

ORDINANCE NO. 501

AN ORDINANCE RELATING TO THE REGULATION OF LAND USE WITHIN THE CITY OF MERCER ISLAND, AMENDING CITY OF MERCER ISLAND ZONING CODE, CITY ORDINANCE NO. 15, BY ESTABLISHING A SHORELINE MANAGEMENT MASTER PROGRAM.

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RECORDS & ELECTIONS

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Whereas, the City Council of the City of Mercer Island having determined that these regulations will promote the public health, safety, general welfare of Mercer Island and be in the best interests of its citizens, now, therefore,

THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WA, DO ORDAIN AS FOLLOWS:

Section 1. City of Mercer Island Zoning Code, City Ordinance No. 15, as previously amended, is hereby amended by adding the following new section thereto, to be denominated and referred to herein as Section 16C in said City Ordinance No. 15:

SECTION 16C - SHORELINE MANAGEMENT MASTER PROGRAM

Section 16C.01 - PURPOSE

It is the purpose of this ordinance to implement the Shoreline Management Act of 1971 (Chapter 286, Laws of 1971, First Executive Session) and to regulate development of the shoreline of the City of Mercer Island in a manner consistent with the policy declared in Section 2 of that act, and the Mercer Island Local Shoreline Goals and Policies, in order to: Encourage water-dependent uses, and provide for maximum public use and enjoyment of the shorelines of the City.

Section 16C.02 - DEFINITIONS

1. Average Grade Level - (base elevation): The elevation established by averaging the elevation of the undisturbed earth at each corner of the exterior walls of the building.
2. Boat Ramp: An inclined structure used to raise or pull a water-craft onto land or a dock.

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3. Building: Any structure having a roof, but excluding all forms of vehicles.
4. Bulkhead: A solid or open pile of rock, concrete, steel, timber or other materials erected parallel to and erected at the ordinary high water mark for the purpose of protecting adjacent wetlands from waves or currents.
5. Code Administrator: The Director of the Department of Community Development for the City of Mercer Island or his duly authorized designee.
6. Covered Moorage: A pier, dock, or series of piles over which a permanent roof is erected.
7. Development: A use consisting of the construction or exterior alteration of structures, dredging, drilling, dumping, filling, removal of any sand, gravel or minerals included in the grading of land, bulkheading, driving of piling, placing of obstructions or any project of a permanent or temporary nature which interferes with the normal public use of the waters and lands subject to this ordinance.
8. Finner Pier: An extension from a dock used to create moorage slips
9. Floating Platform: A flat structure or device moored or anchored, not permanently secured by piles, which floats upon the water.
10. Groin: A structure used to interrupt sediment movement along the shore.
11. High Water Line: The mark which will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual so as to continue in all ordinary years as to mark upon the soil a character distinct from that of abutting uplands in respect to vegetation as that condition exists on the enactment date of this ordinance or subsequent amendments.

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12. Jetty: An artificial barrier used to change the natural littoral drift to protect inlet entrances from clogging by excess sediment.
13. Land Fill: The placement of earth material by artificial means.
14. Lift Station (boat hoist): A structure or device normally attached to a dock or pier used to raise a watercraft above the waterline for secure moorage purposes.
15. Lot - Upland: A lot having no frontage on Lake Washington.
16. Lot - Waterfront: A lot having frontage on Lake Washington.
17. Marina: A dock or basin providing for the rental or sale of secure mooring slips for motor boats and yachts and often offering supply, repair, and other facilities.
18. Person: An individual, partnership, corporation, association or organization cooperative or municipal corporation or agency of the state.
19. Pile: A long heavy timber or section of concrete driven into the ground to serve as a support, protection, or moorage.
20. Residential Uses: Those uses allowed in the R-8.4, R-9.6, R-12, R-15 zone and R-2 classifications as provided in Ordinance 15.
21. Rip-Rap: Hard angular quarry rock used for bank stabilization.
22. Semi-Private Waterfront Tract: A separate shoreline property held in common by upland parcels which is used for water-related recreational uses.
23. Sign: Any series of letters, figures, design symbols, light structure billboard, trademark or device intended or used to attract attention to any activity, service, place, subject, person, firm, corporation, or thing. Excluded are official traffic signs or signals, public notices, and governmental flags.

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24. Shared Pier: A dock or pier which straddles a common property line between two contiguous waterfront parcels for the benefit of the two waterfront properties.
25. Substantial Development: A development of which the total cost or fair market value exceeds \$1,000, or any development which materially interferes with the normal public use within the Shoreline District of the City except that the exemptions listed in Section 8 shall not be considered a substantial development for the purpose of this ordinance.
26. Variance: An alteration of the use regulations of the City of Mercer Island Master Program.
27. Waterfront Structure: For the purpose of this ordinance, the term "waterfront structure" shall include but not necessarily be limited to all docks, piers, wharfs, floats, mooring piles, anchor buoys, bulkheads, submerged or overhead wires, pipes, cables, and any other object passing beneath, through or over the water beyond the line of ordinary high water being that point on the shore to which the water extends at the highest stage of the lake level during the year without regard to the shoreline as created by bulkheads or other artificial structures.
28. Wetlands: Those areas extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water line, and all marshes, bogs, swamps, in close proximity to and influenced by Lake Washington.

Section 16C.03 - SHORELINE DISTRICT ESTABLISHED

There is hereby established the "Shoreline District" which shall include all shorelines and associated wetlands of the City, the boundaries of which are illustrated on a map, designated Exhibit "A" attached

to and made a part of this ordinance. All property within said Shoreline District shall be developed and used only in accordance with the regulations of this Article:

Section 16C.04 - REGULATIONS SUPPLEMENTAL

The Shoreline District shall be superimposed upon and modify any existing zoning classifications in the Shoreline District. The regulations of this ordinance are supplemental to regulations otherwise applicable to property in the existing zones, which shall continue to apply; provided that in case of irreconcilable conflict, the provisions of this ordinance shall prevail.

Section 16C.05 - PERMIT REQUIRED FOR SUBSTANTIAL DEVELOPMENT

No substantial development shall be undertaken in the Shoreline District without first obtaining a substantial development permit from the Code Administrator in accordance with the procedures established herein. Such permit shall be in addition to any other permits now or hereafter required by law. No such permit shall be required where the Code Administrator determines that a development proposed on the shoreline is not a "substantial development" as defined in this ordinance.

Section 16C.06 - INCONSISTENT DEVELOPMENT PROHIBITED

No development shall be undertaken in the Shoreline District unless the same is consistent with the policy of the Shoreline Management Act of 1971 and the regulations of this ordinance. This restriction applies even though no substantial development permit is required.

Section 16C.07 - APPLICABILITY

These regulations and procedures shall apply to every person, firm, corporation, governmental agency or department who:

- (a) proposes any new use, activity, development, substantial development or structure within the incorporated area within the City

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of Mercer Island subject to the Shoreline Management Act of 1971,
as amended, and the City's Master Program;

- (b) Proposes a change, modification, addition or alteration to a use, activity development, substantial development, or structure existing on the effective date of this ordinance, subject to the Shoreline Management Act of 1971 and the City's Master Program;
- (c) Files an application for a shoreline-related substantial development permit or variance;
- (d) files a written appeal to the City of Mercer Island City Council and/or the State Shorelines Hearing Board from a Hearing Examiner or Planning Commission decision relating to shorelines.

Section 16C.08 - EXEMPTION FROM SUBSTANTIAL DEVELOPMENT PERMIT REQUIREMENT

The following shall not require a Substantial Development Permit:

- (a) Any development of which the total cost of fair market value as determined by the Code Administrator does not exceed \$1,000, if such development does not materially interfere with the normal public use of the water or shorelines of this state.
- (b) Construction of a dock or pier, the cost of which does not exceed \$2,500, as determined by the Code Administrator, designed for pleasure craft only, for the private, non-commercial use of the owners, lessee, or contract purchaser of a single-family residence.
- (c) Normal maintenance or the repair of existing structures or developments including damage by accident, fire or elements.
- (d) Construction of the normal protective bulkhead common to single-family residences.
- (e) Emergency construction necessary to protect property from damage by the elements.

(f) Construction or modification of navigational aids such as channel markers or anchor buoys.

(g) Construction on a wetland by an owner, lessee or contract purchaser of a single-family residence for his own use or for the use of his family, and the residence does not exceed a height of 35 feet above average grade level, as measured by the procedure established in the City of Mercer Island Building Code as amended.

(h) Any project with certification from the governor pursuant to Chapter 80.50 RCW.

Any person claiming exemption from the permit requirements of this ordinance as a result of the exemptions enumerated in Section 16C.08 herein may make an application to the Department of Community Development for such an exemption on forms and in the manner prescribed by the Code Administrator.

If the basis for exemption is based in part or whole upon Paragraphs (a) and (b), Section 16C.08, the applicant must additionally file with the Code Administrator a statement of valuation. The statement of valuation shall truthfully acknowledge the true market value of all improvements of new construction contemplated, shall be signed by the applicant and authorized agent, if not the same.

If a project is deemed exempt from the requirements of a Shoreline Substantial Development Permit by the Code Administrator, but will require a variance from the provisions of the Master Program, the applicant must request said variance through the procedures established in the Zoning Code.

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Whenever a development falls within the exemptions stated in Section 16C.08 or WAC 173-14-115, the Code Administrator shall notify the applicant, the Department of Ecology, and Building Official of the City, exempting the development from the permit requirements of Chapter 90.58 RCW.

Section 16C.09 - APPLICATION WHEN DEVELOPMENT PARTLY OUT OF SHORELINE DISTRICT

Where a single development is partly within and partly without the Shoreline District, the regulations of this ordinance shall apply where any part of the development occurs within the Shoreline District.

Section 16C.10 - ENVIRONMENTS ESTABLISHED

For the purposes of this ordinance, the Shoreline District is hereby divided into three environment classifications designated as follows:

<u>Environment</u>	<u>Abbreviated Designation</u>
Conservancy	CN
Urban Park	UP
Urban Residential	UR

Conservancy (CN):

The purpose of the CN shoreline environment is to protect areas for environmentally related, usually public, purposes such as public and private parks and fish spawning grounds and migratory waterfowl habitats.

While the natural environment is not necessarily to be maintained in a pure state, the activities to be carried on provide for minimal adverse impact upon the shoreline environment.

Urban Park (UP):

The purpose of the UP environment is to provide areas for active and passive public recreation. Such recreational facilities shall be water-dependent and designed to maintain the quality of the natural elements of the site.

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Urban Residential (UR):

The UR environment is intended to protect areas which are appropriate primarily for residential uses. The purpose of the UR environment designation is to maintain the existing residential character of the designated area in terms of bulk, scale and general types of activities and developments. Semi-private waterfront recreational tracts as regulated herein are allowed in the UR environment.

The foregoing environment classifications and the boundaries of such environments are hereby established as shown on a map, marked Exhibit "A", which shall be superimposed upon and modify the official zoning map of the City of Mercer Island.

Section 16C.11 - PROCEDURES FOR OBTAINING SUBSTANTIAL DEVELOPMENT PERMITS

Applications for permits shall be made on forms prescribed by the Code Administrator and shall be made by or on behalf of the property owner, lessee, contract purchaser, or other person entitled to possession of the property.

Upon receipt of an application, the Code Administrator shall instruct the applicant to publish notice of the application at least once a week on the same day of the week for two (2) consecutive weeks in a newspaper of general circulation within the City of Mercer Island. The applicant shall, by affidavit, give proof that he has complied with this provision.

In addition, the Code Administrator shall ensure that notice of the application has been supplied by at least one of the following methods:

- (a) The Department of Community Development shall mail notice to residents located within at least three hundred (300) feet of the boundary of the property upon which the substantial development is proposed.

(b) The Department of Community Development may post notice in a conspicuous manner on the property upon which the project is to be constructed.

Such notice shall be given or mailed at least thirty (30) days before the date of final local action. Within thirty (30) days of final publication, posting or mailing of the notice, whichever comes last, any interested person may submit his written views upon the application to the Code Administrator or notify the Code Administrator of his desire to obtain a copy of the action taken upon the application. All persons who so submit their views, and all others who so notify the Code Administrator, shall be notified in a timely manner of the action taken upon the application.

Section 16C.12 - CODE ADMINISTRATOR'S ACTION

From the effective date of this ordinance, a Substantial Development Permit shall be granted only when the proposed development is consistent with: (a) the specific regulations of this ordinance, (b) the policy of Section 2 of the Shoreline Management Act of 1971, and (c) the State Environmental Policy Act.

The burden shall be on the applicant to prove that the proposed development is consistent with the criteria set forth above.

After the minimum thirty (30) day review period from the final publication, posting or mailing of notice as prescribed in Section 16C.11, but not later than forty-five (45) days from the final publication, posting or mailing of notice, the Code Administrator shall complete his review and make his decision to approve, approve with conditions, or deny an application for a Substantial Development Permit. If the

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application for a Substantial Development Permit shall require the granting of a variance from the requirement of the Master Program, or other public hearing, the Code Administrator shall complete his review and decision within fifteen (15) days of final disposition.

Said findings and conclusions shall set forth the manner in which the decision is consistent with the criteria set forth in this ordinance. The action of the Code Administrator in approving, approving with conditions, or denying an application for a Substantial Development Permit is conclusive unless an appeal is filed in accordance with the provisions of this ordinance.

Section 16C.13 - ADDITIONAL DATA

The Code Administrator may require the applicant to supply additional information or data relating to the proposed development to enable him to evaluate the application or to prepare any necessary environmental assessment or impact statement and to make a determination on the application. An application shall be cancelled by the Code Administrator when the applicant has failed without justification to supply required information or data within 90 days of a written request, provided the Code Administrator may extend the period for such submission for not more than 100 days if he finds that the delay was not the fault of the applicant.

The applicant may modify the application at any time prior to the decision so long as the modification does not substantially change the uses or increase the bulk proposed, change the essential features of the development, or otherwise increase the impact of the development upon the Shoreline District.

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Section 16C.14 - PUBLIC HEARING

As a part of the process of reviewing an application for a Substantial Development Permit, the Code Administrator, at his discretion, may provide for a public hearing on the application, particularly where:

- (a) The proposed development has broad public significance, or
- (b) Ten or more interested citizens file a written request for such hearings not later than the thirtieth day following the date of final public notice of the application, or
- (c) The cost of the proposed development, exclusive of land, will exceed \$100,000.

Public hearings shall be conducted by the Planning Commission after not less than ten days' notice by the publication of notice in a newspaper of general circulation within the City of Mercer Island. The action of the Planning Commission to approve or deny an application shall be conclusive unless appealed to the City Council as provided in Section 16C.22.

Section 16C.15 - COMMENCEMENT OF CONSTRUCTION

No construction pursuant to a substantial development permit authorized by this ordinance shall begin or be authorized and no building, grading or other construction permits shall be issued by the Code Administrator until all review proceedings are terminated.

Section 16C.16 - TIME LIMITS FOR PERMIT VALIDITY

The following time limits shall apply to all substantial development permits.

- (1) Construction or substantial progress toward construction of a project for which a permit has been granted pursuant to this ordinance must be undertaken within one year after final approval

of the permit or the permit shall terminate. If such progress has not been made, a new permit shall be necessary.

- (2) If a project for which a permit has been granted pursuant to this ordinance has not been completed within two years after approval of the permit, the Code Administrator shall review the permit, and, upon a showing of good cause do either of the following:
- (a) Extend the permit for one year, or
 - (b) Terminate the permit.

Section 16C.17 - REVISIONS TO SUBSTANTIAL DEVELOPMENT PERMITS

When an applicant seeks to revise a Substantial Development Permit, the applicant shall provide detailed plans (graphics and text) describing the proposed changes in the permit.

- (1) If the Code Administrator determines that the proposed changes are within the scope and intent of the original permit, do not substantially change the uses or increase the bulk, or change the essential features of the development, or otherwise increase the impact of the development upon the shoreline, the Code Administrator shall approve the revision. The revised permit shall become effective immediately. The approved revision, along with copies of the revised site plan and text, shall be submitted by mail to the appropriate Department of Ecology Regional Office, the Attorney General, and to persons who have previously notified the Code Administrator relative to the original application.
- (2) If the proposed changes are not within the scope and intent of the original permit, the applicant shall apply for a new Substantial Development Permit in the manner provided for herein.

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Section 16C.16 - RESCISSION

The Code Administrator may rescind a Substantial Development Permit at any time if he finds that the permittee has not substantially complied with conditions of the permit. Such non-compliance may be considered a public nuisance.

Section 16C.19 - FEES

A fee, as established by the Mercer Island City Council by ordinance, shall accompany each application for a Substantial Development Permit.

Section 16C.20 - SHORELINE VARIANCES

In specific cases the City of Mercer Island, with approval of the Department of Ecology, may authorize variances from specific requirements of this ordinance when there are practical difficulties or unnecessary hardships involved with carrying out the strict letter of the Shoreline Master Program. A shoreline variance will be granted only after the applicant can demonstrate the following:

- (a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes a reasonable use of the property otherwise consistent with the master program.
- (b) That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, natural features or water depth and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions.
- (c) That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment designation.
- (d) That the requested variance will not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum necessary to afford relief.

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- (e) That the public rights of navigation will not be adversely affected by the granting of the variance.
- (f) That the public interest will suffer no substantial detrimental effect effect.

Section 16C.21 - PLANNING DEPARTMENT DEVIATION FROM WATERFRONT
STRUCTURE SETBACK REQUIREMENTS

The Community Development Code Administrator may grant a deviation from the required setback between adjoining waterfront structures and the required 10 foot setback between waterfront structures and property line extensions waterward of the line of ordinary high water upon a finding that the circumstances of Section 16C.20 apply. Any such deviation shall not exceed 10% of the waterfront setback otherwise required by this ordinance. The deviation shall not apply to semi-private waterfront recreation tracts. Any such deviation shall not exceed 10% of the waterfront structure setback and in no case by less than 35 feet from the adjacent waterfront structure.

Section 16C.22 - APPEALS

Any person or persons aggrieved by any action of the Planning Commission or Hearing Examiner may, within ten (10) days of such action, file with the City Clerk a written notice of appeal of such action setting forth the reasons for such appeal.

The City Council shall hear the matter in a public hearing and may affirm, modify or disaffirm the decision.

Public notice of the hearing shall be provided by both publication in a newspaper of general circulation and by mailing to residents within at least three hundred (300) feet of the boundary of the subject property. Said notice shall be provided not less than ten (10) days prior to the public hearing.

Section 16C.23 - APPEAL TO SHORELINES HEARING BOARD.

Any final ruling under authority of this ordinance, whether the application be approved or denied, shall, concurrently with the transmittal of the ruling to the applicant, be filed by the Code Administrator with the Department of Ecology and the Attorney General.

Any person aggrieved by the granting or denying of a Substantial Development Permit on shorelines of the City, or by the rescission of a permit pursuant to this ordinance may seek review by the Shorelines Hearing Board by filing a request for the same within 30 days of receipt of the final order, and by concurrently filing copies of the request with the Department of Ecology and the Attorney General as provided in the Shoreline Management Act RCW 90.58.180 (1), as amended.

Section 16C.24 - NON-CONFORMING WATERFRONT STRUCTURES AND BUILDINGS

Where a waterfront structure exists within the Shoreline District which was lawfully established prior to the effective date of this ordinance or amendment thereto which could not be built under the terms of this ordinance by reason of restrictions on area, height, setbacks, or other characteristics of the structure or building, it is a non-conforming structure or building and it may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such waterfront structure or building may be enlarged or altered in a way which would increase its degree of non-conformity. Alterations, additions, or enlargements may be allowed as long as the work done does not extend further into any required setback or further violate any other portion of this ordinance.
2. Existing nonconforming waterfront structures which have been partially or totally destroyed by fire, storm, or accident may be reconstructed in their previous configuration. This provision shall not apply to the side walls of covered moorage structures.

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3. Should such waterfront structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the environment classification in which it is located.

Section 16C.25 - GENERAL

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- A. All proposed developments shall be consistent with the requirements of the Shoreline Master Program and the policy of the Shoreline Policy Act of 1971, as amended, in 90.58 RCW.
- B. All proposed developments must conform to permit requirements of all other agencies having a shoreline jurisdiction or responsibility, and authority to proceed under a Substantial Development Permit may be conditioned upon the applicant obtaining such other permits.
- C. All proposed developments must conform to applicable federal, state, and local regulations relating to air and water quality and noise pollution.
- D. The proposed development must satisfy all requirements of the State Environmental Policy Act.
- E. Applications for Substantial Development Permits shall be evaluated in accordance with the principles outlined below in order of preference, and in accordance with the development guidelines for shorelines of statewide significance as set forth in W.A.C. 173-16-040 (5):
 - 1. Recognize and protect the community interest over private interest.
 - 2. Preserve the natural character of the shoreline.
 - 3. Result in long-term over short-term benefit.
 - 4. Protect the resources and eco-system of shorelines.
 - 5. Increase public access to publicly owned areas of the shorelines.

6. Increase recreational opportunities for the public on the shorelines.

Section 16C.26 - USES PROHIBITED OUTRIGHT

The following uses are not permitted in any shoreline environment in the Shoreline District.

- A. Commercial agricultural activities.
- B. Commercial aquacultural activities.
- C. Commercial seaplane facilities.
- D. Commercial marina facilities.
- E. Moorage, storage, servicing, and operation facilities for commercial vessels, ships, and barges.
- F. Mining and petro-chemical drilling activities.
- G. Solid waste disposal.
- H. Floating homes or boats used for residential, commercial, or office purposes.
- I. Parking facilities for automobiles within 25 feet of the shoreline.
- J. Signs for commercial purposes. However, signs advertising property for sale, lease, or rental which are less than six square feet in size may be permitted.
- K. Land fill, except as allowed in Section 16C.31, Shoreline Protective Structures.

Section 16C.27 - DREDGING REGULATIONS

- A. Dredging waterward or landward of the high water line is permitted when the applicant demonstrates to the satisfaction of the Code Administrator that extraordinary conditions warrant the dredging and that the method of dredging will result in minimal environmental and aesthetic impacts. However, dredging shall be prohibited in waters adjacent to unique and fragile areas and in fish spawning areas.

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- B. Dredging will not be allowed if natural sedimentation would require frequent re-dredging to maintain an artificial lake bed level.
- C. Dredging beyond the mean high water line is only permitted upon the issuance of a Substantial Development Permit.
- D. All dredging spoils shall be disposed of on land in a location and manner approved by the Code Administrator.

Section 16C.28 - MOORAGE FACILITY REGULATIONS

- A. Setbacks - piers, docks, mooring buoys, piles, and other waterfront structures except bulkheads shall observe the following setbacks from side property lines or property line extensions:
 1. Single family waterfront structures - minimum ten (10) foot setback from side property lines and minimum thirty-five (35) foot setback from adjoining waterfront structures. Parcels which exceed ninety (90) feet of frontage shall maintain the required thirty-five foot setback from adjoining waterfront structures plus ten percent of the total frontage of said waterfront tract (e.g. 91' frontage = 35' plus 9.1' = 44.1' setback). The above standards may be waived by the owners of adjoining waterfront parcels through an agreement filed with the City of Mercer Island and the King County Department of Records and Elections.
 2. Shared pier (two families on adjoining waterfront parcels) - minimum ten (10) foot setback from side property lines and minimum thirty-five (35) foot setback from adjoining waterfront structures unless waived by the owners of adjacent waterfront parcels through an agreement filed with the King County Department of Records and Elections.
 3. Semi-private waterfront recreation tract - minimum ten (10) foot setback from side property lines and thirty-five (35) feet from adjoining waterfront structures.

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4. Public beaches, and parks and public street ends - all private waterfront structures except bulkheads shall maintain a 50 foot setback from waterward property line extensions of public beach and public park boundaries.
- B. Minimum frontage - waterfront structures except bulkheads shall be permitted only when the waterfront frontage (measured in a straight line between the points where the lateral boundaries intersect the high water line) is equal to or greater than the following established minimums:
 1. Single family - forty (40) feet.
 2. Shared (two-family on adjoining waterfront parcels) - forty (40) feet combined.
 3. Semi-private waterfront recreational tracts - (See Section 160.29 (C.2))
- C. Width - no pier or dock including finger piers shall be more than eight (8) feet in width. This width requirement shall not apply to boat ramps, lift stations, or floating platforms.
- D. Length - piers, docks, and other waterfront structures shall not extend from the line of ordinary high water farther than one hundred (100) feet.
- E. Height - the deck of piers and docks shall not exceed five (5) feet in height above the ordinary high water line.
- F. Covered moorage - single-family covered waterfront structures may be allowed subject to variance approval. Covered waterfront structures are expressly prohibited in semi-private waterfront recreation tracts.

- G. Walls, handrails, and storage containers - walls or fences are prohibited above the dock level of docks or piers. However, handrails that are open in nature and storage containers not higher than three (3) feet above the deck of a dock or pier may be built.

Section 16C.29 - RECREATION ACTIVITY REGULATIONS

- A. Recreational activities are permitted in all shoreline environments subject to the following provisions.
1. The activity shall be designed to avoid conflict with private property rights and to create a minimum objectionable impact on adjoining property.
 2. Adequate provisions for the control of motorized vehicles; provision for parking shall be provided if necessary; and, parking provisions shall be located at least 25 feet upland from the high water line.
 3. All buildings shall maintain a minimum 25-foot setback from the ordinary high water line.
- B. Boat ramps and launches are permitted except in the following locations:
1. In fish-spawning areas, as determined by the State Department of Fisheries and Department of Game.
 2. Unstable locations where considerable quantities of beach material are likely to erode into the lake.
 3. Not closer than 25 feet to any adjacent privately-owned property.
- C. Semi-private waterfront recreational tracts serving 10 or fewer families are allowed, but shall conform to the following requirements as demonstrated before the City of Mercer Island Planning Commission in a public meeting:

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1. Area - a minimum upland area of 200 square feet per family, but not less than 600 square feet, exclusive of any driveways or parking lots.
2. Frontage - two families - 40 feet; 3-5 families - 40 feet plus 10 feet for each family more than two; 6-10 families - 70 feet plus 5 feet for each family more than five; 11-100 families - 95 feet plus 2 feet for each family more than ten; 101+ - 275 feet plus 1 foot for each family over one hundred.
3. Waterfront structures - waterfront structures shall conform to Section 16C.28 of this ordinance. Covered moorage structures are prohibited. In no case shall a number of moorage slips exceed the number of member families.
4. Building setbacks - all buildings shall observe the following minimum setbacks in semi-private waterfront recreational tracts: waterfront - 25 feet from the high water line; all other sides - 10 feet.
5. Screening - the boundaries of the upland portion of the parcel shall be reasonably screened or fenced, or both, from abutting property and streets, and appropriately landscaped.
6. Parking - adequate parking shall be required where pedestrian access is not practical. All parking and driveways shall be at least 25 feet from the high water line.
7. Control of nuisance - adequate provisions shall be made to prevent water pollution, obnoxious odors, excessive noise, or glare from outdoor lighting from adversely affecting surrounding properties.

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8. Prohibited uses - sale of supplies, equipment, petroleum products, or the like, boat charters or rentals, and rental or leasing of moorage to non-tract owners are prohibited.

9. Approval procedures - a plot, landscape, and building plan, showing compliance with these conditions shall be filed with and approved by the Planning Commission; and the construction and maintenance of docks and other structures, and the establishment and continuation of uses, shall comply with the approved plot, landscape, and building plan with deviation permitted only on filing an approval of an amended plan. The plan shall list or otherwise describe the families entitled to use the area, and shall contain a statement as to the total number of such families. With the right of use as appurtenant to or a part of the ownership or occupancy of other land, the individual legal description of each such tract of land shall be set forth on the plan, provided no additional filing or Planning Commission approval shall be required if the plot, landscape, and building plan is part of a plat which contains the above information and is approved by the Planning Commission.

Section 16C.30 - RESIDENTIAL USES REGULATIONS

- A. For the purposes of this ordinance, residential development includes any residential use authorized by Ordinance 15, (Zoning Code) including single and multi-family developments.
- B. Residential development is permitted in the urban residential environment, subject to the following provisions:
 - 1. A minimum 25-foot setback for all upland structures shall be maintained from the ordinary high water line.

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2. A maximum 35-foot height requirement measured from the average original grade level shall be applied to all structures. This measurement shall be calculated as described in the City Building Code as amended.
 3. Development of multi-family zoned properties shall provide waterfront access to all tenants for recreational purposes.
 4. All residential developments shall be accompanied by a plan indicating methods of preserving shoreline vegetation and control of erosion during construction and following construction.
- C. Residential development is prohibited in the urban park and conservancy environments.

Section 16C.31 - SHORELINE PROTECTIVE STRUCTURES REGULATIONS

Bulkheads:

- A. The Shoreline Management Act specifically exempts the construction of normal protective bulkheads common to single family residences from the permit procedures. These bulkheads shall, however, conform to all regulations set forth in this section.
- B. Bulkheads are permitted in all shoreline environments.
- C. Bulkheading and/or filling waterward of the high water line is prohibited except where a variance is granted.
- D. Bulkheads and landfill may be permitted to restore land lost to erosion within one year of the date that erosion occurred with the issuance of a Substantial Development Permit. A one-year extension may be granted by the Code Administrator for a reasonable cause, the applicant being responsible for demonstrating the severity and extent of such erosion.

E. All bulkheads shall comply with the provisions of the state shoreline guidelines (WAC 173-16-060 (1)).

F. Landfill behind bulkheads shall be clean mineral material less than 8 inches in diameter and devoid of any organic matter or other pollutants.

G. Rock riprap will be preferred over concrete or wood bulkheads. When used, riprap must be constructed to a stable slope and be of sufficient size to remain stable.

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Shoreline Protective Structures:

H. Breakwaters, jetties, and groins are allowed only when the applicant demonstrates to the satisfaction of the Code Administrator extraordinary conditions of erosion, sedimentation, or wave and current action prevail which warrant remedy and which require structural solution for mitigation of such conditions. The applicant must also demonstrate that no damage will occur to adjacent or nearby properties.

I. Floating breakwaters are preferred over permanent or fixed breakwaters.

J. Permanent breakwaters shall be constructed of non-polluting materials. Dredge spoils, refuse, or organic debris shall not be used.

Section 16C.32 - UTILITY REGULATIONS

A. Utility development is permitted in all shoreline environments.

B. Public utility buildings or structures are permitted only when authorized by the issuance of a Conditional Use Permit.

C. Restoration of the site is required upon completion of utility installations.

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- D. Utilities are to be placed underground and in common rights-of-way wherever economically and technically practical.
 - E. Public access should be provided when feasible on large scale shoreline utility installations and rights-of-way.

Section 16C.33 - ENFORCEMENT

- A. Criminal Remedies. Violation of any of the provisions of this ordinance shall be a misdemeanor and any person found guilty thereof shall be punished by a fine not to exceed \$500.00 or by imprisonment not to exceed six (6) months, or both. It shall be a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed, continued, or permitted.
- B. Administrative and Civil Remedies. Any development without the official approval as herein required shall be a public nuisance. To restrain such nuisances, the City may withhold all building permits, approvals or preliminary or final plats, and other permits and services. If necessary, the City may immediately commence action to abate such nuisance in the Superior Court or in some other court of competent jurisdiction.

Section 16C.34 - INTERPRETATION, PURPOSE AND CONFLICT

In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements adopted for the promotion of the public safety, health, morals and general welfare. It is not intended by the ordinance to interfere with or abrogate or annul any easements, covenants, conditions, or restrictions created or imposed by plats or deeds or record or by agreements between

parties, except where the provisions of this ordinance are more restrictive, in which event the provisions of this ordinance shall govern.

Section 2. Validity. If any section, paragraph, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that they would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses or phrases be unconstitutional or invalid.

Section 3. Repealer and Savings Clause. City of Mercer Island Resolution No. 613 is hereby repealed; provided, however, that any applications made to the City prior to the effective date of this ordinance shall not be affected by this repealer.

Section 4. Effective Date. This ordinance shall go into effect five days after its passage, approval and publication as provided by law. PASSED by the Council of the City of Mercer Island, Washington, and approved by its Mayor at a regular meeting of said Council held on the 23rd day of Feb. 1981.

CITY OF MERCER ISLAND, WASHINGTON

By Beth Bland
Beth Bland Mayor

ATTEST:

Jack W. Bunnell
Jack W. Bunnell City Clerk

APPROVED AS TO FORM:

Ronald C. Dickinson
Ronald C. Dickinson City Attorney

DATE OF PUBLICATION: 5/27/81 (Summary)

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