requirements and procedures for securing a substantial development permit are established below. Compliance with all applicable federal and state regulations is also required.

c. Deviations and Deviation Criteria. The city planning commission shall have the authority to grant deviations from the regulations specified in Table B in subsection D of this section; provided, the proposed deviation:

i. Will not constitute a hazard to the public health, welfare, and safety, or be injurious to affected shoreline properties in the vicinity;

ii. Will not compromise a reasonable interest of the adjacent property owners;

iii. Is necessary to the reasonable enjoyment of property rights of the applicant; and
iv. Is not in conflict with the general intent and purpose of the SMA, the shoreline master program and the development code.

d. Variances and Variance Criteria. Variances to the shoreline master program requirements are only granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In addition, in all instances the applicant for a variance shall demonstrate strict compliance with all variance criteria set out in MICC 19.15.020(G)(4) and the following additional criteria:

i. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional request for like actions in the area. For example if variances were granted to other developments in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

ii. Variance permits for development that will be located landward of the ordinary high water mark may be authorized; provided, the applicant can demonstrate all of the following:

(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes or significantly interferes with reasonable use of the property not otherwise prohibited by the master program;

(b) That the hardship in subsection (C)(2)(d)(ii)(a) of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant’s own actions;

(c) That the design of the project is compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment;

(d) That the requested variance does not constitute a grant of special privilege not enjoyed by the other properties in the area, and is the minimum necessary to afford relief; and

(e) That the public interest will suffer no substantial detrimental effect.

iii. Variance permits for development that will be located waterward of the ordinary high water mark may be authorized; provided, the applicant can demonstrate all of the following:

(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes reasonable use of the property not otherwise prohibited by the master program;

(b) That the proposal is consistent with the criteria established under subsections (C)(2)(d)(ii)(b) through (e) of this section; and

(c) That the public rights of navigation and use of the shorelines will not be adversely affected.


Step 1. Application.

The applicant shall arrange a preapplication meeting for all substantial development permits, deviations and variances. Upon completion of the preapplication meeting, a complete application including the required processing fees shall be filed with the city on approved forms to ensure compliance with development codes and standards. A complete application for the shoreline exemption permit (SEP), substantial development permit (SDP), or variance and SEPA checklist, if applicable, shall be filed with the city on required forms.

SEP Review Process: The city shall issue or deny the SEP within 10 calendar days of receiving the request, or after SEPA review. The city shall then send the SEP to the applicant and the Department of Ecology, pursuant to WAC 173-27-130, and to all other applicable local, state, or federal agencies.
Step 2. Public Notice.
Public notice of an application for a substantial development permit shall be made in accordance with the procedures set forth in MICC 19.15.020; provided, such notice shall be given at least 30 days before the date of final local action.

If an application is not exempt from SEPA and no prior SEPA notice has been given, the city shall publish the SEPA determination and a notice that comments on the SEPA documents may be made during the review of the SDP, deviation and variance application.

Within 30 days of the final publication, posting or mailing of the notice, whichever comes last, any interested person may submit written comments on the proposed application. The city will not make a decision on the permit until after the end of the comment period.

Step 3. Review.
The Shoreline Management Act does not require that public hearing be held on SDP and/or variance application. The technical review of SDP and/or variance must ensure that the proposal complies with the criteria of the shoreline master program, Shoreline Management Act policies and all requirements of the city of Mercer Island development code.

An open record hearing before the planning commission, as set out in MICC 19.15.020(F), shall be conducted on all deviation applications and may be conducted on the SDP or variance application when the following factors exist:
(a) The proposed development has broad public significance; or
(b) Within the 30-day comment period, 10 or more interested citizens file a written request for a public hearing; or
(c) The cost of the proposed development, exclusive of land, will exceed $100,000.

Step 4. Decision.
After the 30-day comment period has ended, the city shall decide whether to approve or deny any SDP, deviation and/or variance application, unless the applicant and any adverse parties agree in writing to an extension of time with a certain date.

The city’s action in approving, approving with conditions, or denying SDP, deviation and/or variance shall be given in writing in the form required by WAC 173-27-120 (or its successor) and mailed to the applicant, all persons who submitted written comments, the Department of Ecology, the Washington State Attorney General, and all other applicable local, state, or federal agencies.

The city’s action in approving, approving with conditions, or denying any SDP and/or deviation is final unless an appeal is filed in accordance with applicable law.

The final decision in approving, approving with conditions, or denying variance is rendered by the Department of Ecology in accordance with WAC 173-27-200, and to all other applicable local, state, or federal agencies.

Step 5. Filing.
The city’s final action in approving, approving with conditions, or denying SDP, deviation and/or variance shall be filed with the Department of Ecology and Washington State Attorney General.

If the SDP and/or variance is approved, the applicant shall not begin construction until after the 21-day review period by the Department of Ecology is over and/or any appeals concluded. The applicant shall also comply with all applicable federal, state and city standards for construction.
4. Time Limits of Permits. The following time limits shall apply to all shoreline exemption, substantial development, deviation and variance permits:
   a. Construction or substantial progress toward construction of a development for which a permit has been granted must be undertaken within two years of the effective date of a shoreline permit. The effective date of a shoreline permit shall be the date of the last action required on the shoreline permit and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions on any such permit or approval.
   b. A single extension before the end of the time limit, with prior notice to parties of record, for up to one year, based on reasonable factors may be granted.

5. Suspension of Permits. The city may suspend any shoreline exemption, substantial development, deviation and variance permit when the permittee has not complied with the conditions of the permit. Such noncompliance may be considered a public nuisance. The enforcement shall be in conformance with the procedures set forth in MICC 19.15.030, Enforcement.

6. Revisions. When an applicant seeks to revise a SDP, deviation and/or variance permit the requirement of WAC 173-27-100, as amended, shall be met.

D. Use Regulations. All development within the shoreline jurisdiction shall be in compliance with all development requirements specified in this section.

### 1. Table A. Requirements for Development Located Landward from the OHWM

<table>
<thead>
<tr>
<th>Setbacks for All Structures (Including Fences over 48 Inches High) and Parking</th>
<th>A*</th>
<th>25 feet from the OHWM and all required setbacks of the development code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Height Limits for All Structures</td>
<td>B</td>
<td>Shall be the same as height limits specified in the development code but shall not exceed a height of 35 feet above average grade level (WAC 173-27-040)</td>
</tr>
<tr>
<td>Maximum Impervious Surface Coverage</td>
<td>C</td>
<td>10%: between 0 – 25 feet from OHWM</td>
</tr>
<tr>
<td></td>
<td>D</td>
<td>30%: between 25 – 50 feet from OHWM</td>
</tr>
<tr>
<td>Minimum Land Area Requirements</td>
<td>E</td>
<td>All semi-private, commercial and noncommercial recreational tracts and areas shall have minimum land area: 200 square feet per family, but not less than 600 square feet, exclusive of driveways or parking areas. Screening of the boundaries with abutting properties and a planning commission approval of a site plan is required</td>
</tr>
</tbody>
</table>

*The letters in this column refer to the Plan View(A) and Section(A) diagrams.*
1. Table B. Requirements for Moorage Facilities and Development Located Waterward from the OHWM

| Setbacks for All Moorage Facilities, Covered Moorage, Lift Stations, Boatlifts and Floating Platforms | A* B C | 10 feet from the lateral line 35 feet from adjoining moorage structures (except where moorage facility is built pursuant to the agreement between adjoining owners as shown in Figure B below) 50 feet or 50% of the water frontage of the property, whichever is less, from the common boundary of the subject property urban park or conservation environment |
| Setbacks for Boat Ramps and Other Facilities for Launching Boats by Auto or Hand, Including Parking and Maneuvering Space | D | 25 feet from any adjacent private property line |
| Length or Maximum Distance Waterward from the OHWM for Moorage Facilities, Covered Moorage, Lift Stations, Boatlifts and Floating Platforms | E | Maximum 100 feet, but in cases where water depth is less than 10 feet from the mean low water, length may extend up to 150 feet or to the point where water depth is 10 feet at mean low water, whichever is less |
| Width | F | Maximum 8 feet; does not apply to boat ramps, lift stations, or floating platforms |
| **Square Footage of Piers/Docks** |  | Maximum 1,000 square feet, including floats |
| **Decking requirements for Piers/Docks** |  | For the construction of new and replacement piers/docks, decking within the 30 feet nearshore shall be constructed of material that provides a minimum of 40% open space. For repairs that do not constitute ordinary repair and maintenance, as defined in MICC 19.07.110(A)(7)(e), decking within the 30 feet nearshore shall be constructed of material that provides a minimum of 40% open space. |
| Height Limits for Piers and Docks | G | 1.5 feet minimum and 5 feet maximum above the elevation of the OHWM |
| Height Limits for Walls, Handrails and Storage Containers Located on Piers | H | 2.3.5 feet above the decking surface of the moorage facility, dock or pier. 4 feet for ramps and gangways designed to clear the 30 feet nearshore area. |
| Height Limits for Mooring Piles, Diving Boards and Diving Platforms | I | 10 feet above the elevation of the OHWM |

*The letters in this column refer to the Plan View(B) and Section(B) diagrams.*
### Table B (continued) Requirements for Moorage Facilities and Development Located Waterward from the OHWM

<table>
<thead>
<tr>
<th>Minimum Water Frontage for Moorage Facility</th>
<th>J*</th>
<th>K</th>
<th>L</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Single-family lots: 40 feet</td>
<td>Shared – two adjoining lots: 40 feet combined</td>
<td>Semi-private recreational tracts:</td>
</tr>
<tr>
<td></td>
<td>2 families: 40 feet</td>
<td>3 – 5 families: 40 feet plus 10 feet for each family more than 2</td>
<td>6 – 10 families: 70 feet plus 5 feet for each family more than 5</td>
</tr>
<tr>
<td></td>
<td>11 – 100 families: 95 feet plus 2 feet for each family more than 10</td>
<td>101+ families: 275 feet plus 1 foot for each family more than 100</td>
<td></td>
</tr>
<tr>
<td>Covered Moorage</td>
<td>Permitted on single-family residential lots subject to the following:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) Maximum height above the OHWM: 20 feet; 20 to 25 feet subject to deviation process (MICC 19.07.080(C)(2)(d) - MICC 19.07.110(C)(2)(c))</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) Location/area requirements: See Figure A for single-family lots and Figure B for shared moorage.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Outside the triangle subject to deviation process (MICC 19.07.080(C)(2)(d) - MICC 19.07.110(C)(2)(c)).</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c) Building area: 600 square feet. Building areas larger than 600 square feet are subject to conditional use permit within the triangle, or variance outside the triangle</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(d) Covered moorage shall have open sides. Prohibited in semi-private recreational tracts, commercial and noncommercial recreational areas.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(e) Translucent canopies are required.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Boatlifts</td>
<td>Permitted subject to the following:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) Minimum distance waterward from the OHWM: 30 feet</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*The letters in this column refer to the Plan View(C).*
Table 1: Figure A: Area of Permitted Covered Moorage, Individual Lots
The covered portion of a moorage shall be restricted to the area lying within a triangle. The base of the triangle shall be a line drawn between the points of intersection of the property sidewlines with the ordinary high water mark. The location of the covered moorage shall not extend more than 100 feet from the center of the base line of such triangle. In cases where water depth is less than 10 feet from the mean low water, the location of the covered moorage may extend up to 150 from the center of the base line or to the point where water depth is 10 feet at mean low water, whichever is less. The required 10 foot setbacks from the side property lines shall be deducted from the triangle area.
Table 2: Figure B: Area of Permitted Covered Moorage and Moorage Facilities, Two Adjoining Single-family Lots

<table>
<thead>
<tr>
<th>Lateral Line</th>
<th>Lateral Line</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<tr>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

Where a covered moorage or moorage facility is built pursuant to the agreement of adjoining owners of single-family lots, the covered moorage area shall be deemed to include, subject to limitations of such joint agreement, all of the combined areas lying within the triangles extended upon each adjoining property and the inverted triangle situated between the aforesaid triangles.

   a. Moorage facilities may be developed and used as an accessory to dwellings on shoreline lots with water frontage meeting or exceeding the minimum lot width requirements specified in Table A.
   b. Piles, floats or other structures in direct contact with water shall not be treated or coated with toxic substances harmful to the aquatic environment. Chemical treatment of structures shall comply with all applicable state and federal regulations.

   a. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. The following conditions apply:
      i. The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.
      ii. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the primary structure was occupied prior to January 1, 1992 and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. iii. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.
      iii. For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.
   b. Construction and maintenance of normal protective bulkhead common to single-family dwellings requires only a shoreline exemption permit, unless a report is required by the code official to ensure compliance with the above conditions; however, if the construction of the
bulkhead is undertaken wholly or in part on lands covered by water, such construction shall comply with the SEPA Rules, Chapter 197-11 WAC.

b.- New Structures for Existing Primary Structures: New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. New or enlarged erosion control structure shall not result in a net loss of shoreline ecological functions.

c.- New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Future shoreline stabilization does not apply to stabilization that occurs pursuant to subsection (a) of this section. New structural stabilization measures in support of new nonwater-dependent development, including single-family residences, shall only be allowed when all of the conditions below apply:

i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

ii. Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report, in compliance with MICC 19.07.110(D)(4)(k). The damage must be caused by natural processes, such as currents, and waves.

iv. The erosion control structure will not result in a net loss of shoreline ecological functions.

d.- New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis, in compliance with MICC 19.07.110(D)(4)(g). New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.

e.- New structural stabilization measures in support of water-dependent development shall only be allowed when all of the conditions below apply:

i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

ii. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report, in compliance with MICC 19.07.110(D)(4)(k).

iv. The erosion control structure will not result in a net loss of shoreline ecological functions.

f.- New structural stabilization measures to protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to RCW 70.105D shall only be allowed when all of the conditions below apply:

i. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
ii. The erosion control structure will not result in a net loss of shoreline ecological functions.

b. Bulkheads shall be located generally parallel to the natural shoreline. No filling may be allowed waterward of the ordinary high water mark, unless there has been severe and unusual erosion within one year immediately preceding the application for the bulkhead. In this event the city may allow the placement of the bulkhead to recover the dry land area lost by erosion.

e. Replacement bulkheads may be located immediately in front of and abutting an existing bulkhead, but no filling shall be allowed waterward of the ordinary high water mark.

h. Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard arming solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard arming measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

i. When any structural shoreline stabilization measures are demonstrated to be necessary, pursuant to above provisions, the following shall apply:

i. Limit the size of stabilization measures to the minimum necessary. Use measures designed to assure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.

ii. Ensure that publicly financed or subsidized shoreline erosion control measures do not permanently restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. See public access provisions; WAC 173-26-221(4). Where feasible, incorporate ecological restoration and public access improvements into the project.

iii. Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing development, local governments should adopt master program provisions for a beach management district or other institutional mechanism to provide comprehensive mitigation for the adverse impacts of erosion control measures.

j. Breakwaters, jetties, groins, and weirs. Breakwaters, jetties, groins, and weirs located waterward of the ordinary high-water mark shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose. Breakwaters, jetties, groins, weirs, and similar structures should require a conditional use permit, except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams. Breakwaters, jetties, groins, and weirs shall be designed to protect critical areas and shall provide for mitigation according to the sequence defined in WAC 173-26-201 (2)(e).

5. Utilities.
a. Utilities shall be placed underground and in common rights-of-way wherever economically and technically practical.

b. Shoreline public access shall be encouraged on publicly owned utility rights-of-way, when such access will not unduly interfere with utility operations or endanger public health and safety. Utility easements on private property will not be used for public access, unless otherwise provided for in such easement.

c. Restoration of the site is required upon completion of utility installation.

d. Construction of utility buildings and structures require a conditional use permit.

6. Dredging.

a. Dredging waterward or landward of the ordinary high water mark shall be permitted only if navigational access has been unduly restricted or other extraordinary conditions in conjunction with water-dependent use; provided, that the use meets all state and federal regulations.

b. Dredging shall be the minimum necessary to accommodate the proposed use.

c. Dredging shall utilize techniques that cause the least possible environmental and aesthetic impact.

d. Dredging is prohibited in the following locations:

i. Fish spawning areas.

ii. In unique environments such as lake logging of the underwater forest.

e. Disposal of dredged material shall comply with Ecology Water Quality Certification process and U.S. Army Corps of Engineers permit requirements. The location and manner of the disposal shall be approved by the city.

7. Transportation and Parking

a. Shoreline circulation system planning shall include safe, reasonable, and adequate systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the master program.

b. Transportation and parking facilities shall be planned, located, and designed where routes will have the least possible adverse effect on unique or fragile shoreline features, and will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

c. Where other options are available and feasible, new roads or road expansions should not be built within shoreline jurisdiction.

d. Parking facilities in shorelines shall be allowed only as necessary to support an authorized use.

e. Parking facilities in shorelines shall minimize the environmental and visual impacts.

E. General Provisions

1. Archaeological and Historic Resources

a. If archaeological resources are uncovered during excavation, the developer and property owner shall immediately stop work and notify the City, the Office of Archaeology and Historic Preservation, and affected Indian tribes.

b. In areas documented to contain archaeological resources by the Office of Archaeology and Historic Preservation, a site inspection or evaluation is required by a professional archaeologist in coordination with affected Indian tribes.

2. Public Access
Development by public entities shall include public access, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

a. Development by public entities shall include public access, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

b. Public access shall be provided for developments for water-enjoyment, water-related, and non-water-dependent uses; and for new subdivisions of more than four parcels, except:
   i. Where the City provides more effective public access
   ii. Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment, or due to constitutional or other legal limitations that may be applicable
   iii. For individual single-family residences.

c. In determining infeasibility of public access in a given situation, the City may consider alternate methods of providing public access, such as off-site improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access.

d. Public access improvements shall not result in a net loss of shoreline ecological functions.

Section 3: Amendments to 19.16 MICC, Definitions. MICC 19.16 “Definitions” is hereby amended as follows:

Words used in the singular include the plural and the plural the singular. For definitions that apply in the Shoreline, see 19.07.110(A)(7)(e).

B

... Boat Ramp: An inclined structure upon which a watercraft is raised or pulled onto land or a dock.

Breakwater: A protective structure usually built offshore for the purpose of protecting the shoreline or harbor areas from wave action.

... Bulkhead: A solid or open pile of rock, concrete, steel, timber or other materials erected parallel to, and normally erected at, the ordinary high water line for the purpose of protecting adjacent property from waves or currents.

C

... Covered Moorage: A pier, dock, boatlift, series of piles, or other structure intended for moorage over which a roof or canopy is erected.

... Finger Pier: An extension from a dock used to create moorage slips.

... Floating Platform: A flat structure or device moored or anchored, not permanently secured by piles, which floats upon the water.

...
Groin: A structure used to interrupt sediment movement along the shore.

Jetty: A barrier used to protect areas from accumulations of excess sediment.

Lateral Line: The extension waterward of a property line into Lake Washington beyond the ordinary high water mark. How property lines extend waterward from the ordinary high water mark is an area of misconception. If the title does not clearly state the location of the property lines waterward from the ordinary high water mark, waterfront owners are not allowed to unilaterally project the upland boundaries out into the shorelands (waterward). There are no statutes defining the direction of the lateral lines waterward from the ordinary high water mark. The Supreme Court has the final word to decide location of lateral line on case-by-case basis.

Lift Station (Boat Hoist): A structure or device normally attached to a dock or pier used to raise a watercraft above the waterline for secure moorage purposes.

Marina: A commercial basin providing rental or sale of docks, watercraft, moorage, and/or supplies. Casual single family renting of moorage is excluded from this definition.

Mean Low Water: The level of Lake Washington during the fall and winter when the water level is lowered to minimize winter storm damage to lakeside properties. Mean low water is one and one-half feet lower than ordinary high water.

Moorage Facility: Any device or structure used to secure a boat or a vessel, including piers, docks, piles, lift stations or buoys.

Water-Dependent: A use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

Waterfront Structure: Docks, piers, wharves, floats, mooring piles, anchor buoys, bulkheads, submerged or overhead wires, pipes, cables, and any other object passing beneath, through or over the water beyond the line of ordinary high water.

Waterward: Any point located in Lake Washington, lakeward from the ordinary high water mark.
Section 4: **Repeal and Replace Appendix F to Title 19 MICC.** Appendix F to MICC Title 19 is hereby repealed and replaced with the attached EXHIBIT A.

Section 5: **Amendments to the Shoreline Element of the Comprehensive Plan.** The City of Mercer Island Comprehensive Plan, Shoreline Element is hereby amended as set forth in the attached EXHIBIT B.

Section 6: **Severability/Validity.** The provisions of this ordinance are declared separate and severable. If any section, paragraph, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that they would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses or phrases may subsequently be fund by a competent authority to be unconstitutional or invalid.

Section 7: **Ratification.** Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 8: **Effective Date.** This Ordinance shall take effect and be in force 30 days after its passage and publication.

PASSED by the City Council of the City of Mercer Island, Washington at its regular meeting on the ________ day of ________ 2010 and signed in authentication of its passage.

CITY OF MERCER ISLAND

____________________________________________
Jim Pearman, Mayor

ATTEST:

____________________________
Allison Spietz, City Clerk

Approved as to Form:

____________________________
Katie Knight, City Attorney

Date of Publication: _______________
Appendix F - Proposed Shoreline Environment Designations

Shoreline Master Program - City of Mercer Island

All areas within shoreline jurisdiction that are not mapped and/or designated are automatically assigned the "Urban Conservancy" designation until the shoreline can be redesignated through a master program amendment. In the event of a mapping error, the City of Mercer Island shall rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and Chapter 173-22 WAC pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map.

Waterward extent of City jurisdiction is measured to the middle of Lake Washington, pursuant to RCW 35.21.160.

Waterward extent of Shoreline Management Area is measured from the Ordinary High Watermark to the middle of Lake Washington.

Landward extent of Shoreline Management Area is measured 200 ft landward of the Ordinary High Water Mark.
INTRODUCTION

The purpose of this document is four-fold:

1. To fulfill the requirements of the Shoreline Management Act (SMA) of 1971, Chapter 286, Laws of 1971, Chapter 90.58. RCW and Chapter 173-26 WAC by developing a Master Program to guide the future use and development of Mercer Island’s shoreline.
2. To recognize the Lake Washington/Cedar/Sammamish Watershed (WRIA 8) Chinook Salmon Conservation Plan.
3. To recognize the Regional Lake Washington Master Program as a basis for Mercer Island’s Master Program.
4. To provide guidelines and recommendations for revising local ordinances and zoning codes and for updating the comprehensive plan.
5. To provide a basis for evaluating applications for shoreline permits on Mercer Island.

The State of Washington Shoreline Management Act of 1971 recognizes that the shorelines of the state are among our most valuable and fragile natural resources and directs all local governments to develop a Master Program for the management of these shorelines. The Law specifies that all lakes over 1,000 acres in surface area are Shorelines of Statewide Significance. Lake Washington is such a shoreline and in our planning we must, as the Shoreline Management Act specifies, provide for uses in the following order of preference: those which recognize and protect the state-wide interest over local interest; preserve the natural character of the shoreline; result in long term over short term benefit; protect the resources and ecology of the shoreline; increase public access to publicly owned areas of the shoreline; increase recreational opportunities for the public in the shoreline; provide for any other element deemed appropriate or necessary.

PROLOGUE

To the early developers who built metropolitan Seattle, Lake Washington was perceived as a utilitarian resource. During the past hundred years the Lake has been utilized for transportation, agricultural and domestic water supplies, waste disposal, and numerous types of commercial and industrial enterprises. Many of these activities had adverse impacts on the Lake, and the discharge of sewage eventually led to serious problems with respect to water quality. In response to the rapidly declining quality of Lake Washington, the public voted to create the Municipality of Metropolitan Seattle (METRO) for the purpose of treating sanitary sewage and diverting its discharge from the Lake to Puget Sound. Today the lake is once again suitable for swimming and other recreational activities.

Many of the functions previously related to the lake are now met by other means. The region’s water supply is from rivers, one of which feeds into Lake Washington. Sanitary sewers have...
been diverted and measures are being taken to minimize further pollutants from entering the Lake. Water borne transportation has been largely replaced by an extensive road network around and across the Lake. Also, commercial and industrial uses of the Lake have declined in recent years. In contrast, the use of Lake Washington for leisure activities has increased. The vast majority of the Lake is presently used for residential or recreational purposes. Thus, the future of Lake Washington may be quite different from the expectations of its early developers.

Mercer Island was originally utilized as a source of timber, and although proposed as a “regional park” in its entirety at one time, it became a recreational and, later, a prime residential area. Until 1940, boat and ferry travel was the primary means of reaching the Island from Seattle. In 1940 the Lake Washington floating bridge was completed. At this time the population of the Island and, subsequently, the complexion of development changed rapidly. Developers took advantage of the relatively easy access and relatively close proximity to Seattle’s employment centers, and land quickly changed from forest to subdivision.

Planning during this time and up until the early 1960’s was done conducted by King County.

Since accepting the County zoning upon incorporation of the City in 1960, few changes affecting the shoreline uses have occurred, with single-family residential and recreation constituting the primary shoreline uses.

The City developed its first Shoreline Master Program in 1974. Key considerations within this plan included conservation, public access to the shoreline, residential development, and the guidance for recreational uses along the Mercer Island shoreline. These initial policy objectives are reflected in today’s protection of the City’s shoreline, which includes approximately 6,000 lineal feet of publicly owned shoreline, developed as waterfront recreation areas. Included in these publicly owned lands are nineteen street ends; Groveland Beach Park; Clarke Beach Park; and Luther Burbank Park, which was transferred in 2003 from King County to the City of Mercer Island via an Intergovernmental Land Transfer Agreement.

During the 35 years since the City adopted its first SMP, the Mercer Island has matured to the point where it is largely developed with the priority uses planned for in the first SMP. For example, an inventory of the shoreline prepared as part of this SMP update identified only 30 shoreline properties that are currently undeveloped.

Since 1990, when the state enacted the Growth Management Act, state policy has promoted greater density in urban areas, such as the City of Mercer Island and the other cities that surround Lake Washington. In addition, the increased land values on the Island have created pressures for more intense use of lands during redevelopment.

The City’s and region’s development during this time has impacted the shoreline. Docks and bulkheads, impervious surfaces in shoreline area and in adjacent areas have impacted the shoreline environment, including salmonid habitat. In 1999, Chinook salmon and bull trout were listed as “Threatened” under the Federal Endangered Species Act. New scientific data and
research has improved our understanding of shoreline ecological functions and their value in terms of fish and wildlife, water quality, and human health. Scientific information, however, remains incomplete and sometimes inconsistent in some areas important to Mercer Island’s development pattern.

INTENT
To address changes in the shoreline environment, comply with the mandates of the Shoreline Management Act, and enable the City to plan for emerging issues, the City has initiated an extensive update of its Shoreline Master Program. The new program is intended to respond to current conditions and the community’s vision for the future.

The largely built out character of the shoreline, as well as the increasing protections under state and federal law for shoreline habitat are two factors that have strongly influenced the Update’s direction. In updating the program, the City’s primary objectives are to:

• Enable current and future generations to enjoy an attractive, healthy and safe waterfront.
• Protect the quality of water and shoreline natural resources to preserve fish and wildlife and their habitats.
• Protect the City’s investments, as well as those of property owners along and near the shoreline.
• Produce an updated Shoreline Master Program (SMP) that is supported by Mercer Island’s elected and appointed officials, citizens, property owners, the State of Washington, and other key groups with an interest in the shoreline.
• Fairly allocate the responsibilities for increased shoreline protection among new development and redevelopment.

The City of Mercer Island, through adoption of the Shoreline Master Program, intends to implement the Washington State Shoreline Management Act (RCW 90.58) and its policies, including protecting the State’s shorelines and their associated natural resources, planning for and fostering all reasonable and appropriate uses, and providing opportunities for the general public to have access to and enjoy shorelines.

The City of Mercer Island’s Shoreline Master Program represents the City’s participation in a coordinated planning effort to protect the public interest associated with the shorelines of the State while, at the same time, recognizing and protecting private property rights consistent with the public interest. The Program preserves the public’s opportunity to enjoy the physical and aesthetic qualities of shorelines of the State and protects the functions of shorelines so that, at a
minimum, the City achieves a ‘no net loss’ of ecological functions, as evaluated under the Final Shoreline Analysis Report issued in July 2009. The Program also promotes restoration of ecological functions where such functions are found to have been impaired, enabling functions to improve over time.

The goals and policies of the SMA constitute one of the goals for growth management as set forth in RCW 36.70A.020 and, as a result, the goals and policies of this SMP serve as an element of Mercer Island’s Comprehensive Plan and should be consistent with other elements of the Comprehensive Plan. In addition, other portions of the SMP adopted under chapter 90.58 RCW, including use regulations, are considered a part of the city’s development regulations.

Most of the shoreline of Mercer Island had been platted previous to incorporation. Some of these areas are zoned R-8.4 which is a higher density than the R-15 which Mercer Island preferred to impose on the unplatted land it had the opportunity to regulate. Changes in zoning to a lower density along the shoreline have been virtually impossible to achieve. However, the City has developed several ordinances such as those relating to waterfront structures, community waterfront tracts, tree clearing, preserving of watercourses and others that directly or indirectly preserve and enhance shoreline areas.

INTENT

The Lake Washington Regional Citizens and Technical Committees have recognized that the shoreline of Lake Washington is a valuable and fragile natural resource and that there is a great concern throughout the region relating to its utilization, protection, restoration, and preservation. They further recognized that unrestricted construction on the shoreline of Lake Washington is not in the best public interest, while at the same time recognizing and protecting private property rights consistent with the public interest. In addition, they recognized that the shoreline of Lake Washington is located within a major urbanized area and is subjected to ever increasing pressures of additional uses necessitating increased coordination in the management and development of said shoreline. They stated that there is a clear and urgent demand for a planned, rational and concerted effort to insure coordinated and optimum utilization of the shoreline of Lake Washington.

Although the Regional Program provides a basis for the Mercer Island Master Program, historically, shoreline development and, more recently, the nature of our land use ordinances, zoning codes and comprehensive plan, have established a fairly set land use pattern. Community attitudes have strongly emphasized the desire to retain the residential/recreational uses of the shoreline. Therefore, there appears to be a need to slightly modify the tone of the Regional Program to fit Mercer Island.

The Mercer Island Citizen Advisory Committee has indicated that the order of preference for shoreline development should be evaluated according to the following considerations:

1. Low density single-family residences should continue to be the primary land use of the shoreline of Mercer Island.

2. Conservation of marshes, spawning grounds and other unique or fragile areas is of primary
3. Importance of the public having ample access to the shoreline.

4. Water-oriented recreation is deemed to be appropriate and desirable.

Planning and usage of the Mercer Island shoreline should reflect these priorities.

This document should be read in its entirety and be considered as a whole. These goals and policies were developed with the above priorities in mind and should be applied accordingly. The goals and policies within the following Elements: Shoreline Uses and Activities, Conservation, Public Access, and Components are intended by the Committees to be applicable in all cases.

LAKE WASHINGTON REGIONAL GOALS

The Regional Goals have provided a basis for the Goals and Policies developed for Mercer Island. The Regional Goals are, therefore, summarized below to provide a reference to the Goals and Policies formulated by the Mercer Island Citizens Committee.

PRIMARY GOAL

The natural amenities and resources of Lake Washington are to be conserved in a predominately recreational/residential environment with adequate access available to the public.

The regional goals established by the Regional Committees are listed below in order of preference:

-- The shoreline of Lake Washington is to be planned and coordinated to afford optimal use of the limited water resource.

-- The shoreline of Lake Washington is to provide natural amenities within an urban environment.

-- The resources and amenities of Lake Washington are to be protected and preserved for use and enjoyment by present and future generations.

-- Increase public access to and along the shoreline areas, provided public safety, private property rights, and unique or fragile areas are not adversely affected.

-- Water-dependent recreational activities available to the public are to be encouraged and increased on the shoreline of Lake Washington where appropriate and consistent with public interest.

-- Existing residential uses are to be recognized and new residential construction will be subject to certain limitations if applicable.
—Existing economic uses and activities on the shoreline of Lake Washington are to be recognized, while economic uses of activities that are not dependent on a Lake Washington location are to be discouraged.

—A balanced transportation system for moving people and goods is to be encouraged within existing corridors.

**DESIGNATED ENVIRONMENTS**

The Final Guidelines—Shoreline Management Act of 1971 requires that as a part of the Master Program the City is required to do the following:

1. Designated type of environments the Mercer Island shorelines represent.

2. The environmental designations be consistent with the information in the Shoreline Inventory.

3. The designation must be consistent with the provisions of the Guidelines and Mercer Island’s Goals and Policies.

More generally the Guidelines state that:

“In order to plan and effectively manage shoreline resources, a system of categorizing shoreline areas is required for use by local governments in the preparation of the master programs. The system is designed to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. To accomplish this, the environmental designation to be given any specific area is to be based on the existing development pattern, the biophysical capabilities and limitations of the shoreline being considered for development and the goals and aspirations of local citizenry.

WAC 173-26-211 states, “Master programs shall contain a system to classify shoreline areas into specific environment designations. This classification system shall be based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in this section. Each master program's classification system shall be consistent with that described in WAC 173-26-211 (4) and (5) unless the alternative proposed provides equal or better implementation of the act.”

The recommended system classifies shorelines into four distinct environments (natural, conservancy, rural and urban) which provide the framework for implementing shoreline policies and regulatory measures.

WAC 173-26-211(4)(c) allows for local governments to establish a designation system, provided it is consistent with the purposes and policies of WAC 173-26-211 and WAC 173-26-211(5).

Mercer Island contains two distinct shoreline designations, pursuant to WAC 173-26-
211(4)(c): Urban residential, and urban park.

This system is designed to encourage uses in each environment which enhance the character of that environment. The basic intent of this system is to utilize performance standards which regulate use activities in accordance with goals and objectives defined locally rather than to exclude any use from any one environment. Thus, the particular uses or type of developments placed in each environment should be designed and located so that there are no effects detrimental to achieving the objectives of the environment designations and local development criteria. This approach provides an ‘umbrella’ environment class over local planning and zoning on the shorelines. Since every area is endowed with different resources, has different intensity of development and attaches different social values to these physical and economic characteristics, the enforcement designations should not be regarded as a substitute for local planning and land-use regulations.”

Although none of the four categories precisely fit Mercer Island, the most appropriate environment designation is that of Urban as designated in WAC 173-160-40(4)(b)(iv).

The objective of the urban environment is to ensure optimum utilization of shorelines within urbanized areas by providing for intensive public use and by managing development so that it enhances and maintains shorelines for a multiplicity of urban uses. Because shorelines suitable for urban uses are a limited resource, emphasis should be given to development within already developed areas. In the master program, priority is also to be given to planning for public visual and physical access to water in the urban environment. Identifying needs and planning for the acquisition of urban land for permanent public access points to the shoreline should be linked to non-motorized transportation routes, such as bicycle and hiking trails.

In some instances, the Conservancy Environment designation may apply. Designation of these areas should be undertaken at the time unique and fragile areas are further inventories and mapped.

Urban Residential
The purpose of the urban residential environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

Designation Criteria. Areas that are predominantly single-family or multifamily residential development or are planned and platted for residential development.

Management Policies.

1. Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
2. Development of multifamily, recreational and residential subdivisions of five or more lots should provide public access and joint use for community recreational facilities.

3. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

4. Commercial development should be limited to water-oriented uses.

Urban Park Environment
The purpose of the urban park environment is to protect and restore ecological functions in urban and developed settings, while allowing public access and a variety of park and recreation uses.

Designation Criteria. An urban park environment designation will be assigned to publicly owned shorelands, including all parks, street ends and public access points.

Management policies
1. Uses that preserve the natural character of the area or promote preservation of open space, or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.

2. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the urban park designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

3. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

4. Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

SHORELINE USES AND ACTIVITIES

The Mercer Island Shoreline Inventory indicates that present usage of the shoreline is primarily residential/recreational in character. As the population of both the Island and the region grows, demands for all forms of shoreline use and activities on Lake Washington are expected to increase. At some future time this demand is likely to exceed the existing supply of the Lake’s shoreline. Several studies related to appropriate uses of the shoreline, particularly those of a residential or recreational nature, have been undertaken on Mercer Island to determine the best...
land uses. Most of these studies and plans have only indirectly addressed the question of proliferation of shoreline development on Lake Washington. To date, a water use management plan has also been indirectly considered. This document is intended to complement existing studies and to provide criteria to assist in determining the optimal mix of shoreline uses.

The following goals and policies address the general distribution, location, and extent of all uses within shoreline jurisdiction.

**GOALS**

1. Ensure that the land use patterns within shoreline areas are compatible with shoreline environment designations and will be sensitive to and not degrade habitat, ecological systems, and other shoreline resources. The shoreline of Mercer Island is to be planned and coordinated to afford optimal use of the limited resource.

2. The shoreline of Mercer Island is to provide natural amenities within an urban environment.

**POLICIES**

**POLICY**

1. Plans should be made for reasonable and appropriate shoreline uses and activities.

   a. Short-term economic gain or convenience in development should be evaluated in relationship to potential long-term effects on the shoreline.

   b. Preference should be given to those uses or activities which enhance the natural amenities of the Lake and which depend on a shoreline location or provide public access to the shoreline.

   c. Planning, zoning, capital improvements and other policy and regulatory standards should not increase the density or intensity of shoreline uses or activities.

   d. Shorelines particularly suited for a specific appropriate water-dependent use or activity should be planned for and designated.

   e. Multiple-use of shorelines should be planned where location and integration of compatible uses or activities are feasible.

   f. Aesthetic values must be considered when evaluating new development, redevelopment of existing facilities or for general enhancement of shoreline areas.

   g. Shoreline uses and activities should be discouraged if they are objectionable due to noise or odor or if they create offensive or unsafe conditions in relation to reasonable and appropriate uses and activities.

Comment [ts9]: Staff edit per 3-3-10 PC comment.

Comment [ts10]: Staff edit per 3-3-10 PC comment. Deleted “New residential development should be designed to protect existing shoreline, promote public safety, and avoid adverse impacts to shoreline habitats.”
1. All activities, development and redevelopment within the City’s shoreline jurisdiction should be designed to ensure no net loss of shoreline ecological functions.

2. Existing shoreline use or activities identified as being inappropriate should be encouraged to relocate away from the shoreline.

3. Uses and activities in unique or fragile shoreline areas should be discouraged unless measures can be satisfactorily undertaken to mitigate all related adverse impacts.

4. Sufficient amounts of open space should be distributed along the shoreline to provide nearby recreational opportunities for the general public.

5. Shoreline uses or activities not specified in this document should be consistent with the intent of the goals and policies stated herein.

RECOMMENDATIONS:

1. Mercer Island should formulate programs for the relocation of inappropriate uses and activities. The use of public funds, trading of other public lands where feasible, or other incentives should be considered when necessary to accomplish this objective.

2. Unique and fragile shoreline areas should be defined and inventoried on Mercer Island by appropriate City staff members and Boards and Commissions as soon as possible.

CONSERVATION ELEMENT

The following goal and policies address the protection of the resources of the shoreline. According to the Shoreline Management Act, three of the highest priorities for Shorelines of Statewide Significance are to a) preserve the natural character of the shorelines; b) result in long term over short term benefit; and c) protect the resources and ecology of the shoreline. Although some natural resources are non-renewable in character, Lake Washington is a unique biological, economic and recreational resource which can be managed in a way to allow its assets to be continually available to the region and the state.

Human activities have either directly or indirectly influenced the Lake’s entire shoreline. Some areas (stream outlets, marshes, embayments, wooded areas and others) have remained in a somewhat natural condition. As the population of the Island increases, the pressures to develop these natural condition. But the costs involved in preparing some of these sites for development may be high due to soil or hydrologic conditions. There may be greater long term value in preserving these areas for purposes of open space within an urbanizing region. Often these areas are also important habitats for fish and wildlife. Preservation of these remaining areas, during the subdivision or development process, could be accomplished through the use of the open space option of the Subdivision Ordinance.

Conservation efforts are not directed solely toward undeveloped areas. Activities on the shoreline or within the drainage basin may adversely affect water quality, aquatic life or other...
resources of the Lake. Normal single family residential activities within the shoreline appear to have minimal negative effects on the resources of the Lake. Long Range planning should seek to minimize such adverse impacts.

The concept of conservation should also apply to structures or areas worth preserving for their historical, cultural, educational or scientific value. The use of some areas, either on a temporary basis for special events or festivals, or permanently for facilities reflecting our past or enhancing our future, are considered as reasonable and appropriate.

**GOAL**

*The resources and amenities of Lake Washington are to be protected and preserved for use and enjoyment by present and future generations.*

**POLICIES:**

1. Existing natural resources should be conserved, consistent with private property rights.
   
   a. Aquatic habitats, particularly spawning grounds, should be protected, improved and, if feasible, increased.
   
   b. Wildlife habitats should be protected, improved and, if feasible, increased.
   
   c. Unique and fragile areas should be designated and have been mapped. Access and use should be restricted if necessary for the conservation of these areas. The type and degree of development to be allowed should be based upon such factors as: slope, soils, vegetation, geology and hydrology.
   
   d. Water quality should be maintained at a level to permit recreational use (specifically swimming), provide a suitable habitat for desirable forms of aquatic life and satisfy other required human needs.

2. Existing and future activities on Lake Washington and its shoreline should be designed to minimize adverse effects on the natural systems.

3. Uses or activities within all drainage basins related to Lake Washington should be considered as an integral part of shoreline planning.
   
   a. Developers should be required to bear the cost of providing safeguards to prevent storm drainage damage resulting from their development.
   
   b. Excessive soil erosion and sedimentation and other polluting elements should be prevented from entering and adversely affecting the Lake and its constituent watercourses.
   
   c. Restoration of natural systems adversely affected by sedimentation and pollution should.

Comment [ts12]: Staff edit per 3-3-10 PC comment.
be encouraged.

d. The destruction of watercourses feeding into Lake Washington should be discouraged.

e. The planning and control of surface drainage water from Mercer Island into Lake Washington should be based on such factors as the quality and quantity of water, rate of flow and containment, etc. The latest applicable data should be used in the implementation of a storm drainage system.

4. Shoreline areas having historical, cultural, educational or scientific value should be protected and restored.
   a. Public and private cooperation should be encouraged in site preservation and protection.

   b. Suspected or newly discovered sites should be kept free from intrusion until their value is determined.

   c. Festivals and temporary uses involving public interest and not substantially or permanently impairing water quality or unique and fragile areas should be permitted.

RECOMMENDATIONS

1. Since the shorelines are valuable and fragile resources, Mercer Island should designate use regulations to minimize man-made intrusions on the shoreline. Conservancy environments should be designated and mapped where the natural conditions so indicate.

2. Unique and fragile areas on the Island’s shoreline should be further defined, inventoried and mapped by August, 1974.

3. Discharge of sewage (sewage is defined as treated or untreated wastes which do not meet Federal, State, or local standards for discharge in Lake Washington), waste, rubbish and litter from boats on Lake Washington should not be permitted. Pumping and tank facilities for the discharge of sewage, waste, rubbish and litter from boats equipped with marine toilets and/or galleys, should be provided in all new marinas or public moorages.

4. Comment should be solicited from Metro concerning proposed activities affecting water quality in Lake Washington or its tributaries.

5. Mercer Island should consider designating sites of historic value such as the passenger boat and ferry landings and areas of early settlement such as the Proctor, Callins and Olds homesteads.

6. Where appropriate, natural watercourses should be retained.

7. A watercourse ordinance to preserve the systems of natural drainage on the Island should be passed.
8. Information concerning the use of the State Open Space Taxation legislation of 1970, 1971, and 1973 should be made available to encourage preservation of unique and fragile areas.

9. The open space option of Mercer Island’s Ordinance 59, the Subdivision Ordinance, should be utilized for preserving unique and fragile areas.

PUBLIC ACCESS ELEMENT

The waters of Lake Washington are in the public domain and should be readily accessible to the public. As the population around Lake Washington grows, there will be an increasing need for public access to the shoreline. The Shoreline Management Act and the Final Guidelines make repeated reference to the issue of public access to the shoreline. In accordance with the Act, a Public Access Element has been included in this study. However, this situation is not unique to Lake Washington, and other planning efforts have addressed this challenge in a variety of ways.

The intent of the Shoreline Management Act and these goals and policies is not to reduce unlawfully the rights attached to private property to condone trespass, but rather to recognize and protect private property rights consistent with the public interest. The public access requirements of this section are not applicable to single family residences. The following goal and policies address the ability of the public to reach, touch, view, and travel on Lake Washington and to view the water and the shoreline from public places.

GOAL

*Increase and enhance public access to and along the Mercer Island Shoreline where appropriate and consistent with public interest, provided public safety, private property rights, and unique or fragile areas are not adversely affected.*

POLICIES:

1. Public access to and along the water’s edge should be consistent with the public safety, private property rights, and conservation of unique or fragile areas.

2. Public access to and along the water’s edge should be available in publicly owned shoreline areas.

3. In new substantial shoreline development, developers should be encouraged to provide public access to and along the water’s edge provided that no private property shall be taken involuntarily for public purposes without due compensation.

4. When substantial modifications or additions are proposed to substantial developments, the developer should be encouraged to provide for public access to and along the water’s edge if physically feasible provided that no private property be taken involuntarily without due compensation.

5. In new developments on the shoreline, the water’s edge should be kept free of buildings.
6. Where publicly owned shoreline areas are available for public pedestrian and bicycle pathways, these should be developed as close to the water’s edge as reasonable.

7. Views of the shoreline and water from shoreline and upland areas should be preserved and enhanced. Enhancement of views shall not be construed to mean excessive removal of vegetation.

8. Rights-of-way on the shoreline should be made available for public access where appropriate.

9. Access onto shoreline public street ends should be enhanced.

**RECOMMENDATION**

10. Consideration should be given to provisions for the handicapped, disabled, and elderly when developing public access to shoreline areas.

**RECREATION ELEMENT**

Mercer Island has approximately 15 miles of shoreline most of which is devoted to low density single family residences. It could be said that almost 100% of the developed shoreline of Mercer Island is devoted to water-dependent recreation, assuming that the waterfront residents find both active and passive enjoyment from their shoreline location. The remainder of the shoreline is set aside for public or semi-public water-related recreation except for a fraction which is utilized for bridge crossings and utilities. The latter, in some cases, is also available for public access to the water.

The City presently owns approximately 6,000 feet of shoreline which is developed as waterfront parks with facilities for swimming, fishing and car-top boat launching. **Beaches at Luther Burbank Park and Groveland Beach Park are staffed with lifeguards during the summer season.** Unguarded designated swimming areas also exist at Calkins Landing and Clarke Beach Park. **Dock facilities that serve fishing and other activities are located at Luther Burbank Park and Proctor Landing, and seasonally at Clarke and Groveland Beaches.** The City manages several summer camps for youth and adult with instruction on sailing and kayaking based at Luther Burbank Park.

Nineteen street ends of widths varying from 30’ to 75’ add an additional 600 lineal feet of shoreline to the public domain and provide the potential for considerable access to the water’s edge in all segments of the Island. Development of some street ends has been undertaken as a cooperative effort between the city and the adjacent neighborhoods. Some provide swimming access, others offer car-top launching access, others provide minimal access solely for passive enjoyment because of the limitation of size or topography, and lack of neighborhood interest and availability of funds. **Three street ends were re-developed in 2003, which included eliminating bulkheads and enhancing near shore habitat.**
There are three private waterfront clubs owning a combined 1,840 feet of frontage. They provide swimming, moorage, and boat launching facilities to a significant portion of the Island’s families.

Shorewood Apartments, Covenant Shores, a continuing care retirement community, owns approximately 650 feet of shoreline which serves as open space, swimming, picnicking, and moorage for its 690 residential units. Numerous private neighborhood waterfront “parks,” with shared access for neighboring residences, offering access to up, and residents exist along the shoreline.

Regarding waterfront recreation, The City of Mercer Island Parks and Recreation Plan, adopted in 2007, calls for Capital improvements at 2 waterfront facilities to enhance recreation opportunities. Shoreline restoration, swim beach enhancements and dock area improvements are anticipated at Luther Burbank Park, and improved boat launching and retrieval is anticipated with planned improvements at the Mercer Island Boat Launch. Future development of Luther Burbank Park is also subject to the Luther Burbank Master Plan.

The Mercer Island Park and Open Space Plan, adopted by the City in 1966, was specific in expressing the desire to acquire and develop waterfront parks and public access to the water’s edge. As of 1973 several of the plans have been implemented. Yet to be accomplished, is the goal to acquire a waterfront park in the East Seattle area, further utilize the street ends and provide public trailer boat launching facilities.

GOAL

Water-dependent recreational activities available to the public are to be encouraged and increased on the shoreline of Mercer Island where appropriate and consistent with the public interest.

POLICIES

1. Provide additional public water-oriented recreation opportunities.

2. Locate public recreational uses in shoreline areas that can support those uses without risks to human health, safety, and/or security, while minimizing effects on shoreline functions, private property rights, and/or neighboring uses.

4. Water dependent recreational activities should be increased and given priority.

b. a. Public shoreline parks should be increased in size and number.
e. Additional swimming areas should be developed on the shoreline.

e. Recreational fishing should be maintained or increased.

d. Recreational boating activities should be encouraged as long as they are compatible with other uses. Day moorage should be a permitted use in recreational areas where feasible except in unique and fragile areas.

e. Accommodations should be made for launching small water craft at public shoreline parks and street ends where feasible.

2. Open space and opportunity for passive forms of recreation should be encouraged and increased.

3. Retention of some public shoreline in a nearly natural state is desirable.

4. Based on the Mercer Island Comprehensive Plan, the appropriate governmental agency should avail itself of the earliest opportunity to acquire shoreline when available. See Recommendations.

5. Mercer Island and other appropriate governmental agencies should join in a cooperative effort to expand recreational opportunities through programs of acquisition, development, and maintenance of waterfront areas.

6. Semi-public water-dependent recreational facilities (e.g., private beach clubs, yacht clubs, etc.) should be permitted and recognized as providing access to the water for a segment of the population of Mercer Island and should be recognized as providing a vital part of the island’s recreational facilities.

7. Every opportunity should be taken to acquire private recreational facilities if they are likely to be developed for other than recreational purposes.

8. Recreational shoreline activities adjacent to residential uses are not to constitute a public nuisance.

RECOMMENDATIONS:

1. The Mercer Island Park and Open Space Plan should be coordinated with appropriate, adopted regional plans.

2. Early efforts should be made to suitably develop presently held public shoreline for water-dependent public recreational uses and open space.

3. Cooperation between the City of Mercer Island and neighborhoods should be continued in the
— planning and development of small neighborhood parks and street ends.

4. Mercer Island should cooperate with other governmental agencies to undertake studies to determine the optimum level of boating activity on Lake Washington.

5. Rental or provision of small, non-motorized water craft and water-related recreational equipment should be made available at several waterfront parks when feasible.

6. Small non-motorized water craft are nondestructive to the shoreline environment and such boating activity should be shown preference by policies governing waterfront recreation facilities.

7. The designation of underwater areas for skin or scuba diving should be considered.

8. Interest in fishing for bass, perch, crappie, and other under-utilized species should be stimulated through community education.

9. Procedures should be developed for real estate agencies to notify public agencies when waterfront property is available for purchase.

RESIDENTIAL ELEMENT

Residential development presently accounts for over 85% of Mercer Island’s wetland area. Single-family dwellings comprise the majority of this use with Shorewood Apartments being the only multi-family use. The Shoreline Management Act specifically excludes individual homes in the permit process, but the Act does not exclude other types of residential development, such as multi-family structures or residential subdivisions. Inasmuch as the Act encourages the inclusion of elements deemed sufficiently important or necessary, although not specifically named therein, the Residential Element is included herein. Present residential zoning on Mercer Island’s shoreline is for single family dwellings, residential uses, and conditional uses that are complementary to the single family environment, such as public parks, private recreational areas, retirement homes located on properties used primarily for a place of worship, and noncommercial recreational areas. It should be noted that some of the shoreline is not yet developed as intensely as it could be under existing zoning. Several large shoreline properties now used by one family could be subdivided to allow from one to three additional residences.

GOAL

Existing residential uses are to be recognized, and new residential construction will be subject to certain limitations where applicable.

POLICIES
1. Existing single-family residential uses will be protected. New construction or modifications shall be allowed within the framework of the policies in this document and City Ordinance.

2. New residential uses over water will not be permitted.

3. In single-family developments within the shoreline, the water’s edge should be kept free of buildings other than components required for boat and equipment storage. Such components should be screened by appropriate landscaping. Single-family uses may include fences or other means to minimize trespassing and provide protection.

4. Public access to and along the water’s edge should be encouraged in the design of multi-family structures, subdivisions of five or more lots, and planned unit developments occurring on the shoreline, provided that no private property shall be taken involuntarily without due compensation.

5. Public access does not include the right to enter upon single-family residential property without the permission of the owner.

RECOMMENDATIONS

1. The Mercer Island Planning Department should have information available for shoreline homeowners regarding the enhancement of fish and wildlife habitats, especially at the water’s edge.

2. Consideration should be given to revising the Mercer Island Zoning Code regarding back yard structures to reflect the intent of Policy No. 2. Boat houses on the water’s edge should be considered as an alternative to, not in addition to, a boat moorage.

3. The Planning Commission should consider actions to clarify the City Zoning Code to provide for a minimum twenty-five (25) foot setback from the water’s edge for all primary residential structures and appropriate accessory structures.

ECONOMIC DEVELOPMENT ELEMENT

Economic development of the shorelines of Mercer Island is essentially non-existent. Such shorelines and associated wetlands, being zoned single-family and multi-family residential, preclude economic development other than that associated with recreation. Thus, zoning and the Comprehensive Plan do not allow for economic development on the shoreline of Mercer Island.

GOAL

Existing economic uses and activities on the shorelines of Mercer Island are to be recognized. Economic uses or activities that are not dependent upon a Mercer Island Shoreline location are to be discouraged.
POLICIES

1. Shoreline economic uses and activities on Lake Washington should locate where commercial or industrial areas exist.

2. Economic uses and activities which do not depend on a Mercer Island shoreline location shall not be permitted.

3. Drilling for oil or gas and deep or surface mining for minerals is prohibited in the shoreline areas of Mercer Island.

CIRCULATION ELEMENT

Lake Washington is a 22,139 acre body of water located in the midst of an urban area. An extensive network of transportation routes exists around and across the Lake. Although transportation facilities were developed in response to projected demands, these facilities have in turn helped generate additional transportation needs. For example, construction of the Lake Washington bridges has permitted the eastern portion of the region to change from a low density, summer home area to a higher density, suburban/commercial area. This increase in activity has resulted in suggestions for third and fourth bridges crossing the Lake. Lake Washington itself is a navigable body of water and is connected to Puget Sound by a system of canals and locks. Although some commercial navigation does occur, most of the boating activities in Lake Washington and recreational in nature. Seaplane activity is also present on the Lake, and three airfields are located on the shoreline. The automobile, however, is the predominant means of transportation to, from, around and across the lake. Our heavy reliance on the automobile has contributed to problems in air quality, fuel supply and traffic congestion. In the long-term, urban areas should look toward providing alternatives to the automobile as the primary means of transportation.

Principal transportation routes on Mercer Island include Interstate 90, a highway that crosses Lake Washington via Mercer Island and two connecting bridges, and a series of arterial roads that follow the shoreline around the Island a short distance inland. Thus, shoreline-related roads form an important element of principal transportation routes on the Island. In addition, numerous lateral roads connect the shoreline following arterials with properties along the water's edge, and frequently provide public access to the lake through developed and undeveloped street ends as well as visual access to the lake.

A rudimentary system of pedestrian and bicycle ways has gradually developed along portions of the shoreline following arterials; more definitive development of such ways is planned via the City’s Pedestrian and Bicycle Facility Plan. Metro buses provide important modes of on-Island transportation as well as access to neighboring municipalities and employment centers. Other forms of transportation are non-existent, except for privately owned boats and a few seaplanes along the shore.
GOAL

A balanced transportation system for moving people and goods is to be encouraged within existing corridors.

POLICIES

1. Develop efficient circulation systems in a manner that assures the safe movement of people and goods while minimizing adverse effects on shoreline use, developments and shoreline ecological functions.

2. Provide and/or enhance physical and visual public access to shorelines along public roads in accordance with the public access goals.

3. Encourage shoreline circulation systems that provide alternative routes and modes of travel, including non-motorized travel.

1. Roadways serving shoreline areas should be developed principally as scenic avenues rather than major arterials.

2. Public transportation should be provided to facilitate access to recreation areas on the shoreline.

3. Pedestrian and bicycle pathways, including provisions for maintenance, operation and security, should be developed around and across the Lake, consistent with private property rights.

Access points to and along the shoreline should be linked by pedestrian and bicycle pathways developed as close to the water’s edge as reasonable.

Pedestrian and bicycle pathways should be included in new or expanded bridges.

Pedestrian and bicycle pathways should be included in publicly financed transportation systems or rights of way, consistent with public interest and safety.

4. Provisions for METRO Public Transit should be implemented in transportation facilities crossing Mercer Island.

5. No new regional vehicular traffic corridors should be opened across Mercer Island’s shoreline.

a. The width of the I-90 corridor shall be limited to that approved by the City of Mercer Island as stated in Mercer Island Resolution 595 adopted September 24, 1973.

b. Future regional requirements for moving people through Mercer Island’s shorelines shall be limited to public mass transit systems constructed within the approved I-90 corridor.

6. Commercial aircraft facilities on the shoreline should not be permitted.
7. Moorage, storage, servicing and operation facilities for ocean-going or commercial ships and barges should not be permitted on the shoreline.

8. Proposals for additional transportation across Lake Washington should consider alternative modes above, on, or below the surface of the Lake.

9. Cross-lake transportation facilities must be designed to minimize the increase in noise, air or water pollution above existing levels and, in addition, must reduce to the maximum extent, similar impacts from existing facilities via upgrading and improvement.

RECOMMENDATIONS

1. Mercer Island should cooperate with Metro to coordinate public transportation routes with public access points along the shoreline.

2. Mercer Island should coordinate with King County and neighboring communities in the implementation of its Trails Plan when feasible.

3. The connection of upland trails on the Island to the shoreline activity nodes and pedestrian and bicycle pathways, along the Mercer Ways, should be encouraged and developed.

4. To assist in developing pedestrian and bicycle pathways, easements along rights-of-way should be obtained and incentives should be offered to property owners for utilizing setback areas.

5. Mercer Island and other governmental agencies should consider using waterborne modes of transporting commuters and sightseers in a manner compatible with environmental quality and recreational activity. Such considerations should include terminals and connections.

COMPONENTS

Lake Washington’s shoreline has been recognized as a “valuable and fragile resource” by the Shoreline Management Act of 1971. The extent and the desirability of man-made modifications to these shorelines has not yet been determined. Although several studies relative to this issue have been made, are being conducted, and are envisioned, it is unlikely that any conclusive evidence will be available in the near future.

In instances where the literal interpretation of the policies in the Components Element create a demonstrated hardship, unique to an individual property, relief may be sought through the variance process as delineated in the Variance and Conditional Uses Section, pages 38 and 39.

POLICIES

Activities, Conservation, Public Access, NOTE: The policies set forth within the following Elements—Shoreline Uses and Components—are to apply to all uses and activities contained within this document. The policies under this heading are to apply to all components.
1. Components in or near the water should not be constructed from materials which have significant adverse physical or chemical effects on water quality, vegetation, fish and/or wildlife.

2. Components should be discouraged in unique or fragile areas, unless it can be shown that measures can be taken to adequately mitigate all related adverse impacts.

3. Components should be designed to permit normal circulation of water, sediments, fish and other aquatic life in and along the shoreline area.

4. High rise structures should be prohibited on the shoreline.

5. Shoreline low-rise development should provide substantial grade level views of the water from public shoreline roads running generally parallel to the water’s edge.

6. Enclosed overwater structures should not be allowed except when overriding considerations of the public interest are served. This would not preclude the use of covered, unenclosed moorage’s.

7. Substantial repairs or alterations to nonconforming structures should be in conformance with the policies contained herein.

8. Non-conforming shoreline structures which receive little use and/or are in a general state of disrepair should be abated within a reasonable period of time.

RECOMMENDATIONS:

1. The Component Section of this document should be reviewed and modified as necessary at the completion of the research program being undertaken by the cooperative Fishery Unit at the University of Washington, and any other relevant studies.

2. Site planning should include setbacks from the shoreline. Landscaping should also be considered as a method of retaining a sense of nature in developed shoreline areas. Retention of trees and other natural vegetation should be encouraged where possible, particularly in those areas in or adjacent to marshes, wetlands, or other areas of ecological and environmental significance. (Note: all site planning, landscaping, and development for non-single family uses is subject to review by the Design Commission under Ordinance No. 297 and the Design Commission Guidelines.)

LANDFILL AND DREDGING

Landfill is usually contemplated in locations where the water is shallow and where rooted vegetation often occurs. In their natural condition these same areas provide suitable habitat for
fish and wildlife feeding, breeding and shelter. Biologically the shallow vegetation areas tend to be highly productive portions of the Lake. For these reasons governmental agencies and scientific experts have generally taken a stand against landfill.

In most cases when dredging is done it also occurs in shallow areas and may disturb the environment in the following ways: 1) temporary reduction of water clarity from suspended sediments, 2) losses in aquatic plants and animals by direct removal or from the sedimentation of suspended materials, 3) alteration in the nutrient and oxygen levels of the water column, and 4) suspension of toxic materials from the sediments into the water column.

Mercer Island has some uneven shorelines due to the historically varying degrees of control over filling and bulkheading beyond the ordinary high-water line. In some instances, it may be appropriate to bulkhead and do minor landfill. These instances may include, but not be limited to, provision of protection of slide prone areas where necessary and to add to or repair failing bulkheads. These and other unusual situations in which the literal interpretation of the Shorelines Master Program, Guidelines or Mercer Island Goals and Policies creates a demonstrated hardship can be addressed through variance procedures. (Note: See Variance and Conditional Uses Section)

POLICIES

1. Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.
2. Fills waterward of the ordinary high-water mark shall be allowed only when necessary to support: water-dependent use, public access, cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan, disposal of dredged material considered suitable under, and conducted in accordance with the Dredged Material Management Program of the Department of Natural Resources, expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible, mitigation action, environmental restoration, beach nourishment or enhancement project. Fills waterward of the ordinary high-water mark for any use except ecological restoration should require a conditional use permit.
3. Dredging and dredge material disposal shall be done in a manner which avoids or minimizes significant ecological impacts and impacts which cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.
4. New development should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging. Dredging for the purpose of establishing, expanding, or relocating or reconfiguring navigation channels and basins should be allowed where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.
5. Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the
restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high-water mark. The project must be either associated with a MTCA or CERCLA habitat restoration project or, if approved through a shoreline conditional use permit, any other significant habitat enhancement project.

Landfill and dredging should be prohibited in unique or fragile areas.

2. Landfill or dredging should not be permitted except in the following cases, and even then should generally be discouraged.

a. Landfill or dredging may be permitted where necessary for the development and maintenance of public shoreline parks.

b. Landfill or dredging may be permitted where necessary to improve water quality where no other possible alternatives are available.

c. Replenishing sand on public and private community beaches should be allowed.

d. Landfill or dredging may be permitted where additional public access is provided, and/or where there is anticipated to be a significant improvement to fish or wildlife habitat; provided there is no major reduction upon the surface waters of the Lake.

3. Dredging spoils should be deposited on approved dumping sites. Dumping sites should not be allowed in the Lake or in unique or fragile areas.

4. Dredging should be permitted to maintain water flow, navigability, and water depth in cases of water course siltation.

5. Dredging for the purpose of obtaining fill or construction material should be prohibited.

RECOMMENDATIONS

1. When reviewing applications for landfill intended to improve water quality, Mercer Island Planning Department should consult with appropriate governmental agencies to determine the necessity and proper location for such fill.

2. Appropriate governmental agencies and local jurisdictions should approve funding and/or personnel to undertake a short term study on the biological impacts of dredging and landfills and to devise suitable criteria or guidelines for such activities.

SHORELINE PROTECTIVE STRUCTURES STABILIZATION

Shoreline protective structures are used to diminish the destructive forces of waves and currents.
on beaches, to protect anchorages, to encourage the deposition of littoral materials or, in some cases, for purposes of convenience of appearance. Although these structures protect the backshore, they may also encourage scouring or erosion on adjacent shoreline or submerged land.

On Mercer Island individual situations and related problems may dictate that the repair of bulkheads or placing of new ones in order to control slides may occur very near to, rather than precisely at, the ordinary high water line. Such minor deviations should remain within the province of the City Planning Department discretion. However, in any other instances where significant changes occur to the water side of the ordinary high water line, these can be addressed through variance procedures.

**BULKHEADS**

The purpose of a bulkhead is to stabilize land at the water’s edge to prevent erosion. When structures reflect rather than absorb wave energy, the destructive forces are largely redirected. In some cases, bulkheads transmit wave energy downward, thereby eroding the beach at the base of the structure. Sloping, permeable structures, on the other hand, absorb wave energy, reduce wave run-up, and minimize scouring action at the base. In cases where bulkheading is permitted, scientific information suggests a rock riprap design should be preferred. The cracks and openings in such a structure afford suitable habitats for certain forms of aquatic life.

At times bulkheads are built out into the water in conjunction with landfill for the purpose of creating new dry land areas. However, this is being discouraged at all levels of jurisdiction concerned with shorelines.

The following policies address shoreline stabilization.

**POLICIES**

1. Construction or repair of bulkheads should not extend into the Lake beyond the existing high water line, except as approved by a variance or in the case of approved landfill.

2. The use of vegetation for stabilizing the water’s edge from erosion should be encouraged with the use of bulkheads.

3. Bulkheads at the water’s edge should be designed to minimize the transmission of wave energy to other properties.

4. Bulkheads and landfill may be permitted to restore lands lost to erosion within one year of the date that erosion occurred. A one year extension for a reasonable cause may be granted by the local jurisdiction. The applicant is responsible for demonstrating the severity and extent of such erosion.

5. Breakwaters should generally be discouraged. In those limited instances where breakwaters are permitted, a floating design is preferred unless such a design is not technically or...
6. There should be no construction of jetties, groins, or other protective structures unless there is a demonstrated need for such structures and no preferable alternatives are available.

RECOMMENDATIONS

1. Appropriate governmental agencies should be encouraged to undertake a study on the short-term and long-term effects of breakwaters, bulkheads, and other shoreline protective structures in order to develop suitable criteria or guidelines for their construction. It is recommended that bulkheads be of sloping rock riprap design.

3. It is recommended that policy be developed on the issuance of variances for bulkheads to cover such instances as those in which lands are lost to erosion where a suitable building site does not exist. Further, bulkheads or landfills may be permitted out to a line connecting existing immediately adjoining neighboring bulkheads through the variance procedures.

1. Non-structural stabilization measures are preferred over “soft” structural measures. Soft structural measures are preferred over hard structural measures.

PIERS AND MOORAGES

The following policies address piers and moorages. A majority of the single family properties on the shoreline have piers and/or moorages. The only multi-family areas, Shorewood, also has piers along its waterfront area. These waterfront components provide desirable facilities to the property owners but may, at some future date, if totally uncontrolled, result, in some undesirable consequences for the Lake and the community. Further, the Shoreline Management Act directs the Local Master Program to address itself to this possibility. Therefore, it is appropriate to consider additional piers and/or moorages in light of future as well as existing uses and patterns and further, to provide general guidelines and controls for issuing permits and reviewing new development proposals.

Existing City zoning codes contain sections on pier length and setbacks as well as moorages. These should be reviewed in light of the recommendations contained in this Master Program. In addition, any relevant data generated from local and regional studies on piers and moorages should be considered in the periodic updating of the Mercer Island Master Program.

POLICIES

1. New piers and docks shall be allowed only for water-dependent uses or public access. Piers and docks associated with single family residences are considered a water-dependent use.

2. Piers and docks shall be designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to ecological functions.
Construction of new or expanded piers should generally be regulated, and the following limitations shall apply:

Piers should be allowed only for moorage of pleasure craft, for water-dependent recreation, for water-dependent economic activities, for utility maintenance, or for required emergency vessels.

Temporary moorages may be permitted for vessels used in the construction of shoreline facilities.

Adjoining waterfront property owners should be encouraged to share a common pier.

The size and extent of a pier should not exceed that which is required for the water-dependent purposes for which it was constructed.

In multi-family or condominium developments the ratio of moorage berths to residential units should be equal to or some fraction less than one.

2. The use of buoys for moorage should be considered as an alternative to the construction of piers for this purpose. Such buoys should be placed as close to shore as possible in order to minimize hazards to navigation.

3. Exterior lighting utilized in conjunction with piers and waterfront structures should be directed away from adjacent property and the water wherever offensive.

RECOMMENDATIONS

1. Mercer Island should establish uniform standards governing the design of piers including criteria for length, width, location, density, and floating versus pile construction. It should be noted that floating piers can be rearranged, removed or relocated as needs or regulations change.

2. Consideration should be given to revising Ordinance 15, the Zoning Code, to
reduce setbacks along property lines for piers from ten (10) feet to zero (0) feet.

3. Regulation of spacing between piers and total number of piers in a designated distance should be considered.

4. Study and consideration should be given to revising Ordinance 15, the Zoning Code, as it prescribes dock length at 100 feet. Dock length should be related to intended use and water depth which may be greater or less than that prescribed by the Code.

UTILITIES

The following policies address utilities. Utilities are services which produce or carry electric power, gas, sewage, water, communications or oil products. The potential exists for combining some of these uses with other shoreline uses, including public access.

Although the diversion of sewage away from Lake Washington has substantially improved water quality in the Lake, storm sewers continue to affect water quality. As rain and other waters pass over impervious land surfaces, these waters pick up large quantities of sediments, oil, litter, heat and other contaminants. The impact of surface runoff from construction sites is of particular concern. Excessive quantities of suspended solids and oil are carried away and may significantly affect the quality of the receiving waters and associated aquatic life.

It should be noted that the Federal Water Pollution Control Act of 1972 may apply to surface runoff if there is a recognizable source of contamination (for example, business districts, parking lots, major land developments, and others). But the issue is complicated by the fact that much contamination comes from numerous sources which are small and often very difficult to identify.

POLICIES

1. Utility facilities should be designed and located to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations.

2. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible, and when necessarily located within the shoreline area, shall assure no net loss of shoreline ecological functions.

3. Utilities should be located in existing rights of way and corridors whenever possible.

4. Whenever possible, consolidation of utilities should be encouraged within rights of way.
2. These facilities should be placed underground, except where it is clearly technically and economically not feasible.

3. After completion of installation or maintenance of these facilities, the shoreline area should be restored to its pre-project condition. If the previous condition is identified as being undesirable, then landscaping and other improvements should be undertaken.

4. In all new developments, the developer should install means to control the entry of contaminants into the Lake within acceptable water quality standards.

5. Prior to construction of major new outfalls, water circulation studies should be conducted to determine the best shoreline location for such facilities.

6. Major shoreline outfalls should be designed and constructed to minimize damage to the lake’s edge and be placed below the surface of the Lake where feasible.

RECOMMENDATIONS

1. The proliferation of impervious surfaces in the drainage basins serving Lake Washington should be kept to a minimum.

2. Whenever possible contaminants should be removed from surface runoff at the source of contamination. Methods of removing contaminants include oil skimmers, sediment traps, and street sweeping.

3. When contemplating the construction of a major new outfall, Metro and other appropriate governmental agencies should be consulted regarding the appropriate location and design for the outfall.

PARKING

The following policies address parking. Whether for work or leisure time, many people reach the shoreline by automobile. The use of shoreline areas for parking, however, precludes other more appropriate uses of the land. Since landfill as a means of increasing dry land areas is to be discouraged, the storage space for automobiles is limited. Thus, the number of required parking spaces for new construction can severely restrict the density in many developments.

The use of the automobiles as the primary mode of transportation is expected to continue. Any reliable public transportation system may take years to develop. The problem of the automobile as a major waterfront land user may increase as the demand for various waterfront uses and activities increases.
Parking facilities for motor vehicles or boat trailers should be minimized in the shoreline area.

a. Parking facilities should not be permitted along the water’s edge.

b. Upland parking facilities for shoreline activities should provide adequate pedestrian access to the shoreline.

c. Upland parking facilities should be designed and landscaped to minimize adverse impacts on the shoreline and adjacent lands.

d. Parking facilities shall be planned, located and designed where they will have the least possible adverse effect on unique or fragile shoreline features, and will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

e. Parking facilities in shorelines shall minimize the environmental and visual impacts.

BOAT LAUNCHING FACILITIES

The following policies address boat launching facilities. Boating is a popular form of recreation in the Lake Washington area, and demand for boating is expected to increase as the population in the region grows. The use of boat launching facilities permits dry land storage of vessels and reduces the need for marinas and piers. At present there are 41 public boat launching ramps on Lake Washington; however, none exist on Mercer Island at present. The proposed Comprehensive Plan envisions two areas for boat launching and water-related recreation under the future I-90 bridge approaches.

POLICIES

1. Regional boat launching facilities should be provided which are adequate for the needs and carrying capacity of the Lake subject to other policies herein governing land and water use.

2. Boat launching facilities should not be constructed in unique and fragile areas.

3. Boat launching facilities should be separated from swimming areas wherever possible.

RECOMMENDATIONS

1. Mercer Island should consider the feasibility of developing one or two of their shoreline street ends for car-top boat launching.

2. Mercer Island and appropriate governmental agencies should join together in a
Lake-wide study which would optimize the number of boat launching facilities on Lake Washington.

3. Boat launching ramps should only be provided after provisions for adequate parking, screening, and landscaping have been made.

**SIGNS**

Signs are public displays whose purpose is to provide information, direction, identification and advertising. Mercer Island has developed an Ordinance (No., 297) creating a Design Commission. The Ordinance enjoins the Commission to control all signs within the public and private sectors (except traffic control), to assure uniform application to achieve a desirable, balanced environment. Form, proportion, color, material, surface treatment, and position will be considered in each case. The criteria used for Design Commission sign review are the interim sign guidelines developed as a part of the Mercer Island Design Guidelines.

**POLICIES**

1. Off-premise and non-appurtenant signs are prohibited on the shoreline.

2. Illuminated or free standing signs or any signs extending above roof lines should be prohibited on the shoreline except for required navigational aids.

3. Advertising signs, when permitted, and approved by the Design Commission, should be limited to areas of high-intensity land use, and should be stationary, non-blinking, and a size commensurate with the structure to which it is fixed.

4. Signs advertising the sale of property are not prohibited provided they do not exceed 6 sq. ft. (e.g.: 2’ x 3’), and are limited to one street side and one water side sign.

**APPENDIX A**

Mercer Island’s Comprehensive Plan and Zoning Ordinance preclude economic uses of shorelines such as those permitted in Business, Planned Business, or Commercial-Office zones and community values have clearly shown an intent to perpetuate this land use pattern. However, the Regional Master Program, and, in particular, the Economic Element thereof, addresses potential development that may have a significant impact on the waters of Lake Washington and the shoreline. For these reasons the Regional Economic Element is contained herein to indicate Mercer Island’s concern for major developments that may affect the quality of Lake Washington and its tributaries.
Moorage Facility: Any device or structure used to secure a boat or a vessel, including piers, docks, piles, lift stations or buoys.

Must: means a mandate; the action is required.

Nonwater-oriented uses: means those uses that are not water-dependent, water-related, or water-enjoyment.

Ordinary High Water (OHW): The point on the shore that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter in accordance with permits issued by a local government or the department.

Public Access: A means of physical approach to and along the shoreline, or other area, available to the general public. Public access may also include visual approach.

Restoration or ecological restoration: means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

Shall: means a mandate; the action must be done.

Shoreline areas and shoreline jurisdiction: means all shorelines of the state and shorelands as defined in RCW 90.58.030.

Shoreline master program or master program: means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

Shoreline modifications: means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

Should: means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

Water-Dependent: A use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, the I-90 bridges, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

Water-enjoyment use: means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for
recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

- **Water-oriented use**: means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.
- **Water-related use**: means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because: (a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or (b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient. Washington State Shoreline Master Program Guidelines, Chapter 173-26 WAC 100 of 100.

- **Waterfront Structure**: Docks, piers, wharves, floats, mooring piles, anchor buoys, bulkheads, bridges, submerged or overhead wires, pipes, cables, and any other object passing beneath, through or over the water beyond the line of ordinary high water.

- **Waterward**: Any point located in Lake Washington, lakeward from the ordinary high water mark.

### B. Shoreline Designated Environments.

1. **Designated Environments**: Different areas of the city's shoreline have different natural characteristics and development patterns. As a result, two shoreline designated environments are established to regulate developments and uses consistent with the specific conditions of the designated environments and to protect resources of the Mercer Island shoreline jurisdiction. They are:
   - a. **Urban Park**: This environment consists of shoreline areas designated for public access and active and passive public recreation. It includes, but is not limited to, street ends, public utilities and other publicly owned rights-of-way. The uses located in this environment should be water-dependent and designed to maintain the natural character of the shorelines.
   - b. **Urban Residential**: The purpose of this environment is to provide for residential and recreational utilization of the shorelines, compatible with the existing residential character in terms of bulk, scale and type of development.

2. **Shoreline Environment Map**: The map in Appendix F of this development code is the official map of the city designating the various shoreline environments and the shoreline jurisdiction within the city.

3. **Permit Requirements for Shoreline Uses and Development within the Designated Environments**: All proposed development within the shoreline jurisdiction shall be consistent with the regulations of this Shoreline Master Program, the Shoreline Management Act of 1971 and the Mercer Island development code. In addition all
development shall conform to permit requirements of all other agencies having jurisdiction within the designated environments.

The following table specifies the shoreline uses and developments which may take place or be conducted within the designated environments. It also specifies the type of shoreline permit required and further states the necessary reviews under the State Environmental Policy Act (SEPA). The uses and developments listed in the matrix are allowed only if they are not in conflict with more restrictive regulations of the Mercer Island development code and are in compliance with the regulations specified in subsection D of this section.

<table>
<thead>
<tr>
<th>Shoreline Use</th>
<th>Urban Park Environment</th>
<th>Urban Residential Environment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family residential and associated appurtenances</td>
<td>NP</td>
<td>CE or SDP if the construction is not by an owner, lessee or contract purchaser for his/her own use or if alteration applies.</td>
</tr>
<tr>
<td>Multifamily residential</td>
<td>NP</td>
<td>SDP, SEPA</td>
</tr>
<tr>
<td>Public and private recreational facilities and parks</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
</tr>
<tr>
<td>Moorage facilities (including piers, docks, piles, lift stations, or buoys)</td>
<td>SDP, SEPA</td>
<td>SDP, SEPA</td>
</tr>
<tr>
<td>Commercial marinas, moorage and storage of commercial boats</td>
<td>NP</td>
<td>NP</td>
</tr>
</tbody>
</table>

Key:
- CE: Categorically Exempt
- SEP: Shoreline Exemption Permit
- SDP: Substantial Development Permit
- SEPA: Required Review under the State Environmental Policy Act
- NP: Not Permitted Use

The regulations of the shoreline master program apply to all shoreline uses and development, whether or not that development is exempt from the permit requirements (CE, SEP, or SDP).
and ships

| Bulkheads and shoreline protective structures | SDP, SEPA | SEP, SEPA |
| Breakwaters and jetties | NP | NP |
| Utilities | SDP, SEPA | CE, SEP or SDP, SEPA |
| Dredging | SDP, SEPA | SDP, SEPA |
| Alterations over 250 cubic yards – outside the building footprint | SDP, SEPA | SDP, SEPA |

If a use is not listed in this matrix, it shall be considered as a conditional use, pursuant to WAC 173-26-160.

C. Administration and Procedures.

1. Administrative Responsibility. Except as otherwise stated in this section, the code official is responsible for:
   a. Administering the shoreline master program.
   b. Approving, approving with conditions or denying shoreline exemption permit, substantial development permits, variances and permit revisions in accordance with the provisions of this shoreline master program.
   c. Determining compliance with Chapter 43.21C RCW, State Environmental Policy Act.

2. Permits and Decisions. No development shall be undertaken within the shoreline jurisdiction without first obtaining a permit in accordance with the procedures established in the shoreline master program. In addition such permit shall be in compliance with permit requirements of all other agencies having jurisdiction within the shoreline designated environment.

   a. Shoreline Exemption Permit. A shoreline exemption permit (SEP) may be granted to the following development as long as such development is in compliance with all applicable requirements of this shoreline master program, the city of Mercer Island development code and WAC 173-27-040:

      i. Any development of which the total cost or fair market value, whichever is higher, does not exceed $5,718 or as periodically revised by the Washington State Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state;

      ii. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. “Normal maintenance” includes those usual acts established to prevent a decline, lapse, or cessation from a lawfully established condition. “Normal repair” means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment. Normal maintenance of single-family dwellings is categorically exempt as stated above;

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||Chfs1\share\DSS\Planning\Grants\2007 SMP\Code Changes\MICC Changes\Chapter 19.07 as Amended by PC on 2-17-10.docx
iii. Construction of the normal protective bulkhead common to single-family dwellings. A “normal protective” bulkhead is constructed at or near the ordinary high water mark to protect a single-family dwelling and is for protecting land from erosion, not for the purpose of creating land. Where an existing bulkhead is being replaced, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings;
iv. Emergency construction necessary to protect property from damage by the elements. An “emergency” is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this section;
v. Construction or modification of navigational aids such as channel markers and anchor buoys;
vi. Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single-family dwelling, for which the cost or fair market value, whichever is higher, does not exceed $10,000;
vii. Any project with a certification from the governor pursuant to Chapter 80.50 RCW.

If a development is exempt from the requirements of the substantial development permit, but a deviation or variance from the provisions of the shoreline master program is required, the applicant must request said deviation or variance through the procedures established in this section.

b. Substantial Development Permit. A substantial development permit (SDP) is required for any development within a shoreline jurisdiction not covered under a categorical exemption or shoreline exemption permit. Requirements and procedures for securing a substantial development permit are established below. Compliance with all applicable federal and state regulations is also required.

c. Deviations and Deviation Criteria. The city planning commission shall have the authority to grant deviations from the regulations specified in Table B in subsection D of this section; provided, the proposed deviation:

i. Will not constitute a hazard to the public health, welfare, and safety, or be injurious to affected shoreline properties in the vicinity;
ii. Will not compromise a reasonable interest of the adjacent property owners;
iii. Is necessary to the reasonable enjoyment of property rights of the applicant; and
iv. Is not in conflict with the general intent and purpose of the SMA, the shoreline master program and the development code.

d. Variances and Variance Criteria. Variances to the shoreline master program requirements are only granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In addition, in all instances the applicant for a variance shall demonstrate strict compliance with all variance criteria set out in MICC 19.15.020(G)(4) and the following additional criteria:

i. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional request for like actions in the area. For example if variances were granted to other developments in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
ii. Variance permits for development that will be located landward of the ordinary high water mark may be authorized; provided, the applicant can demonstrate all of the following:

(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes or significantly interferes with reasonable use of the property not otherwise prohibited by the master program;

(b) That the hardship in subsection (C)(2)(d)(ii)(a) of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant’s own actions;

(c) That the design of the project is compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment;

(d) That the requested variance does not constitute a grant of special privilege not enjoyed by the other properties in the area, and is the minimum necessary to afford relief; and

(e) That the public interest will suffer no substantial detrimental effect.

iii. Variance permits for development that will be located waterward of the ordinary high water mark may be authorized; provided, the applicant can demonstrate all of the following:

(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes reasonable use of the property not otherwise prohibited by the master program;

(b) That the proposal is consistent with the criteria established under subsections (C)(2)(d)(ii)(b) through (e) of this section; and

(c) That the public rights of navigation and use of the shorelines will not be adversely affected.


Step 1. Application.

The applicant shall arrange a preapplication meeting for all substantial development permits, deviations and variances. Upon completion of the preapplication meeting, a complete application including the required processing fees shall be filed with the city on approved forms to ensure compliance with development codes and standards. A complete application for the shoreline exemption permit (SEP), substantial development permit (SDP), or variance and SEPA checklist, if applicable, shall be filed with the city on required forms.

SEP Review Process: The city shall issue or deny the SEP within 10 calendar days of receiving the request, or after SEPA review. The city shall then send the SEP to the applicant and the Department of Ecology, pursuant to WAC 173-27-130, and to all other applicable local, state, or federal agencies.

Step 2. Public Notice.

Public notice of an application for a substantial development permit shall be made in accordance with the procedures set forth in MICC 19.15.020; provided, such notice shall be given at least 30 days before the date of final local action.

If an application is not exempt from SEPA and no prior SEPA notice has been given, the city shall publish the SEPA determination and a notice that comments on the SEPA
documents may be made during the review of the SDP, deviation and variance application.

Within 30 days of the final publication, posting or mailing of the notice, whichever comes last, any interested person may submit written comments on the proposed application. The city will not make a decision on the permit until after the end of the comment period.

Step 3. Review.

The Shoreline Management Act does not require that public hearing be held on SDP and/or variance application. The technical review of SDP and/or variance must ensure that the proposal complies with the criteria of the shoreline master program, Shoreline Management Act policies and all requirements of the city of Mercer Island development code.

An open record hearing before the planning commission, as set out in MICC 19.15.020(F), shall be conducted on all deviation applications and may be conducted on the SDP or variance application when the following factors exist:

(a) The proposed development has broad public significance; or
(b) Within the 30-day comment period, 10 or more interested citizens file a written request for a public hearing; or
(c) The cost of the proposed development, exclusive of land, will exceed $100,000.

Step 4. Decision.

After the 30-day comment period has ended, the city shall decide whether to approve or deny any SDP, deviation and/or variance application, unless the applicant and any adverse parties agree in writing to an extension of time with a certain date.

The city’s action in approving, approving with conditions, or denying SDP, deviation and/or variance shall be given in writing in the form required by WAC 173-27-120 (or its successor) and mailed to the applicant, all persons who submitted written comments, the Department of Ecology, the Washington State Attorney General, and all other applicable local, state, or federal agencies.

The city’s action in approving, approving with conditions, or denying any SDP and/or deviation is final unless an appeal is filed in accordance with applicable law.

The final decision in approving, approving with conditions, or denying variance is rendered by the Department of Ecology in accordance with WAC 173-27-200, and to all other applicable local, state, or federal agencies.

Step 5. Filing.

The city’s final action in approving, approving with conditions, or denying SDP, deviation and/or variance shall be filed with the Department of Ecology and Washington State Attorney General.


If the SDP and/or variance is approved, the applicant shall not begin construction until after the 21-day review period by the Department of Ecology is over and/or any appeals concluded. The applicant shall also comply with all applicable federal, state and city standards for construction.

4. Time Limits of Permits. The following time limits shall apply to all shoreline exemption, substantial development, deviation and variance permits:

a. Construction or substantial progress toward construction of a development for which a permit has been granted must be undertaken within two years of the effective
date of a shoreline permit. The effective date of a shoreline permit shall be the date of
the last action required on the shoreline permit and all other government permits and
approvals that authorize the development to proceed, including all administrative and
legal actions on any such permit or approval.
b. A single extension before the end of the time limit, with prior notice to parties of
record, for up to one year, based on reasonable factors may be granted.
5. Suspension of Permits. The city may suspend any shoreline exemption, substantial
development, deviation and variance permit when the permittee has not complied with
the conditions of the permit. Such noncompliance may be considered a public nuisance.
The enforcement shall be in conformance with the procedures set forth in MICC
19.15.030, Enforcement.
6. Revisions. When an applicant seeks to revise a SDP, deviation and/or variance
permit the requirement of WAC 173-27-100, as amended, shall be met.
D. Use Regulations. All development within the shoreline jurisdiction shall be in
compliance with all development requirements specified in this section.

1. Table A. Requirements for Development Located Landward from the OHWM

<table>
<thead>
<tr>
<th>Setbacks for All Structures (Including Fences over 48 Inches High) and Parking</th>
<th>A*</th>
<th>25 feet from the OHWM and all required setbacks of the development code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Height Limits for All Structures</td>
<td>B</td>
<td>Shall be the same as height limits specified in the development code but shall not exceed a height of 35 feet above average grade level (WAC 173-27-040); provided that light rail transit facilities may exceed the height of the existing I-90 roadway to the extent necessary for the proper functioning of such facilities</td>
</tr>
<tr>
<td>Maximum Impervious Surface Coverage</td>
<td>C D</td>
<td>10%: between 0 – 25 feet from OHWM 30%: between 25 – 50 feet from OHWM</td>
</tr>
<tr>
<td>Minimum Land Area Requirements</td>
<td>E</td>
<td>All semi-private, commercial and noncommercial recreational tracts and areas shall have minimum land area: 200 square feet per family, but not less than 600 square feet, exclusive of driveways or parking areas. Screening of the boundaries with abutting properties and a planning commission approval of a site plan is required</td>
</tr>
</tbody>
</table>

*The letters in this column refer to the Plan View(A) and Section(A) diagrams.
## 2. Table B. Requirements for Moorage Facilities and Development Located Waterward from the OHWM

| Setbacks for All Moorage Facilities, Covered Moorage, **Boatlifts** and Floating Platforms | A* | 10 feet from the lateral line  
| | B | 35 feet from adjoining moorage structures (except where moorage facility is built pursuant to the agreement between adjoining owners as shown in Figure B below)  
| | C | 50 feet or 50% of the water frontage of the property, whichever is less, from the common boundary of the subject property urban park or conservation environment  

| Setbacks for Boat Ramps and Other Facilities for Launching Boats by Auto or Hand, Including Parking and Maneuvering Space | D | 25 feet from any adjacent private property line  

| Length or Maximum Distance Waterward from the OHWM for Moorage Facilities, Covered Moorage, **Boatlifts** and Floating Platforms | E | Maximum 100 feet, but in cases where water depth is less than 10 feet from the mean low water, length may extend up to 150 feet or to the point where water depth is 10 feet at mean low water, whichever is less  

| Width | F | Maximum 8 feet; does not apply to boat ramps, lift stations, or floating platforms  

| **Square Footage of Piers/Docks** | Maximum 1,000 square feet, including floats  

| **Height Limits for Piers and Docks** | G | **1.5 minimum and 5 feet maximum** above the elevation of the OHWM  

| Height Limits for Walls, Handrails and Storage Containers Located on Piers | H | 3 feet above the decking of the moorage facility  

| Height Limits for Mooring Piles, Diving Boards and Diving Platforms | I | 10 feet above the elevation of the OHWM  

| **Height Limits for Light Rail Transit Facilities within the Existing I-90 Corridor** | May exceed the height of the existing I-90 bridges to the extent necessary for the proper functioning of such facilities  

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*The letters in this column refer to the Plan View(B) and Section(B) diagrams.*
Chapter 19.16
DEFINITIONS

Sections:
19.16.010 Definitions.

19.16.010 Definitions.

Words used in the singular include the plural and the plural the singular.

For definitions that apply in are specific to the Shoreline only, see 19.07.110(A)(7)(e)

A

Accessory Buildings: A separate building or a portion of the main building, the use of which is related to and supports that of the main building on the same lot.

1. Attached Accessory Building: An accessory building that shares a portion of one of its walls with the main building, is separated from the main building by less than five feet, or is attached to the main building by a structure other than a fence.

2. Detached Accessory Building: An accessory building that does not share a portion of any of its walls with the main building and is separated from the main building by more than five feet and is not attached to the main building by a structure other than a fence or a pedestrian walkway.

Accessory Dwelling Unit (ADU): A habitable dwelling unit added to, created within, or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking and sanitation.

Accessory Use: A use customarily incidental and accessory to the principal use of a site or a building or other structure located upon the same lot.

Adult Entertainment: An adult retail establishment or adult theater. "Adult entertainment" shall not be considered to be included under any other permitted use in this code as either a primary or accessory use, and is not permitted in any zone unless specifically stated. For purposes of adult entertainment, the following definitions apply:

1. Adult Retail: An establishment in which 10 percent or more of the stock in trade consists of merchandise distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to specified sexual activities or specified anatomical areas.

2. Adult Theater: A facility used for presenting for commercial purposes motion picture films, video cassettes, cable television, live entertainment or any other such material, performance or activity, distinguished or characterized by a predominant emphasis on depiction, description, simulation or relation to specified sexual activities or specified anatomical areas for observation by patrons therein. Structures housing panorams, peep shows, entertainment studios or topless or nude dancing are included in this definition.

3. Merchandise: Shall include, but is not limited to, the following: books, magazines, posters, cards, pictures, periodicals or other printed material; prerecorded video tapes, discs, film, or other such medium; instruments, devices, equipment, paraphernalia, or other such products.
the seriousness of the public problem, the extent to which the land involved contributes to the problem, the degree to which the regulation solves the problem, and the feasibility of less oppressive solutions. A reasonable use exception set forth in MICC 19.07.030(B) balances the public interests against the regulation being unduly oppressive to the property owner.

Recreation: In the Town Center, recreation includes a place designed and equipped for the conduct of leisure-time activities or sports.

Recreational Area: For single-family and multifamily residential zones, an area, including facilities and equipment, for recreational purposes, such as a swimming pool, tennis court, a golf course, or a playground.

1. Commercial Recreational Area: A recreational area maintained and operated for a profit.

2. Noncommercial Recreational Area: A recreational area maintained and operated by a nonprofit club or organization with specified limitations upon the number of members or limited to residents of a block, subdivision, neighborhood, community or other specific area of residence for the exclusive use of members and their guests.

3. Recreational Area, Private: A recreational area maintained by an individual for the sole use of his/her household and guests, located or adjacent to his/her residence, not for profit or in connection with any business operated for profit.

4. Semi-Private Waterfront Recreational Area: A separate shoreline property interest established in fee simple or by easement in favor of one or more upland lots which is used for water-related recreational purposes.

Regional Light Rail Transit Facilities: A public rail transit line, including all ancillary facilities such as transit power substations, that operates at grade level, above grade level, on a bridge or in a tunnel and that provides high capacity, regional transit service owned or operated by a regional transit authority authorized under Chapter 81.112 RCW. A regional light rail transit system may be designed to share a street or highway right-of-way although it may use a separate right-of-way.

Regulated Improvements: Any development of any property within the city, except:

1. Property owned or controlled by the city; or
2. Single-family dwellings and the buildings, structures and uses accessory thereto.

Repair Services: The repair and maintenance of personal and household goods, including locksmithing, appliance repair, furniture reupholstery, and shoe repair.

Replacement Tree: Any tree that is planted in order to satisfy the tree replacement requirements of a tree permit.

Residential Care Facility: A facility, licensed by the state that cares for at least five but not more than 15 people with functional disabilities, that has not been licensed as an adult family home pursuant to Chapter 70.128 RCW.

Residential Dwelling: A home, abode or place that is used for human habitation.

Residential Uses: For purposes of the shoreline management provisions of this code, residential uses shall mean those uses allowed in the R-8.4, R-9.6, R-12, R-15, MF-2L, and MF-2 zones.

Restaurant: An establishment where food and drink are prepared and consumed. Such establishment may also provide catering services.

Restoration or restore: Actions performed to return a critical area to a state in which its functions approach its unaltered state as closely as possible.
CIRCULATION ELEMENT

Lake Washington is a 22,139 acre body of water located in the midst of an urban area. An extensive network of transportation routes exists around and across the Lake. Although transportation facilities were developed in response to projected demands, these facilities have in turn helped generate additional transportation needs. For example, construction of the Lake Washington bridges has permitted the eastern portion of the region to change from a low density, summer home area to a higher density, suburban/commercial area. This increase in activity has resulted in suggestions for third and fourth bridges crossing the Lake. Lake Washington itself is a navigable body of water and is connected to Puget Sound by a system of canals and locks. Although some commercial navigation does occur, most of the boating activities in Lake Washington and recreational in nature. Seaplane activity is also present on the Lake, and three airfields are located on the shoreline. The automobile, however, is the predominant means of transportation to, from, around and across the lake. Our heavy reliance on the automobile has contributed to problems in air quality, fuel supply and traffic congestion. In the long term, urban areas should look toward providing alternatives to the automobile as the primary means of transportation.

Principal transportation routes on Mercer Island include Inter-State 90, a highway that crosses Lake Washington via Mercer Island and two connecting bridges, and a series of arterial roads that follow the shoreline around the Island a short distance inland. Thus, shoreline-related roads form an important element of principal transportation routes on the Island. In addition, numerous lateral roads connect the shoreline following arterials with properties along the water’s edge, and frequently provide public access to the lake through developed and undeveloped street ends as well as visual access to the lake.

A rudimentary system of pedestrian and bicycle ways has gradually developed along portions of the shoreline following arterials; more definitive development of such ways is planned via the City’s Pedestrian and Bicycle Facility Plan. Metro buses provide important modes of on-Island transportation as well as access to neighboring municipalities and employment centers. Other forms of transportation are non-existent, except for privately owned boats and a few seaplanes along the shore.

GOAL

A balanced transportation system for moving people and goods is to be encouraged within existing corridors.

POLICIES

1. Develop efficient circulation systems in a manner that assures the safe movement of people and goods while minimizing adverse effects on shoreline use, developments and shoreline ecological functions.
2. Provide and/or enhance physical and visual public access to shorelines along public
roads in accordance with the public access goals.

3. Encourage shoreline circulation systems that provide alternative routes and modes
of travel, including non-motorized travel.

1. Roadways serving shoreline areas should be developed principally as scenic avenues
rather than major arterials.

2. Public transportation should be provided to facilitate access to recreation areas on the
shoreline.

3. Pedestrian and bicycle pathways, including provisions for maintenance, operation and
security, should be developed around and across the Lake, consistent with private property
rights.

Access points to and along the shoreline should be linked by pedestrian and bicycle
pathways developed as close to the water’s edge as reasonable.

Pedestrian and bicycle pathways should be included in new or expanded bridges.

Pedestrian and bicycle pathways should be included in publicly-financed transportation
systems or rights-of-way, consistent with public interest and safety.

4. Provisions for METRO Public Transit should be implemented in transportation
facilities crossing Mercer Island.

45. No new regional vehicular traffic corridors should be opened across Mercer Island’s
shoreline.

a. The width of the I-90 corridor shall be limited to that approved by the City of Mercer
Island as stated in Mercer Island Resolution 595 adopted September 24, 1973.

b. Future regional requirements for moving people through Mercer Island’s shorelines
shall be limited to public mass transit systems, including regional light rail transit,
constructed within the approved I-90 corridor.

6. Commercial aircraft facilities on the shoreline should not be permitted.

7. Moorage, storage, servicing and operation facilities for ocean-going or commercial ships
and barges should not be permitted on the shoreline.

8. Proposals for additional transportation across Lake Washington should consider
alternative modes above, on, or below the surface of the Lake.

9. Cross-lake transportation facilities must be designed to minimize the increase in noise,
air or water pollution above existing levels and, in addition, must reduce to the maximum
extent, similar impacts from existing facilities via upgrading and improvement.
Travis and Mercer Island Planning Commissioners,

Thank you for allowing me to give public testimony on recommended changes to the City of Mercer Island Shoreline Master Program (SMP) update at the March 3, 2010 Planning Commission meeting. Waterfront Construction is committed to assisting local governments and their waterfront property owners with adopting the most effective, practical and balanced SMP possible.

With all of the information laid out to the Planning Commission and in consideration of your part–time role as a civic leader serving your community, it can be overwhelming and very easy to unknowingly make mistakes based on limited experience or exposure to the general shoreline permitting process. You may have noticed that the information flows from a mainly environmental direction in the way Ecology has assembled the update process and there are very few offering a different approach or opposing view to equip local government planners and leaders with a picture of what is really going on out here on the water and with property owners.

In the past I have provided Mercer Island and all other Lake Washington and Lake Sammamish governments with loads of factual information which has been positively received and resulted in many changes to the original drafts of proposed SMPs. At the request of one of the Planning Commissioners and Planner Travis Saunders I am providing a review of the public testimony from last week’s meeting in writing.

Travis forwarded me a copy of the proposed regulations and I have inserted suggested changes and highlighted them in yellow at his request. Mercer Island has kept dock and pier standards pretty simple and has not included some of the onerous dimensional standards that have caused other communities problems by trying to over-regulate. Other local governments could take a lesson from your approach.

I am asking for consideration of the following recommendations:

- **Boatlift Definition- Revised as most lifts today are freestanding and not attached to the pier.**

- **Personal Watercraft Lift Definition- Added as these are smaller and have different impacts than boatlifts.**

  Personal Watercraft Lifts (PWC) Permitted subject to the following:  
  
  (a) Freestanding: Minimum distance from OHWM: 30 feet  
  
  (b) Suspended: Minimum distance from OHWM: 20 feet

  Suspended PWC lifts are considered portable and are physically attached to a pier or dock. A freestanding PWC lift sits on the lake bottom similar to a freestanding boatlift.

  This can help reduce the size of proposed piers and allow those with existing piers to install suspended PWC lifts without needing to increase pier length.

- **Street End Setback- Removes the 50 foot setback which is unnecessary and onerous.**
o Moorage Cover Triangle- If the apex is not allowed to move as in the past, existing covers should not be a cause for existing docks and piers to become legally nonconforming.

o Square footage of docks- Joint-use piers are preferred over single owner piers although they are not required for single family residential docks. Mercer Island is being very fair to property owners by recommending 1,000 square foot as the maximum size. I am asking the City to consider offering an incentive to property owners who propose a joint-use pier for 2 or 3 owners who have qualifying waterfront lots.

  One owner- 1,000 square feet
  Two owners- 1,150 square feet
  Three or more owners- 1,300 square feet

  Although most property owners will not opt for this, those who do will get a little additional overwater coverage while eliminating an entirely new pier and reduce the overwater coverage along the shoreline. It also allows property owners to share the cost of permitting and construction and is viewed favorably at all state and federal regulatory levels.

o Is the 600sqft moorage cover maximum included in the maximum square footage of a moorage facility?

o Mooring Piles- Mooring piles should be considered a part of the moorage facility. DSG PMAI #05-02 essentially declares mooring piles as individual structures and therefore allows them only to be repaired. Mercer Island is the only local government who takes this position and it is onerous and injurious to property owners. Mooring piles should be considered a part of the moorage facility and considered a part of the piles that make up the dock so they may be replaced with new piles in their nonconforming location. The current position of the City simply doesn’t make sense. This can be further complicated by Mercer Island’s 35 foot pier-to-pier setback and 50 foot setback for properties adjacent to Urban Park and Conservation Environments. The lateral load placed on mooring piles is far greater than that of dock support piles so being allowed to replace deteriorated mooring piles with new steel piles regardless of location is vital.

o Handrail and Side Rail Height for Docks, Pier, Ramps and Gangways- Aluminum ramps (gangways) allow for spans of up to 60 and 80 feet in some setting. Regulatory agencies prefer aluminum ramps because they eliminate the need for piles in the nearshore area. More and more property owners are considering ramps as a part of their design. Aluminum ramps are typically engineered using a bottom and top chord to meet load requirements and achieve longer spans. I provided the Planning Commission with cut sheets and photos of some of the most common ramps we use. The top of the top chord is located between 3’-6” and 3’-9” above the walking surface in each application. I am requesting that an additional statement be added to the proposed SMP to allow the maximum height of handrails and side rails to be 4’ above the surface for ramps and gangways designed to span the nearshore area.

I am very concerned with the City so far along in the SMP Update process and how greatly all property owners are going to be impacted by the changes, especially regarding shoreline stabilization (bulkheads) that more people (only 3 including me) were not in attendance. Has the City done all it can to fairly sound the alarm to its hundreds of waterfront property owners so they can voice their concerns? Has the City provided property owners with real case scenarios so they understand why their input is needed? Have individual mailers been sent? Most property owners don’t have a clue as to how this will affect them and they don’t understand that by the time this gets to the City Council it will be too late since the Planning Commission is the working body and the best way to be heard. Does the Commission have similar concerns?

Thank you for your valuable time and consideration. If you have any questions I can be contacted at 206-786-6470 or daved@waterfrontconstruction.com.

Respectfully,

David Douglas
Permit Coordinator
Waterfront Construction, Inc.
### 2. Table B. Requirements for Moorage Facilities and Development Located Waterward from the OHWM

| Setbacks for All Moorage Facilities, Covered Moorage, **Boatlifts**, **Personal Watercraft Lifts**, and Floating Platforms | A** | B | 10 feet from the lateral line  
35 feet from adjoining moorage structures (except where moorage facility is built pursuant to the agreement between adjoining owners as shown in Figure B below)  
50 feet or 50% of the water frontage of the property, whichever is less, from the common boundary of the subject property urban park or conservation environment  
(This does not apply to street ends) |
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</thead>
<tbody>
<tr>
<td>Setbacks for Boat Ramps and Other Facilities for Launching Boats by Auto or Hand, Including Parking and Maneuvering Space</td>
<td>D</td>
<td>25 feet from any adjacent private property line</td>
<td></td>
</tr>
<tr>
<td>Length or Maximum Distance Waterward from the OHWM for Moorage Facilities, Covered Moorage, <strong>Boatlifts</strong> and Floating Platforms</td>
<td>E</td>
<td>Maximum 100 feet, but in cases where water depth is less than 10 feet from the mean low water, length may extend up to 150 feet or to the point where water depth is 10 feet at mean low water, whichever is less</td>
<td></td>
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<tr>
<td>Width</td>
<td>F</td>
<td>Maximum 8 feet; does not apply to boat ramps, lift stations, or floating platforms</td>
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<tr>
<td><strong>Square Footage of Piers/Docks</strong></td>
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</table>
| Single *Waterfront Owner*: Maximum 1,000 square feet, including floats  
2 *Waterfront Owners*: Maximum 1,150 square feet including floats  
3 or more *Waterfront Owners*: Maximum 1,300 square feet including floats  
*Must meet minimum Water Frontage Standards* |
| **Height Limits for Piers and Docks Surfaces** | G | 1.5 foot minimum and 5 feet maximum above the elevation of the OHWM |
| **Height Limits for Walls, Handrails and Storage Containers Located on Piers** | H | 33.5 feet above the surfacedecking of a the moorage facilitydock or pier  
4.0 feet for ramps and gangways designed to clear span the nearshore area |
| **Height Limits for Mooring Piles, Diving Boards and Diving Platforms, and Mooring Piles** | I | 10 feet above the elevation of the OHWM  
*Note: Mooring piles associated with a moorage facility (not stand alone) they shall be considered a part of the moorage facility and not separate structures.* |

*The letters in this column refer to the Plan View(B) and Section(B) diagrams.*
<table>
<thead>
<tr>
<th>Minimum Water Frontage for Moorage Facility</th>
<th>J*</th>
<th>K</th>
<th>L</th>
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</thead>
<tbody>
<tr>
<td>Single-family lots: 40 feet</td>
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<tr>
<td>Shared – two adjoining lots: 40 feet combined</td>
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<tr>
<td>Semi-private recreational tracts:</td>
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<tr>
<td>2 families: 40 feet</td>
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<td>3 – 5 families: 40 feet plus 10 feet for each family more than 2</td>
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<td>6 – 10 families: 70 feet plus 5 feet for each family more than 5</td>
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<tr>
<td>11 – 100 families: 95 feet plus 2 feet for each family more than 10</td>
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<tr>
<td>101+ families: 275 feet plus 1 foot for each family more than 100</td>
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</table>

| Covered Moorage | | |
|-----------------|---|
| Permitted on single-family residential lots subject to the following: | |
| (a) Maximum height above the OHWM: 20 feet; 20 to 25 feet subject to deviation process [MICC 19.07.110(C)(2)(c)] | |
| (b) Location/area requirements: See Figure A for single-family lots and Figure B for shared moorage. Outside the triangle subject to deviation process [MICC 19.07.080(C)(2)(d)][MICC 19.07.110(C)(2)(c)]. | |
| (c) Building area: 600 square feet. Building areas larger than 600 square feet are subject to conditional use permit within the triangle, or variance outside the triangle | |
| (d) Covered moorage shall have open sides. Prohibited in semi-private recreational tracts, commercial and noncommercial recreational areas. | |
| (e) Translucent canopies are required. | |

<table>
<thead>
<tr>
<th>Boatlifts</th>
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<tbody>
<tr>
<td>Permitted subject to the following:</td>
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<tr>
<td>(a) Minimum distance waterward from the OHWM: 30 feet</td>
<td></td>
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</tbody>
</table>

*The letters in this column refer to the Plan View(C).
Table 1: Figure A: Area of Permitted Covered Moorage, Individual
The covered portion of a moorage shall be restricted to the area lying within a triangle. The base of the triangle shall be a line drawn between the points of intersection of the property sidelines with the ordinary high water mark. The location of the covered moorage shall not extend more than 100 feet from the center of the base line of such triangle.

Comment [ts4]: Updated figure to remove "60 degree maximum" language and removal of "Diagram No. 56a" per 2-17-10 PC comment.
triangle. In cases where water depth is less than 10 feet from the mean low water, the location of the covered moorage may extend up to 150 from the center of the base line or to the point where water depth is 10 feet at mean low water, whichever is less. The required 10 foot setbacks from the side property lines shall be deducted from the triangle area.

**Table 2: Figure B: Area of Permitted Covered Moorage and Moorage Facilities, Two Adjoining Single-family**

![Diagram](image)

Where a covered moorage is built pursuant to the agreement of adjoining owners of single-family lots, the covered moorage area shall be deemed to include, subject to limitations of such joint agreement, all of the combined areas lying within the triangles extended upon each adjoining property and the inverted triangle situated between the aforesaid triangles.

**NOTE:** Covered moorage which existed prior to the adoption of this document shall not result in a moorage facility (dock or pier) being declared a legally nonconforming structure and shall be allowed to be repaired and maintained in its current location. If the moorage facility (pier or dock) is a nonconforming structure for any other reason, when work is proposed on the facility it shall fall under the guidelines and thresholds for legally nonconforming docks outlined in DSP Policy Memorandum Administrative Interpretation #05-02.

   a. Moorage facilities may be developed and used as an accessory to dwellings on shoreline lots with water frontage meeting or exceeding the minimum lot width requirements specified in Table A.
   b. Piles, floats or other structures in direct contact with water shall not be treated or coated with toxic substances harmful to the aquatic environment. Chemical treatment of structures shall comply with all applicable state and federal regulations.

4. **Bulkheads and Shoreline Stabilization Structures.**
   a. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. The following conditions apply:
Bar: A premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption and where food may be available for consumption on the premises as accessory to the principal use.

Bed and Breakfast: A single-family dwelling in which public lodging and meals may be provided to guests for periods of 30 days or less.

Best Available Science: Current scientific information based upon scientifically valid methods used to analyze critical areas, as defined by WAC 375-195-900 through 375-195-925, as amended.

Best Construction Practices: Methods, techniques and/or procedures developed by the city arborist to protect trees being retained during construction work from damage.

Best Management Practices: The practices that use the best available technologies or techniques, to prevent or minimize the degradation of any critical area or its buffer.

Binding Site Plan: A method of dividing land that sets out specifications for a number of aspects of development on the site, including streets, building envelopes, improvements, utilities, parking, and open spaces. The requirements of a binding site plan are enforceable against any person acquiring an interest in any lot or parcel created pursuant to the plan.

Boatlift: A structure or device, either freestanding or attached to a dock or pier, used to raise a watercraft above the water line for secure moorage purposes.

Boat Ramp: An inclined structure upon which a watercraft is raised or pulled onto land or a dock.

Breakwater: A protective structure usually built offshore for the purpose of protecting the shoreline or harbor areas from wave action.

Buffer: A designated area adjoining a critical area intended to protect the critical area from degradation.

Building: A structure having a roof, but excluding trailers, mobile homes, and all other forms of vehicles even though immobilized. Where this code requires, or where special authority granted pursuant to this code requires that a use shall be entirely enclosed within a building, this definition shall be qualified by adding “and enclosed on all sides.”

Building Footprint: That portion of the lot that is covered by building(s).

Building Height: The vertical distance measured from the average building elevation to the highest point of the roof structure excluding appurtenances. A mezzanine need not be counted as a story for determining the allowable number of stories when constructed in accordance with the requirements of the construction codes set forth in MICC Title 17.

Building Pad: That portion of a lot on which a building may be located based on criteria set forth under the development code.

Bulkhead: A solid or open pile of rock, concrete, steel, timber or other materials erected parallel to, and normally erected at, the ordinary high water line for the purpose of protecting adjacent property from waves or currents.

Capital Improvement: Any development by the city upon property owned by or under the control of the city.
condition exists on June 1, 1971, as it may naturally change thereafter in accordance with permits issued by a local government or the department.

Ordinary Repairs and Maintenance: An activity in response to the effects of aging or ordinary use, wear and tear that restores the character, scope, size, footprint or design of a serviceable area, structure, or land use to its previously existing, authorized or undamaged condition; however, this is not intended to allow total replacement, substitution or reconstruction of a nonconforming structure. Activities that change the character, size, footprint or scope of a project beyond the original shall not be considered ordinary repairs and maintenance and shall result in loss of nonconforming status.

Parking: A public or private area, under, within or outside a building or structure, designed and used for parking motor vehicles including parking lots, garages, and driveways. For the purposes of this definition only:

1. “Parking structure” shall mean a building or structure consisting of more than one level and used for the temporary parking and storage of motor vehicles.
2. “Underground parking” shall mean the location of that portion of the parking structure located below the existing grade of the ground abutting the structure.

Patio Home: A single-family dwelling on a separate parcel with open spaces on three sides and with a court.

Pavers: A paver or pavement that allows rain and/or surface water runoff to pass through it and reduce runoff from a site and surrounding areas. Pavers include porous pavement, porous pavers, and permeable interlocking concrete pavement as described in the Washington State Department of Ecology Stormwater Management Manual, as now exists or hereafter amended.

Pedestrian-Oriented Uses: Uses that stimulate pedestrian activity along the sidewalk frontage of a building. Uses include, but are not limited to, small scale retail, restaurants and theaters.

Pedestrian Walkway: A walkway used exclusively for pedestrian trafficway, which may be covered or enclosed.

Person: An individual, partnership, corporation, or association.

Personal Services: A business that provides services relating to personal grooming and health. Uses include barber shops, hair stylists, spas, fitness centers and nail salons.

Personal Watercraft (PWC) Lift: A structure or device, either freestanding or attached to a dock or pier, used to raise a personal watercraft such as a jet-ski or wave runner, above the water line for secure moorage purposes.

Pile: A timber or section of concrete placed into the ground to serve as a support or moorage.

Places of Worship: A church, synagogue, mosque, or other institution that people regularly attend to participate in or hold religious services, meetings, or other religious activities.

Premises: A piece of land with or without improvements, including but not limited to a building, room, enclosure, vehicle, vessel or other place thereon.

Private Property: Any property other than public property.
INTRODUCTION

The purpose of this document is four-fold:

1. To fulfill the requirements of the Shoreline Management Act of 1971, Chapter 286, Laws of 1971, Chapter 90.58. RCW and Chapter 173-26 WAC by developing a Master Program to guide the future use and development of Mercer Island’s shoreline.
2. To recognize the Lake Washington/Cedar/Sammanish Watershed (WRIA 8) Chinook Salmon Conservation Plan. 
   NOTE: You are not required to meet or recognize the WRIA 8 Chinook Salmon Conservation Plan. I wouldn’t include this purpose as it could prove problematic for the City and its property owners.
3. To provide guidelines for revising local ordinances and zoning codes.
4. To provide a basis for evaluating applications for shoreline permits on Mercer Island.

The State of Washington Shoreline Management Act of 1971 recognizes that the shorelines of the state are among our most valuable and fragile natural resources and directs all local governments to develop a Master Program for the management of these shorelines. The Law specifies that all lakes over 1,000 acres in surface area are Shorelines of Statewide Significance. Lake Washington is such a shoreline and in our planning we must, as the Shoreline Management Act specifies, provide for uses in the following order of preference: those which

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

PROLOGUE

To the early developers who built metropolitan Seattle, Lake Washington was perceived as a utilitarian resource. During the past hundred years the Lake has been utilized for transportation, agricultural and domestic water supplies, waste disposal, and numerous types of commercial and industrial enterprises. Many of these activities had adverse impacts on the Lake, and the discharge of sewage eventually led to serious problems with respect to water quality. In response to the rapidly declining quality of Lake Washington, the public voted to create the Municipality of Metropolitan Seattle (METRO) for the purpose of treating sanitary sewage and diverting its discharge from the Lake to Puget Sound. Today the lake is once again suitable for swimming and other recreational activities.

Many of the functions previously related to the lake are now met by other means. The region’s water supply is from rivers, one of which feeds into Lake Washington. Sanitary