CITY OF MERCER ISLAND
ORDINANCE NO. 15C-02

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON,
AMENDING MICC 19.07.110, MERCER ISLAND SHORELINE MASTER
PROGRAM

WHEREAS, in 1971 the State of Washington passed the Shoreline Management Act governing
the adoption of Shoreline Master Programs, as currently set forth within Chapter 58 of Title 90
of the Revised Code of Washington, and subject to the Washington State Department of
Ecology’s administrative rules contained within Title 173 of the Washington Administrative
Code; and

WHEREAS, in 1974 the City adopted its Shoreline Master Program; and

WHEREAS, in 2003 the State of Washington passed new guidelines for the development and
updating of local Shoreline Master Programs, which require updating of Mercer Island’s
Shoreline Master Program; and

WHEREAS, in 2013, the Mercer Island City Council adopted Ordinance 13C-12 approving the
Shoreline Master Program update upon approval by the Washington State Department of
Ecology; and

WHEREAS, the approved Shoreline Master Program update was submitted to the Washington
State Department of Ecology for review on December 17, 2013; and

WHEREAS, on February 4, 2014, the Washington State Department of Ecology submitted
documents to the City containing required changes to the City-approved Shoreline Master
Program update; and

WHEREAS, between February 2014 and November 2014 City of Mercer Island and Washington
State Department of Ecology representatives met several times and agreed on use of incentives to
allow increase in dock width from four feet to five feet within thirty feet of the ordinary high
water mark; and

WHEREAS, on November 17, 2014, the City Council discussed proposed incentives to allow
increase in dock width from four feet to five feet within thirty feet of the ordinary high water
mark; and

WHEREAS, on February 6, 2015, the Washington State Department of Ecology conditionally
approved the City’s proposed Shoreline Master Program update with the changes provided below
and in Ordinance 13C-12; and

WHEREAS, a State Environmental Policy Act Determination of Non Significance for the 2011
Shoreline Master Program update was issued on March 15, 2010; and
WHEREAS, in accordance with WAC 365-195-620, a notice of intent to adopt the proposed Mercer Island Shoreline Master Program was received by the State of Washington Department of Commerce on March 14, 2012.

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

Section 1. Amendments to Chapter 19.07.110 MICC, Shoreline Master Program. MICC 19.07.110(E)(4) “Standards Waterward of the OHWM” is hereby amended as follows:

4. Standards Waterward of the OHWM. Moorage facilities may be developed and used as an accessory to dwellings on shoreline lots with water frontage meeting or exceeding the minimum lot width requirements specified in Table D. Only one non-commercial, residential moorage facility per upland residential waterfront lot authorized. The standards in Table D shall apply to development located waterward of the OHWM:

<table>
<thead>
<tr>
<th>Table D. Requirements for Moorage Facilities and Development Located Waterward from the OHWM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Setbacks for All Moorage Facilities, Covered Moorage, and Floating Platforms</td>
</tr>
<tr>
<td></td>
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<tr>
<td>Setbacks for Boat Ramps and Other Facilities for Launching Boats by Auto or Hand, Including Parking and Maneuvering Space</td>
</tr>
<tr>
<td>Length or Maximum Distance Waterward from the OHWM for Moorage Facilities, Covered Moorage, Boatlifts and Floating Platforms</td>
</tr>
<tr>
<td>Width of moorage facilities within 30 feet waterward from the OHWM</td>
</tr>
</tbody>
</table>

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3) A resident of the property has a documented permanent state disability as defined in WAC 308-96B-010(5); or
4) The proposed project includes mitigation option A, B or C listed in Table E; and for replacement actions, there is either a net reduction in overwater coverage within 30 feet waterward from the OHWM or, a site specific report is prepared by a qualified professional demonstrating no net loss of ecological function of the shorelands. Moorage facility width shall not include pilings, boat ramps and lift stations.

| Width of moorage facilities more than 30 feet waterward from the OHWM | E | Maximum 6 feet wide. Moorage facility width shall not include pilings, boat ramps and lift stations. |
| Height Limits for Walls, Handrails and Storage Containers Located on Piers | F | 3.5 feet above the surface of a dock or pier. 4 feet for ramps and gangways designed to span the area 0 feet to 30 feet from the OHWM. |
| Height Limits for Mooring Piles, Diving Boards and Diving Platforms | G | 10 feet above the elevation of the OHWM |
| Height Limits for Light Rail Transit Facilities within the Existing I-90 Corridor | | The trackway and overhead wires, support poles, and similar features necessary to operate light rail transit facilities may be erected upon and exceed the height of the existing I-90 bridges |

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

| Minimum Water Frontage for Moorage Facility | H* | Single-family lots: 40 feet  
I | Shared – two adjoining lots: 40 feet combined  
J | Semi-private recreational tracts:  
2 families: 40 feet  
3 – 5 families: 40 feet plus 10 feet for each family more than 2  
6 – 10 families: 70 feet plus 5 feet for each family more than 5  
11 – 100 families: 95 feet plus 2 feet for each family more than 10  
101+ families: 275 feet plus 1 foot for each family more than 100  

| Covered Moorage | Permitted on single-family residential lots subject to the following:  
(a) Maximum height above the OHWM: 16 feet; 16 to 21 feet subject to criteria of MICC 19.07.110(E)(5)(a)  
(b) Location/area requirements: See Figure A for single-family lots and Figure B for shared moorage.  
(c) Building area: 600 square feet, however a covered moorage may be built larger than 600 square feet within the triangle subject to a shoreline conditional use permit  
(d) Covered moorage shall have open sides.  
(e) Prohibited in semi-private recreational tracts and noncommercial recreational areas.  
(f) Translucent canopies are required.  

*The letters in this column refer to the Plan View (C).
### Table E. Dock Width Mitigation Options

<table>
<thead>
<tr>
<th>Option A</th>
<th>Option B</th>
<th>Option C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Includes at Least One of the Following:</td>
<td>Includes at Least Two of the Following:</td>
<td>Includes at Least Three of the Following:</td>
</tr>
<tr>
<td>1. Complete removal of existing bulkhead with shoreline restoration</td>
<td>1. Removal of 12 feet or 30% (lineal), whichever is greater, of existing bulkhead and creation of beach cove with shoreline restoration</td>
<td>1. Installation/Replacement of decking within the first 30 feet waterward from the OHWM that allows a minimum of 60% light transmittance.</td>
</tr>
<tr>
<td>2. Removal of an existing legally established boat house (A “boat house” is a covered moorage that includes walls and a roof to protect the vessel.)</td>
<td>2. Installation/Replacement of decking within the first 30 feet waterward from the OHWM that allows a minimum of 60% light transmittance.</td>
<td>2. Removal of all existing legally established piling treated with creosote or comparably toxic compounds</td>
</tr>
<tr>
<td>3. Replacement of two or more existing legally established individual moorage facilities with a single joint use moorage facility</td>
<td>3. Removal of an existing legally established covered moorage within the first 30 feet waterward from the OHWM</td>
<td>3. At least a 10% net reduction of existing legally established overwater coverage within the first 30 feet waterward from OHWM</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4. Removal of all legally established individual mooring piles within the first 30 feet waterward from the OHWM</td>
</tr>
</tbody>
</table>
Section 2. Amendments to Chapter 19.07.110 MICC, Shoreline Master Program.

MICC 19.07.110(E)(6)(b) “Development Standards for Replacement, Repair and Maintenance of Overwater Structures, Including Moorage Facilities” is hereby amended as follows:

... b. Development Standards for Replacement, Repair and Maintenance of Overwater Structures, Including Moorage Facilities. The maintenance, repair and complete replacement of legally existing overwater structures is permitted, provided that:

i. All permit requirements of Federal and State agencies are met;

ii. The area, width, or length of the structure is not increased, but may be decreased;

iii. The height of any structure is not increased, but may be decreased; provided that the height above the OHWM may be increased as provided in 19.07.110(E)(6)(b)(v)(B) below;

iv. The location of any structure is not changed unless the applicant demonstrates to the Director’s satisfaction that the proposed change in location results in: 1) a net gain in ecological function, and 2) a higher degree of conformity with the location standards for a new overwater structure;

v. Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ammoniacal copper zinc arsenate (ACZA) piling are proposed, the applicant shall meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. All piling sizes are in nominal diameter;

vi. Any paint, stain or preservative applied to components of the overwater structure must be leach resistant, completely dried or cured prior to installation. Materials shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds;

vii. The applicant shall abide by the work windows for listed species established by the U.S. Army Corp of Engineers and Washington Fish and Wildlife;

viii. Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48 hours of the completion of construction. Woody vegetation components shall be planted in the fall or early winter, whichever occurs first. The applicant shall take appropriate measures to ensure revegetation success; and
ix. If more than 50% of the structure’s exterior surface (including decking) or structural elements (including pilings) are replaced or reconstructed during the 5 years immediately prior to any demolition for the replacement or reconstruction, the replaced or reconstructed area of the structure must also comply with the following standards:

(A) Piers, docks, and platform lifts must be fully grated with materials that allow a minimum of 40% light transmittance;

(B) The height above the OHWM for moorage facilities, except floats shall be a minimum of 1.5 feet and a maximum of 5 feet; and

(C) An existing moorage facility that is 5 feet wide or more within 30 feet waterward from the OHWM may be replaced or repaired with a moorage facility that complies with the width of moorage facilities standards specified in MICC 19.07.110(E)(4)(Table D).

Section 3. Amendments to Chapter 19.16 MICC, Definitions. MICC 19.16.010
“Definitions” is hereby amended as follows:

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

Definitions prefaced with (SMP) are applicable only to the Shoreline Master Program, Chapter MICC 19.07.110

O

Ordinary High Water Mark (OHWM): The point on the shore that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter in accordance with permits issued by a local government or the department of ecology; provided, that in any area where the OHWM cannot be found, the OHWM adjoining fresh water shall be the line of mean high water, or as amended by the State. To determine OHWM for a shoreline armoring project, a site-specific determination by a qualified professional is required. For determination of OHWM for measuring building setbacks, the OHWM corresponds with a lake elevation of 28.67 feet above sea level, based on the National Geodetic Vertical Datum of 1929 (NGVD 29). Alternatively, the identical OHWM corresponds with a lake elevation of 25.1018.6 feet above sea level, when based on North American Vertical Datum of 1988 (NAVD 88).

W

Wetland Manual: Identification of wetlands and delineation of their boundaries shall be done in accordance with the most currently approved Army Corps of Engineers wetlands delineation manual and applicable regional supplements.

Ordinance No. 15C-02
Section 4. **Severability.** If any section, sentence, clause or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.

Section 5. **Ratification.** Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 6. **Effective Date.** This ordinance shall be published in the official newspaper of the City, and shall be transmitted to the Washington State Department of Ecology for review and approval. This ordinance shall become effective on the date that the Department of Ecology issues formal approval of the ordinance.

PASSED by the City Council of the City of Mercer Island, Washington at its regular meeting on the 2nd day of March, 2016 and signed in authentication of its passage.

CITY OF MERCER ISLAND

Bruce Bassett, Mayor

Approved as to Form:

Katie Knight, City Attorney

Date of Publication: 3/11/2016

ATTEST:

Allison Spietz, City Clerk