

ORDINANCE NO. 512

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON AMENDING THE CITY OF WOODINVILLE SHORELINE MASTER PLAN, WMC CHAPTER 24.10, AND ORDINANCES NO. 487 AND 466; MAKING FINDINGS OF FACT; PROVIDING A SAVINGS CLAUSE FOR EXISTING REGULATIONS; PROVIDING FOR SEVERABILITY; REQUIRING AN ORDINANCE COPY BE PROVIDED TO THE WA. STATE DEPARTMENT OF ECOLOGY; PROVIDING FOR SUMMARY PUBLICATION BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Shoreline Management Act of 1971, under Chapter 90.58 RCW, requires cities and towns with designated shorelines to adopt Shoreline Master Programs to regulate development along said shorelines; and

WHEREAS, the Growth Management Act and the Department of Ecology's guidelines for Shoreline Master Programs have been enacted; and

WHEREAS, the state designated shoreline areas for Woodinville include the Sammamish River and all of Little Bear Creek within the City limits; and

WHEREAS, the City of Woodinville adopted an updated Shoreline Master Program as part of Ordinance 466 and Ordinance 487; and

WHEREAS, the Woodinville City Council has determined that certain amendments are necessary to keep the Shoreline Master Program updated and to accommodate the needs of its citizens; and

WHEREAS, public hearings were held by the City of Woodinville Planning Commission on September 15, 2010 and January 19, 2011; and

WHEREAS, the requirements of the State Environmental Policy Act (SEPA) RCW 43.21C have been met; and

WHEREAS, the update of the Shoreline Master Program complies with the state Shoreline Management Act (RCW 90.58) and Shoreline Management Act Guidelines (WAC 173-26); and

WHEREAS, adoption of this ordinance will promote the public health, safety, and general welfare within the City of Woodinville;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment to Chapter 24.10, Shoreline Management, of the Woodinville Municipal Code. The City of Woodinville Shoreline Management Plan, previously adopted by Ordinance 466 and amended by Ordinance 487, incorporated by reference in Chapter 24.10 "Shoreline Management" is hereby amended by the revised Section 6-1 of Chapter 6 and the addition of a new definition of "Boating Facility" and an amended definition of "Boat Launch or Ramp" in Chapter 8 - Definitions, as set forth in Attachment 1 to this Ordinance 512. Section 24.10.010 is amended to read as follows (additions shown by underline and deletions by strikethrough):

24.10.010 Adopted.

Chapter 24.10 WMC, Shoreline Management, adopting the City of Woodinville Shoreline Management Plan, is hereby amended to read as set forth in Ordinance 466, as amended by Ordinance 487 and Ordinance 512 of the City of Woodinville, Attachment A ~~which is attached to the ordinance codified in this section~~ and incorporated herein by this reference as if set forth in full.

Section 2. Findings. The City Council hereby adopts the following findings in support of this ordinance, together with the recitals expressed herein.

1. The 2010 Docket list, including staff and Council initiated Shoreline Master Program Amendments, was approved for further review by the Woodinville City Council on June 1, 2010.
2. Pursuant to Woodinville Municipal Code (WMC) Chapter 17, the Planning Commission is required to hold a public hearing on the proposed amendments and make a recommendation to the City Council.
3. The City SEPA Official reviewed the Shoreline Master Program amendments for environmental impacts under SEPA (RCW 43.21C), and issued a Determination of Nonsignificance (DNS). The appeal periods ended without any comments or appeals being received.
4. The Planning Commission reviewed the proposed amendments during its June 16, 2010 public meeting.
5. To encourage public involvement, the City held a public open house on September 1, 2010. This open house was noticed in the Woodinville Weekly and on the City website
6. A public hearing was held by the Planning Commission on September 15, 2010. The public hearing was noticed in the Woodinville Weekly and posted on the City's web site
7. The Planning Commission received written comments and public testimony; deliberated and produced a public record and recommendations on the amendments that are subject of this ordinance during the September 15, 2010 and January 19, 2011, Planning Commission meetings.
8. The City Council considered the Planning Commission's public record and recommendations concerning the amendments that are subject of this ordinance at a Public Hearing held on May 17, 2011.
9. The City Council accepted the Planning Commissions recommendations for changes to the Shoreline Use Matrix and the Definition for Boating Facilities, but decided to exclude the State Department of Archeological and Historical Preservation model code language. The City Council requested revisions to the Use Matrix to include water associated uses to boat launches.
10. The City Council held first reading of Ordinance No. 512 on May 17, 2011.
11. The City Council held second reading of Ordinance No. 512 on June 7, 2011.

Section 3. Savings. The amendments to the Shoreline Master Program set forth in this Ordinance, shall not affect the regulation and enforcement of Chapter 24.10 WMC as currently in effect, prior to the effective date of this ordinance.

Section 4. Severability. Should any section, paragraph, sentence, clause, or phrase of this Ordinance be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance. Provided, however, that if any section, sentence, clause, or phrase of this Ordinance, or any change in a land use designation is held to be invalid by a court of competent jurisdiction, then the section, sentence, clause, or phrase in effect prior to the effective date of this ordinance, shall be in full force and effect for that invalidated section, sentence, clause, phrase, or land use designation, as if this ordinance had never been adopted.

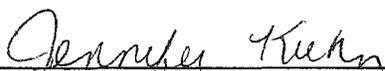
Section 5. Copy to Department of Ecology. Pursuant to RCW 90.58.090, the City Clerk is directed to send a copy of the Shoreline Master Program to the State Department of Ecology (DOE) for its review and approval.

Section 6. Effective Date. This ordinance or a summary thereof shall be published in the City's official newspaper, and shall take effect five (5) days after passage and the publication of the ordinance or a summary thereof consisting of the title.

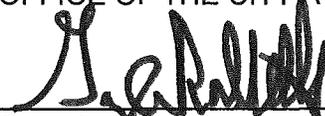
ADOPTED BY THE CITY COUNCIL AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 7TH DAY OF JUNE, 2011.


Charles E. Price, Mayor

ATTEST/AUTHENTICATED:


Jennifer Kuhn
City Clerk/CMC

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY


Greg A. Rubstello
City Attorney

PASSED BY THE CITY COUNCIL: 6-7-2011 (Confirmed by Council 6-21-2011)
PUBLISHED: 6-27-2011
EFFECTIVE DATE: 7-05-2011
ORDINANCE NO. 512 - ATTACHMENT 1

CHAPTER 6- DEVELOPMENT STANDARDS AND USE REGULATIONS

6.1 Introduction

The uses and activities presented in each of the following sections of this chapter are a bridge between the more general goals and policies for Master Program elements given in Chapter 2. The use activities selectively paraphrase or expand upon the guidelines set forth in the Washington Administrative Code (WAC 173-26-241). They have been modified, in some instances, to fit conditions in the City of Woodinville.

The preceding chapters on general goals and policies and environment designations established general concepts to guide private and public development along Woodinville's Shorelines. The City's Zoning Ordinance legally regulates the kinds of uses permitted along the shoreline as well as in other parts of the City. However, the scope of the Shoreline Management Act requires that the City apply even more specific controls to development within the shoreline jurisdiction areas. These regulations are set forth in this chapter and are intended to implement the previously articulated general concepts. See Section 8, Definitions, for the definition of "Development".

Development proposals requiring a substantial development permit, including shoreline uses or activities not specified in this document, must be consistent with these use policies and regulations, the general goals and policies, and environment designations on which they are founded by the Shoreline Administrator or the appropriate hearing body. Exceptions to the regulations can be allowed only when a development proposal meets conditions required in the administrative provisions set forth in Chapter 5. Shoreline permit exemptions for those proposals which do not meet the substantial development criteria, as defined in RCW 90.58.030 (3)(e)(i-xii) and WAC 173-27-040 will be adhered to by this SMP.

According to the Shoreline Management Act, a proposal requiring a Substantial Development Permit is one which constitutes a substantial development. This is defined as:

Any development of which the total cost, or fair market value, exceeds five thousand seven hundred eighteen dollars (\$5,718), or any development which materially interferes with the normal public use of the water or shorelines of the state except that the following shall not be considered substantial developments for the purpose of this chapter:

(i) Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements;

(ii) Construction of the normal protective bulkhead, common to single family residences; [The City of Woodinville requires a shoreline exemption permit for bulkheads at single family residences.]

(iii) Emergency construction necessary to protect property from damage by the elements;

(iv) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including, but not limited to, head gates, pumping facilities, and irrigation channels. (A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for

growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations);

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

(vi) Construction on shorelands by an owner, lessee or contract purchaser of a single family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;

(vii) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of single or multiple-family residences. This applies if, in fresh waters, the fair market value of the dock does not exceed ten thousand dollars. If subsequent construction on the dock occurs within five years of completion of the prior construction and exceeds five thousand seven hundred eighteen dollars, the subsequent construction shall require a substantial development permit;

(viii) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;

(ix) The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

(x) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on June 4, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;

(xi) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if a) the activity does not interfere with the normal public use of the surface waters; b) the activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitats, water quality, and aesthetic values; c) the activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity; d) a private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and e) the activity is not subject to the permit requirements of RCW 90.58.550;

(xii) The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under chapter 43.21C RCW; and

(xiii) Public or private watershed restoration projects consistent with this Shoreline Master Program and pursuant to WAC 173-27-040(2)(0).

Shoreline development may therefore be deemed substantial by either a monetary measurement or a local decision that normal public use of the water or shoreline might be obstructed. The use regulations within different shoreline environments are supplementary to, and in some cases, supersede the City's existing development codes. These interlocking development regulations are intended to make shoreline development responsive to specific design opportunities along the waterways and to maintain the public's interest in their recreational and aesthetic values. It is also the City's goal, as articulated in the Urban Design Element of the Woodinville Comprehensive Plan, to achieve a sense of harmony among the built, natural, and cultural environments through the application of design principles to individual buildings, residential, commercial, and industrial districts, and the City as a whole.

A particular land area within the City's shoreline management boundaries will therefore be governed by: (1) the Woodinville Comprehensive Plan land use designation; (2) the underlying zoning designation of the area; (3) the shoreline environment designation; (4) shoreline activity and use goals, policies, and regulations in the Shoreline Master Program; and (5) the discretion of the Shoreline Administrator in interpreting flexible areas of the Master Program. There may be certain instances where the underlying zone established in the zoning ordinance may be modified by a shoreline use regulation. This can be achieved where a density, height, or side yard bonus might be approved in exchange for shoreline development which provides more than the ordinary public amenity, shoreline access, or scenic view enhancement, consistent with the goals and objectives of the Master Program.

The following use matrix and regulations should therefore be viewed as supplementing the other development regulations which already apply to areas along Woodinville's shorelines. They should also be viewed as intending to allow all reasonable and appropriate uses, consistent with the Shoreline Management Act, while imposing only the regulatory control necessary to ensure preservation of the integrity of the natural systems and the public health, safety, welfare, and trust within the shoreline jurisdiction. A Shoreline Use, Activity, and Environment compatibility matrix is included in Table 6-1 to aid in distinguishing for the reader various uses and activities and the environments in which they are permitted, conditionally permitted, or prohibited.

The table in Section 6.1 identifies each shoreline modification or use within each shoreline environment designation. For each environment designation, a particular use is noted as P (permitted outright subject to Shoreline Substantial Development Permit and other regulatory requirements); C (permitted conditionally subject to a Shoreline Conditional Use approval and other regulatory requirements); N (prohibited), or SU (special use). SU permits are not shoreline permit or part of this Master Program and are only listed for convenience. If inconsistencies exist between general management policies included in Chapter 3 and Table 6.1, the table will govern. Uses not designated in Table 6.1 as permitted or permitted conditionally, are prohibited.

USES	Aquatic	Conservancy	Shoreline Residential	Urban Conservancy	NOTES
General Section					
Critical Area Protection/Enhancement	P	P	P	P	
Discharges of sewage, waste, rubbish, litter, marine toilets	N	N	N	N	
Disposal of fuels, cleansers, lubricants, hydraulic fluid, or other possible toxic substances	N	N	N	N	
Agriculture	N/A	N/A	N/A	N/A	<i>Not Applicable to Woodinville</i>
Aquaculture	C	C	C	C	Allowed only for fish restoration activities such as shellfish restoration salmon fry incubation.
Forest Management	N/A	N/A	N/A	N/A	<i>Not Applicable to Woodinville</i>
Commercial Development					
<u>Boat Launches/Boat Canoe Launching Launches for Non Motorized Boats/ Canoes</u>	C	P	P	P	
Water-Related Primary Uses	N	C	N	P	
Water-Related Accessory Uses (when with primary use)	N	P	N	P	
Water Enjoyment Uses	N	C	N	P	
Offices	N	N	N	P	
Restaurants	N	N	N	P	+Other water-enjoyment uses
Motels/Hotels	N	N	N	P	+Other water-enjoyment uses
Mixed-Use Commercial Development	N	N	N	P	+Other water-enjoyment uses
Commercial Recreation	N	N	N	P	
Nurseries	N	N	N	P	
Commercial Parking Lots	N	N	N	N	
Parking (accessory) and Loading Areas	N	N	C	C	
Mining	N/A	N/A	N/A	N/A	<i>Not Applicable to Woodinville</i>
Outdoor Advertising, Signs					
On-premise, attached commercial signs	N	N	N	P	
Non-commercial and/or public	N	C*	C	P	*Only permitted for interpretive and trail signs.
On-premise, free-standing commercial signs	N	N	N	P*	* See regulations in Section 6.13.
Off-premise commercial signs	N	N	N	N	
P = Permitted Use N = Not Permitted C = Conditional Use SU = Special Use N/A = Not Applicable					

USES	Aquatic	Conservancy	Shoreline Residential	Urban Conservancy	NOTES
Residential Development					
Over-water residential development	N	N	N	N	
Launches for Non Motorized Boats/ Canoes	C	P	P	P	
Attached and detached single family	N	N	P	P	
Multi-family/Condo. Units	N	N	P	P	
Boarding/Rooming houses and dormitories	N	N	C	P	
Residential subdivisions	N	N	P	P	
Joint Use Docks	C	C	C	N/A	
Residence accessory to public/private parkland	N	C	P	P	
Utilities (see definitions for accessory (A) and primary (P) utilities)					
Service Lines (A)	C	C	P	P	
Regional/Trunk Lines (P)	C*	N	C	C	*Permitted only if bored under the stream channel.
Light Poles (A)	N	C*	P*	P*	*Lighting should be design not to shine on or reflect light onto the water.
High-tension transmission/ Distribution lines and facilities (Power Plants) (P)	N	N	N	C*	*Only where infeasible to locate upland of shoreline area
Water Treatment Plants (P)	N	N	N	C	
Intake Valves (A)	C	P	C	P	
Transfer sites/Stations (P)	N	N	N	N	
Sewage/Waste treatment (P)	N	N	N	N	
New pumping stations	N	N	N	N	
Shoreline Use					
Stormwater discharge pipes	C	P	P	P	
Expansion/Repair of existing pumping stations	C*	C*	C*	C*	*Only that necessary to meet needs of existing system
Natural gas distribution (P)	C	C	C	C	
Natural gas storage (P)	N	N	N	N	
Critical Facilities (21.06.138)	N	N	C*	P*	*Prohibited within 100-year floodplain area of shoreline jurisdiction
P = Permitted Use N = Not Permitted C = Conditional Use SU = Special Use N/A = Not Applicable					

USES	Aquatic	Conservancy	Shoreline Residential	Urban Conservancy	NOTES
Industry					
Junk/Salvage yards	N	N	N	N	
Hazardous Waste Treatments	N	N	N	N	
R&D industries	N	N	N	P	
Light manufacturing*	N	N	N	P	*See definition in section 6.16 for list of actual types of uses
Warehousing	N	N	N	P	
Parking (accessory) and Loading Areas	N	N	C	C	
Staging/Storage Areas	N	N	N	N *	*Except where allowed as incidental to a primary use
Launches for Non Motorized Boats/ Canoes	C	P	P	P	
Bulkheads	C	C	C	C	
Breakwaters	N	N	N	N	
Jetties/Groins	N	N	N	N	
Shoreline Fills					
for construction of otherwise permitted uses	N*	C*+	C+	C+	*Except in critical areas +For improvements to recreational uses, public access, emergency and public safety, public roadways and utilities, and drainage design
within critical areas	N	N	C+	C+	+ For improvements to recreational uses, public access, emergency and public safety, public roadways and utilities, and drainage design
Solid Waste Disposal	N	N	N	N	
Dredging	C	C	C	C	
Shoreline Protection					
Replanting	P	P	P	P	
Bank Stabilization	C	C	C	C	
Riprap	C	C	C	C	
New Dikes/Levees	C*	C*	C*	C*	*Subject to policies and general regulations in Section 6.22
P = Permitted Use N = Not Permitted C = Conditional Use SU = Special Use N/A = Not Applicable					

USES	Aquatic	Conservancy	Shoreline Residential	Urban Conservancy	NOTES
Transportation Facilities (*only if meeting conditions as listed)					
Minor Arterials	N	C*	P	P	* See conditions as defined in Section 6.23.2.5.j
Principal Arterials or Collectors	N	N	P	P	
Neighborhood or Local Access	N	C*	P	P	* See conditions as defined in Section 6.23.2.5.j
Bridges/Tunnels for Streets and Highways	C*	C	N	C	*Only as required to cross a river or stream
Railroad Bridges/Tunnels	C*	C*	N	C	*Only as required to cross a river or stream
Pedestrian, Bicycle, Equestrian Trails	N	P*	P*	P*	*Only as required to cross a river or stream
Highways and Freeways	N	N	N	C*	* See conditions as defined in Section 6.23.5
Piers and Docks					
Docks accessory to residential	C	C	C	N/A	
Docks for excursion/pleasure boat access to commercial activities	C	C	N	N/A	
Piers	N	N	N	N/A	
Marinas and Other Boating Facilities	N	N	N	N	
Boating Facilities	N	P	P	P	
Boat Sheds	N	N	P*	P*	*Must be located 100 feet landward of the ordinary high water mark
Parks/Recreation					
<u>Boat/Canoe Launching</u> <u>Launches for Non Motorized Boats/ Canoes</u>	P	P	P	P	
Bicycle Paths	N	P	P	P	
Pedestrian Paths	N	P	P	P	
Equestrian Paths	N	P	P	P	
Trail and Path Bridges	C*	C*	P	P	*Only as required to cross a river or stream. Bridges must avoid the waterway.
Parks (Active, Passive, Open Space)	N	P*	P	P	*Passive only
Parking (only as accessory to principal permitted use)	N	N	P*	P*	*Must be located 100 feet landward of the ordinary high-water mark
Commercial Recreation (rentals)	N	N	N	P	
Urban Garden Plots	N	N	P	P	

USES	Aquatic	Conservancy	Shoreline Residential	Urban Conservancy	NOTES
Instream Uses*	C	N/A	N/A	N/A	*Includes scientific equipment for fish and water quality monitoring and for fish and shellfish enhancement or restoration.
P = Permitted Use N = Not Permitted C = Conditional Use SU = Special Use N/A = Not Applicable					

CHAPTER 8– DEFINITIONS

Benthic Productivity	The production and reproduction of organisms that live in or on the bottom of a water body.
Berm	A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the line of ordinary high tide. Also, a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare, or presenting a visual eyesore
Biota	The animals and plants that live in a particular location or region (also sometimes referred to as flora and fauna).
Boating Facility	Boating Facilities: Boating facilities include marinas, covered moorage, boat houses, mooring buoys, and marine travel lifts for ten (10) or more boats. For regulatory purposes, large community moorage facilities, camp or resort marinas would also be reviewed as marinas. Accessory uses found in marinas may include fuel docks, and storage, boating equipment sales and rental, repair services, public launching, parking, groceries and dry goods.
Boating Facility	<u>Boating Facilities accommodate and/or serve the non-motorized boating industry. Boating Facilities include boat rentals, boat storage, sale/rental of boating accessory equipment, small boat repair services, launching of non-motorized boats, and accessory sale of convenience groceries and dry goods.</u>
Boat Launch or Ramp	Graded slopes, slabs, pads, planks, or rails used for launching <u>of</u> boats by means of a trailer, hand, or mechanical device.
Breakwater	Offshore structure aligned parallel to shore, sometimes shore-connected, that provides protection from waves.
Buffer Areas	An area which provides the margin of safety through protection of slope stability, attenuation of surface water flows and erosion controls necessary to minimize risk to the public of loss of life or well-being or property damage resulting from natural disasters, or an area which is an integral part of a natural ecosystem and which is intended to provide a transition area between the critical area and adjacent development and/or other activity, or provide protective functions such as shading, input of organic debris and coarse sediments, room for variation in stream or wetland boundaries, and habitat for wildlife.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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May 23, 2012

City of Woodinville - Department of Development Services
Richard Leahy, Planning Director
17301 – 133rd Avenue NE
Woodinville, WA 98072

Dear Mr. Leahy:

It is our understanding that the City of Woodinville's City Council locally adopted in 2011 proposed amendments to the City's 2009 Shoreline Master Program (SMP). The City forwarded these amendments to Ecology for formal review, for which Ecology recommended (via email) that one of the changes does not appear consistent with the Shoreline Master Program Guidelines (WAC 173-26) and the other amendments may not require a formal SMP amendment, as there are a number of administrative options that Ecology believes the City can utilize to allow for implementation of the Councils policy preference. Further, City staff requested that Ecology formalize the suggestions provided via email into a written letter. Please find this letter as formal communication to the City reiterating the recommendations provided in our February 24, 2012 email.

The City's proposed amendment appears to consist of three main items as follows:

1. Proposed change in name of the existing "*Boat Launch Boat Canoe Launching*" to "*Launching for Non-Motorized Boat Canoes*";
2. Proposal to add as an allowed use "*Launching for Non-Motorized Boats Canoes*", where it does not exist within the Residential, Industrial and Parks & Recreational use matrix, and;
3. Proposed new language that prohibit uses not specifically listed as "permitted" or "permitted conditionally" in the Use Matrix (table 6.1) of the City's SMP.

Ecology suggests that items 1 and 2 can be handled administratively by the City under existing authority and would not require a formal amendment to the SMP. We also recommend that proposed new language from item 3 not be pursued, as this change is inconsistent with the intent of the conditional use permit process pursuant to WAC 173-27-030 (4).

For items 1, Ecology suggest that the proposed change to the existing "*Boat Launch Boat Canoe Launching*" use to "*Launching for Non-Motorized Boat Canoes*" appears relatively minor and therefore would not require a formal amendment, but could be handled administratively through submittal of a written interpretation to Ecology



which the existing definition “*Boat Launch Boat Canoe Launching*” has been further clarified through the proposed change to “*Launching for Non-Motorized Boats Canoes*”. Neither definition allows for new or more intensive (shoreline) uses, but appears to simplify the description of the intended use, which is already anticipated to occur within the City’s shoreline jurisdiction and has been considered within the Cumulative Impact Assessment as part of the City’s comprehensive SMP update.

Alternatively, item 2 proposes to add the listing of “*Launching for Non-Motorized Boats Canoes*” as a permitted use within the SMP under the Residential, Industrial and Parks & Recreational Shoreline Environment Designations. This change would result in the listing of a new use in the SMP; therefore this change would require a formal SMP amendment. However, there appears to be an administrative solution to this issue as the Conditional Use Permit (WAC 173-27-030 (4)) process is intended to allow for the consideration of uses which are not classified or listed within a local SMP. An unlisted condition use can be allowed by a local jurisdiction, as long as the use is not prohibited by the City’s SMP or Comprehensive Plan and if the use is demonstrated to be consistent with the conditional use permit criteria (WAC 173-27-160).

As stated in item 3 (above), the Council’s proposed prohibition on all uses not specifically listed in the SMP’s use matrix¹, is not consistent with the intent or definition of a “Conditional Use” from WAC 173-27-030 (4), which is provided as follows;

(4) "Conditional use" means a use, development, or substantial development which is classified as a conditional use or is not classified within the applicable master program;"

Therefore, if the Council’s change did not include the statement that “unlisted uses” are prohibited, but rather provided appropriate reference to WAC 173-27-030 (4) allowing for consideration of a conditional use permit for unlisted use, then a formal amendment to the SMP would not be necessary and the goal of item 2 could be achieved administratively² by utilizing the conditional use permit process.

Finally, as stated in Ecology’s February 2012 email, If the City wishes to move forward with the amendment despite the administrative solutions described above, then the Council should consider the following statement of priority from WAC 173-26-201 (1) (b), directing Ecology staff to focus their attention on the completion of comprehensive amendment, prior to taking on additional limited amendments;

¹ The following change provided at the end of page 6, stating: “Uses not designated in Table 6.1 as permitted or permitted conditionally, are prohibited” essentially prohibits all uses which are not specifically listed in the SMP, which would include un-anticipated uses not classified in the SMP.

² The City could consider the currently unclassified “*Launching for Non-Motorized Boats Canoes*” use within the Residential, Industrial and Parks & Recreational shoreline environments as a conditional use.

“Adoption of new shoreline master programs and amendments submitted to meet the comprehensive update requirements of RCW 90.58.080 are a statewide priority over and above other amendments.”

In addition, proceeding with a formal amendment to the City’s 2009 SMP would require submittal of additional materials to fulfill all of the submittal requirements of WAC 173-26-110 (1) through (9), as well as a written demonstration of the consistency of the formal amendment to the limited amendment review criteria provided in WAC 173-26-201 (1) (c) through (d).

Therefore, in order to avoid the need for a formal amendment to the City’s 2009 SMP, Ecology suggests that the City follow the administrative options described above and not proceed with amended language identified in item 3 above. Please feel free to contact me with any additional questions related to these suggestions.

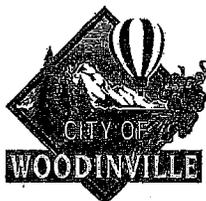
Sincerely,



Joe Burcar, Shoreline Planner

JB:cja

cc: Geoff Tallent, Department of Ecology
Debra Crawford and Erin Martindale, City of Woodinville



MEMORANDUM

Development Services Department

From: Dave Kuhl, AICP, Development Services Department
By: Jenny Ngo, AICP, Senior Planner
Date: June 9, 2016
File No.: DEC16003
Subject: Shoreline Master Program – Non-motorized Boat Launches Interpretation

AUTHORITY

Pursuant to SMP Section 7.6, where judgements must be made because of the nature of language used within the Shoreline Master Program, the Shoreline Administrator shall have the authority to make interpretations and judgements. The Development Services Director is designated as the Shoreline Administrator and has the authority to make interpretations of the Shoreline Master Program.

INTERPRETATION

SMP Use Matrix (Table 6.1): "boat launches/boat canoe launching" and "boat/canoe launching" should be interpreted to include only non-motorized vessels (row boats, canoes, kayaks, and similar vessels).

BACKGROUND

In 2012, City Council adopted Ordinance No. 512, which included further clarifying the "Boat Launch Boat Canoe Launching" use in the Shoreline Use Matrix (Table 6.1) to "Launching for Non-Motorized Boat Canoes." The ordinance was not enacted due to other provisions of the ordinance that was not consistent with WAC 173-27-030(4). Ordinance No. 613 has been initiated to repeal Ordinance No. 512.

CODE

The Shoreline Master Program identifies two use areas for boat and canoe launches. The Shoreline Use Matrix (Table 6.1) lists under Commercial Development as "Boat Launches/Boat Canoe Launching" and under Parks/Recreation as "Boat/Canoe Launching". Both of these are listed as permitted in the Conservancy, Shoreline Residential, and Urban Conservancy environments. In the Aquatic environment, they are a permitted use under Parks/Recreation and a conditional use under Commercial Development.

INTERPRETATION

"Boat launch or ramp" is defined in the Shoreline Master Program as "graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device." No separate definition is provided for "boat launch" or "canoe launch." These facilities are at-grade gravel or paved areas that provide direct access to the water. Watercrafts are typically of a recreational nature and are placed into the water by hand or from a trailer at a boat and canoe launch. Raised ramps, moorage, pilings, overwater structures (such as those

associated with a dock, pier, or marina) are not typical appurtenances of boat and canoe launches.

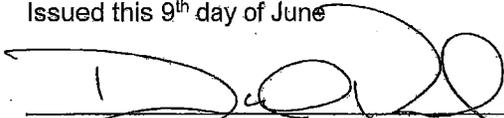
The Shoreline Master Program under Section 8.0 does not anticipate shoreline uses or patterns which include motorized boat uses. Navigability is limited on Little Bear Creek and boat use is restricted to non-motorized recreational watercrafts on the Sammamish River between Bothell and Lake Sammamish. The restriction in the Sammamish River and Little Bear Creek preclude use of boat and canoe launches by motorized boats within the city limits.

Therefore, boat and canoe launches in the City of Woodinville may only be utilized by non-motorized recreational watercrafts. As a matter of clarification, "boat launches/boat canoe launching" and "boat/canoe launching" is interpreted to be read as "non-motorized boat and canoe launches."

APPEAL PROCESS

WMC 17.07.030 designates administrative interpretations as a Type II procedure. Type II applications may be appealed to the Hearing Examiner within 14 days of issuance.

Issued this 9th day of June



Dave Kuhl, Director of Development Services
City of Woodinville