



**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

*Northwest Regional Office 3190 160th SE Bellevue, Washington 98008-5452 (425) 649-7000*

April 9, 2018

Mayor John Chelminiak  
City of Bellevue  
PO Box 90012  
Bellevue, WA 98009-9012

**RE: DRAFT Response to Ecology Conditional Approval - Shoreline Master Program**

Mayor Chelminiak and City Council Members,

Thank you for your continued commitment in finishing the comprehensive update of the City of Bellevue's (City) Shoreline Master Program (SMP). We know this has been a big effort by the City and engaged stakeholders and we are very appreciative of everyone's dedication to finish this important work.

Ecology has reviewed the City's March 23<sup>rd</sup>, 2018 DRAFT response and want to encourage the City to move forward in updating the ordinance and formally responding to Ecology's June 1, 2017 Conditional Approval. This recommendation is based on our conclusion that the City's response including a number of alternative proposals are consistent with the scope and intent of Ecology's original changes and can be incorporated into the final approved SMP, pursuant to RCW 90.58.090(2)(e)(ii). The following documents attached to this letter describe in detail Ecology's assessment of the City's DRAFT response:

1. **Attachment B-revised** Lists Ecology's original Required Changes, the City's DRAFT response either accepting or proposing an alternative, and Ecology's assessment of any alternatives to be formally incorporated into the final approved version of the SMP.
2. **Attachment C-revised** lists Ecology's original Recommended Changes along with a few additional City requested changes that were identified after Ecology issued the June 2017 conditional approval. This document also lists the City's DRAFT response either accepting, rejecting, or proposing an alternative to Ecology's changes and a concluding assessment of all the changes.

The Honorable John Chelminiak  
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This letter is not a final formal Ecology approval of the SMP, but rather is intended to encourage the City Council to move forward in updating the ordinance and formally submitting the response to Ecology for a final decision by our agency director. As discussed with your staff, submittal of the City's formal response will allow Ecology to move forward in issuing our final action approving the City's SMP, which will then dictate the effectiveness date of the new program.

Please do not hesitate to contact me, should you or your staff have any questions regarding the remaining shoreline master program update process. I can be reached at [Joe.Burcar@ecy.wa.gov](mailto:Joe.Burcar@ecy.wa.gov) or by phone at (425) 649-7096.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burcar". The signature is fluid and cursive, with the first name "Joe" being more prominent than the last name "Burcar".

Joe Burcar, Section Manager  
SEA Program at the Northwest Regional Office

e-cc: Michael Brennen, City of Bellevue  
Carol Helland, City of Bellevue  
Tim Gates, Ecology

The following changes list: (1) Ecology’s original Required Change (Conditional Approval 6/1/2017), (2) The City of Bellevue’s response (insert date) either accepting or proposing alternative changes, and (3) Ecology’s Final Action.

ITEM	SMP PROVISION	(1) ECOLOGY’S ORIGINAL REQUIRED CHANGE AND RATIONALE – JUNE 1, 2017	(2) THE CITY OF BELLEVUE’S RESPONSE	(3) ECOLOGY’S FINAL ACTION
SECTION 1: AUTHORITY – 20.25E.010 General				
1	20.25E.010 B. 1. c. SMP Elements	<p>c. Part 20.25H LUC, Critical Areas Overlay District (<a href="#">as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]</a>) <b>exclusive of sections listed in 20.25E.010.C.1.c.</b></p> <p><b>Ecology Rationale:</b> This amendment is intended to clarify which sections of the City’s Critical Areas Ordinance are formally included as part of the updated SMP. Under WAC 173-26-191(2)(b), “shoreline master programs may include other policies and regulations by referencing a specific, dated edition” and when the incorporated provision is consistent with the SMA, or SMP-Guideline requirements.</p>	CITY ACCEPTS ECOLOGY’S CHANGE.	<b>ECY Change Accepted:</b> amended text to be part of the approved SMP.
2	20.25E.010 C. 1. d. Scope Relation to other Regulations	<p>d. <a href="#">The following regulations from the Critical Areas Overlay Code, LUC 20.25H (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) now or as hereafter amended, do not apply in the Shoreline Overlay District:</a></p> <p><a href="#">i. 20.25H.190 Reasonable use exception – Purpose.</a></p> <p><a href="#">ii. 20.25H.195 Reasonable use exception – Process.</a></p> <p><a href="#">iii. 20.25H.200 Reasonable use exception – Applicability.</a></p> <p><a href="#">iv. 20.25H.205 Reasonable use exception – Performance standards.</a></p> <p><b>Ecology Rationale:</b> Similar intent to item #1 (above). The identified changes clarify that the listed exceptions from the City’s Critical Areas Ordinance will not be implemented through the updated SMP, as the exceptions are not authorized by the SMA or SMP-Guidelines.</p>	CITY ACCEPTS ECOLOGY’S CHANGE.	<b>ECY Change Accepted:</b> amended text to be part of the approved SMP.
SECTION 2: USES – 20.25E.040 Nonconforming Shoreline Conditions				
3	20.25E.040 G.2.c. Regulations Applicable to Nonconforming Shoreline Dev.	<p>c. Limitations on Alterations. Alterations may be approved only if consistent with the following limitations:</p> <p>i. No increase in structure footprint shall be permitted.</p> <p>ii. No increase in net square footage shall be permitted.</p> <p>iii. No increase in parking areas or other non-structural exterior site development shall be permitted.</p> <p>iv. No footprint associated with a nonconforming shoreline development shall be moved any distance, unless the movement reduces nonconformities to the SMP, and ecological functions are restored in the areas vacated pursuant to a mitigation plan approved by the Director under LUC 20.25E.060.D (Mitigation Requirements and Sequencing).</p> <p><a href="#">v. Alterations are consistent with Shoreline Modifications as set forth in LUC 20.25E.080 to the maximum extent practical.</a></p> <p><b>Ecology Rationale:</b> The identified language provided in subsection v. is added for internal consistency with LUC 20.25E.080, which implements requirements of WAC 173-26-231 in managing shoreline modifications. Therefore, the change is also intended to ensure that shoreline modification provisions are considered in managing redevelopment of existing shoreline development that may be nonconforming to current development standards.</p>	CITY ACCEPTS <i>ECOLOGY’S</i> CHANGE.	<b>ECY Change Accepted:</b> amended text to be part of the approved SMP.
4	20.25E.040 G. 2. e. Nonconforming Shoreline Dev. Regulations	<p>e. Required Improvements associated with Alterations. When alterations meet the threshold in paragraph G.2.d of this section, nonconforming shoreline development shall be brought toward compliance in the following areas:</p> <p>i. Accessory Parking, Loading Space and Maintenance Access requirements as set forth in LUC 20.25E.060.H.</p> <p>ii. Public Access requirements as set forth in LUC 20.25E.060.I.</p> <p>iii. Water quality, stormwater, and nonpoint pollution requirements as set forth in LUC 20.25E.060.L.</p> <p><a href="#">iv. Shoreline Modifications as set forth in LUC 20.25E.080.</a></p> <p><b>Ecology Rationale:</b> (Same as above) The change is necessary for internal consistency with LUC 20.25E.080 which implements requirements of WAC 173-26-231 in managing shoreline modifications.</p>	CITY ACCEPTS <i>ECOLOGY’S</i> CHANGE.	<b>ECY Change Accepted:</b> amended text to be part of the approved SMP.

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5	20.25E.040 G. 3. c. Nonconforming Shoreline Dev. Regulations	<p>c. Limitations on Replacements. Replacement of a nonconforming shoreline development in the O or OLB Land Use Districts may be approved only if consistent with the following limitations:</p> <p>i. Replacement structures shall only be permitted to accommodate a shoreline use allowed pursuant to LUC Chart 20.25E.030.</p> <p>ii. No increase in structure footprint shall be permitted.</p> <p>iii. No increase in net square footage shall be permitted.</p> <p>iv. No increase in parking areas or other non-structural development shall be permitted.</p> <p>v. The area of the replacement structure footprint may be moved to a less sensitive portion of the site if the movement reduces nonconformities to the SMP or identified critical areas, and shoreline vegetation or critical area functions are restored in the areas vacated pursuant to a mitigation plan approved by the Director under LUC 20.25E.060.D (Mitigation Requirements and Sequencing).</p> <p>vi. <a href="#">Consistent with Shoreline Modifications as set forth in LUC 20.25E.080 to the maximum extent practical.</a></p> <p><b>Ecology Rationale:</b> (Same as above) The change is necessary for internal consistency with LUC 20.25E.080 which implements requirements of WAC 173-26-231 in managing shoreline modifications.</p>	CITY ACCEPTS <i>ECOLOGY’S</i> CHANGE.	<b>ECY Change Accepted:</b> amended text to be part of the approved SMP.
SECTION 3: DEVELOPMENT REGULATIONS – 20.25E.050 Dimensional Requirements				
6	20.25E.050 B. 2. Measurement of Shoreline Structure Setbacks	<p>On Lake Sammamish, the shoreline structure setback may be measured landward from elevation <a href="#">determined to be equivalent to ordinary high water mark as provided in RCW 90.58.030(2)(c), <del>31.2 NAVD 88 on a horizontal plane and</del></a> to a point that results in the required dimension, or from that point identified in a site-specific ordinary high water mark determination prepared by a qualified professional.</p> <p><b>Ecology Rationale:</b> The change is intended to maintain consistency with RCW 90.58.030(2)(c) in appropriately identifying the Ordinary High Water Mark to determine shoreline jurisdiction and administer other SMP provisions, such as measuring structure setbacks. See further discussion under “OHWM elevation” in the Findings &amp; Conclusions (Attachment B).</p>	<p><b>City Alternative Requested:</b> The City’s response requests that Ecology consider the following alternative to the required change:</p> <p>On Lake Sammamish, the shoreline structure setback may be measured landward from elevation <del>31.2</del> <a href="#">31.8</a> NAVD 88 on a horizontal plane and to a point that results in the required dimension, or from that point identified in a site-specific ordinary high water mark determination prepared by a qualified professional.</p> <p><b>City Rationale.</b> The City’s alternative is consistent with the purpose and intent of ECY required change because the 31.8 NAVD 88 elevation for structure setbacks is supported by studies conducted by the City in 2004, while providing shoreline residents the flexibility to conduct a site-specific OHWM determination.</p>	<p><b>City Alternative Accepted:</b> The alternative references an elevation supported by the City’s 2004 Ordinary High Water Mark (OHWM) study (The Watershed Company, 2004), which has already been accepted by Ecology as equivalent to OHWM and acceptable for administrative use in measuring setbacks, etc..</p> <p>Therefore, the alternative can be accepted as consistent with the purpose and intent of ECY’s original change and incorporated into the approved SMP pursuant to WAC 173-26-120(3)(b)(ii).</p>
SECTION 3: DEVELOPMENT REGULATIONS – 20.25E.065 Residential Shoreline Requirements				
7	20.25E.065 E. 1. b. Residential Structure Setback Measurement	<p>On Lake Sammamish, the shoreline structure setback may be measured landward from <del>an</del> <a href="#">elevation <del>31.2</del> NAVD 88 equivalent to the ordinary high water mark measured</a> on a horizontal plane and to a point that results in the required dimension, or from that point identified in a site specific ordinary high water mark determination prepared by a qualified professional at the sole discretion of the applicant.</p> <p><b>Ecology Rationale:</b> Same rationale as item 6 – above.</p>	<p><b>City Alternative Requested:</b> The City’s response requests that Ecology consider the following alternative to the required change:</p> <p>On Lake Sammamish, the shoreline structure setback may be measured landward from <del>a</del> <a href="#">elevation <del>31.2</del> 31.8</a> NAVD 88 on a horizontal plane and to a point that results in the required dimension, or from that point identified in a site-specific ordinary high water mark determination prepared by a qualified professional.</p> <p><b>City Rationale.</b> Refer to rationale provided for item 6 above.</p>	<b>City Alternative Accepted:</b> Same as item 6 above.
8	20.25E.065 E. 2. a. Residential Structure Setback Allowances within 25 feet of OHWM.	<p>a. Expansion of the exterior footprint of an existing legally established structure within <del>the</del> <a href="#">25 feet of the OHWM</a> <del>foot shoreline structure setback</del> is allowed when:</p> <p>i. The modification, addition, replacement or related activity does not increase the existing total footprint of the residence and associated impervious surface laying within the shoreline structure setback by more than 200 square feet over the existing before [insert effective date of ordinance]; and [...]</p> <p><b>Ecology Rationale:</b> The change reflects amendments requested by the City in response to comment C-5 as provided in Attachment D, clarifying the limited circumstances where expansion is allowed for structures currently located within 25-feet of the OHWM.</p>	<p><b>City Alternative Requested:</b> The City’s response requests that Ecology consider the following alternative to the required change:</p> <p>a. Expansion of the exterior footprint of an existing legally established structure within <del>the</del> <a href="#">25 feet of the OHWM</a> <del>foot shoreline structure setback</del> is allowed when:</p> <p>i. The modification, addition, replacement or related activity does not increase the existing total footprint of the residence and associated impervious surface laying within the shoreline structure setback by more than 200 square feet over the existing before [insert effective date of ordinance]; and [...]</p> <p>ii. No portion of the modification, addition or replacement is located closer to <a href="#">elevation 31.8 NAVD or</a> the OHWM; and [...]</p> <p><b>City Rationale.</b> Added clarification on OHWM similar to rationale provided for item 6 above.</p>	<b>City Alternative Accepted:</b> Same as item 6 above.

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9	20.25E.065 F. 8. h. i. Residential Dock grating mitigation.	Replacement of solid decking with grated decking in the nearshore area <a href="#">when not already required as mitigation for associated dock expansion or dock replacement</a> earns 50 units of mitigation credit.  <b>Ecology Rationale:</b> The clarifying change is intended to ensure appropriate allocation of mitigation credit for voluntary actions not already required by a different section of the SMP. Therefore, the clarification is necessary satisfy no net loss requirements in WAC 173-26-186 (8) by ensuring appropriate application of compensatory mitigation.						CITY ACCEPTS <i>ECOLOGY’S</i> CHANGE.						<b>ECY Change Accepted:</b> amended text to be part of the approved SMP.
10	20.25E.065.H.4 Chart New and Reconfigured Residential Dock Standards	Ecology’s Required Change:						City Alternative Requested: The City’s response requests that Ecology consider the following alternative to the required change:						<b>City Alternative Accepted:</b> The City’s alternative incorporates the following changes: <ul style="list-style-type: none"><li>Accepts Ecology change by incorporating footnote “(5)” into the maximum dock size;</li><li>Accepts Ecology change by replacing the “5-ft” Maximum Walkway Width with “4-ft”</li><li>Adds footnote “(6)” clarifying when flexibility on Walkway Width can be considered. See item 11 (below) for details;</li><li>Re-incorporates reference to “State and Federal Approval” described in footnote (4).</li></ul> Ecology concludes that the City’s alternative can be accepted, as the clarifications provided in footnote (6) limit consideration of walkway widths wider than 4-ft, to limited circumstances including deep bathymetry, handicap/disability accommodations, or replacement actions that result in a net reduction to nearshore (within 30’ of OHWM) impacts. These clarifications will ensure consistency with SMA goals and alleviate the need for project level review through a shoreline variance.
			Lake Washington (1):	Lake Sammamish (1):	Phantom Lake (1):	Residential Canal Env. (1)	Alt. Standard or Limitation -When Allowed		Lake Washington (1):	Lake Sammamish (1):	Phantom Lake (1):	Residential Canal Env. (1)	Alt. Standard or Limitation - When Allowed	
		Maximum Dock Size – sq. ft.	480 sq. ft. <a href="#">(5)</a>	480 sq. ft. <a href="#">(5)</a>	250 sq. ft.	100 sq. ft.	State and Federal Approval (4)	Maximum Dock Size – sq. ft.	480 sq. ft. <a href="#">(5)</a>	480 sq. ft. <a href="#">(5)</a>	250 sq. ft.	100 sq. ft.	State and Federal Approval (4)	
		Maximum Walkway width	<del>5’</del> 4’ for portion of pier or dock located within 30 ft. of the OHWM; otherwise, 6 ft. for walkways	<del>5’</del> 4’ for portion of pier or dock located within 30 ft. of the OHWM; otherwise, 6 ft. for walkways	5’	Walkway Prohibited  N/A	<del>State and Federal Approval (4)</del> <a href="#">Shoreline Variance (3)</a>	Maximum Walkway width	<del>5’</del> 4’ for portion of pier or dock located within 30 ft. of the OHWM; otherwise, 6 ft. for walkways <a href="#">(6)</a>	<del>5’</del> 4’ for portion of pier or dock located within 30 ft. of the OHWM; otherwise, 6 ft. for walkways <a href="#">(6)</a>	5’	Walkway Prohibited  N/A	State and Federal Approval (4)	
		<b>Ecology Rationale:</b> The addition of footnote “(5)” is described below under item 11. The change to maximum width standards from 5-feet to 4-feet is necessary to satisfy Shoreline modification requirements in WAC 173-26-231(3) (b). The addition of the Shoreline Variance requirement for deviation to the maximum width standard is intended to minimize deviation from the 4-foot width standard and preserve the sequence of review starting with project authorization by local government before proceeding to state and federal authorization. See additional discussion on Shoreline Modifications associated with Pier/Dock structures in the Findings and Conclusions (Attachment B).						<b>City Rationale:</b> The City’s alternative language ensures the SMP is consistent with the purpose and intent of Ecology’s change. The City’s alternative is similar to options Ecology has accepted in other Lake Sammamish and Lake Washington jurisdictions. Flexibility is allowed in walkway width in the nearshore area when impacts to functions and values are avoided (i.e., as a result of the water depth or the limited applicability of exemptions to accommodate a documented disability). In the case of dock replacements, existing nearshore impacts will be decreased and mitigation will be required. Ecology-approved criteria eliminate need for shoreline variance. Therefore, approval by state and federal authorities is appropriate.						
11	20.25E.065.H.5 Chart (Notes) New/Reconfigured Res. Dock Standards	<a href="#">(5) Existing dock size (total square footage) may be maintained for reconfigured docks as long as other requirements of this chapter can be satisfied.</a>  <b>Ecology Rationale:</b> In recognition that most of the existing docks along Lake Washington and Lake Sammamish are much larger than the 480-square-foot limit required for new docks, proposed footnote (5) is intended to clarify that a reconfigured dock can maintain the overall square footage of the existing dock.						City Alternative Requested: The City’s response requests that Ecology consider the following alternative to the required change:  <b>Notes: New and Reconfigured Residential Dock Standards</b> (1) Floating docks may be approved when the use of a fixed dock is not feasible. (2) No private dock or other structure waterward of the ordinary high water mark [...] for the use or activity. (3) These standards or limitations may be modified through approval of a Variance to the Shoreline Master Program (20.25E.190 LUC). (4) These standards or limitations may be modified through [...] their respective permitting processes. <a href="#">(5) Existing dock size (total square footage) may be maintained for reconfigured docks as long as other requirements of this chapter can be satisfied.</a> <a href="#">(6) The 4’ width for near shore walkway may be increased to 5’ if one of the following criteria is met.</a> <a href="#">(a) Water depth is 4.85 feet or more, as measured from the ordinary high water level.</a> <a href="#">(b) A resident of the property has a documented permanent State disability as defined in WAC 308-96B-010 (5).</a> <a href="#">(c) For replacement piers or docks only, there is a net reduction in near shore overwater walkway coverage and native vegetation is planted and established within 10 feet of the shoreline at a ratio of 3:1 for the near shore overwater walkway coverage wider</a>						<b>ECY Change Accepted:</b> As described in item 10 (above), the City’s alternative incorporates Ecology’s change by incorporating footnote “(5)” and provides further clarification on the Maximum Walkway Width through footnote “(6)”.  Footnote “(6)” is found to be consistent with Ecology’s required changes and applicable state requirements, in that consideration of widths wider than 4’ are limited to defined circumstances (see rationale above). This approach is similar to what has been approved in updated SMP’s administered by other Lake Washington jurisdictions. Further, implementation of these provisions to pier/dock replacement actions, is expected to result in reductions to overwater coverage within nearshore areas over time, consistent with the objectives of Shoreline Modification provisions in the State Guidelines at WAC 173-26-231.



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			<p><a href="#">than 4’ (maximum of 90 square feet). The required vegetation shall be in addition to any shoreline vegetation mitigation credited in Section 20.25E.065.F.</a></p> <p><a href="#">(d) A site-specific report is prepared by a qualified professional demonstrating no net loss of ecological function.</a></p> <p><i>City Rationale:</i> Same rationale as item 10 (above).</p>	<p>Therefore, Ecology concludes that the City’s alternative is consistent with the purpose and intent of the required change and can be incorporated into the final version of the approved SMP.</p>
12	20.25E.065 H. 5. Residential Dock Repair	<p>5. Repair <del>and Replacement</del> of Existing Residential Docks.</p> <p>Existing legally established residential docks may be repaired <del>or replaced</del> in the existing configuration, provided that <a href="#">less than 50 percent of the existing support piles are not replaced within a five-year period and</a> the materials used for dock repairs shall meet the requirements established in paragraph 20.25E.065.H.3.a. <a href="#">Repairs exceeding this threshold shall be reviewed as a new, or reconfigured dock, subject to requirements established in section 20.25E.065.H.4.</a></p> <p><i>Ecology Rationale:</i> The changes are intended to clarify a necessary distinction between repair and reconfiguration (replacement) of an existing residential dock. The 50-percent threshold is intended to match similar requirement in the SMP applicable to non-residential docks (See LUC 20.25E.080.E.5.b.ii.).</p>	<p><i>City Alternative Requested:</i> The City’s response requests that Ecology consider the following alternative to the required change:</p> <p>5. Repair and Replacement of Existing Residential Docks.</p> <p>Existing legally-established residential docks may be repaired or replaced in the existing configuration <a href="#">and footprint</a>, provided that the <a href="#">following requirements are met:</a></p> <p><a href="#">a. Materials used for dock repairs shall meet the requirements established in paragraph 20.25E.065.H.3.a.;</a></p> <p><a href="#">b. Any decking that is replaced shall be grated to allow for light transmission;</a></p> <p><a href="#">c. Any piles that are replaced shall be the minimum diameter and at the maximum spacing feasible to support the dock configuration; and</a></p> <p><a href="#">d. Projects that replace 75 percent or more of the support piles in the near shore area within a 5 year period shall meet the requirements applicable to reconfigured residential docks contained in LUC Chart 20.25E.065.H.4 of this section.</a></p> <p><i>City Rationale:</i> The City’s alternative is consistent with Ecology’s change because its draws a clear distinction between repair and reconfiguration of an existing residential dock. Replacements that result in reconfiguration of a dock are addressed in Regulation 4, and Regulation 5 is about repair projects where the entire structure is not being removed and replaced, and any repair or replacement is confined to the current footprint and configuration. The city’s acceptance of Item 15 (below) would ensure repair and replacement are adequately defined. The City’s alternative to Item 12 adds clarifications about decking and piles that ensure repair actions mitigate for impacts. As clarified, the City’s alternative language is consistent with the purpose and intent of Ecology’s required change.</p>	<p><b>ECY Change Accepted:</b> As described in items 10 and 11 (above), the City’s alternative clarifies an applicant’s minimum obligation in managing “repair” or “replacement” work to an existing legally established pier or dock. The clarifications provided in the City’s alternative encourage improvements to nearshore environments through requiring use of light transmitting grated decking and minimization of in-water structure through use of smaller or few number of support piles. The alternative also incorporates a “75%” threshold common to other local SMP’s and listed in WAC 173-27-080 as a default threshold in managing replacement of nonconforming structures.</p> <p>Therefore, Ecology concludes that the City’s alternative is consistent with the purpose and intent of the required change and can be incorporated into the final version of the approved SMP.</p>
SECTION 3: DEVELOPMENT REGULATIONS – 20.25E.080 Residential Shoreline Modifications				
13	20.25E.080 F. 5. Modifications Repair of Existing Shoreline Stabilization	<p>Repair is defined as any actions <a href="#">to less than 75 percent of the existing structure over a five-year period that are</a> designed to restore a stabilization measure to its original condition and configuration provided that damage and destruction is not so significant as to cause loss of structural integrity sufficient to jeopardize its erosion protection function. <a href="#">Cumulative repairs within a five-year period exceeding this threshold shall be considered a complete replacement subject to the standards set forth in paragraph F.6 of this section.</a></p> <p><i>Ecology Rationale:</i> The changes are necessary to clarify the extent of shoreline stabilization repair actions, to appropriately distinguish maintenance from a complete replacement of an existing stabilization structure. The SMA allow for repair and maintenance of existing structures, but clarifies in WAC 173-26-231(3)(a)(iii)(C) of the SMP-Guidelines additional considerations that are necessary prior to authorizing in-kind replacement of stabilization structures. See further discussion in Attachment B.</p>	<p><i>City Alternative Requested:</i> The City’s response requests that Ecology consider the following alternative to the required change:</p> <p>5. Repair of Existing Shoreline Stabilization.</p> <p>Repair is defined as any actions <a href="#">to less than 75 percent of the existing structure over a five-year period that are</a> designed to restore a stabilization measure to its original condition and configuration <del>provided that damage and destruction is not so significant as to cause loss of structural integrity sufficient to jeopardize its erosion protection function.</del> <a href="#">Cumulative repairs within a five-year period exceeding this threshold shall be considered a complete replacement subject to the standards set forth in paragraph F.6 of this section.</a></p> <p><i>City Rationale:</i> The City’s alternative is consistent with Ecology’s change because it accepts the 75% threshold which should allow most common repairs to occur without being deemed replacements. Similar thresholds are used by other communities along Lake Washington, such as Medina and Kirkland. The provision was also amended to remove the requirements to evaluate structural integrity, thus eliminating the possibility for conflicting interpretations.</p>	<p><i>City Alternative Accepted:</i> The alternative includes language provided in ECY’s required change, but also removes some of the original text referencing “structural integrity” to avoid the possibility of conflicting interpretations of the provision. The alternative maintains the purpose and intent of ECY’s required change and therefore can be accepted through the final action on the SMP pursuant to WAC 173-26-120(3)(b)(ii).</p>
14	20.25E.080 F. 6. Modifications Stabilization Replacement	<p>6. Replacement of Existing Shoreline Stabilization. <a href="#">Except in situations where an existing residential structure is located within 10 feet of the ordinary high water mark</a> <del>All</del> legally established shoreline stabilization measures on Lake Washington and Lake Sammamish <del>are presumed when determined to be</del> necessary to protect existing shoreline structures <del>and/or</del> property <del>and</del> may be replaced with <del>a comparable soft stabilization or a hard stabilization</del> structure <a href="#">in accordance with standards set forth in paragraph F.4 of this section. If hard stabilization structures are determined to be necessary, then the</a></p>	<p><i>City Alternative Requested:</i> The City’s response requests that Ecology consider replacing the original text in provision 20.25E.080.F.6, with the following alternative standards:</p> <p><b>6. Replacement of Existing Shoreline Stabilization</b> <del>All legally established shoreline stabilization measures on Lake Washington and Lake Sammamish are presumed necessary to protect existing shoreline structures and property and may be replaced with a comparable structure when the proposal meets following applicable requirements. Replacement means the</del></p>	<p><i>City Alternative Accepted:</i> The alternative maintains the purpose and intent of ECY’s required change in requiring a demonstration of need of site specific factors for replacement stabilization structures located more than 10-feet upland of the OHWM. Further, the alternative in concert with the changes agreed</p>

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		<p><u>existing stabilization may be replaced with a comparable structure</u> when the proposal meets applicable requirements.</p> <p><b>Ecology Rationale:</b> Similar to item 13 (above) the changes are intended to clarify a necessary distinction between repair and replacement of shoreline stabilization measures. In addition, the changes reflect the intent of WAC 173-26-231(3)(a)(iii)(C) in applying appropriate consideration of alternative stabilization measures for stabilization replacements, based on site specific factors..</p> <p>An exception has been added for situations where an existing upland structure is located close (within 10’) of the shoreline, in which case a demonstration of need for stabilization is recognized, for which in-kind replacement should be allowed without further consideration of alternative stabilization measures.</p>	<p><del>construction of a new structure to perform a shoreline stabilization function of an existing structure that can no longer adequately serve its purpose</del></p> <p>a. <del>Comparable Size. Replacements shall not expand the lateral extent, add to the height or increase the width of an existing stabilization measure unless otherwise permitted by the terms of this paragraph.— Refer to LUC 20.25E.080.F.4 for requirements applicable to enlarged shoreline stabilization measures.</del> <u>Where an existing residential structure is located within 10 feet of the Ordinary High Water Mark, legally established shoreline stabilization measures are presumed necessary to protect existing residential structures and property, and may be replaced with a comparable structure.</u></p> <p>b. <del>Comparable Location.</del> <u>Except in situations where an existing residential structure is located within 10 feet of the ordinary high water mark, in accordance with RCW 90.58.100(6) and WAC 173-26-231(3)(a)(iii)(C), all legally established existing Shoreline Stabilizations may be replaced with similar structure(s) if there is a demonstrated need to protect principal use(s), structure(s), or property from erosion caused by currents or waves. A qualified professional shall prepare a written report demonstrating the need to protect principal use(s), structure(s), or property with similar structure(s) from erosion caused by currents or waves. The report shall consider the following factors:</u></p> <p>(i) <del>Replacement vertical walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure</del> <u>An assessment of the necessity for stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch, and location of the nearest structure.</u></p> <p>ii. <del>Where an angled riprap rock revetment is selected as the replacement for a vertical wall or bulkhead, the structure may be constructed as far waterward as necessary to ensure the ordinary high water mark is no further landward than previously existed on the wall or bulkhead being replaced</del> <u>An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the shoreline stabilization.</u></p> <p>iii.) <u>An assessment of the feasibility of using nonstructural or soft structural stabilization measures in lieu of hard structural shoreline stabilization measures. Soft stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation.</u></p> <p>c. <u>Shoreline structures may be replaced with similar structure when the proposal meets the requirements of F.6.c.i through iv of this paragraph. Proposals not meeting the requirements this paragraph shall be considered new structures and must meet the requirements of paragraph F.4 of this section.</u></p> <p><del>e.</del> <u>d.</u> Comparable Design.</p> <p>i. Existing vertical shoreline stabilization measures may not be replaced with a similar structure unless [...] to demonstrate that there is no practical alternative.</p> <p>ii. An angled riprap rock revetment with 1:1 slope or less [...] constructed below ordinary high water.</p> <p>iii. Stairs or other reasonable access to the water [...] than the replacement structure.</p> <p>iv. Nothing in this requirement prevents vertical [...] described at 20.25E.080.4.c and d.</p> <p><del>d.</del> <u>e.</u> Limitation on Comparability. Replacement structures [...] assures no net loss of shoreline ecological functions.</p> <p><b>City Rationale:</b> Similar rationale as item 13 (above). In addition, the alternative addresses Ecology’s required change by incorporating a “demonstration of need” process to evaluate replacement shoreline stabilization proposals, based on a need to protect existing primary structures, located more than 10’feet landward of the shoreline edge.</p>	<p>to in item 13 (above) clarify the difference between a stabilization “repair”, versus a “replacement” action, necessary to consistently administer these SMP provisions.</p> <p>Therefore, the alternative can be accepted through the final action on the SMP pursuant to WAC 173-26-120(3)(b)(ii).</p>

ITEM	SMP PROVISION	(1) ECOLOGY’S ORIGINAL REQUIRED CHANGE AND RATIONALE – JUNE 1, 2017	(2) THE CITY OF BELLEVUE’S RESPONSE	(3) ECOLOGY’S FINAL ACTION
SECTION 5: PERMITS AND DECISIONS – 20.25E.160 Shoreline Substantial Development Permits				
15	20.25E.160 E. 2. Review Process Special Shoreline Reports	<p>Requests for modifications to the requirements of this part through a special shoreline report shall be processed through a shoreline substantial development permit, <a href="#">shoreline variance, or shoreline conditional use permit, depending on the proposal</a>.</p> <p><b>Ecology Rationale:</b> The identified clarification adds a reference to all three shoreline permit types that could potentially be associated with a project where a modification to a SMP provision may be requested.</p>	CITY ACCEPTS <i>ECOLOGY’S</i> CHANGE.	<p><b>ECY Change Accepted:</b> amended text to be part of the approved SMP.</p>
16	20.25E.160 G. Review Process Special Shoreline Reports	<p>Construction pursuant to an effective Shoreline Substantial Development Permit, <a href="#">Shoreline Conditional Use Permit, or Shoreline Variance</a> shall not begin and is not authorized until 21 days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130(6), or until all Shoreline Hearings Board petition for review proceedings initiated within 21 days from the date of filing have been terminated; except as provided in RCW 90.58.140(5)(a) and (b).</p> <p><b>Ecology Rationale:</b> The identified change is necessary to clarify timing of appeal period for all three types of shoreline permits, not just related to a Substantial Development Permit.</p>	CITY ACCEPTS <i>ECOLOGY’S</i> CHANGE.	<p><b>ECY Change Accepted:</b> amended text to be part of the approved SMP.</p>



City of Bellevue response to Department of Ecology Recommended Changes - (Ord. *TBD*)

ITEM	SMP PROVISION	ECOLOGY ORIGINAL RECOMMENDED CHANGE (6/1/2017)	CITY RESPONSE (ORD. #TBD)	ECOLOGY FINAL ACTION
Section 1: Authority – 20.25E.010 General				
A	I. Authority C. 1. b. ii. Critical Area Conflicts	<p>In the event of a conflict between the provisions of this Part 20.25E LUC <a href="#">except provisions listed in 20.25E.010.C.1.c.</a> and Part 20.25H LUC (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption] which is incorporated by this reference into the SMP), the provisions providing the most protection to critical area functions and values shall prevail.</p> <p><b>Ecology Rationale:</b> Suggested cross reference to remind the reader as to which sections of the City’s Critical Areas Ordinance do not apply within shoreline jurisdiction. Also see item 2 in Required Change (Attachment B).</p>	<p><b>REJECTED RECOMMENDED CHANGE:</b> The City has decided not to incorporate Ecology’s Recommended Change.</p>	<p><b>Ecology Final Action:</b> These changes” were not identified as necessary to ensure compliance with state requirements. The City’s decision to not include the change, does not affect Ecology’s decision in approving the updated SMP. Therefore, the original language submitted by the City, shall be maintained in the final approved version of the SMP.</p>
B	20.25E.010 C. 1. c. Regulations Not Applicable in the Shoreline Overlay District.	<p><u>i.</u> Uses, except as specifically noted in LUC 20.25E.030:</p> <p><u>1.</u> 20.10.400 <a href="#">Use chart described – Interpretation;</a></p> <p><u>2.</u> 20.10.420 <a href="#">Interpretation of land use chart by Director; and</a></p> <p><u>3.</u> 20.10.440 <a href="#">Land use charts.</a></p> <p><u>ii.</u> General Development Standards</p> <p><u>1.</u> 20.20.010 Minimum Greenscape Percentage of Front Yard Setback and associated Note 40</p> <p><u>2.</u> 20.20.025 within the shoreline structure setback required by LUC Chart 20.25E.050.A and Chart 20.25E.065.C.</p> <p><u>3.</u> 20. 20.840 <a href="#">Subordinate Uses.</a></p> <p><u>4.</u> 20.20.900 within the vegetation conservation area defined pursuant to LUC 20.25E.065.F.5.</p> <p><b>Ecology Rationale:</b> Recommend adding outline numbering to the individual code sections and the general titles of referenced sections for clarity in identifying regulations/policies that are or are not considered part of the SMP.</p>	<p><b>ALTERNATIVE RECOMMEND CHANGE</b> – The City accepted and will incorporate Ecology recommendation and have updated the outline numbering to reflect proper numbering convention consistent with their Land Use Code.</p> <p><u>i.</u> Uses, except as specifically noted in LUC 20.25E.030:</p> <p><u>(1)</u> 20.10.400 <a href="#">Use chart described – Interpretation;</a></p> <p><u>(2)</u> 20.10.420 <a href="#">Interpretation of land use chart by Director; and</a></p> <p><u>(3)</u> 20.10.440 <a href="#">Land use charts.</a></p> <p><u>ii.</u> General Development Standards</p> <p><u>(1)</u> 20.20.010 Minimum Greenscape Percentage of Front Yard Setback and associated Note 40</p> <p><u>(2)</u> 20.20.025 within the shoreline structure setback required by LUC Chart 20.25E.050.A and Chart 20.25E.065.C.</p> <p><u>(3)</u> 20. 20.840 <a href="#">Subordinate Uses.</a></p> <p><u>(4)</u> 20.20.900 within the vegetation conservation area defined pursuant to LUC 20.25E.065.F.5.</p>	<p><b>City Alternative Accepted:</b> The alternative requested by the City, accepts Ecology’s change, but also corrects the outline numbering format to be consistent with other City land-use provisions.</p>
C	20.25E.010.C.2.e. Shoreline Overlay District Description	<p>e. On lakes Sammamish and Washington, waterward from the ordinary high water mark or specified vertical elevation <a href="#">representing the ordinary high water mark</a> to the City’s jurisdictional boundary.</p> <p><b>Ecology Rationale:</b> Suggested clarification to ensure compliance with RCW 90.58.030(2)(f) defining “shorelines of statewide significance” through a reference specifically to “ordinary high water mark”.</p>	<p><b>ACCEPTED RECOMMENDED CHANGE:</b> The City accepted and will incorporate Ecology’s recommendation to this provision.</p>	<p><b>ECY Change Accepted:</b> amended text to be part of the approved SMP.</p>
D	20.25E.020 A. 2.	<p>For uses that require alteration of the shorelines of the state, in those limited conditions when <a href="#">determined to be consistent with this program</a>, alteration <del>is may be</del> authorized, <del>priority was given</del> for:</p> <p>a. Single-family residences and their appurtenant structures;</p> <p>b. Shoreline recreational uses, including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines;</p> <p>c. Commercial development that is particularly dependent on its location on or use of the shorelines; and,</p> <p>d. Other <a href="#">preferred uses as defined in RCW 90.58.020, including water oriented uses and</a> development that will provide an opportunity for substantial numbers of the people to enjoy the shoreline.</p> <p><b>Ecology Rationale:</b> Clarifications suggested to reiterate use preferences described in RCW 90.58.020 and WAC 173-26-241(2)(a)(iii).</p>	<p><b>REJECTED RECOMMENDED CHANGE:</b> The City has decided not to incorporate Ecology’s Recommended Change.</p>	<p><b>Ecology Final Action:</b> Same as item “A” above.</p>
E	20.25E.020 C. 2. a. Director’s Authority	<p><a href="#">Written interpretations associated with this program will be prepared in consultation with Ecology pursuant to WAC 173-26-140.</a></p>	<p><b>ACCEPTED RECOMMENDED CHANGE:</b> The City accepted and will incorporate Ecology’s recommendation to this provision.</p>	<p><b>ECY Change Accepted:</b> amended text to be part of the approved SMP.</p>

ITEM	SMP PROVISION	ECOLOGY ORIGINAL RECOMMENDED CHANGE (6/1/2017)	CITY RESPONSE (ORD. #TBD)	ECOLOGY FINAL ACTION
		<b>Ecology Rationale:</b> The suggested change is intended as a reminder to the statement in WAC 173-26-140, requiring local jurisdictions to consult with Ecology on administrative interpretations affecting an updated SMP.		
SECTION 2: USES – 20.25E.040 Nonconforming Shoreline Conditions				
F	20.25E.040 B.  Nonconforming Shoreline Conditions	<p>A nonconforming shoreline condition refers to a site that contains either a nonconforming shoreline use or nonconforming shoreline development which was lawfully established <del>or</del> <u>and</u> constructed prior to [insert effective date], as defined in this paragraph B and based on documentation provided pursuant to paragraph D of this section.</p> <p>1. Nonconforming Shoreline Use. The use of a structure or land which was permitted when established, in existence on [insert effective date], and not discontinued or destroyed, but is not otherwise allowed under LUC Chart 20.25E.030.</p> <p>2. Nonconforming Shoreline Development. A structure or non-structural exterior site development which was permitted when established, in existence on [insert effective date], and not discontinued or destroyed, but does not otherwise comply with Part 20.25E LUC.</p> <p><b>Ecology Rationale:</b> Suggested change to ensure internal consistency with subsection 1 and 2 (below), provision 20.25E.040.D. and RCW 90.58.620. The change would clarify that existing nonconforming conditions should be found to be both “lawfully established” <u>and</u> constructed or used prior to the adoption of this program.</p>	<b>REJECTED RECOMMENDED CHANGE:</b> The City has decided not to incorporate Ecology’s Recommended Change.	<b>Ecology Final Action:</b> Same as item “A” above.
G	20.25E.040 C. 6.	<p>In event of a conflict between this section LUC 20.25E.040 (Nonconforming Conditions) and Part 20.25H LUC (Critical Areas Overlay District), the requirements of <u>20.25E.010.C.1.b.ii. and</u> this section LUC 20.25E.040 shall control.</p> <p><b>Ecology Rationale:</b> The identified cross reference is recommended to ensure that any conflicts between critical area provisions and the SMP will be addressed in a manner that is internally consistent with this SMP and in compliance with WAC 173-26-221(2)(a)(ii), RCW 90.58.090(4), and RCW 36.70A.480(3).</p>	<b>ACCEPTED RECOMMENDED CHANGE:</b> The City accepted and will incorporate Ecology’s recommendation to this provision.	<b>ECY Change Accepted:</b> amended text to be part of the approved SMP.
H	20.25E.040 D. 1.	<p>Documentation that the nonconforming shoreline condition was <del>permitted when</del> established includes, but is not limited to, the following:</p> <p><b>Ecology Rationale:</b> The suggestion to delete “permitted when” is intended to simplify the description of the City’s process in determining if an existing nonconforming use was “established.”</p>	<b>ACCEPTED RECOMMENDED CHANGE:</b> The City accepted and will incorporate Ecology’s recommendation to this provision.	<b>ECY Change Accepted:</b> amended text to be part of the approved SMP.
SECTION 3: DEVELOPMENT REGULATIONS – 20.25E.050 Dimensional Requirements				
I	Chart 20.25E.050.A (6)	<p>(6) The Shoreline Structure Setback is modified to account for encroachments by existing structures <del>under</del> <u>through compliance with</u> the Footprint Exception of LUC 20.25E.065.E.1.c and may also be reduced to a minimum of 25 feet provided that impacts to existing shoreline vegetation are mitigated pursuant to the Vegetation Conservation requirements contained in LUC 20.25E.065.F.</p> <p><b>Ecology Rationale:</b> Clarifying text suggested to avoid confusion in administering this provision.</p>	<b>ACCEPTED RECOMMENDED CHANGE:</b> The City accepted and will incorporate Ecology’s recommendation to this provision.	<b>ECY Change Accepted:</b> amended text to be part of the approved SMP.
Section 3: Development Regulations – 20.25E.060 General Requirements				
J	20.25E.060.B.1. General Regulations No Net Loss	<p>No Net Loss Required. Shoreline uses and development are required to ensure no net loss of ecological functions and processes <u>through compliance with applicable provisions of this chapter</u>.</p> <p><b>Ecology Rationale:</b> The change clarifies how No Net Loss will be achieved through consideration of other general standards such as mitigation sequence in LUC 20.25E.060.D.2.</p>	<p><b>ALTERNATIVE RECOMMEND CHANGE</b> – The City accepts and will incorporate Ecology’s Recommended Change, with one additional clarifications replacing “Chapter”, with “Part”, as the shoreline overlay is a <u>Part</u> in the Land Use Code and not a <u>Chapter</u>. The revised provision will read as follows:</p> <p>No Net Loss Required. Shoreline uses and development are required to ensure no net loss of ecological functions and processes <u>through compliance with applicable provisions of this Part</u></p>	<b>City Alternative Accepted:</b> The City’s alternative accepts Ecology’s change and provides one (non-substantive) clarification.
K	20.25E.060.D. 1 Mitigation Requirements and Sequencing	<p>Mitigation Plans – When Required: Mitigation plans are required as part of an application for a Shoreline Conditional Use (LUC 20.25E.180), a Shoreline Variance (LUC 20.25E.190), a Special Shorelines Report or pursuant to specific use and shoreline modification regulations in LUC</p>	<b>REJECTED RECOMMENDED CHANGE:</b> The City has decided not to incorporate Ecology’s Recommended Change.	<b>Ecology Final Action:</b> Same as item “A” above.

ITEM	SMP PROVISION	ECOLOGY ORIGINAL RECOMMENDED CHANGE (6/1/2017)	CITY RESPONSE (ORD. #TBD)	ECOLOGY FINAL ACTION
		<p>20.25E.065 <a href="#">(Residential Shoreline Regulations)</a>, 20.25E.070 <a href="#">(Specific Use Regulations)</a> and 20.25E.080 <a href="#">(Shoreline Modifications)</a>, or when unforeseen impacts to shoreline ecological functions are identified and mitigation is determined to be necessary by the Director. Applicants shall submit as part of the application package, a mitigation plan meeting the performance criteria of this <del>paragraph</del><a href="#">section</a>. Mitigation plans shall be approved as part of the permit required for the underlying project. To the extent applicable, analysis of environmental impacts and identification of required mitigation shall be consistent with the rules implementing the State Environmental Policy Act (refer to WAC 197-11, Bellevue Environmental Procedures Code Chapter 22.02 BCC, and LUC 20.35.200 through 250).</p> <p><i>Ecology Rationale:</i> The identified changes are suggested to clarify which sections/provisions may trigger creation of a mitigation plan and an additional statement reiterating the Directors authority to require a mitigation plan pursuant to LUC 20.25E.060.B.2.</p>		
L	20.25E.060 D. 5. e. Contingency Plan	<p>The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met and such failure would result in significantly <del>ly</del> <a href="#">impacting</a> shoreline ecological functions.</p> <p><i>Ecology Rationale:</i> Minor edit suggested for improved clarity.</p>	<p><b>ALTERNATIVE RECOMMEND CHANGE</b> – The City accepts and further improved the language in this provision to be incorporated into the update SMP, as follows:</p> <p>“The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met and such failure would result in significant impacts <a href="#">to</a> shoreline ecological functions.”</p>	<i>City Alternative Accepted:</i> The City’s alternative accepts Ecology change, but identified improved language.
M	20.25E.060 G. Critical Areas in the Shoreline Overlay District.	<p>Critical areas in the Shoreline Overlay District shall be regulated in accordance with Part 20.25H LUC (Critical Areas Overlay District, as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]), which is incorporated by this reference <a href="#">exclusive of sections listed in 20.25E.010.C.1.c.</a> into the SMP.</p> <p><i>Ecology Rationale:</i> Same suggestion as item A, above.</p>	<p><b>ALTERNATIVE RECOMMEND CHANGE</b> – The City accepts and further improved the language in this provision to be incorporated into the update SMP, as follows:</p> <p>“Critical areas in the Shoreline Overlay District shall be regulated in accordance with Part 20.25H LUC (Critical Areas Overlay District, as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]), which is incorporated by this reference <a href="#">exclusive of sections listed in 20.25E.010.C.1.c.iii.</a> into the SMP.”</p>	<i>City Alternative Accepted:</i> The City’s alternative accepts Ecology change, but also improve language in the provision by correcting the cross reference.
N	20.25E.060 K. 12. Existing Landscape Maintenance	<p>Routing maintenance <a href="#">not considered “development”</a> of existing legally established landscaping and landscape features developed prior to [INSERT effective date ordinance], in the shoreline vegetation conservation area may...</p> <p><i>Ecology Rationale:</i> Minor edit suggested for improved clarity.</p>	<b>REJECTED RECOMMENDED CHANGE:</b> The City has decided not to incorporate Ecology’s Recommended Change.	<i>Ecology Final Action:</i> Same as item “A” above.
SECTION 3: DEVELOPMENT REGULATIONS – 20.25E.065 Residential Shoreline Requirements				
O	20.25E.065 B. 2. e.	<p>Critical areas in the Shoreline Overlay District shall be regulated pursuant to Part 20.25H LUC, Critical Areas Overlay District (as set forth in Ordinance No. [INSERT Critical Areas Conformance Ordinance Number and date], which is incorporated by this reference <a href="#">exclusive of sections listed in 20.25E.010.C.1.c.</a> into the SMP).</p> <p><i>Ecology Rationale:</i> Same suggestion as item A, above.</p>	<b>REJECTED RECOMMENDED CHANGE:</b> The City has decided not to incorporate Ecology’s Recommended Change.	<i>Ecology Final Action:</i> Same as item “A” above.
P	20.25E.065 B. 2. f. i. Purpose	<p>The responsibility for water quality and control of stormwater and non-point source pollution <a href="#">beyond individual properties</a> is a citywide obligation that is not borne entirely by property owners of land located within the Shoreline Overlay District.</p> <p><i>Ecology Rationale:</i> Suggested clarification intended to recognize the fact that there are different stormwater management obligations at the individual site than those that directed at non-point sources.</p>	<b>ACCEPTED RECOMMENDED CHANGE:</b> The City accepted and will incorporate Ecology’s recommendation to this provision.	<i>ECY Change Accepted:</i> amended text to be part of the approved SMP.
Q	Chart 20.25E.065.C.2 (13)	<p>Impacts to existing shoreline vegetation located within 50 feet from OHWM are required to <del>shall</del> be mitigated pursuant to the shoreline vegetation conservation requirements contained in LUC 20.25E.065.F.</p> <p><i>Ecology Rationale:</i> Suggested edit to a typographic error.</p>	<b>ACCEPTED RECOMMENDED CHANGE:</b> The City accepted and will incorporate Ecology’s recommendation to this provision.	<i>ECY Change Accepted:</i> amended text to be part of the approved SMP.



ITEM	SMP PROVISION	ECOLOGY ORIGINAL RECOMMENDED CHANGE (6/1/2017)	CITY RESPONSE (ORD. #TBD)	ECOLOGY FINAL ACTION
R	20.25E.065 F. 13. b. Wildlife snag as alternative mitigation.	A landowner may <del>chese</del> <u>choose</u> to convert a hazard tree proposed for removal to a wildlife snag as an alternative to providing replacement mitigation; and  <i>Ecology Rationale:</i> Suggested edit to a typographic error.	ACCEPTED RECOMMENDED CHANGE: The City accepted and will incorporate Ecology's recommendation to this provision.	<i>ECY Change Accepted:</i> amended text to be part of the approved SMP.
SECTION 3: DEVELOPMENT REGULATIONS – 20.25E.070 Specific Use Regulations				
S	20.25E.070 D. 3. d. Railroads	The following use-specific performance standards apply in addition to the general performance standards contained in paragraph <u>D.3.b</u> of this section.  <i>Ecology Rationale:</i> Correction to cross-reference.	ACCEPTED RECOMMENDED CHANGE: The City accepted and will incorporate Ecology's recommendation to this provision.	<i>ECY Change Accepted:</i> amended text to be part of the approved SMP.
City of Bellevue (additional) Requested Changes – submitted as part of a final response to Ecology's June 1, 2017 Conditional Approval.				
COB 1	20.25E.065 E. 3. Modification of Setbacks with 25 feet of OHWM.	3. Modification of Setbacks within 25 feet of OHWM. Expansion of the exterior footprint of an existing legally established structure within the 25 foot shoreline structure setback closer to ordinary high water mark, or in excess of the one-time 200 square foot allowance pursuant to LUC 20.25E.065.E.2, may only be allowed through approval of a Shoreline Variance (refer to LUC 20.25E.190).	<b>ADDITIONAL ALTERNATIVE REQUESTED</b> – The City's request reflects amendments responding to comment C-5 (Attachment D) describing how setbacks are measured and clarifying that modifications closer than 25-feet (from OHWM) need to be reviewed through a shoreline variance. The requested language is as follows:  3. Modification of Setbacks within 25 feet of OHWM. Expansion of the exterior footprint of an existing legally established structure <u>in the area located</u> within <del>the</del> <u>25 feet landward from elevation 31.8 NAVD, or 25 feet landward from that point identified in a site-specific OHWM determination prepared by a qualified professional, requires a Shoreline Variance (refer to LUC 20.25E.190) when:</u>  <u>A. The expansion causes the footprint to be located</u> closer to <u>elevation 31.8 NAVD or OHWM;</u> or  <u>B. The expansion is</u> in excess of the one-time 200 square foot allowance pursuant to LUC 20.25E.065.E.2, <del>may only be allowed through approval of a Shoreline Variance (refer to LUC 20.25E.190);</del>	<i>City Alternative Accepted:</i> The City's alternative incorporates an elevation for administering setback provisions, agreed upon through Ecology Required Changes item(s) 6 and 7, and further clarifies when a shoreline variance would be required. The clarification appears to be within the scope and intent of Ecology's conditional approval and therefore can be approved.
COB 2	20.25E.065.F.7.a.ii New or Extended Impervious Surfaces	The lateral expansion does not increase the existing total footprint of the residence and/or associated impervious surface lying within the Shoreline Vegetation Conservation Area by more than 200 square feet or five percent (5%) whichever is greater, over that existing before [insert effective date of ordinance]; and	<b>ADDITIONAL ALTERNATIVE REQUESTED</b> – The City's request clarifies the intended reference to the five percent figure. The requested language is as follows:  The lateral expansion does not increase the existing total footprint of the residence and/or associated impervious surface lying within the Shoreline Vegetation Conservation Area by more than 200 square feet or five percent (5%) <u>of the total Shoreline Vegetation Conservation Area</u> , whichever is greater, over that existing before [insert effective date of ordinance]; and	<i>City Alternative Accepted:</i> The City's alternative provides a (non-substantive) clarification that appears consistent with Ecology's 6/1/17 conditional approval.
COB 3	20.25E.040C.6	In event of a conflict between this section LUC 20.25E.040 (Nonconforming Conditions) and Part 20.25H LUC (Critical Areas Overlay District), the requirements of this section LUC 20.25E.040 shall control.	<b>ADDITIONAL ALTERNATIVE REQUESTED</b> – The City's request clarifies that Shoreline Master Program provision apply should a conflict arise between the non-conforming provisions of the SMP and the CAO. The requested language is as follows:  In event of a conflict between this section LUC 20.25E.040 (Nonconforming Conditions) and Part 20.25H LUC (Critical Areas Overlay District), the requirements of <u>LUC 20.25E.010.C.1.b.ii and</u> this section LUC 20.25E.040 shall control.	<i>City Alternative Accepted:</i> The City's alternative provides a cross-reference that appears consistent with Ecology's 6/1/17 conditional approval.
COB 4	20.25E.065.H.2.e Residential Moorage (Overwater Structures)		<b>ADDITIONAL ALTERNATIVE REQUESTED</b> – The City's request incorporates a definition of "Near Shore" and re-order remaining definitions. This change relates to Ecology's required change 10 and 11, and is requested to improve internal consistency of the Shoreline Overlay Part 20.25E LUC. The requested language is as follows:  <u>e. Near Shore. The area located waterward of the OHWM when measured on a horizontal plane to a distance of 30 feet from the OHWM.</u>	<i>City Alternative Accepted:</i> The City's alternative provides a helpful definition that will support implementation/clarification of pier/dock standards to be implemented by the updated SMP.
COB 5	20.25E.070.C.2.b. Specific Use Regulations – Recreation	b. Minor Expansions. Minor expansion of existing recreational facilities is allowed. "Minor Expansion" includes enlargement of gross square footage, impervious surfaces, permanent disturbance, structural lot coverage, or overwater coverage associated with the recreation facility, individually or in combination, by not more than 20 percent. Improvements not meeting the	<b>ADDITIONAL ALTERNATIVE REQUESTED</b> – The City's requested alternative incorporates a 5 year period for consistency with City's response to Ecology's required change to item 13: LUC 20.25E.080.F.5. The requested language is as follows:  b. Minor Expansions. Minor expansion of existing recreational facilities is allowed. "Minor Expansion" includes enlargement of gross square footage, impervious surfaces, permanent	<i>City Alternative Accepted:</i> The City's alternative is a non-substantive addition, clarifying the time-frame for which the 20-percent limit will be calculated..



ITEM	SMP PROVISION	ECOLOGY ORIGINAL RECOMMENDED CHANGE (6/1/2017)	CITY RESPONSE (ORD. #TBD)	ECOLOGY FINAL ACTION
		definition of routine maintenance and repair or minor expansions shall be processed as new or expanded recreational facilities.	disturbance, structural lot coverage, or overwater coverage associated with the recreation facility, individually or in combination, by not more than 20 percent <a href="#">within a 5-year period</a> . Improvements not meeting the definition of routine maintenance and repair or minor expansions shall be processed as new or expanded recreational facilities.	
COB 6	20.25E.170.C.8 Exemptions From Shoreline Substantial Development Permits—Letter of Exemption Required	Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple residence(s). This exemption applies if the dock does not exceed \$10,000; but if subsequent construction having a fair market value exceeding \$2,500 occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this paragraph. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances;	<p><b>ADDITIONAL ALTERNATIVE REQUESTED</b> – The City’s requested alternative clarifies the applicability of the exemption from permitting requirements for docks. This change relates to Ecology’s required change items 10 and 11; and is recommended to improve internal consistency of the Shoreline Overlay Part 20.25E LUC. The requested language is as follows:</p> <p>Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple residence(s). <a href="#">This exemption applies to docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced, and the fair market value of the dock does not exceed \$20,000. Construction of all other docks is exempt</a> <del>This exemption applies</del> if the <a href="#">fair market value of the</a> dock does not exceed \$10,000; but if subsequent construction having a fair market value exceeding \$2,500 occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this paragraph. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances;</p>	<p><b>City Alternative Accepted:</b> <i>The City’s alternative is considered a non-substantive change that incorporates the \$20,000 monetary threshold in the updated WAC 173-27 and ensures internal consistency with the City’s acceptance of Ecology’s Required Change item(s) 10 and 11.</i></p>