



PLANNING COMMISSION REGULAR MEETING AGENDA

Wednesday, December 5, 2018
Mercer Island City Hall

CALL TO ORDER & ROLL CALL

6:00 PM

MINUTES

November 7, 2018

APPEARANCES

6:05 PM

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

*The Commission may limit the number of speakers and modify the time allotted.
Total time for appearances: 15 minutes*

REGULAR BUSINESS

6:15 PM

Agenda Item #1: ZTR18-006 Additional Code Cleanup Amendment

Review of draft code cleanup amendment language originally introduced to the Planning Commission on October 17, 2018.

Proposal to amend code to correct inadvertent change made by Ord. 18C-08, Procedural Code amendments.

Agenda Item #2: ZTR18-002 Critical Areas Code Amendment

Introduction of first draft of critical areas code and Shoreline Master Program.

Agenda Item #3: Periodic Check-in on Planning Commission Processes

Dialogue between the Planning Commissioners and City staff regarding Planning Commission logistics, reviews, and deliberations.

Please note there is no packet material for this agenda item; staff will present information for Planning Commission review.

OTHER BUSINESS

Director's report

Planned Absences for Future Meetings

Next Regularly Scheduled Meeting: December 19, 2018 at 6:00PM

ADJOURN

PLANNING COMMISSIONERS

Carolyn Boatsman

Tiffin Goodman, Vice-Chair

Daniel Hubbell, Chair

Jennifer Mechem

Lucia Pirzio-Biroli

Craig Reynolds

Ted Weinberg

PHONE: 206-275-7729

WEB: www.mercergov.org

AGENDA TIMES ARE APPROXIMATE

CITY COUNCIL CHAMBERS - MERCER ISLAND CITY HALL
9611 SE 36TH STREET; MERCER ISLAND, WA 98040



PLANNING COMMISSION MEETING MINUTES NOVEMBER 7, 2018

CALL TO ORDER

The Planning Commission was called to order by Chair Daniel Hubbell at 6:13pm in the City Hall Council Chambers at 9611 SE 36th Street, Mercer Island, Washington.

ROLL CALL

Chair Daniel Hubbell, Commissioners Carolyn Boatsman, Jennifer Mechem (arrived 6:16, Lucia Pirzio-Biroli, and Ted Weinberg were present. Vice Chair Tiffin Goodman and Commissioner Craig Reynolds were absent.

Proebsting, Senior Planner, Andrea Larson, Senior Administrative Assistant, and Bio Park, Assistant City Attorney, were present.

MINUTES

The Commission reviewed the minutes from the October 17, 2018 meeting.

It was moved by Weinberg; seconded by Pirzio-Biroli to:

Approve the October 17, 2018 minutes.

Passed 6-0-1

APPEARANCES

Heather Ring, 4216 Shoreclub Drive, 3624 81st Ave SE. She came to ask the Planning Commission to consider a change to the code related to home businesses that would allow her to be a personal trainer out of her home. She stated that the code would consider her business a personal service, which is not allowed under the code as written.

REGULAR BUSINESS

Agenda Item #1: ZTR18-002 Critical Areas Code Amendment

Robin Proebsting, Senior planner, gave a presentation on the policy options for amending Geologically Hazardous Areas and Critical Aquifer Recharge Areas sections of the critical areas code update.

The Commission discussed the proposed policy options.

The Commission requested that staff look into the process of critical areas permits.

OTHER BUSINESS

The Commission discussed establishing subcommittees for both the Critical Areas Code Amendment and about the Community Facilities

The Commission discussed the November 21st Planning Commission Meeting

Robin Proebsting, provided a brief update on what the next meetings agenda will contain.

PLANNED ABSENCES

None

NEXT MEETING

The next Planning Commission meeting will be on November 21, 2018 at 6:00 pm at Mercer Island City Hall.

ADJOURNMENT

The meeting was adjourned at 8:50 pm.

DRAFT



Community Planning and Development

9611 SE 36TH ST., MERCER ISLAND, WA 98040

(206) 275-7605

TO: Planning Commission

FROM: Lauren Anderson, Assistant Planner
Andrew Leon, Planner

DATE: December 5, 2018

RE: **ZTR18-006 – Fall 2018 Code Cleanup – Draft Code**

Summary

The proposed amendments to the Mercer Island City Code (MICC) are intended to clean up the code in the following ways:

1. Improve consistency between different sections of the code.
2. Improve clarity of City development standards and definitions.
3. Correct errors in typography and wording.

Following adoption of the Residential Development Standards, the City Council directed staff to periodically review the MICC to ensure that it is consistent and free of errors. The currently proposed amendments are intended to ensure that this objective is met. The proposed amendment consists of clarifying language in existing code, as well as ensuring that the code is consistent with the definitions found in MICC 19.16.

Staff used the input and direction from the Planning Commission from the October 17, 2018 meeting to draft code language. Two additional items that were not mentioned in the October 17, 2018 meeting includes the following:

1. Updating the City Code to state "Community Planning and Development" in replacement of "Development Service Group." The reason for this change is due to the City's department name change that took place on November 14, 2018.
2. Proposing to correct an inadvertent change that occurred during the Title 19.15 Administration code update with ORD18C-08. This inadvertent change now requires the City to complete public notice of decision for major single-family building permits, which previously only required public notice of application and notice of decision to party of records. Under the recently adopted Procedural Code amendments, the Notice of Decision process requires the mailing of the Notice of Decision to all properties within 300 feet, notice in the weekly bulletin, and a posting of a sign on the property after a decision has been issued. Please refer to Attachment B (November 28,

2018 Memo from Nicole Gaudette), which provides a summary and proposed remedy. Nicole Gaudette, Senior Planner, who worked on ORD18C-08 will discuss this further during the December 5th meeting.

Staff looked further into the zoning map errors, which were identified at the October 17th, 2018 meeting, and found that the apparent map change is a scrivener's error and does not require further action by the Planning Commission. Staff reviewed each zoning map ordinance (ORD00C-06, ROD05C-13, ORD13C-02, ORD14C-07, ORD14C-10, and ORD17C-24) and confirmed the zoning map designations were not amended by past ordinance. The zoning map will be updated to reflect the correct zoning designations for the two areas in question.

Next Steps

At the December 5th meeting, staff will provide a brief overview of the proposed code update language, answer questions the Planning Commission may have, and seek input. Staff will request the Commissioners' input on the following:

1. Provide edits and suggestions of the draft proposed code update language (Attachment A).
2. Provide direction to staff on the requirement to issue a notice of decision for major single-family building permits (Attachment B).

Based upon the provided direction and discussion tonight staff anticipates returning to the Planning Commission for further review in January 2019.

We welcome questions you may have at this stage of the process, as well as topics that you would like covered during the December 5th meeting. If you provide questions in advance, staff will attempt to address them at the meeting. We can be reached at:

Lauren Anderson: lauren.anderson@mercergov.org or 206-275-7704
Andrew Leon: andrew.leon@mercergov.org or 206-275-7720.

Attachments:

- A. Draft Code Update Language
- B. Additional Code Clean Up Amendment

PLANNING COMMISSION – RECOMMENDATION DRAFT
Draft Zoning Text Amendments
2018 Code Cleanup

...
All instance of “Development Services Group’ in Title 4 are amended to “Community Planning and Development”.

...
All instance of “Development Services Group’ in Title 5 are amended to “Community Planning and Development”.

...
All instance of “Development Services Group’ in Title 6 are amended to “Community Planning and Development”.

...
All instance of “Development Services Group’ in Title 17 are amended to “Community Planning and Development”.

...
All instances of “Development Services Group” and “DSG” in Title 19 are amended to “Community Planning and Development” and “CPD”, respectively.

19.01.050 Nonconforming structures, sites, lots and uses.

D. Exterior Alteration or Enlargement of Nonconforming Structures.

1. Detached Single-Family Residential Structures.

b. Intentional Exterior Alteration or Enlargement.

i. Detached Single-Family Dwelling. A legally nonconforming detached single-family dwelling may be intentionally altered or enlarged without losing its legal nonconforming status as long as no more than 40 percent of the length of the dwelling’s existing exterior walls, excluding attached accessory buildings, are structurally altered. Any portion of the length of existing walls that are structurally altered shall be included in calculating the 40-percent threshold. In no event shall the alteration or enlargement increase any existing nonconforming aspect of the dwelling or create any new nonconformance. Legal nonconforming status shall be lost, and the structure shall be required to come into conformance with current code requirements, if the 40-percent threshold is exceeded. An increase in height of that portion of a structure that is legally nonconforming because it intrudes into a required yard is an increase in the nonconformity and is not allowed unless the additional height meets the current yard requirements of MICC 19.02.020(C)(1) except:

ii. Accessory Buildings or Structures. A legally nonconforming attached or detached accessory building or structure, including but not limited to a carport, garage, shed, gazebo, deck or fence, may be altered or enlarged without losing its legal nonconforming status as long as no more than 40 percent of its existing exterior perimeter (or length in the case of a fence) is structurally altered. A wall that is shared with the main dwelling shall not be included in the calculation for the attached accessory building. In no event shall any alteration or enlargement increase any existing nonconforming aspect of the building or structure or

create any new nonconformance. Legal nonconforming status shall be lost, and the structure shall be required to come into conformance with current code requirements, if the 40-percent threshold is exceeded.

iii. Structural Alteration Calculation. For the purposes of determining the percentage of exterior walls of a nonconforming structure that is being structurally altered, the following calculation applies:

Formula: Percentage of exterior walls altered = (sum of the length of walls to be structurally altered) ÷ (sum of the length of exterior walls)

Where:

(A) The sum of the length of exterior walls to be structurally altered is the sum of the lengths of each exterior wall segment that is proposed to be structurally altered as established pursuant to MICC 19.01.050(D)(1)(b)(iii).

(B) The sum of the length of exterior walls is the sum of the lengths of each exterior wall segment of a structure. The wall segments of each story shall be added separately, provided that a wall segment that is over one story in height is only counted once.

iv. Roof Repair and Replacement. The roof of a nonconforming structure may be repaired, including total replacement, provided that the existing nonconformity is not increased. Repair or replacement of a roof does not constitute structural alteration of exterior walls.

v. Cumulative Time Limit. The maximum cumulative structural alteration of a legally nonconforming structure, as described in subsections (i) and (ii) above, is 40 percent within any five-year period. The five-year period includes the cumulative total of the work authorized by a permit application, and the work conducted within the five years immediately prior to demolition or construction authorized by the permit application. Legal nonconforming status shall be lost, and the structure shall be required to come into conformance with current code requirements, if the cumulative 40-percent threshold is exceeded within the five-year time limit.

...

F. Nonconforming Sites.

...

3. Landscaping, Open Space and Buffer Requirements.

...

b. Lot Coverage – Single-Family Dwellings. A site developed with a single-family dwelling that is legally nonconforming because the required landscaping area pursuant to Chapter 19.02 MICC has not been provided, or because maximum allowable hardscape has been exceeded, can be increased in height and gross floor area (up to the maximum height and gross floor area permitted). No new hardscape or further reduction in landscaping area is permitted unless:

i. The site is either brought into conformance with all applicable lot coverage requirements of MICC 19.02.020; or

- ii. For lots where the ~~minimum-maximum~~ hardscape is exceeded, two square feet of legally existing hardscape are removed for every one square foot of new hardscape; or
- iii. For lots where the maximum lot coverage is exceeded, two square feet of landscaping area are provided for every one square foot of additional nonlandscaping area.

19.02.010 Single-family.

A. Uses Permitted in Zones R-8.4, R-9.6, R-12, and R-15.

13. Open Space.

19.02.020 Development standards.

C. Yard Requirements.

2. Yard Determination.

a. Front Yard. ~~The front yard is the yard abutting an improved street from which the lot gains primary access or the yard abutting the entrance to a building and extending the full width of the lot. If this definition does not establish a front yard setback, the code official shall establish the front yard based upon orientation of the lot to surrounding lots and the means of access to the lot.~~

i. Front Yard – General. For lots that are not corner lots or waterfront lots, the front yard is determined using the following sequential approach, in descending order of preference, until a front yard is established:

(A) The yard abutting an improved street from which the lot gains primary access.

(B) The yard abutting the primary entrance to a building and extending the full width of the lot.

(C) The orientation of buildings on the surrounding lots and the means of access to the lot.

ii. Front Yard – Corner Lots. On corner lots the front yard shall be measured from the narrowest dimension of the lot abutting a street. The yard adjacent to the widest dimension of the lot abutting a street shall be a side yard, provided:-

(A) If a setback equivalent to or greater than required for a front yard is provided along the property lines abutting both streets, then only one of the remaining setbacks must be a rear yard.

(B) This code section shall apply except as provided for in MICC 19.08.030(F)(1).

iii. Front Yard – Waterfront Lots. On a waterfront lot, regardless of the location of access to the lot, the front yard may be measured from the property line opposite and generally parallel to the ordinary high water line.

b. Rear Yard. Except as allowed in subsection (a)(ii) above, ~~T~~he rear yard is the yard opposite the front yard. The rear yard shall extend across the full width of the rear of the lot, and shall be measured between the rear line of the lot and the nearest point of the main building including an enclosed or covered porch. If this definition does not establish a rear yard setback for irregularly shaped lots, the code official ~~may shall~~

establish the rear yard based on the following method: The rear yard shall be measured from a line or lines drawn from side lot line(s) to side lot line(s), at least 10 feet in length, parallel to and at a maximum distance from the front lot line.

~~c. Corner Lots. On corner lots the front yard shall be measured from the narrowest dimension of the lot abutting a street. The yard adjacent to the widest dimension of the lot abutting a street shall be a side yard. If a setback equivalent to or greater than required for a front yard is provided along the property lines abutting both streets, then only one of the remaining setbacks must be a rear yard. This code section shall apply except as provided for in MICC 19.08.030(F)(1).~~

~~cd.~~ Side Yard. Any yards not designated as a front or rear yard shall be defined as a side yard.

...
E. Building Height Limit.

...
3. Antennas, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and fireplaces, solar panels, rooftop deck railings and fences, and other similar appurtenances may extend to a maximum of five feet above the height allowed for the main structure in subsections (E)(1) and (2) of this section. Rooftop railings shall be designed such that at least 80 percent of the total surface area consists of evenly distributed open spaces.

...
19.02.040 Garages, other accessory buildings and accessory structures.

...
D. Garages and Carports. Garages and carports may be built to within 10 feet of the front property line provided: if the front yard of the lot

1. The intersection point of the garage's wall and the existing or finished grade, whichever is lower, measured at the midpoint of the wall of the garage closest to the front yard property line, is more than four feet above or below the existing grade or finished grade, whichever is lower, at the point on the front property line closest to the midpoint of the wall of the garage at its proposed location; and,

2. The height of such garage shall not exceed 12 feet from existing or finished grade, whichever is lower, for that portion built within the front yard.

...
19.02.050 Fences, retaining walls and rockeries.

...
C. Height Measurement.

1. Fences/Gates. The height of a fence or gate is measured from the top of the fence or gate, including posts, to the existing grade or finished grade, whichever is lower, directly below the section of the fence or gate being measured.

2. Retaining Walls and Rockeries. The height of a retaining wall or rockery is measured from the top of the retaining wall or rockery to the existing grade or finished grade, whichever is lower, directly below the retaining wall or rockery.

3. Multiple Retaining Walls. Retaining walls outside of required yard setbacks shall be stepped to meet a 1:1 ratio of separation with 45 degrees of grade to be considered separate. For example, two six-foot-tall retaining walls would need to be separated by at least six feet of horizontal distance measured from the toe of the upper wall to the top of the bottom wall, to be considered separate and not combined for maximum height calculations.

1 19.04.020 Commercial offices.

2 ...

3 B. Required Conditions.

4 ...

5 4. Not more than 60 percent of a lot may be covered by buildings, structures, and other
6 impervious surfaces, including outdoor storage areas, provided the exemptions for decks,
7 pavers, patios and walkways detailed in MICC ~~19.02.020(D)(2)~~ 19.02.060(C) shall apply. The
8 building footprint shall occupy no more than 35 percent of the gross lot area.

9 ...

10
11 19.16.010 Definitions

12 ...

13 ...

14 Finished Grade: The surface level at any point on the lot at the conclusion of development.

15 ...

16 Gross Floor Area: The total square footage of floor area bounded by the exterior faces of the building.

17 1. The gross floor area of a single-family dwelling shall include:

18 ...

19 e. Decks that are attached to the second or third story level of a single-family dwelling
20 and are covered by a roof. For the purposes of calculating the gross floor area of
21 covered decks, the entire deck area covered by the roof shall be accounted for as floor
22 area, provided an 18-inch eave extending beyond the edge of the deck shall not be
23 included in the gross floor area.

24 ...

25 2. The gross floor area of a single-family dwelling does not include:

26 a. Second- or third-story level uncovered decks, or uncovered rooftop decks.

27 b. First level covered decks.

28 ...

29 Hardscape: The solid, hard elements or structures that are incorporated into landscaping. The hardscape
30 includes, but is not limited to, structures other than buildings, paved areas other than driving surfaces,
31 stairs, walkways, decks, patios, and similar constructed elements. The hardscape within landscaping is
32 usually made up of materials that include, but are not limited to, wood, stone, concrete, gravel, artificial
33 turf, and permeable pavements or pavers, and similar materials. Hardscape does not include solid, hard
34 elements or structures that are covered by a minimum of two feet of soil intended for softscape (for
35 example, a septic tank covered with at least two feet of soil and planted shrubs is not hardscape).

36 Hardscape areas do not include driving surfaces or buildings.

37 ...

38 Kitchen: ~~Any room used, intended, or designed for cooking and/or preparation of food. An identifiable~~
39 area inside a building for the cooking or preparation of food that includes, but is not limited to:

40 1. Ventilation;

41 2. All appliances, fixtures, and features within that area together with high-voltage electrical
42 wires and plumbing serving, or intended to serve, such appliances, fixtures, and features;

43 3. A sink;

44 4. A combination of functionally related appliances to cook food including a stove, range, oven,
45 microwave, or any combination thereof;

46 5. A refrigerator or other food storage appliance; and,

47 6. A counter or cupboards.

48 ...

1 Open Space: Areas left predominately in a natural vegetated state to create urban separators and
2 greenbelts, and that:

- 3 1. Sustain native ecosystems, connect and increase protective buffers for environmentally
4 critical areas; or,
- 5 2. Provide a visual contrast to continuous development, reinforce community identity and
6 aesthetics; or,
- 7 3. Provide links between important environmental or recreational resources. Open space
8 functions as protection of natural resources and biodiversity, recreation spaces,
9 development of neighborhood gathering spaces, and promotion of public health benefits.

10 ...

11 Remodel: Interior or exterior alteration of a structure that includes, but is not limited to, the following:

- 12 1. Transforming the structure of any home or building;
- 13 2. Change in floor plan layout;
- 14 3. Combining rooms (removing walls); or,
- 15 4. The addition or removal of the exterior or interior of any structure.

16 ...

17 Structural Alteration – Nonconforming. For the purposes of altering a nonconforming structure, a wall is
18 considered to be structurally altered if it is completely demolished.

19 ...

20 Yard: An open, unoccupied space, unobstructed from the ground to the sky, except where specifically
21 provided by this code, on the lot on which a building is situated, required to be kept open by the yard
22 requirements prescribed herein. Except as otherwise specified, the edge of the yard is measured from a
23 fixed point or line on the lot such as the edge of an easement that affords or could be capable of
24 affording vehicular access, or from a property line. Determination of front, rear, and side yards are
25 established in section 19.02.020(C)(2) of this Title.

- 26 ~~1. Front Yard: The front yard is the yard abutting an improved street from which the lot gains~~
27 ~~primary access or the yard abutting the entrance to a building and extending the full width of~~
28 ~~the lot. If this definition does not establish a front yard setback, the code official shall establish~~
29 ~~the front yard based upon orientation of the lot to surrounding lots and the means of access to~~
30 ~~the lot.~~
- 31 ~~2. Rear Yard: The yard opposite the front yard.~~
- 32 ~~3. Side Yard: Any yards not designated as a front or rear yard shall be defined as a side yard.~~

33 ...



Community Planning and Development

9611 SE 36TH ST., MERCER ISLAND, WA 98040
(206) 275-7605

TO: Planning Commission

FROM: Nicole Gaudette, Senior Planner

DATE: November 28, 2018

RE: ZTR18-006 Additional Code Cleanup Amendment

Summary

Staff is proposing to add a cleanup item into the current list of items in the Fall 2018 Code Cleanup Amendment, ZTR18-006. The purpose of this additional code cleanup item is to revise an inadvertent change that occurred during the recategorization of permits pursuant to the new permit typing system adopted as part of the recently adopted (Ord. 18C-08) Procedural Code amendments, ZTR18-001.

In 2017, the city adopted (Ord. 17C-12) a requirement that major single-family building permits provide a Notice of Application, which includes notice being mailed to all properties within a 300-foot radius of a permit, notice in the weekly bulletin, and a sign being posted at the permit property. Following the recent adoption of the Procedural Code amendment, all permits that were subject to Notice of Application became either Type III or Type IV permits. The only difference between Type III and Type IV permits is that Type IV permits are subject to a public hearing. Major single-family building permits were classified as a Type III permit (i.e. not subject to a public hearing).

Pursuant to the new permit typing system, Type III permits are subject not only to Notice of Application, but also Notice of Decision. Under the recently adopted Procedural Code amendments, the Notice of Decision process requires the mailing of the Notice of Decision to all properties within 300 feet, notice in the weekly bulletin, and a posting of a sign on the property after a decision has been issued.

The process adopted by the city in 2017 for the noticing of major single-family building permits required the Notice of Application process but did not require the Notice of Decision process. Instead, it required Notices of Decision to be mailed only to parties of record. To reflect the original will of the Planning Commission, staff intended to add a foot note in the review processing procedures table (MICC 19.15.030), exempting major single-family building permits from the Notice of Decision process, and to

require Notices of Decision to be mailed to parties of record. Unfortunately, this footnote was inadvertently omitted during the Procedural Code amendment process.

Proposed Remedy

Staff is requesting this code cleanup amendment to fix this issue. There are two options to remedy the permit process to reflect the original intent of the major single-family building permit process.

Option 1: A foot note could be added to the review processing procedures table as discussed in the previous paragraph. At the time of application, a Notice of Application would be mailed to surrounding properties and posted in the weekly bulletin, and a sign would be posted on the site. At issuance of a decision, a Notice of Decision would be mailed to parties of record.

Option 2: The other option would be to recategorize major single-family building permits as a Type II land use review. Type II land use reviews, also called Public Notification, are the new review type created by the Planning Commission to provide notification for permits that are not Type III or Type IV land use reviews. Public Notifications are not mailed or posted on site. They are published in the weekly electronic bulletin. There is no formal public comment period however public comments are always welcome.

Recommended Action

Discuss the options and determine which option reflects the Planning Commission's original intent of the major single-family building permit notification process. Recommend the preferred option to staff.



Community Planning and Development

9611 SE 36TH ST., MERCER ISLAND, WA 98040

(206) 275-7605

TO: Planning Commission

FROM: Robin Proebsting, Senior Planner

DATE: November 28, 2018

RE: Critical Areas Code and Shoreline Master Program Updates (ZTR18-002): Introduction of first draft of updated code

Summary

Attached to this memo is the first draft of the updated Critical Areas Code and Shoreline Master Program. The Planning Commission will receive a staff presentation at its December 5, 2018 meeting, introducing the new code and highlighting where Planning Commission direction on major policy issues has been addressed.

Background

The attached draft code represents staff's first attempt at articulating the Planning Commission's policy direction in code language. The critical areas code (MICC 19.07) has been completely re-written, and therefore does not use strikethrough and underlined text to indicate edits to the previous critical areas code. The draft changes to the Shoreline Master Program (MICC 19.14) were limited clarifying language and definitions, and therefore have incorporated ~~strikethrough~~ and underlined text to indicate deleted and added text, respectively. **Please note:** the draft code language is an initial draft and is being reviewed by city staff concurrent with the Planning Commission review; consequently, additional staff-generated edits are anticipated.

At its November 7, 2018 meeting, the Planning Commission opted to form a subcommittee to conduct a more detailed review of the draft code. Therefore, staff recommend using the meeting with the full commission on December 5, 2018 to receive an introduction to the code, with staff reporting back to Planning Commission on how its policy direction has been utilized in the updated code.

The Planning Commission's next regularly scheduled meeting is on December 19, 2018. The Commission may wish to use the meeting to review the draft code as a group, or alternately, cancel this meeting. The Commission will have another opportunity to review the draft code on January 16, 2019, the next regularly scheduled meeting.

Next Steps

1. Receive introductory presentation from staff.
2. Decide whether the full Planning Commission would like to discuss this item at its December 19, 2018 meeting.

Attachments:

1. Initial Planning Commission Draft of Critical Areas Code (MICC 19.07)
2. Initial Planning Commission Draft of Shoreline Master Program (MICC 19.13)
3. Initial Planning Commission Draft of select revised definitions (MICC 19.16)

Chapter 19.07

ENVIRONMENT

Sections:

19.07.010 Purpose.

19.07.015 Applicability

19.07.020 Critical Areas Rules

19.07.025 Relationship to other regulations

19.07.027 Fees

19.07.030 Exemptions

19.07.040 Allowed alterations

19.07.050 Reasonable Use Exception

19.07.055 Public Agency Exception

19.07.060 Avoiding impacts to critical areas

19.07.070 Disclosure and notice on title

19.07.080 Critical Area Setbacks

19.07.090 Review and construction requirements

19.07.100 Critical Area Study

19.07.110 Frequently Flooded Areas

19.07.120 Geologically Hazardous Areas

19.07.130 Critical aquifer recharge areas

19.07.140 Fish and Wildlife Habitat Conservation Areas

19.07.150 Wetlands

19.07.010 Purpose

These regulations are adopted for the following purposes:

- A) To implement the goals and policies for the Growth Management Act Chapter 36.70A RCW;
- B) To maintain the functions and values of critical areas and enhance the quality of habitat to support the sustenance of native plants and animals;
- C) To vegetate critical areas and buffers with mostly native vegetation
- D) To support and improve wildlife habitat quality
- E) Establish review criteria for land use actions that maintain and improve the ecological health of watercourses and Lake Washington.

- 1 F) Establish standards for new development that avoid increasing the risk of harm to people and
2 property from natural hazards
- 3 G) To protect critical areas through the use of buffers. Buffers are intended to protect the ecological
4 function and value of wetlands, watercourses, and fish and wildlife habitat conservation areas and
5 to increase the safety of development within and adjacent to geologically hazardous areas.
- 6 H) To require mitigation measures when unavoidable impacts to critical areas are proposed; and
- 7 I) To establish tools to ensure that protection and mitigation measures are applied and maintain
8 ecological value and function consistent with the provisions of this chapter.
- 9 J) To avoid impact to the critical areas where possible, and if avoidance is not possible, minimize
10 impacts to critical areas and buffers to the greatest extent feasible, and mitigate any remaining
11 impacts.

12 **19.07.015 Applicability**

- 13 A. These regulations apply to land within the City of Mercer island that contains any of the following:
14 Wetlands, Fish and Wildlife Habitat Conservation areas, Geologically Hazardous Areas, Critical
15 Aquifer Recharge Areas, Frequently Flooded Areas and prescribed buffers for each of the above.
- 16 B. Unless explicitly exempted, the provisions of this chapter shall apply to all land uses, development
17 activity, and all structures and facilities within the City of Mercer Island, whether or not a permit or
18 authorization is required, that are within one or more of the critical area types identified above
19 and/or within the maximum buffer distance for each critical area type, even if the critical area is on
20 adjacent property.
- 21 C. The City shall not approve any development proposal or otherwise issue any authorization to alter
22 the condition of any land, water or vegetation or to construct or alter any structure or improvement
23 without first assuring compliance with the requirements of this chapter.
- 24 D. Approval of a development proposal pursuant to the provisions of this chapter does not discharge
25 the obligation of the applicant to comply with the provisions of this chapter.

26 **19.07.020 Critical Areas Rules**

27 Applicable departments within the City are authorized to adopt administrative rules and regulations as
28 necessary and appropriate to implement this chapter and to prepare and require the use of forms to
29 facilitate its administration.

30 **19.07.025 Relationship to other regulations**

- 31 A. If more than one regulation applies to given property, then the regulation that provides the greatest
32 protection to critical areas shall apply.

- 1 B. Other Jurisdictions – Nothing in these regulations eliminates or otherwise affects the responsibility
2 of an applicant or property owner to comply with all other applicable local, state, and federal
3 regulations and permits that may be required.
- 4 C. SEPA Compliance – Nothing in these regulations or the decisions made pursuant to these regulations
5 affects the authority of the City to review, condition, and deny projects under the State
6 Environmental Policy Act, Chapter 43.21C RCW.

7 **19.07.027 Fees**

- 8 A) Unless otherwise indicated in this title, the applicant shall be responsible for the initiation,
9 preparation, submission, and expense of all required reports, assessments, studies, plans,
10 reconnaissances, or other work prepared in support of or necessary to review the application.
- 11 B) The applicant shall be responsible for all applicable fees as established in the City's fee schedule,
12 consultant review fees, and peer review fees.

13 **19.07.030 Exemptions**

14 All exempt activities shall use reasonable methods to avoid, and if avoidance is not possible, minimize
15 impacts to critical areas and buffers to the greatest extent feasible. An exemption does not give
16 permission to degrade a critical area or ignore risk from natural hazards. All necessary temporary and
17 permanent impacts to critical areas and buffers shall be mitigated consistent with mitigation
18 sequencing. The following developments, activities, and associated uses shall be exempt from the
19 requirements of this chapter, provided that they are otherwise consistent with the provisions of other
20 local, state, and federal laws and requirements

- 21 A) Repair and maintenance of existing public streets – Repair, maintenance, reconstruction and minor
22 expansion of existing public streets, including associated appurtenances, bike lanes, and sidewalks
- 23 B) Repair and maintenance of existing utility facilities– Repair, maintenance, reconstruction and minor
24 expansion of utility structures and conveyance systems and their associated facilities including
25 service lines, pipes, mains, poles, equipment and appurtenances – both above and below ground.
26 Replacement, installation, or construction of new utility structures and conveyance systems and
27 their associated facilities within existing improved rights-of-way, existing legally improved private
28 roadways, utility corridors
- 29 C) Demolition – Removal of structures in critical area buffers; provided, that all disturbed soils are
30 stabilized and revegetated with appropriate native vegetation
- 31 D) Noxious weed removal—Removal by hand of state-listed noxious weeds and invasive plant species
32 provided that all disturbed soils are stabilized and revegetated with appropriate native vegetation.

- 1 E) Maintenance of Existing Landscaping – Landscape maintenance of legally established lawns and
2 gardens; including mowing, pruning, weeding, and planting; provided, that such activities do not:
- 3 1) Expand any further into critical areas or buffers;
- 4 a) involve the application of herbicides, pesticides or other hazardous substances; or
- 5 b) include the removal of significant trees.
- 6 F) Site Investigative Work and Studies – Site investigative work and studies necessary for development
7 permits, including geotechnical tests, water quality studies, wildlife studies, and critical area
8 investigations within areas accessed by foot; provided, that any disturbance of the critical area or its
9 buffer shall be the minimum necessary to carry out the work or studies, work must be done with
10 hand tools, and the area must be restored with native vegetation after testing is done. Site
11 investigative work requiring mechanized equipment may be authorized under 19.07.040(B).
- 12 G) Survey and Boundary Markers. Construction or modification of survey and boundary markers.
- 13 H) Alterations in response to emergencies that threaten the public health, safety, and welfare or that
14 pose an imminent risk of damage to private property, provided the following criteria are met:
- 15 1) The person undertaking such an action shall notify the code official in writing within one
16 business day following commencement of the emergency activity.
- 17 2) Within 30 calendar days of the commencement of the emergency activity, the person
18 undertaking such an action shall submit a complete application for all necessary approvals to
19 authorize the alterations made and proposed in response to the emergency. The code official
20 may allow additional time beyond 30 calendar days for submittal of a complete application if the
21 applicant requests an extension for a specific period of time and demonstrates that this
22 additional time is needed to obtain the information necessary to make the application
23 complete.
- 24 3) The person undertaking such an action shall mitigate all impacts caused by the alteration and
25 associated restoration activities, including intentional or unintentional alterations to all critical
26 areas and buffers.
- 27 I) Passive Outdoor Activities. When it can be demonstrated that there will be no undue adverse effect,
28 the following activities may be allowed within critical areas and their buffers: educational activities,
29 scientific research, and outdoor recreational activities, including but not limited to interpretive field
30 trips, bird watching, and beach access including water recreation-related activities. Any construction
31 shall follow all applicable codes and standards. This exemption does not authorize any construction.

32 **19.07.040 Allowed alterations**

1 Allowed alterations may be authorized by the code official with approval of an application for a Critical
2 Area Alteration.

3 A) Modification of, addition to, or replacement of an existing legally established structure within a
4 critical area and/or buffer, constructed on or before the effective date of the ordinance codified in
5 this chapter, subject to the following:

- 6 1) The structure is enlarged not more than a cumulative total of 200 square feet larger than its
7 footprint as of the effective date of the ordinance codified in this chapter until its demolition;
- 8 2) If the existing legally established is located over or within a wetland or watercourse, no further
9 expansion within the wetland or watercourse is allowed; and
- 10 3) A critical areas study approved by the City demonstrates that impacts have been avoided,
11 minimized, and mitigated and that the proposal does not increase risk to life or property.

12 B) Use of any mechanized equipment for site investigative work, including surveys, soil logs,
13 percolation tests, and other related activities, where such activities do not require construction of
14 new access roads or excavation activities. In every case, impacts to critical areas and buffers shall be
15 minimized and disturbed areas shall be immediately restored.

16 C) Restoration and enhancement activities, subject to the following:

- 17 1) The entire area cleared of invasive plants shall be revegetated with appropriate native
18 vegetation;
- 19 2) Removal of invasive plant species and other restoration work shall be restricted to work by hand
20 tools, including use of handheld gas or electric equipment;
- 21 3) For public restoration, citizen volunteers doing restoration must be under the direct supervision
22 of City staff; and
- 23 4) For private restoration, removed invasive plant material shall be taken off the site; and plants
24 that appear on the King County Noxious Weed List must be handled and disposed of according
25 to a noxious weed control plan appropriate to that species.

26 D) Maintenance of existing piped watercourses and stormwater facilities and conveyances if the piped
27 watercourse, facilities and conveyances do not meet the definition of a fish and wildlife habitat
28 conservation area.

29 **19.07.050 Reasonable Use Exception**

30 A) If the application of this chapter will prevent any reasonable economic use of the owner's property,
31 then the applicant may apply to the planning department for an exception from the requirements of
32 this chapter; may be applied for in accordance with the provisions of Chapter 19.15.

- 1 B) The hearing examiner may be approve the application for exception only if the applicant has
2 documented:
- 3 1) The application of this chapter would deny all reasonable use of the property.
 - 4 2) No other reasonable use of the property has less impact on critical areas.
 - 5 3) Any alteration to critical areas is the minimum necessary to allow for reasonable use of the
6 property; and
 - 7 4) The proposal does not pose an unreasonable threat to the public health, safety, or welfare; and
 - 8 5) The inability of the applicant to derive reasonable use of the property is not the result of actions
9 by the applicant after the effective date of this chapter.
 - 10 6) The hearing examiner may approve, approve with conditions, or deny the request based on the
11 proposal's ability to comply with all of the above criteria. The applicant has the burden of proof
12 in demonstrating that the above criteria are met.

13 **19.07.055 Public Agency Exception**

14 If the application of this chapter would prohibit an activity or a development proposal by a public
15 agency, the agency may apply for an exception pursuant to this section:

- 16 A) The public agency shall apply to the department and shall make available to the department other
17 related project documents such as permit applications to other agencies, special studies and SEPA
18 documents.
- 19 B) The code official may approve alterations to critical areas, buffers and critical area setbacks by an
20 agency or utility not otherwise allowed by this chapter when the following criteria are met:
- 21 1) There is no other reasonable alternative to the activity or proposed development with less
22 impact on the critical area; and
 - 23 2) The activity or development proposal is designed to avoid, minimize, and mitigate the impact on
24 environmentally critical areas consistent with the avoidance and mitigation sequencing
25 requirements in this chapter; and, if applicable:
 - 26 3) The proposed development or activity is of a linear nature and is on an existing corridor or
27 connects to public lands, trails, utility corridors, rights-of-way or other public infrastructure, or is
28 required for functional reasons such as gravity flow.

29 **19.07.060 Avoiding impacts to critical areas**

30 Except as otherwise provided in MICC 19.07, an applicant for a development proposal, activity, or
31 alteration shall document the consideration of and subsequently shall implement the following

sequential measures, which appear in order of preference, to avoid, minimize, and mitigate impacts to environmentally critical areas and associated buffers:

- A) Avoiding the impact altogether by not taking a certain action or parts of an action;
- B) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
- C) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- D) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- E) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
- F) Monitoring the impact and taking appropriate corrective measures.

19.07.070 Disclosure and notice on title

- A) The applicant shall disclose to the City the presence of critical areas on the development proposal site and any mapped or identifiable critical areas within the distance equal to the largest potential required buffer applicable to the development proposal area on the applicant's property.
- B) The owner of any property containing critical areas or buffers on which a development proposal is submitted or any property on which mitigation is established as a result of development, except a public right-of-way or the site of a permanent public facility, shall file a notice approved by the City with the records and elections division of King County. The required contents and form of the notice shall be determined by the director. The notice shall inform the public of the presence of critical areas, buffers or mitigation sites on the property, of the application of this chapter to the property and that limitations on actions in or affecting such critical areas or buffers may exist. The notice shall run with the land.
- C) The applicant shall submit proof to the city that the notice has been recorded prior to approval of a development proposal for the property or, in the case of subdivisions, short subdivisions, and binding site plans, at or before recording of the final subdivision, short subdivision, or binding site plan.

19.07.080 Critical Area Setbacks

Unless otherwise provided, buildings and other structures shall be set back a distance of 10 feet from the edges of a critical area buffer. The following may be allowed in the building setback area:

- A) Landscaping;
- B) Uncovered decks, less than 18 inches above grade;

- C) Building overhangs if such overhangs do not extend more than 18 inches into the setback area;
- D) Non-structural hardscape and driveways; provided, that such improvements may be subject to special drainage provisions adopted for the various critical areas; and
- E) Trails, consistent with the requirements of this chapter.

19.07.090 Review and construction requirements

- A) Development Standards. The applicant shall comply with the general development standards set forth in Chapter 19.09 MICC.
- B) Hold Harmless/Indemnification Agreement and Covenant Not to Sue, Performance Guarantees, Performance Bonds, Insurance. An applicant for a permit within a critical area shall comply with the requirements of MICC 19.01.060, if required by the code official.
- C) Timing. All alterations or mitigation to critical areas shall be completed prior to the final inspection and occupancy of a project.
- D) Maintenance and Monitoring.
 - 1) Maintenance and monitoring may be required for up to five years from the date of project completion if the code official determines such condition is necessary to ensure mitigation success and critical area protection.
 - 2) A bond or assignment of funds pursuant to MICC 19.01.060(C) may be required to guarantee that approved mitigation plans will be undertaken and completed to the city's satisfaction.
 - 3) Where monitoring reveals a significant difference from predicted impacts or a failure of protection measures, the applicant shall be responsible for appropriate corrective action, which may be subject to further monitoring.
 - 4) When mitigation has been completed, but no monitoring reports have been submitted to the City, the applicant shall submit as-built drawings and yearly monitoring reports to the City until at least two consecutive reports document to the code official's satisfaction that all performance standards from the approved mitigation plan have been met.
- E) Suspension of Work. If the alteration does not meet city standards established by permit condition or applicable codes, including controls for water quality, erosion and sedimentation, the city may suspend further work on the site until such standards are met. Compliance with all requirements of this chapter is required, pursuant to MICC 19.15.210.

19.07.100 Critical Area Study

- A) An applicant for a development proposal where impacts to or alteration of a critical area or modification or reduction of a buffer associated with a critical area is proposed or may occur as a

consequence of proposed actions shall submit a critical areas study containing sufficient information, as determined by the code official, to adequately evaluate the proposal and probable impacts.

B) The critical areas study shall be in the form of a written report prepared by a qualified professional using guidance based on best available science per Chapter 36.70A RCW and shall contain the following, as determined to be applicable by the code official:

- 1) Disclosure of the presence of critical areas on the development proposal site and any mapped or identifiable critical areas within the distance equal to the largest potential required buffer applicable to the development proposal area on the applicant's property;
- 2) A statement specifying the accuracy of the report and all assumptions made and relied upon;
- 3) A description of the methodologies used to conduct the critical areas study, including references;
- 4) A scale map of the development proposal site;
- 5) Photographic records of the site before the proposed alteration occurs;
- 6) An assessment of the probable cumulative effects to critical areas, including impacts caused by the development proposal and associated alterations to the subject property and impacts to other properties and any critical areas or buffers located on them resulting from the development of the site and the proposed development
- 7) A description of mitigation sequencing implementation described in MICC 19.07.060 including steps taken to avoid and minimize critical areas impacts to the greatest extents feasible;
- 8) Detailed studies, as required by this chapter, for individual critical areas or as otherwise deemed necessary for critical areas protection by the code official;
- 9) Assessment of potential impacts that may occur on adjacent site, such as sedimentation or erosion, where applicable;

C) A wetland delineation completed over five years ago shall be field verified by a qualified professional to determine whether the delineation is still accurate or whether it needs to be redone based on existing conditions.

D) The critical area study requirement may be waived or modified if the applicant demonstrates to the code official's satisfaction, that the development proposal will not have an impact on the critical area in a manner contrary to the purposes and requirements of this chapter.

19.07.110 Frequently Flooded Areas

Frequently flooded areas are flood plains and other areas subject to flooding, including the 100-year flood plain designations of the Federal Emergency Management Agency and the National Flood Insurance Program. There are currently no areas meeting this definition on Mercer Island. Therefore, additional specific provisions for protecting frequently flooded areas are not provided within this chapter.

19.07.120 Geologically Hazardous Areas

- A) Designation and Typing: Geologically hazardous areas are lands that are susceptible to erosion, landslides, seismic events, or other factors as identified by WAC 365-190-120. These areas may not be suited for development activities because they may pose a threat to public health and safety. Areas susceptible to one or more of the following types of hazards shall be designated as geologic hazard areas: landslide hazard areas; seismic hazard areas; erosion hazard areas.
- B) General Review Requirements: When development within a landslide hazard area or seismic hazard area is proposed, the applicant must submit a geotechnical report concluding that the proposal can effectively mitigate risks of the hazard. Consistent with MICC 19.07.100 the report shall suggest appropriate design and development measures to mitigate such hazards. The code official may waive the requirement for a geotechnical report when he or she determines that the alteration is de minimis.
- 1) Alterations of geologic hazard areas and associated buffers may occur if the applicant documents to the code official's satisfaction that such alterations:
 - a) Will not adversely impact other critical areas;
 - b) Will not adversely impact (e.g., landslides, earth movement, increase surface water flows, etc.) the subject property or adjacent properties;
 - c) Will mitigate impacts to the geologic hazard area consistent with best available science to the maximum extent reasonably possible such that the site is determined to be safe; and
 - d) Include the landscaping of all disturbed areas outside of building footprints and installation of ~~all impervious surfaces~~ hardscape prior to final inspection.
 - 2) Alteration within geologic hazard areas may occur if the development conditions listed above are satisfied and the geotechnical professional provides a statement of risk with supporting documentation indicating that one of the following conditions can be met:
 - a) The geologic hazard area will be modified, or the development has been designed so that the risk to the lot and adjacent property is eliminated or mitigated such that the site is determined to be safe;

- b) Construction practices are proposed for the alteration that would render the development as safe as if it were not located in a geologic hazard area;
 - c) The alteration is so minor as not to pose a threat to the public health, safety and welfare; or
 - d) An evaluation of site-specific subsurface conditions demonstrates that the proposed development is not located in a geologic hazard area.
- C) Development Standards – Landslide Hazard Areas: Buffers shall be applied as follows:
- 1) Steep slopes up to 50 feet high and shallow landslide hazard areas shall have 25-foot setbacks applied to the top and toe of the slope;
 - 2) Slopes over 50 feet high and for deep-seated landslide hazard areas shall have 75-foot setbacks applied from the stop and tow of the slope;
 - 3) Buffers may be reduced or increased upon the recommendation of a qualified professional, but not less than 10-foot setback for shallow landslide hazard areas, and 50 feet for deep landslide hazard areas.
- D) Development Standards – Seismic Hazard Areas: When development is proposed within a seismic hazard area:
- 1) A 50-ft minimum setback shall be applied from Holocene active fault rupture traces, as mapped by the US Geological Survey database of active faults; or
 - 2) Mitigation shall be incorporated into the development proposal as recommended based on geotechnical analysis by a qualified professional.
- E) Development Standards – Erosion Hazard Areas:
- 1) All development proposals on sites containing erosion hazard areas shall include a temporary erosion and sediment control plan.
 - 2) Best Management Practices shall be used to minimize potential erosion during construction.
 - 3) No development or activity within an Erosion Hazard Area may create a net increase in geological instability on- or off- site.
- F) Development Standards – Additional Criteria for Specific Activities
- 1) Trail building within geologically hazardous areas, subject to the following:
 - a) Trail surfaces shall be constructed of pervious materials and may not be wider than five feet; and
 - b) Trails shall be located to minimize the need for tree removal.
 - 2) Land clearing, grading, filling, and foundation work within geologic hazard areas are not permitted between October 1 and April 1. The code official may grant a waiver to this seasonal

development limitation if the applicant provides a geotechnical report of the site and the proposed construction activities that concludes erosion and sedimentation impacts can be effectively controlled on-site consistent with adopted storm water standards and the proposed construction work will not subject people or property, including areas off-site, to an increased risk of the hazard. As a condition of the waiver, the code official may require erosion control measures, restoration plans, and/or an indemnification/release agreement. Peer review of the geotechnical report may be required in accordance with subsection C of this section. If site activities result in erosion impacts or threaten water quality standards, the city may suspend further work on the site and/or require remedial action.

19.07.130 Critical aquifer recharge areas

A) Designation and Typing: Critical aquifer recharge areas are designated as: 1) areas within the wellhead protection area of the City's emergency well; 2) the wellhead protection areas of Group B wells; and 3) areas that recharge the aquifers for other private wells.

B) Development Standards:

- 1) Land uses and activities proposed to take place within a critical aquifer recharge area that may cause contaminants to enter the aquifer are regulated activities and are prohibited unless studies are submitted pursuant to subsection (B)(2) of this section.
- 2) Approval of regulated activities within a critical aquifer recharge area shall require a critical areas study meeting the requirements of MICC 19.07.100 together with a hydrogeologic assessment demonstrating that the potential impacts will be mitigated.

19.07.140 Fish and Wildlife Habitat Conservation Areas

A) Designation and Typing: Fish and wildlife habitat conservation areas include:

- 1) Watercourses. Watercourses shall be classified as follows pursuant to WAC 222-16-030 or as amended:
 - a) Type S, which include all waters, within their bankfull width, as inventoried as "shorelines of the state" which are regulated by the City's Shoreline Master Program pursuant to chapter 90.58 RCW.
 - b) Type F, which include segments of natural waters other than Type S Waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat.

- 1 c) Type Np, which include all segments of natural waters within the bankfull width of defined
2 channels that are perennial nonfish habitat streams. Perennial streams are flowing waters
3 that do not go dry any time of a year of normal rainfall and include the intermittent dry
4 portions of the perennial channel below the uppermost point of perennial flow.
- 5 d) Type Ns, which include all segments of natural waters within the bankfull width of the
6 defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat
7 streams in which surface flow is not present for at least some portion of a year of normal
8 rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns
9 Waters must be physically connected by an above-ground channel system to Type S, F, or
10 Np Waters.
- 11 2) Piped Watercourses, which are pipes or other conveyances through which surface waters, with
12 some regularity (annually in the rainy season), naturally and normally flow in draining from
13 higher to lower lands. This definition does not include irrigation and drainage ditches, grass-
14 lined swales, canals, storm water runoff devices, or other courses unless they are used by fish or
15 to convey waters that were naturally occurring prior to construction.
- 16 3) Priority Habitats and areas associated with Priority Species, as listed in the Washington State
17 Department of Fish and Wildlife's Priority Habitats and Species list. Priority habitats and species
18 known to be identified and mapped by the Department of Fish and Wildlife in the City include,
19 but are not limited to, the following: band-tailed pigeon, pileated woodpecker, cavity-nesting
20 ducks, and biodiversity areas and corridors as mapped within Mercerdale Park (and hillside),
21 Upper Luther Burbank Park, Gallagher Hill, Southeast 53rd, Island Crest Park, and Pioneer Park
22 Open Space.
- 23 4) Areas used by bald eagles for nesting and foraging.
- 24 B) General Review Requirements
- 25 1) Development within watercourses and/or associated buffers is prohibited unless one of the
26 following conditions applies:
- 27 a) The proposed activity is specifically exempt pursuant to MICC 19.07.###.030
- 28 b) A critical areas review-alteration is reviewed and approved for one of the allowed
29 alterations in MICC 19.07.###.040
- 30 c) The proposed activity is permitted under subsection (D) Development Standards –
31 Additional Criteria for Specific Activities, below.

- 2) Development proposals within Priority Habitats or areas used by bald eagles for nesting and foraging shall submit a wildlife habitat assessment including the following information:
- a) Identification of state priority species, or state or federally listed endangered, threatened or sensitive species that have a primary association with habitat on or in the vicinity of the property;
 - b) Extent of wildlife habitat areas, including acreage, and required buffers based on the species;
 - c) Vegetative, faunal, and hydrologic characteristics;
 - d) Evaluation of direct and indirect potential impacts on habitat by the project, including potential impacts to water quality; and
 - e) A discussion of any federal, state, or local special management recommendations, including Washington State Department of Fish and Wildlife habitat management recommendations that have been developed for the species or habitats.

C) Development Standards – Buffers

- 1) Development proposals and other alterations on sites containing streams or buffers shall comply with the following standards:
- 2) The following minimum buffers shall be established from the ordinary high water mark or from the top of the bank if the ordinary high water mark cannot be identified:

Watercourse Type	Standard
F	120 feet
Np	60 feet
Ns	60 feet

- 3) Neither lot coverage nor hardscape shall be permitted within a watercourse or watercourse buffer except as specifically provided in this chapter.
- 4) Any watercourse adjoined by a riparian wetland or other contiguous critical area shall have the buffer required for the stream type involved or the buffer that applies to the wetland or other critical area, whichever is greater.
- 5) Buffer Averaging. Buffer width averaging may be allowed by the City if:
 - a) The applicant has demonstrated how impacts have been avoided consistent with MICC 19.07.060
 - b) The applicant has demonstrated how all proposed impacts have been mitigated consistent with subsection (E) of this section.

- 1 c) The proposed buffer width is not less than 25% of the standard buffer width at any point
- 2 d) The proposed buffer averaging is not proposed in conjunction with buffer reduction.
- 3 6) Buffer Reduction. Buffer width reduction may be allowed by the City if:
- 4 a) The applicant has demonstrated that buffer averaging would not feasibility allow
- 5 b) The applicant has demonstrated how impacts have been avoided consistent with MICC
- 6 19.07.060
- 7 c) The applicant has demonstrated how all proposed impacts have been mitigated consistent
- 8 with subsection (E) of this section.
- 9 d) The proposed buffer width is not less than 25% of the standard buffer width at any point
- 10 e) The proposed buffer averaging is not proposed in conjunction with buffer reduction.
- 11 7) Piped watercourse setbacks:
- 12 a) Setbacks shall be established from piped watercourses of a width equal to the standard
- 13 buffer of the upstream portion of the watercourse. If the entirety of the watercourse is
- 14 piped up to the natural headwaters, then the setback shall be equal to the standard buffer
- 15 for Type Ns watercourses.
- 16 b) Piped watercourse setback depths may be reduced by the code official based on site-specific
- 17 analysis, including the following factors:
- 18 (1) The suitability of the piped watercourse segment for daylighting, including
- 19 considerations of grade and soil type;
- 20 (2) The potential ecological function and value of the watercourse if daylighted; and
- 21 (3) The extent and nature of existing, legally-established development within the setback
- 22 c) Piped watercourses that are daylighted and restore the riparian channel may have their
- 23 buffers reduced up to 15 feet in width.
- 24 D) Development Standards – Additional Criteria for Specific Activities
- 25 1) New watercourse crossings, such as bridges and culverts, may be permitted provided the
- 26 standards in WAC 220-660-190 have been demonstrated to be met.
- 27 2) The construction of trails within watercourse buffers is allowed, subject to the following:
- 28 a) Trail surfaces shall be constructed of pervious materials and may not be wider than five feet;
- 29 b) Trails shall be located to minimize the need for tree removal; and
- 30 c) Trails shall be located only in the outer 25 percent of the buffer area.

- d) The trail width shall be added to the buffer width applied to the watercourse (e.g., if a trail is three feet wide, the watercourse buffer for the portion of the watercourse where the trail is located shall be expanded by three feet.)

E) Mitigation Requirements

- 1) Mitigation measures shall achieve equivalent or greater functions including, but not limited to:
- a) Habitat complexity, connectivity, and other biological functions;
 - b) Seasonal hydrological dynamics, water storage capacity and water quality; and
 - c) Geomorphic and habitat processes and functions

19.07.150 Wetlands

- A) Designation and Typing: Wetlands shall be rated using the Washington State Rating System for Western Washington: 2014 Update.

B) General Review Requirements

- 1) In addition to the critical area study requirements listed in MICC 19.07.100, critical area studies on wetlands shall also include: 1) Wetland rating forms and datasheets and 2) Discussion of landscape setting
- 2) Wetland delineations are valid for five years
- 3) Wetlands must be delineated and rated by a qualified professional.

C) Development Standards – Buffers

- 1) The following minimum buffers shall be established from the ordinary high water mark:

Wetland Category	Standard Buffer	
	With 3-5 habitat points	With 6-7 habitat points
Category I	75 ft	110 ft
Category II	75 ft	110 ft
Category III	60 ft	110 ft
Category IV	40 ft	

- 2) Prohibited activities: The following uses are prohibited within any wetland or associated buffer: removal, excavation, grading, or dredging of material; draining flooding or disturbing the wetland, water level or water table; construction, reconstruction, demolition, or expansion of any structure.

- 1 3) Neither lot coverage nor hardscape shall be permitted within a wetland or wetland buffer
2 except as specifically provided in this chapter.
- 3 4) Buffer Averaging. Buffer width averaging may be allowed by the City if:
4 a) The applicant has demonstrated how impacts have been avoided consistent with MICC
5 19.07.060.
6 b) The applicant has demonstrated how all proposed impacts have been mitigated consistent
7 with subsection (E) of this section.
8 c) The proposed buffer width is not less than 25% of the standard buffer width at any point
9 d) The proposed buffer averaging is not proposed in conjunction with buffer reduction.
- 10 5) Buffer Reduction. Buffer width reduction may be allowed by the City if:
11 a) The applicant has demonstrated that buffer averaging would not feasibility allow
12 b) The applicant has demonstrated how impacts have been avoided consistent with MICC
13 19.07.060.
14 c) The applicant has demonstrated how all proposed impacts have been mitigated consistent
15 with subsection (E) of this section.
16 d) The proposed buffer width is not less than 25% of the standard buffer width at any point
17 e) The proposed buffer reduction is not proposed in conjunction with buffer averaging.
- 18 D) Development Standards – Additional Criteria for Specific Activities:
19 1) Alterations to wetlands are allowed when the applicant has demonstrate how mitigation
20 sequencing has been applied pursuant to MICC 19.07.060 and provided the applicant
21 demonstrates that the wetland is:
22 a) hydrologically isolated;
23 b) Category III or IV;
24 c) less than 1,000 square feet
25 d) in an area that is not associated with riparian areas or buffers;
26 e) not part of a wetland mosaic, and
27 f) does not contain habitat for WDFW priority species.
28 2) The construction of trails within watercourse buffers is allowed, subject to the following:
29 a) Trail surfaces shall be constructed of pervious materials and may not be wider than five feet;
30 b) Trails shall be located to minimize the need for tree removal; and
31 c) Trails shall be located only in the outer 25 percent of the buffer area.

- d) The trail width shall be added to the buffer width applied to the wetland (e.g., if a trail is three feet wide, the wetland buffer for the portion of the wetland where the trail is located shall be expanded by three feet.)

3) Development proposals shall incorporate the following measures, as applicable:

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	<ul style="list-style-type: none"> • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 ft of wetland • Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development techniques (per PSAT publication on LID techniques)
Change in water regime	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	<ul style="list-style-type: none"> • Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none"> • Use best management practices to control dust
Disruption of corridors or connections	<ul style="list-style-type: none"> • Maintain connections to offsite areas that are undisturbed • Restore corridors or connections to offsite habitats by replanting

E) Mitigation Requirements

1) Mitigation Ratios:

- a) Buffer mitigation shall provide mitigation area
- b) Buffer mitigation should be provided at least at a 1:1 ratio.

- 1 2) Preference of Mitigation Actions. Compensatory wetland mitigation shall occur in the following
2 order of preference:
3 a) Restoration
4 (1) Re-establishment
5 (2) Rehabilitation
6 b) Creation
7 c) Enhancement
8 d) Preservation
9 e) Compensatory mitigation for alterations to wetlands shall be used only for impacts that
10 cannot be avoided or minimized and shall achieve equivalent or greater biologic functions.
11 Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington
12 State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06-011b,
13 Olympia, WA, March 2006 or as revised), and Selecting Wetland Mitigation Sites Using a
14 Watershed Approach (Western Washington) (Publication #09-06-32, Olympia, WA,
15 December 2009).
- 16 3) Site protection: As a condition of any permit or land use approval, the code official may require
17 permanent fencing to be installed around the wetland or buffer. Fencing installed as part of a
18 proposed activity or as required in this subsection shall be designed so as to not interfere with
19 species migration, including fish runs, and shall be constructed in a manner that minimizes
20 impacts to the wetland and associated habitat.
21

19.07.11013 Shoreline master program.



19.13.010A. Authority and Purpose.

- A) ~~1~~-Authority. This section is adopted as part of the shoreline master program of the city. It is adopted pursuant to the authority and requirements of Chapter 90.58 RCW and Chapter 173-26 WAC.
- B) ~~2~~-Applicability. The requirements of this section apply to all uses, activities and development within the shorelands, unless specifically exempted. All proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act.
- C) ~~3~~-Purpose and Intent. It is the purpose and intent of this section to achieve the shoreline master program (SMP) mandates of the state of Washington and to adopt property development standards within the shorelands that protect the health, safety, welfare, values and property interests of the city of Mercer Island and its residents.
- D) ~~4~~-Relationship with Other Mercer Island Codes and Ordinances. This section is an integrated element of the city of Mercer Island Unified Land Development Code (MICC Title 19) and other applicable development regulations contained in the Mercer Island City Code, including the storm water management regulations in MICC Title 15, and building and construction regulations in MICC Title 17. The provisions of the critical areas ordinance (MICC 19.07.010 through and including 19.07.090 as in effect on January 1, 2011) are hereby incorporated as specific regulations of the shoreline master program. To the extent this section conflicts with any other section of the Mercer Island City Code, the provisions of this section shall govern within the shorelands.
- E) ~~5~~-Relationship with Other Federal and State Law. The provisions of this section shall not relieve any responsibility to comply with other federal and state laws or permits. All work at or waterward of the OHWM may require permits from one or all of the following: U.S. Army Corps of Engineers, Washington Department of Fish and Wildlife, Washington Department of Natural Resources or Washington Department of Ecology.

19.13.###B-.020 General Regulations.

- A) ~~1~~-Legal Nonconforming Uses and Structures May Continue. Overwater uses and structures, and uses and structures 25 feet landward from the OHWM, which were legally created may be maintained, repaired, renovated, remodeled and completely replaced to the extent that nonconformance with the standards and regulations of this section is not increased.
- B) Expansion of Legal Nonconforming Structures. Expansions of legal nonconforming overwater structures and structures upland 25 feet from the OHWM are permitted; provided, that the expanded portion of the structure is constructed in compliance with this section and all other standards and provisions of the Mercer Island development regulations, including this chapter.
- ~~B)C) 2~~-No Net Loss Standard and Mitigation Sequencing. No development shall be approved unless the applicant demonstrates to the code official's satisfaction that the shoreline development will not create a net loss of ecological function in the shorelands.
 - 1) ~~a~~-Standards Presumed to Meet No Net Loss. When all individual development standards that apply to a development project do not explicitly require a determination of no net loss and the project conforms with all such standards, there is a rebuttable presumption that the project does not create a net loss of ecological function to the shorelands.

2) ~~b.~~ No Net Loss Plan. Whenever an applicant seeks a variance or conditional use permit or an applicable development standard explicitly requires a determination of no net loss of ecological function, the applicant shall provide the city with a plan that demonstrates the proposed project will not create a net loss in ecological function to the shorelands. The plan shall accomplish no net loss of ecological function by avoiding adverse ecological impacts that are not reasonably necessary to complete the project, minimizing adverse ecological impacts that are reasonably necessary to complete the project, and mitigating or offsetting any adverse impacts to ecological functions or ecosystem-wide processes caused by the project. The code official may require the plan to include reports from qualified professionals with expertise in ecological function. The plan's compliance with the no net loss requirement may be considered through the SEPA process.

a) ~~i.~~ Off-Site Mitigation Permitted. While on-site mitigation is preferred, off-site mitigation may be permitted at the discretion of the code official.

b) ~~ii.~~ Demonstration of No Net Loss Supported by a Qualified Professional. The code official may require any applicant to provide reports by qualified professionals that demonstrate to the code official's satisfaction that the applicant's proposed plan avoids a net loss in ecological function.

~~C) 3. Expansion of Legal Nonconforming Structures. Expansions of legal nonconforming overwater structures and structures upland 25 feet from the OHWM are permitted; provided, that the expanded structure is constructed in compliance with this section and all other standards and provisions of the Mercer Island development regulations.~~

~~D) 4. Shoreline Habitat and Natural Enhancements Held Harmless. In those instances where the OHWM moves further landward as a result of any action required by this section, or in accordance with permits involving a shoreline habitat and nature systems enhancement approved by the city, or a state or federal agency, the shoreline setback shall be measured from the location of the OHWM that existed immediately prior to the action or enhancement project.~~

~~E) The development of two or more dwelling units on a lot abutting the OHWM should provide joint use or community dock facilities, when feasible, rather than allow individual docks for each lot.~~

~~F) New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible. This future shoreline stabilization standard does not apply to stabilization that occurs pursuant to subsection (B)(1) of this section. New structural stabilization measures in support of new non-water-dependent development, including single-family residences, shall only be allowed when all of the conditions below apply:~~

~~1) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.~~

~~2) 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.~~

~~3) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report, in compliance with subsection (B)(7) of this section. The damage must be caused by natural processes, such as currents and waves.~~

~~1)4) The erosion control structure will not result in a net loss of shoreline ecological functions.~~

~~C.19.13.030~~ Shoreline Map and Designations. The shoreline environmental designations map, dated March 3, 2011, as shown in Appendix F, is adopted as the official Mercer Island shoreline environmental designations map. The digital map is available in the online version of the Mercer Island City Code at

http://www.mercergov.org. All shorelands within the city are designated. Different areas of the city's shorelands 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 shorelands. They are:

- A) ~~1-~~ Urban Park Environment. This environment consists of shoreland areas designated for public access and active and passive public recreation. The areas include, but are not limited to, parks, street ends, public utilities and other publicly owned rights-of-way. The uses located in this environment should be water-dependent and designed with no net loss to the ecological functions of the shorelands. Restoration of ecological functions is planned for these areas and is strongly encouraged. The preferred and priority use in the urban park environment is public access to, and enjoyment of, Lake Washington.
- B) ~~2-~~ Urban Residential Environment. The purpose of the urban residential environment is to provide for residential and recreational utilization of the shorelands, compatible with the existing residential character in terms of bulk, scale, type of development and no net loss of ecological functions of the shorelands. The preferred and priority use in the urban residential environment is single-family residential use.

19.13.###.040 D- Use Regulations. The following tables specify the shoreline uses and developments which may take place or be conducted within the designated environments. 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 standards specified in subsection E of this section.

KEY:

CE: Permitted via shoreline categorically exempt

P: Permitted use

P-1: Uses permitted when authorized by a conditional use permit for the applicable zone shall also require a shoreline substantial development permit and a shoreline plan in compliance with MICC 19.07.110(B)(2)

SCUP: Shoreline conditional use permit

NP: Not a permitted use

The following regulations apply to all uses and development within the shorelands, whether or not that development is exempt from the permit requirements:

Table A – Shoreland Uses Landward of the Ordinary High Water Mark

SHORELAND USE LANDWARD OF THE OHWM	Urban Residential Environment	Urban Park Environment
Single-family dwelling including accessory uses and accessory structures	CE	NP
Accessory dwelling units	CE	NP
The use of a single-family dwelling as a bed and breakfast	P-1	NP
A state-licensed day care or preschool	P-1	NP
Government services, public facilities, and museums and art exhibitions	P-1	P
Public parks and open space	P	P
Private recreational areas	P	NP
Semi-private waterfront recreation areas for use by 10 or fewer families	P	NP
Semi-private waterfront recreation areas for use by more than 10 families	P-1	NP
Noncommercial recreational areas	P-1	P
Commercial recreational areas	NP	NP
Places of worship	P-1	NP
Retirement homes located on property used primarily for a place of worship	P-1	NP
Special needs group housing	P	NP
Social service transitional housing	P	NP
Public schools accredited or approved by the state for compulsory school attendance	NP	NP
Private schools accredited or approved by the state for compulsory school attendance	NP	NP

Table A – Shoreland Uses Landward of the Ordinary High Water Mark

SHORELAND USE LANDWARD OF THE OHWM	Urban Residential Environment	Urban Park Environment
Streets and parking	P	P
Transit facilities including light rail transit facilities, transit stops, and associated parking lots	P	NP
Wireless communications facilities	P	P
New hard structural shoreline stabilization	SCUP	SCUP
Soft structural shoreline stabilization	P	P
Shoreland surface modification	P	P
Restoration of ecological functions including shoreline habitat and natural systems enhancement	P	P
Boat ramp	P	P
Agriculture, aquaculture, forest practices and mining	NP	NP

1

Table B – Shoreland Uses Waterward of the Ordinary High Water Mark

SHORELAND USE WATERWARD OF THE OHWM	Urban Residential Environment	Urban Park Environment
Moorage facilities and covered moorages 600 square feet or less	P	P
Covered moorage larger than 600 square feet	SCUP	SCUP
Floating platforms	P	P
Mooring piles, diving boards and diving platforms	P	P
Boat ramp	P	P
Boat houses	NP	NP

Table B – Shoreland Uses Waterward of the Ordinary High Water Mark

SHORELAND USE WATERWARD OF THE OHWM	Urban Residential Environment	Urban Park Environment
Floating homes	NP	NP
Public access pier or boardwalk	P	P
Utilities	P	P
Public transportation facilities including roads, bridges, and transit	P	P
Transit facilities including light rail transit facilities	P	NP
Dredging and dredge material disposal	P	P
Breakwaters, jetties, and groins (except those for restoration of ecological functions)	NP	NP
Restoration of ecological functions including shoreline habitat and natural systems enhancement	P	P
<p>Notes:</p> <p>A use not listed in this table is not permitted within shorelands.</p> <p>A use permitted by this table shall meet all other applicable regulations, including, but not limited to, being an allowed use in the applicable zone.</p>		

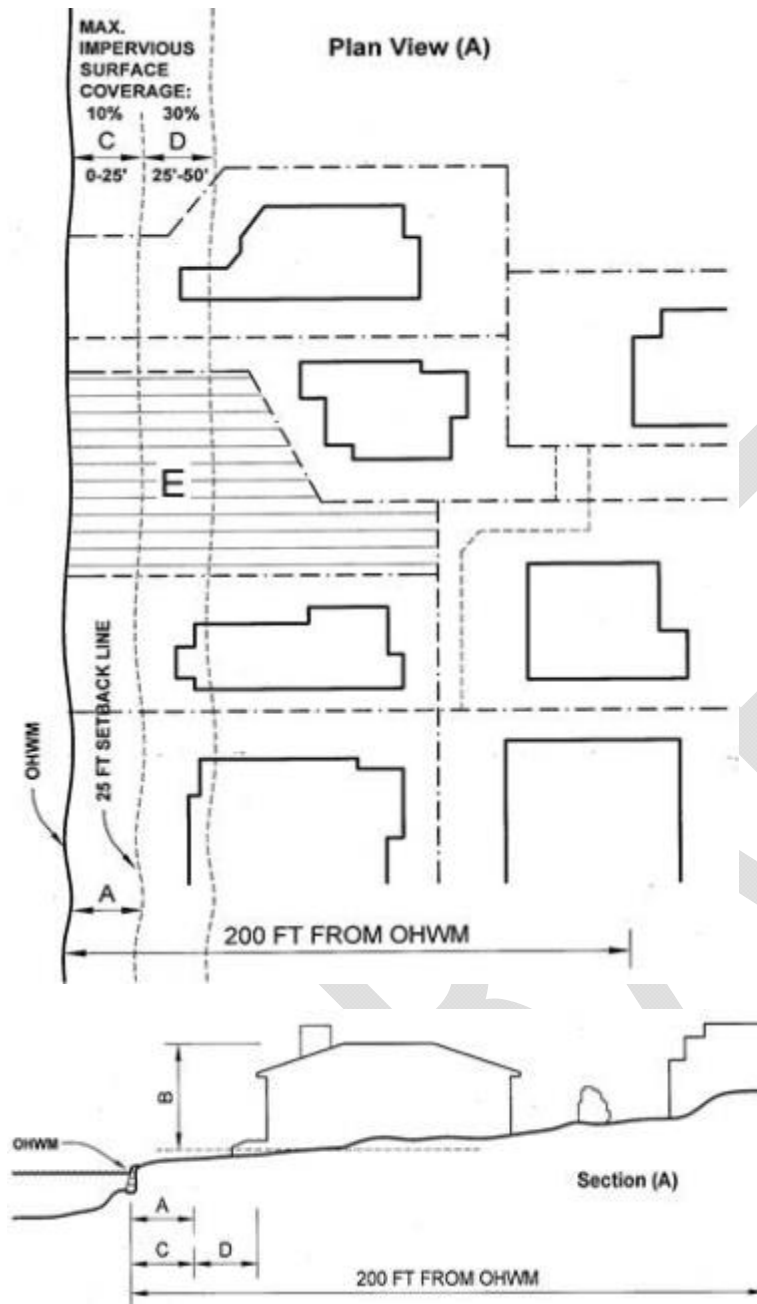
1 ~~19.13.###.025 E~~–Shoreland Development Standards. All development within the shoreline jurisdiction
2 shall be in compliance with all development requirements specified in this section.

3 A) ~~1~~–Standards Landward of the OWHM. The standards in Table C shall apply to development located
4 landward of the OHWM:

Table C. Requirements for Development Located Landward from the OHWM

Setbacks for All Structures (Including Fences over 48 Inches High) and Parking	A*	25 feet from the OHWM and all required setbacks of the development code, except <u>1) light rail transit facilities and 2) flatwork (e.g.) patios, walkways) and stairs less than 30 inches above the existing or finished grade, whichever is lower.</u> If a wetland is adjacent to the shoreline, measure the shoreline setback from the wetland's boundary
--	----	--

Height Limits for All Structures	B	Shall be the same as height limits specified in the development code but shall not exceed a height of 35 feet above average building elevation, except light rail transit facilities
Maximum Impervious Surface <u>Hardscape and Lot Coverage</u>	C D	10%: between 0 and 25 feet from OHWM 30%: between 25 and 50 feet from OHWM
Minimum Land Area Requirements	E	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
Shoreland Surface Modification		Alterations over 250 cubic yards – outside the building footprint requires SEPA
Height Limits for Light Rail Transit Facilities within the Existing I-90 Corridor		The trackway and overhead wires, support poles, and similar features necessary to operate light rail transit facilities may be erected upon and exceed the height of the existing I-90 bridges
*The letters in this column refer to the Plan View (A) and Section (A) diagrams.		



B) ~~2-~~ Bulkheads and Shoreline Stabilization Structures.

- 1) ~~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, and the following conditions shall apply:
 - a) ~~i-~~ The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.
 - b) ~~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. Soft shoreline

- 1 stabilization measures that provide restoration of shoreline ecological functions may be
 2 permitted waterward of the ordinary high water mark.
- 3 c) ~~iii.~~ For purposes of this section standards on shoreline stabilization measures,
 4 “replacement” means the construction of a new structure to perform a shoreline
 5 stabilization function of an existing structure which can no longer adequately serve its
 6 purpose. Additions to or increases in size of existing shoreline stabilization measures shall be
 7 considered new structures.
- 8 d) ~~iv.~~ Construction and maintenance of normal protective bulkhead common to single-family
 9 dwellings requires only a shoreline exemption permit, unless a report is required by the
 10 code official to ensure compliance with the above conditions; however, if the construction
 11 of the bulkhead is undertaken wholly or in part on lands covered by water, such
 12 construction shall comply with SEPA mitigation.
- 13 ~~2) b.~~ New Structures for Existing Primary Structures. New or enlarged structural shoreline
 14 stabilization measures for an existing primary structure, including residences, are not allowed
 15 unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is
 16 in danger from shoreline erosion caused by currents, or waves. Normal sloughing, erosion of
 17 steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not
 18 demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and
 19 address drainage problems away from the shoreline edge before considering structural
 20 shoreline stabilization. New or enlarged erosion control structure shall not result in a net loss of
 21 shoreline ecological functions.
- 22 ~~3) c. New development should be located and designed to avoid the need for future shoreline~~
 23 ~~stabilization to the extent feasible. This future shoreline stabilization standard does not apply to~~
 24 ~~stabilization that occurs pursuant to subsection (E)(2)(a) of this section. New structural~~
 25 ~~stabilization measures in support of new non-water dependent development, including single-~~
 26 ~~family residences, shall only be allowed when all of the conditions below apply:~~
- 27 ~~4) i. The erosion is not being caused by upland conditions, such as the loss of vegetation and~~
 28 ~~drainage.~~
- 29 ~~5) ii. Nonstructural measures, such as placing the development further from the shoreline, planting~~
 30 ~~vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.~~
- 31 ~~6) iii. The need to protect primary structures from damage due to erosion is demonstrated through~~
 32 ~~a geotechnical report, in compliance with subsection (E)(2)(h) of this section. The damage must~~
 33 ~~be caused by natural processes, such as currents and waves.~~
- 34 ~~7)2) iv. The erosion control structure will not result in a net loss of shoreline ecological functions.~~
- 35 ~~8)3) d.~~ New development on steep slopes or bluffs shall be set back sufficiently to ensure that
 36 shoreline stabilization is unlikely to be necessary during the life of the structure, as
 37 demonstrated by a geotechnical analysis, in compliance with subsection ~~(E)(2)(h)(B)(7)~~ of this
 38 section and building and construction codes.
- 39 ~~9)4)~~ New structural stabilization measures in support of water-dependent development shall only be
 40 allowed when all of the conditions below apply:
- 41 a) ~~i.~~ The erosion is not being caused by upland conditions, such as the loss of vegetation and
 42 drainage.
- 43 b) ~~ii.~~ Nonstructural measures, planting vegetation, or installing on-site drainage improvements,
 44 are not feasible or not sufficient.

- 1 c) ~~iii~~-The need to protect primary structures from damage due to erosion is demonstrated
 2 through a geotechnical report, in compliance with subsection ~~(E)(2)(h)~~(B)(7) of this section
 3 and building and construction codes.
- 4 d) ~~iv~~-The erosion control structure will not result in a net loss of shoreline ecological functions.
- 5 ~~10~~5) ~~f~~-New structural stabilization measures to protect projects for the restoration of
 6 ecological functions or hazardous substance remediation projects pursuant to Chapter 70.105D
 7 RCW shall only be allowed when all of the conditions below apply:
- 8 a) ~~i~~-Nonstructural measures, planting vegetation, or installing on-site drainage improvements,
 9 are not feasible or not sufficient.
- 10 b) ~~ii~~-The erosion control structure will not result in a net loss of shoreline ecological functions.
- 11 ~~11~~6) ~~g~~-Bulkheads shall be located generally parallel to the natural shoreline. No filling may
 12 be allowed waterward of the ordinary high water mark, unless there has been severe and
 13 unusual erosion within two years immediately preceding the application for the bulkhead. In
 14 this event the city may allow the placement of the bulkhead to recover the dry land area lost by
 15 erosion.
- 16 ~~12~~7) ~~h~~-Geotechnical reports pursuant to this section that address the need to prevent
 17 potential damage to a primary structure shall address the necessity for shoreline stabilization by
 18 estimating time frames and rates of erosion and report on the urgency associated with the
 19 specific situation. As a general matter, hard armoring solutions should not be authorized except
 20 when a report confirms that there is a significant possibility that such a structure will be
 21 damaged within three years as a result of shoreline erosion in the absence of such hard
 22 armoring measures, or where waiting until the need is that immediate would foreclose the
 23 opportunity to use measures that avoid impacts on ecological functions. Thus, where the
 24 geotechnical report confirms a need to prevent potential damage to a primary structure, but the
 25 need is not as immediate as the three years, that report may still be used to justify more
 26 immediate authorization to protect against erosion using soft measures.
- 27 ~~13~~8) ~~i~~-When any structural shoreline stabilization measures are demonstrated to be
 28 necessary, pursuant to above provisions, the following shall apply:
- 29 a) ~~i~~-Limit the size of stabilization measures to the minimum necessary. Use measures designed
 30 to assure no net loss of shoreline ecological functions. Soft approaches shall be used unless
 31 demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.
- 32 b) ~~ii~~-Ensure that publicly financed or subsidized shoreline erosion control measures do not
 33 permanently restrict appropriate public access to the shoreline except where such access is
 34 determined to be infeasible because of incompatible uses, safety, security, or harm to
 35 ecological functions. See public access provisions: WAC 173-26-221(4). Where feasible,
 36 incorporate ecological restoration and public access improvements into the project.
- 37 c) ~~iii~~-Mitigate new erosion control measures, including replacement structures, on feeder
 38 bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not
 39 possible, to minimize adverse impacts to sediment conveyance systems. Where sediment
 40 conveyance systems cross jurisdictional boundaries, local governments should coordinate
 41 shoreline management efforts. If beach erosion is threatening existing development, local
 42 governments should adopt master program provisions for a beach management district or
 43 other institutional mechanism to provide comprehensive mitigation for the adverse impacts
 44 of erosion control measures.

~~0) j. The development of two or more dwelling units on a lot abutting the OHWM should provide joint use or community dock facilities, when feasible, rather than allow individual docks for each lot.~~

~~D)C) 3-~~ Transportation and Parking.

- 1) ~~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 all regulations.
- 2) ~~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.
- 3) ~~c-~~ Where other options are available and feasible, new roads or road expansions should not be built within shorelands.
- 4) ~~d-~~ Parking facilities in shorelands shall be allowed only as necessary to support an authorized use.

~~E)D) 4-~~ Standards Waterward of the OHWM. Moorage facilities may be developed and used as an accessory to dwellings on shoreline lots. Only one noncommercial, residential moorage facility per upland residential waterfront lot authorized. The standards in Table D shall apply to development located waterward of the OHWM:

Table D. Requirements for Moorage Facilities and Development Located Waterward from the OHWM

Setbacks for All Moorage FacilitiesDocks , Covered Moorage s , and Floating Platforms	A*	10 feet from the lateral line (except where moorage facility is built pursuant to the agreement between adjoining the owners of <u>adjoining lots on the shoreline</u> as shown in Figure B below).
	B	Where a property shares a common boundary with the urban park environment, the setback shall be 50 feet from the lateral line or 50% of the water frontage of the property, whichever is less.
Setbacks for Boat Ramps and Other Facilities for Launching Boats by Auto or Hand, Including Parking and Maneuvering Space	C	25 feet from any adjacent private property line.
Length or Maximum Distance Waterward from the OHWM for Moorage FacilitiesDocks , Covered Moorage, Boatlifts and Floating Platforms	D	Maximum 100 feet, but in cases where water depth is less than 11.85 feet below OHWM, length may extend up to 150 feet or to the point where water depth is 11.85 feet at OHWM, whichever is less.

Width of moorage facilities <u>docks</u> within 30 feet waterward from the OHWM	E	<p>Maximum 4 feet. Width may increase to 5 feet if one of the following is met:</p> <p>1) Water depth is 4.85 feet or more, as measured from the OHWM; or</p> <p>2) A moorage facility is required to comply with Americans with Disabilities Act (ADA) requirements; or</p> <p>3) A resident of the property has a documented permanent state disability as defined in WAC 308-96B-010(5); or</p> <p>4) The proposed project includes mitigation option A, B or C listed in Table E; and for replacement actions, there is either a net reduction in overwater coverage within 30 feet waterward from the OHWM, or a site-specific report is prepared by a qualified professional demonstrating no net loss of ecological function of the shorelands.</p> <p>Moorage facility width shall not include pilings, boat ramps and lift stations<u>boatlifts</u>.</p>
Width of moorage facilities more than 30 feet waterward from the OHWM	E	Maximum 6 feet wide. Moorage facility width shall not include pilings, boat ramps and boatlifts <u>lift stations</u> .
Height Limits for Walls, Handrails and Storage Containers Located on Piers	F	<p>3.5 feet above the surface of a dock or pier.</p> <p>4 feet for ramps and gangways designed to span the area 0 feet to 30 feet from the OHWM.</p>
Height Limits for Mooring Piles, Diving Boards and Diving Platforms	G	10 feet above the elevation of the OHWM.
Height Limits for Light Rail Transit Facilities within the Existing I-90 Corridor		The trackway and overhead wires, support poles, and similar features necessary to operate light rail transit facilities may be erected upon and exceed the height of the existing I-90 bridges.
*The letters in this column refer to the Plan View (B) and Section (B) diagrams.		

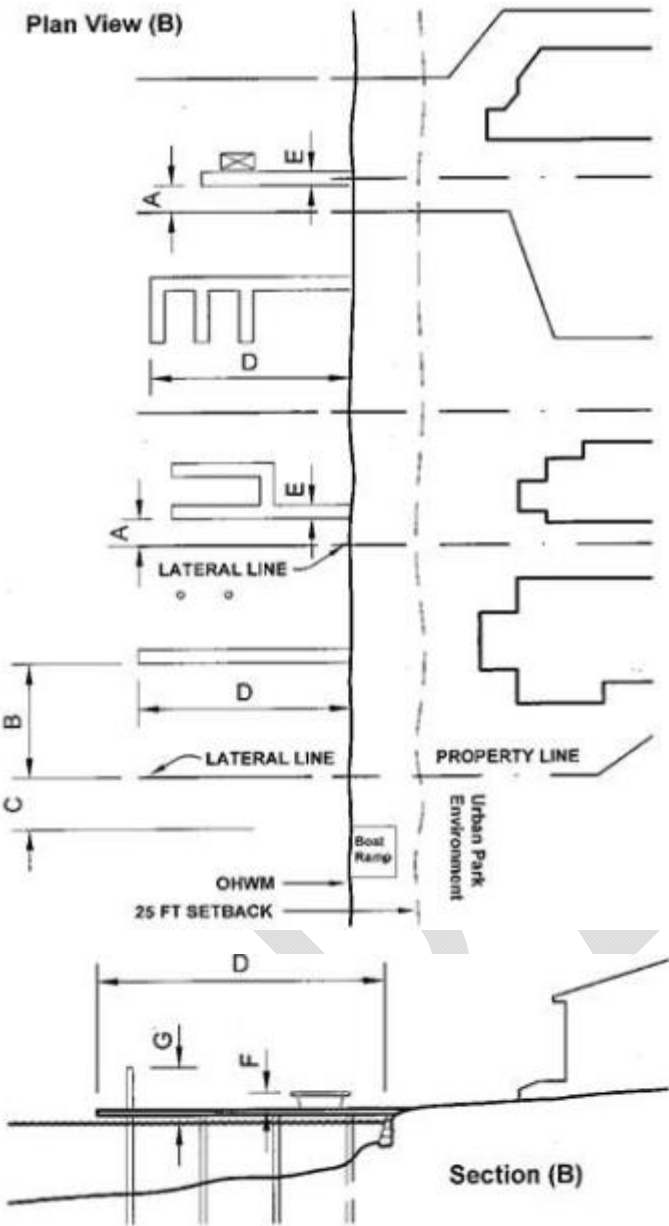


Table D. Requirements for Moorage Facilities and Development Located Waterward from the OHWM (Continued)

Minimum Water Frontage for <u>Docks</u> Moorage Facility	H*	Single-family lots: 40 feet.
	I	Shared – two adjoining lots <u>on the shoreline</u> : 40 feet combined.
	J	Semi-private recreational tracts: 2 families: 40 feet.

	<p>3 – 5 families: 40 feet plus 10 feet for each family more than 2.</p> <p>6 – 10 families: 70 feet plus 5 feet for each family more than 5.</p> <p>11 – 100 families: 95 feet plus 2 feet for each family more than 10.</p> <p>101+ families: 275 feet plus 1 foot for each family more than 100.</p>
Covered Moorage	<p>Permitted on single-family residential lots subject to the following:</p> <p>(a) Maximum height above the OHWM: 16 feet; 16 to 21 feet subject to criteria of MICC 19.07.110 (E)(5)(a)(E)(1).</p> <p>(b) Location/area requirements: See Figure A for single-family lots and Figure B for shared moorage.</p> <p>(c) Building area: 600 square feet; however, a covered moorage may be built larger than 600 square feet within the triangle subject to a shoreline conditional use permit.</p> <p>(d) Covered moorage shall have open sides.</p> <p>(e) Prohibited in semi-private recreational tracts and noncommercial recreational areas.</p> <p>(f) Translucent canopies <u>coverings</u> are required.</p>
*The letters in this column refer to the Plan View (C).	

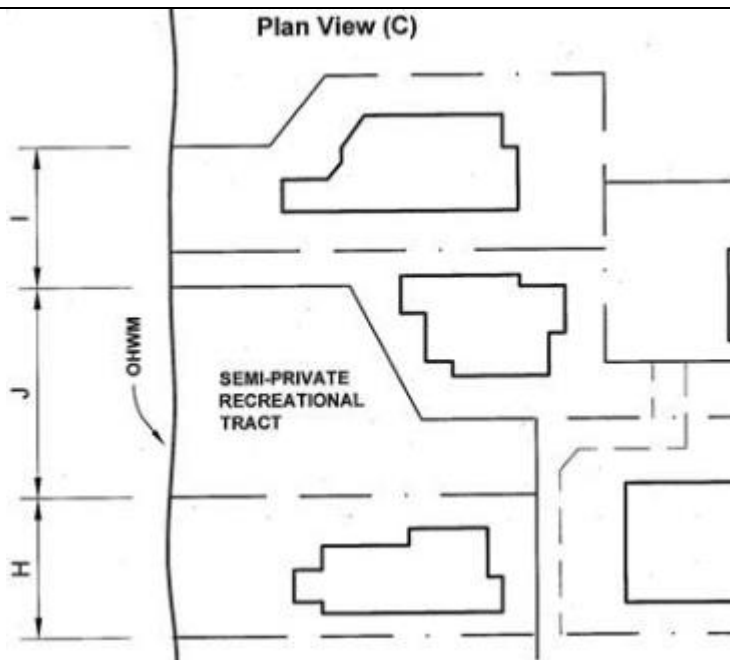


Table E. Dock Width Mitigation Options

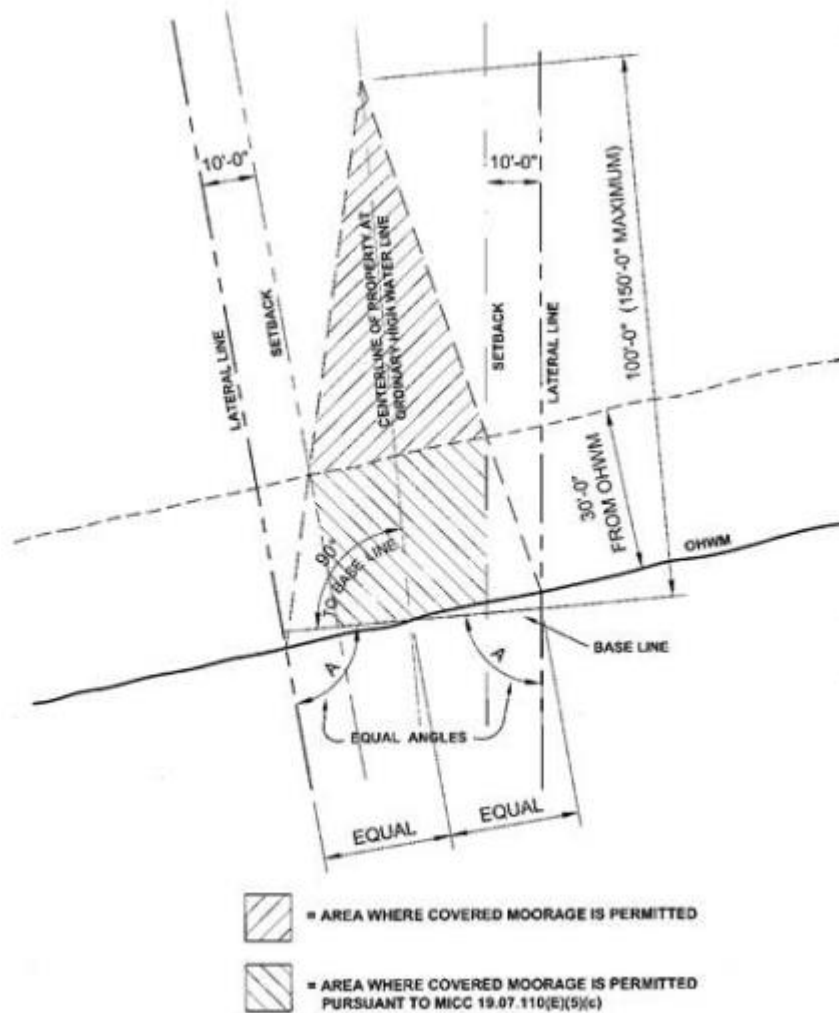
Option A	Option B	Option C
Includes at Least One of the Following:	Includes at Least Two of the Following:	Includes at Least Three of the Following:
1. Complete removal of existing bulkhead with shoreline restoration	1. Removal of 12 feet or 30% (lineal), whichever is greater, of existing bulkhead and creation of beach cove with shoreline restoration	1. Installation/Replacement of decking within the first 30 feet waterward from the OHWM that allows a minimum of 60% light transmittance.
2. Removal of an existing legally established boat house (A "boat house" is a covered moorage that includes walls and a roof to protect the vessel.)	2. Installation/Replacement of decking within the first 30 feet waterward from the OHWM that allows a minimum of 60% light transmittance.	2. Removal of all existing legally established piling treated with creosote or comparably toxic compounds
3. Replacement of two or more existing legally established individual moorage facilities docks with a single joint use moorage facility	3. Removal of an existing legally established covered moorage within the first 30 feet waterward from the OHWM	3. At least a 10% net reduction of existing legally established overwater coverage within the first 30 feet waterward from OHWM
		4. Removal of all legally established individual mooring piles within the first 30 feet waterward from the OHWM
		5. Removal of an existing legally established covered moorage within the first 30 feet waterward from the OHWM

~~F)(E) 5-~~ The covered portion of a moorage shall be restricted to the area lying within a triangle as illustrated in Figure A, except as otherwise provided in subsection ~~(E)(5)(a)(E)(1)~~ of this section. The base of the triangle shall be a line drawn between the points of intersection of the property lateral lines 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 11.85 feet from OHWM, the location of the covered moorage may extend up to 150 feet from the center of the base line or to the point where water depth is 11.85 feet at OHWM, whichever is

less. The required 10-foot setbacks from the side property lines shall be deducted from the triangle area.

- 1) ~~a.~~ A covered moorage is allowed outside the triangle, or a canopy up to 21 feet in height, if the covered moorage meets all other regulations and:
 - a) ~~i.~~ Will not constitute a hazard to the public health, welfare, and safety, or be injurious to affected shoreline properties in the vicinity;
 - b) ~~ii.~~ Will constitute a lower impact for abutting property owners; and
 - c) ~~iii.~~ Is not in conflict with the general intent and purpose of the SMA, the shoreline master program and the development code.

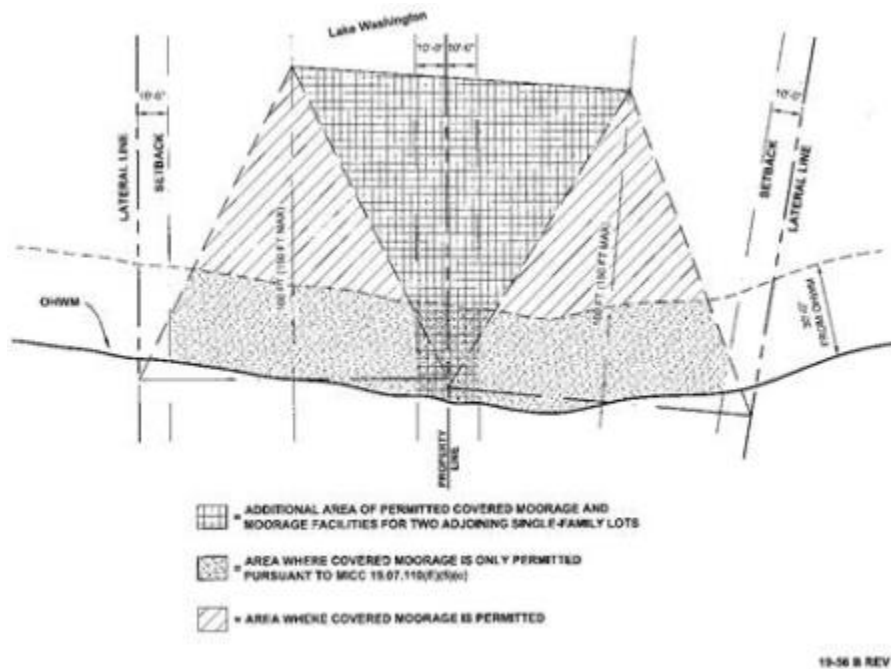
Figure A: Area of Permitted Covered Moorage, Individual Lots



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- 2) ~~b.~~ Where a covered moorage or moorage facility is built pursuant to the agreement of ~~adjoining~~ owners of ~~adjoining~~ single-family lots ~~located on the shoreline~~, 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, as illustrated in Figure B below.

Figure B: Area of Permitted Covered Moorage and Moorage Facilities, Two Adjoining Single-Family Lots



- 3) ~~e~~-Covered moorage is not allowed within the first 30 feet from the OHWM unless the applicant:
- ~~i~~-Demonstrates to the code official's satisfaction that proposed project will not create a net loss in ecological function of the shorelands; and
 - ~~ii~~-Provides the city with documentation of approval of the moorage facilities by both the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife.

~~G)(F)~~ ~~6~~-Moorage Facilities. All permits for new and expanded moorage facility shall meet the following standards unless otherwise exempted. Moorage facilities have the option of meeting either the development standards prescribed in subsections ~~(E)(6)(a)(F)(1)~~ or ~~(2b)~~ of this section, or the "alternative development standards" in subsection ~~(E)(6)(cF)(3)~~ of this section.

- ~~a~~-Development Standards for New and Expanded Moorage Facilities. A proposed moorage facility shall be presumed to not create a net loss of ecological functions pursuant to subsection (B)(2) of this section if:
 - ~~i~~-The surface coverage area of the moorage facility is:
 - ~~(A)~~ Four hundred eighty square feet or less for a single property owner;
 - ~~(B)~~ Seven hundred square feet or less for two residential property owners (residential);
 or
 - ~~(C)~~ One thousand square feet or less for three or more residential property owners;
 - ~~ii~~-Piers, docks, and platform lifts must be fully grated with materials that allow a minimum of 40 percent light transmittance;
 - ~~iii~~-Vegetation. The code official approves a vegetation plan that conforms to the following:

Vegetation must be planted as provided in Figure C and as follows: Within the 25-foot shoreline setback, a 20-foot vegetation area shall be established, measured landward from the OHWM. Twenty-five percent of the area shall contain vegetation coverage. The five feet nearest the OHWM shall contain at least 25 percent native vegetation coverage. A shoreline vegetation plan shall be submitted to the city for approval. The vegetation coverage shall consist of a variety of

ground cover shrubs and trees, excluding nonnative grasses. No plants on the current King County noxious weed lists shall be planted within the shorelands.

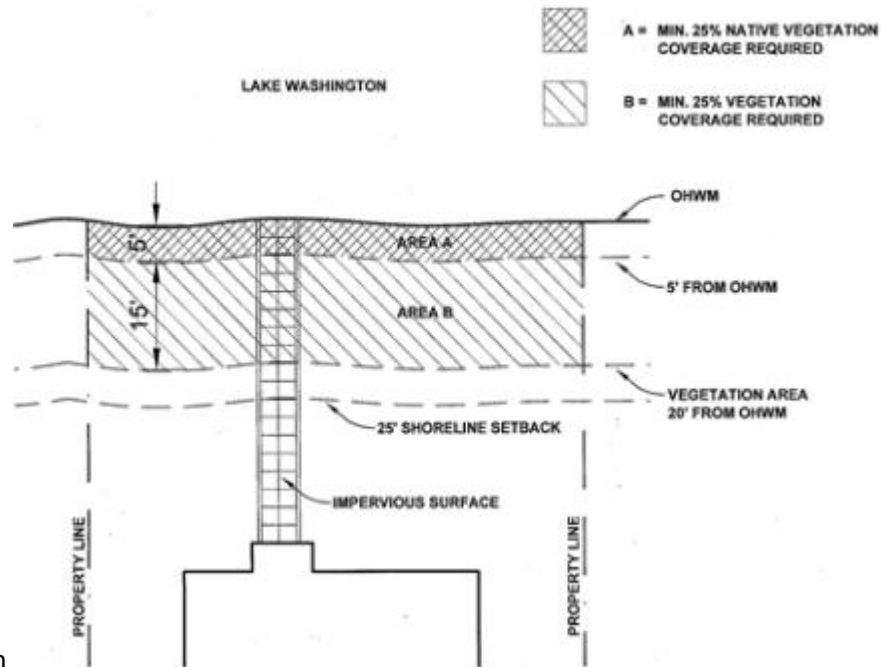


Figure C: Vegetation Plan

- d) ~~iv.~~ Only piers/docks, ramps, and lift stations/boatlifts may be within the first 30 feet from the OHWM. No skirting is allowed on any structure;
- e) ~~v.~~ The height above the OHWM for moorage facilities/docks, except floats, shall be a minimum of one and one-half feet and a maximum of five feet;
- f) ~~vi.~~ The first in-water (nearest the OHWM) set of pilings shall be steel, 10 inches in diameter or less, and at least 18 feet from the OHWM. Piling sets beyond the first shall also be spaced at least 18 feet apart and shall not be greater than 12 inches in diameter. Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ammoniacal copper zinc arsenate (ACZA) pilings are proposed, the applicant shall meet all of the best management practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. All piling sizes are in nominal diameter;
- g) ~~vii.~~ Any paint, stain or preservative applied to components of the overwater structured dock must be leach resistant, completely dried or cured prior to installation. Materials shall not be treated with pentochlorophenol, creosote, CCA or comparably toxic compounds;
- h) ~~viii.~~ No more than two mooring piles shall be installed per structure. Joint-use structures may have up to four mooring piles. The limits include existing mooring piles. Moorage piling shall not be installed within 30 feet of the OHWM. These piles shall be as far offshore as possible;
- i) ~~ix.~~ The applicant shall abide by the work windows for listed species established by the U.S. Army Corps of Engineers and Washington Fish and Wildlife; and
- j) ~~x.~~ Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48

- hours of the completion of construction. Woody vegetation components shall be planted in the fall or early winter, whichever occurs first. The applicant shall take appropriate measures to ensure revegetation success.
- 2) ~~b~~-Development Standards for Replacement, Repair and Maintenance of Overwater Structures, Including Moorage Facilities. The maintenance, repair and complete replacement of legally existing overwater structures is permitted; provided, that:
- a) ~~i~~-All permit requirements of federal and state agencies are met;
 - b) ~~ii~~-The area, width, or length of the structure is not increased, but may be decreased;
 - c) ~~iii~~-The height of any structure is not increased, but may be decreased; provided, that the height above the OHWM may be increased as provided in subsection (~~E~~)(~~6~~)(~~b~~)(~~ix~~)(~~BF~~)(~~2~~)(~~i~~)(~~2~~) of this section;
 - d) ~~iv~~-The location of any structure is not changed unless the applicant demonstrates to the director's satisfaction that the proposed change in location results in: (A) a net gain in ecological function, and (B) a higher degree of conformity with the location standards for a new overwater structure;
 - e) ~~v~~-Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ammoniacal copper zinc arsenate (ACZA) pilings are proposed, the applicant shall meet all of the best management practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. All piling sizes are in nominal diameter;
 - f) ~~vi~~-Any paint, stain or preservative applied to components of the overwater structure must be leach resistant, completely dried or cured prior to installation. Materials shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds;
 - g) ~~vii~~-The applicant shall abide by the work windows for listed species established by the U.S. Army Corps of Engineers and Washington Fish and Wildlife;
 - h) ~~viii~~-Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48 hours of the completion of construction. Woody vegetation components shall be planted in the fall or early winter, whichever occurs first. The applicant shall take appropriate measures to ensure revegetation success; and
 - i) ~~ix~~-If more than 50 percent of the structure's exterior surface (including decking) or structural elements (including pilings) are replaced or reconstructed during the five years immediately prior to any demolition for the replacement or reconstruction, the replaced or reconstructed area of the structure must also comply with the following standards:
 - (1) (~~A~~) Piers, docks, and platform lifts must be fully grated with materials that allow a minimum of 40 percent light transmittance;
 - (2) (~~B~~) The height above the OHWM for moorage facilities, except floats, shall be a minimum of one and one-half feet and a maximum of five feet; and
 - (3) (~~C~~) An existing moorage facility that is five feet wide or more within 30 feet waterward from the OHWM shall be replaced or repaired with a moorage facility that complies with the width of moorage facilities standards specified in subsection (E)(4) of this section (Table D).
- 3) ~~c~~-Alternative Development Standards. The code official shall approve moorage facilities not in compliance with the development standards in subsection (~~E~~)(~~6~~)(~~a~~)(~~F~~)(~~1~~) or (~~b~~)(~~2~~) of this section

subject to both U.S. Army Corps of Engineers and Washington Department of Fish and Wildlife approval to an alternate project design. The following requirements and all other applicable provisions in this chapter shall be met:

- a) ~~i.~~ The dock must be no larger than authorized through state and federal approval;
- b) ~~ii.~~ The maximum width must comply with the width of moorage facilities standards specified in subsection (E)(4) of this section (Table D);
- c) ~~iii.~~ The minimum water depth must be no shallower than authorized through state and federal approval;
- d) ~~iv.~~ The applicant must demonstrate to the code official's satisfaction that the proposed project will not create a net loss in ecological function of the shorelands; and
- e) ~~v.~~ The applicant must provide the city with documentation of approval of the moorage facilities by both the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife.

~~H)(G)~~ 7. Breakwaters, jetties, groins, and weirs. Breakwaters, jetties, groins, weirs, and similar structures are prohibited, 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).

~~H)(H)~~ 8. Dredging.

- 1) ~~a.~~ Dredging 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.
- 2) ~~b.~~ Dredging shall be the minimum necessary to accommodate the proposed use.
- 3) ~~c.~~ Dredging shall utilize techniques that cause the least possible environmental and aesthetic impact.
- 4) ~~d.~~ Dredging is prohibited in the following locations:
 - a) ~~i.~~ Fish spawning areas except when the applicant conclusively demonstrated that fish habitat will be significantly improved as a result of the project.
 - b) ~~ii.~~ In unique environments such as lake logging of the underwater forest.
- 5) ~~e.~~ Dredging and the 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.

~~H)(I)~~ 9. General Requirements. The following requirements apply to the following types of activities that may be waterward and/or landward of the OHWM:

- 1) ~~a.~~ Critical Areas within the shorelands are regulated by MICC 19.07.010 through and including 19.07.090, as adopted in the MICC on January 1, 2011, except: MICC 19.07.030(B), Reasonable Use Exception, and 19.07.040(C), Setback Deviation, and (D), Variances.
- 2) ~~b.~~ Utilities.
 - a) ~~i.~~ Utilities shall be placed underground and in common rights-of-way wherever economically and technically practical.
 - b) ~~ii.~~ 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) ~~iii.~~ Restoration of the site is required upon completion of utility installation.

- 1 3) ~~c.~~ Archaeological and Historic Resources.
- 2 a) ~~i.~~ If archaeological resources are uncovered during excavation, the developer and property
- 3 owner shall immediately stop work and notify the city, the Office of Archaeology and
- 4 Historic Preservation, and affected Indian tribes.
- 5 b) ~~ii.~~ In areas documented to contain archaeological resources by the Office of Archaeology
- 6 and Historic Preservation, a site inspection or evaluation is required by a professional
- 7 archaeologist in coordination with affected Indian tribes.
- 8 4) ~~d.~~ New development ~~adding over~~ totaling 500 square feet or more of any combination of
- 9 additional gross floor area, lot coverage or hardscape or impervious surface, including the
- 10 primary structures and appurtenances, shall be required to provide native vegetation coverage
- 11 over 50 percent of the 20-foot vegetation area shown on Figure C. This ~~standard total~~ shall ~~apply~~
- 12 ~~to the total of include~~ all new gross floor area, lot coverage, and hardscape or impervious surface
- 13 ~~area~~ added in the five years immediately prior to the ~~construction of the gross floor area or~~
- 14 ~~impervious surface addition~~ development proposal.
- 15 a) ~~i.~~ New development ~~over~~ totaling 1,000 square feet or more of any combination of
- 16 additional gross floor area, lot coverage or hardscape or impervious surface, including the
- 17 primary structures and appurtenances, shall be required to provide native vegetation
- 18 coverage over 75 percent of the 20-foot vegetation area shown in Figure C.
- 19 b) ~~ii.~~ A shoreline vegetation plan shall be submitted to the city for approval.
- 20 c) ~~iii.~~ The vegetation coverage shall consist of a variety of ground cover shrubs and trees
- 21 indigenous to the central Puget Sound lowland ecoregion and suitable to the specific site
- 22 conditions. Existing mature trees and shrubs, but excluding noxious weeds, may be included
- 23 in the coverage requirement if located in the 20-foot vegetation area shown in Figure C.
- 24 d) iv. No plants on the current King County noxious weed lists shall be planted within the
- 25 shorelands. ~~(Ord. 15C-02 §§ 1, 2; Ord. 13C-12 § 2).~~
- 26

1 DEFINITIONS Revised 8/18

2 Sections:

3 19.16.010 Definitions

4 [...]Alteration: Any human-induced action which ~~adversely~~ impacts the existing condition of the area,
5 including but not limited to grading, filling, dredging, draining, channeling and paving (including
6 construction and application of gravel). "Alteration" does not include walking, passive recreation,
7 fishing, or similar activities.

8 [...] Critical Area Alteration: An approval allowing one or more alterations listed in MICC 19.07.040
9 Allowed Alterations within a critical area or buffer.

10 ~~[...] Critical Area Determination: An administrative action by the code official pursuant to MICC~~
11 ~~19.15.010(C)(4)(a) to allow reduction or averaging of a wetland or watercourse buffer, or alteration of a~~
12 ~~steep slope.~~

13 [...] Critical Area Review: An approval allowing reduction or averaging of a wetland or watercourse
14 buffer, or alteration of a steep slope.

15 ~~[...] Lift Station (Boat Hoist): A structure or device used to raise a watercraft above the waterline for~~
16 ~~secure moorage purposes.~~

17 [...] Qualified Professional: A qualified professional for watercourses, wetlands, and wildlife habitat
18 conservation areas must be a Professional Wetland Scientist. A qualified professional for preparing
19 geotechnical reports and geotechnical design recommendations must have obtained a B.S. or B.A. or
20 equivalent degree in geologic hazards studies, and must hold a current state license in geology,
21 hydrogeology or as a professional engineer with geotechnical and/or seismic experience.

22 [...] Setback: The distance between a development and other feature such as a property line or critical
23 areas buffer.