Transparency and Outreach

1. How can property owners communicate directly with City Council about the impact of regulations on property owners?

Staff Response: Individuals may submit letters to City Council or may bring items from the audience during council meetings. The SMP Periodic Review process that the City is currently following with the Department of Ecology (Ecology), as well as through the City’s additional public meetings and public hearing held and scheduled for Summer 2019, provide additional opportunities to identify any questions or concerns with the proposed code amendments. All written comments submitted to the Planning Department during the process will be included as attachments to the staff memorandums that will ultimately be considered by City Council, prior to their final decision on the amendments. See the City’s SMP Periodic Update website for ways to submit comments and when public meetings will take place.

2. How are public comments incorporated into the planning process?

Staff Response: Public comments and questions are reviewed by City Staff and provide the necessary input from the community that helps assist in understanding the impacts of the proposed code changes. Comments from property owners, businesses, residents, agencies with jurisdiction, and other members of the public are encouraged to be submitted. As part of the Ecology Periodic Review process, staff compiles comments and provides responses. The comments are transmitted to Ecology with the City draft SMP amendments and other documentation. In addition, the Planning Commission and Houghton Community Council consider these comments when they make their recommendation to the City Council. Ultimately the City Council will consider all comments when they make their final decision on the proposed amendments to the SMP.

3. What is the timeline of the SMP process?

Staff Response: State statute established a June 30, 2019 deadline for jurisdictions within King, Pierce, and Snohomish Counties (group A). The Department of Ecology may allow additional time to complete the mandatory update if requested. The City of Kirkland has requested additional time from the Department of Ecology in order to reopen the public hearing before the Planning Commission and Houghton Community Council and provide time for additional public outreach and response to comments. After a follow up public meeting and a second public hearing before the Planning Commission and Houghton Community Council, the City hopes to submit draft SMP amendments to the Department of Ecology for an initial determination of consistency with state laws and rules. The submission will include the draft amendments, periodic review checklist, response to public comments received, SEPA documents, GMA notice, public hearing record and other materials. As part of Ecology’s review, they may provide required or recommended changes to the SMP, and the amendments may be revised further as appropriate. The final draft amendments will then be transmitted to the City Council for adoption. The Houghton Community Council will then provide their final approval. After local adoption, the amendments will be formally submitted to Ecology for final action. Ecology may either approve the amendments as adopted or may recommend or require changes necessary for approval.

4. What is the outreach process for public comment?

Staff Response: The Ecology Periodic Review process has required noticing standards that are established by WAC 173-26-104. The City chose to exceed the minimum requirements and provided a courtesy postcard notice to stakeholders and property owners located within the shoreline jurisdiction. Approximately 1,300 shoreline property owners were sent the notice back in early February, 14 days prior to the Houghton Community Council and Planning Commission study sessions held on February 25 and February 28, 2019, respectively. On March 14, 2019, the City distributed public notice to 74 stakeholders, approximately 1,300 shoreline property owners, and individuals that signed up to the SMP.
listserv. The notice provided information on the Ecology Periodic SMP update process, invited public comment on the draft amendments available for view on the SMP update website during the joint Ecology/City comment period that ran from April 8, 2019 to May 8, 2019 and provided notice of the joint local and state public hearing held on April 25, 2019. In addition to these notices, the City installed 4 public notice signs at shoreline parks to provide additional notification to the public and attempt to enlist comments from others. The City also notified the process through the local paper, city website, and public meeting calendar.

5. **What other chances will the public have to comment?**

Staff Response: The City is proposing to host an additional public meeting with staff on June 18th to take in comments and provide responses to questions. A second Joint Public Hearing with the Houghton Community Council and Planning Commission will be held on July 25th and a joint study session to deliberate on the proposed amendments will be held on August 8th. The public can provide comments at Public Meeting #2, the Joint Public Hearing on July 25th, or submit in writing at any time to jbrill@kirklandwa.gov. Public comment is accepted until City Council adoption this fall.

6. **Why does the permit process to build a dock take so long?**

Staff Response: The City permit process for Substantial Development Permits or similar permits is established by state statute, typically 120-150 days from a complete application. There are several other permits that are required from State and Federal agencies for inwater work, such as Washington Department of Fish and Wildlife and the Army Corps of Engineers. Depending on the scope of the project, those state and federal permits can take longer than the City permits. Additionally, the permits are related and generally consecutive, requiring one to be completed before the next can be approved.

7. **What is the end goal of the SMP? What is the point of the SMP regulation? What is the rational of regulating the shoreline and limiting use of private property?**

Staff Response: The following is the Purpose and Intent section of the SMP. These principles are derived from State law established by the Shoreline Management Act:

> It is the intent of the Kirkland Shoreline Master Program (SMP) to manage the use and development of the shorelines of Kirkland, giving preference to water-dependent and water-related uses, and encouraging shoreline development and uses to avoid, minimize and mitigate impacts. In addition, the SMP, consisting of this chapter, the Shoreline Area chapter of the Comprehensive Plan and the Restoration Plan, has the following purposes:
> 1. Enable current and future generations to enjoy an attractive, healthy and safe waterfront.
> 2. Protect the quality of water and shoreline natural resources to preserve fish and wildlife and their habitats.
> 3. Protect the City’s investments as well as those of property owners along and near the shoreline.
> 4. Efficiently achieve the SMP mandates of the state.
> 5. In interpreting the provisions of this chapter, preference shall be given in the following order to uses that:
>    a. Recognize and protect the statewide interest over local interest;
>    b. Preserve existing natural areas along the shoreline;
>    c. Result in long-term over short-term benefit;
d. Protect the resources and ecology of the shoreline;

e. Increase public access to publicly owned areas of the shorelines;

f. Increase recreational opportunities for the public in the shoreline; and

g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

8. This process has not been transparent, how has the scope of the process changed?

Staff Response: Working drafts of the proposed code amendments were posted to the web preceding the public meetings in February - April; Houghton Community Council - February 25th, Planning Commission - February 28th, City Council - March 5th, and Joint Ecology/Planning Commission / Houghton meeting April 25th. Staff has uploaded the state required documents and additional documents throughout the process. All proposed code amendments are shown in red underlined for new text and red strikethrough for eliminated text, to make them clearly visible while reviewing the documents.

9. There has been no representation from lakeside property owners in the planning process till now

Staff Response: Outreach to all 1,300 shoreline property owners was sent out on February 12, 2019 in a courtesy notice of the Periodic Review Process, and again on March 25, 2019 notifying of the 30-day comment period and April 25th joint hearing between the Houghton Community Council, the Planning Commission, and the Department of Ecology and open house. The City posted 4 public notice signs at 4 waterfront parks, listed the proposal in the newspaper, and posted the project to the City website. The City sought early input from the general public, including shoreline property owners.

10. Code and proposed changes are hard to understand, can you simplify them for lay people?

Staff Response: see SMP Periodic Update website. A summary of all proposed amendments is provided by following this link:

https://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/032719+Summary+of+SMP+Amendments.pdf

In addition, a simplified summary of amendments oriented to single family private property owners is provided by following this link:

11. Why are these regulations changing?

Staff Response: State law requires jurisdictions to review and update their SMPs every eight years in accordance with the Shoreline Management Act, RCW 90.58.080 (4) and its current guidelines and legislative rules. The majority of the proposed amendments are clarifications and “clean-up” changes which maintain the same underlying regulation with adjusted text, allowing applicants and staff clarity when submitting or reviewing code.

Bulkheads and Erosion

12. Why are bulkheads allowed on public property if they aren’t allowed to be maintained on private property?

Bulkheads protect property. Have planning staff considered the impacts of erosion caused by the removal of bulkheads on private property?

Staff Response: Bulkheads are allowed to be retained or replaced on public and private property through various regulations. The SMP does not require the removal of a bulkhead except when more than 50% of the length of the bulkhead is proposed to be replaced when the primary structure on the property is located more than 10 feet away
from the Ordinary High Water Mark and a needs assessment from a qualified professional (geotechnical engineer or geomorphological engineer) confirms that the bulkhead is not necessary to protect the primary structure. The City has permitted approximately 132 feet of bulkhead repair since the 2010 SMP adoption. Some of the repair was completed through standard repair methods, such as replacing rip rap boulders or gravel with filter fabric behind the bulkhead wall. Other repairs were completed through the removal and replacement of solid bulkhead with new solid bulkhead. The method or repair depends on the situation and is allowed under current and proposed codes without a needs assessment provided the amount of work is less than 50% of the linear bulkhead length (see KZC 83.300). The majority of bulkhead repair has been completed through the removal of hard stabilization and installation of soft shoreline stabilization, totaling approximately 230 feet. Those projects were all completed through the voluntary provisions of the SMP, and utilized the shoreline setback reduction options of section 83.380 in conjunction with new or remodel projects. Bulkheads that are determined to be necessary to protect property from impacts caused by erosion are permitted to be replaced if no more than 50% replacement is proposed and the location is no further waterward of the Ordinary High Water Mark. Replacements that meet those criteria are exempt from a shoreline permit, and instead require only a shoreline exemption.

13. Has the effect of erosion been considered with the requirement to remove bulkhead?

Staff Response: The impacts of erosion have been considered in the Shoreline Stabilization section of the SMP (KZC 83.300). The City is not proposing any changes in the stabilization section, other than a couple of clarifying updates. The SMP allows for the maintenance of existing bulkheads.

Boathouses

14. What is the scientific reason for removal of boathouses?

Staff Response: Boathouses are overwater structures that are non-conforming to current and previous SMP codes. The removal of overwater coverage increases light transmission in the nearshore littoral zone and removes habitat of predators to juvenile salmon. This is the area with a water depth that allows sunlight to reach the lakebed and is the critical area where juvenile salmonids migrate when in lakes, such as Lake Washington. This is also the area where the majority of structures such as piers, docks, lifts, and boathouses are located. The removal of overwater structures improves nearshore habitat and ecological function. The City of Kirkland prohibited the construction of boathouses prior to the 2010 Comprehensive SMP Update and so did King County. When Kirkland annexed the Finn Hill area in 2011, annexation area voters approved Kirkland’s SMP and Kirkland’s Zoning. Due to the presence of boathouse structures in the Annexation Area, Kirkland’s SMP included a specific statement in 83.550 requiring the removal of non-conforming overwater structures, like boathouses, if certain thresholds were reached. The preclusion of boathouses is not new. The King County SMP prior to annexation also prohibited boathouses (25.16.120.B) adopted by Ordinance 12763 in 1997. The prohibition on overwater structures dates back to 1978, wherein Section 409(4)(b) prohibited covered moorage.

15. Boathouses are needed to keep boats out of the water and protect from the elements. Some properties have steep driveways and configurations, making it difficult to maneuver boats on trailers.

Staff Response: The SMP allows the installation of boat lifts to lift boats up and out of the water. Within the entire shoreline of Kirkland, a total of 21 boathouses currently exist within the area annexed in 2011, and 2 exist in the former Kirkland boundary. The remaining shoreline property utilize boat lifts or remove boats on trailers during the winter months.
**Buoys** *(no changes to regulations have been proposed)*

16. **Buoy regulations are not consistent around the lake.**

Staff Response: Each jurisdiction on Lake Washington has established their own SMP regulations based on shoreline conditions and the policies and goals developed by City Council, the Planning Commission, and stakeholders. No change to current regulations has been proposed - the current code prohibits moorage buoys if a pier exists on the property. The proposed update maintains that prohibition and adds some clarifying language on location and spacing from other structures.

17. **Buoys protect property and docks from boats on the lake.**

Staff Response: Staff recognizes the usefulness of buoys in protecting pier structures as well as the boat itself during storm events. The current and proposed minor amendment allow for the use of a moorage buoy in lieu of a pier (KZC 83.270.4 table current code, 83.270.3.m proposed amendment).

18. **Is there evidence of the positive impacts of buoys on boat safety and the lake?**

Staff Response: Moorage buoys are a preferred method for moorage since they produce no overwater shading. Former and current King County Zoning only allow a pier or moorage buoy, not both (same as Kirkland’s SMP). The King County Code in effect prior to annexation required alternatives to piers be investigated and that a property forgo installation of a pier if a commercial marina, floating moorage buoy, or joint use moorage pier are available or feasible options.

19. **What are the negative effects of buoys?**

Staff Response: Independent moorage buoys are a preferred method for mooring a boat in lieu of a pier, provided they can achieve the required setbacks from side property lines for the property.

**Jurisdiction**

20. **Would like customized rules based on annexation history.**

Staff Response: A review of the King County codes dating back to 1978 identifies the shoreline regulations have adjusted over time but have certain allowances and prohibitions. The County went so far as to establish in section 25.16.140, that *single-family piers for the sole use of the property owner shall not be considered an outright use on King County shorelines*. The City of Kirkland took into consideration the conditions and environment when establishing all the SMP Environmental Designation areas, both within the pre-Annexation Kirkland boundaries and the Annexation Area. The regulations within the current SMP reflect the goals and policies adopted back in 2010-2011.

21. **Why can we not grandfather existing uses in?**

Staff Response: Existing structures are allowed to continue subject to the Non-Conformance codes of 83.550. No changes are proposed to 83.550 that alter how non-conformances are treated on single-family properties in the shoreline management area, except they are now expanded to cover not just the annexation area, but the entire City. The City’s nonconformance regulations do consider all legal uses and improvements grandfathered in, and only subject to conformance if specified thresholds are triggered.
22. How does Kirkland shoreline regulation differ from previous county regulation?

Staff Response: The pre-annexation King County Shoreline regulations limited the number of moorage buoys and piers to only one, and a property could only contain one, not both types of moorage. Boathouses were prohibited. Existing non-conforming boat houses where required to be brought into conformance when modification to the boathouse exceeded 50% of the value for the structure. Only one boat lift per property were allowed.

23. Is there consistency between shoreline regulations between jurisdiction on the lake?

Staff Response: All jurisdictions on Lake Washington are required to establish SMPs that are consistent with the Shoreline Management Act through review by the Department of Ecology. Each jurisdiction has unique environments and existing infrastructure/improvements along the shoreline. In addition, each city or county has its own priorities and policies for how they want their jurisdiction to develop over time.

24. Has there been an analysis of the consistency of shoreline regulation between jurisdictions on the lake?

Staff Response: The City has not conducted a comprehensive review of how other jurisdictions regulate shoreline development. A summary of shoreline regulations of other Lake Washington jurisdictions, pertaining to a selection of topics related to single family development is provided on the City website.

These are complex regulations that attempt to balance the SMA priorities with use preference based on existing and reasonably foreseeable future development specific to each jurisdiction. All specific provisions must be considered in the context of the other supporting regulations of each jurisdiction’s particular code, such as minimum lot size, impervious surface maximums, buffer and setback size, shoreline environment designations, and allowances or lack thereof provided for within the non-conforming provisions.

25. What are the effects of different jurisdiction regulations?

Staff Response: All are working within the required framework of the SMA and must be approved by the Department of Ecology for consistency with the Statewide Shoreline Management Act.

Piers

26. Why are there pier regulations? What is the scientific reasons for regulation number of piers and pier length?

Staff Response: Overwater structures can impact the natural biological processes that are critical to fish. Structures located over the water can shade out aquatic plants that provide food and habitat for fish, as well as block migration patterns, forcing fish out into deeper water where they are more susceptible to predation. All jurisdictions along shorelines of the state, are required through the Shoreline Management Act, to incorporate dimensional standards that limit overwater structures and seek to improve the long-term environmental benefit of the shoreline. In addition to ecological reasons to regulate piers, the City established regulations based on policies that protect statewide, regional, and local interests in public use of Lake Washington, including navigation issues, and protecting the community character through establishment of consistent regulations for all property owners.

27. Do boats really hit long piers? What is the true public danger of this rational?

Staff Response: The navigational standards are intended to limit overwater coverage and provide property owners and the general users of the lake, unencumbered navigation around the lake. The SMP considers all boating types. Comments received during applications have raised concerns related to kayak, canoe, kite surfers, and paddleboarder impacts related to pier length. The City is proposing to maintain the existing 150-foot maximum length for single family
piers and the limitation that piers are no longer than the adjacent neighboring piers. The code update is a clarification and adjustment of the language to make it clearer for applicants and City staff. **What is the rational for changing pier length?**

Staff Response: No change is proposed. The code language is being updated to more clearly identify how the City measures pier length and how applicants can determine the allowable length for each property. The regulations in effect under the current SMP and the former King County SMP, limit the amount of overwater coverage, intended to help improve the nearshore environment. The two sections below are pulled directly from the current code and the proposed changes.

Current code from 83.270.4 table states:

- 150 feet, but piers or docks extending farther waterward than adjacent piers or docks must demonstrate that they will not have an adverse impact on navigation
- 26 feet for ells
- 20 feet for fingers and float decking attached to a pier

Proposed code from 83.270.4 table states:

- No longer than the average of the adjacent neighboring piers, or 150 feet, whichever is less, except when a water depth adequate to prevent boats from sitting on the lakebed cannot be achieved within the average length of neighboring piers, it may extend to a maximum of 150’. If a length exceeding 150 feet is required to meet adequate depth a shoreline variance shall be required. Piers or docks extending farther waterward than adjacent piers or docks must demonstrate that they will not have an adverse impact on navigation. The length of a pier or dock shall be measured from the furthest landward point of the OHWM.
- 26 feet for ells
- 20 feet for fingers and float decking attached to a pier

**Shoreline habitat**

**28. Is the mitigation required by regulation proven to work in application?**

Staff Response: Shoreline mitigation planting standards established in KZC 83.400 are not proposed to be changed with the Periodic Update currently underway, except for minor clarifications (see current and proposed amendments). Based on the projects completed since the 2010 Comprehensive Update, the City has recorded just over a half an acre of newly planted shoreline riparian area with native vegetation, the planting of 158 native trees and the voluntary removal of approximately 230 feet of bulkhead. The projects that have removed hard stabilization measures (bulkheads) and replaced with soft shorelines have been successful through the monitoring period of five years. Specifically the Taylor and Bendich properties have been successful examples of bulkhead removals and installation of soft shoreline stabilization and are leaders in the [Green Shores for Homes](https://www.greenshoresforhomes.org) program, which is a certification program developed by Washington SeaGrant. There have been additional questions about the placement of spawning gravel in the Lake, but this is a State (rather than City) requirements and we have not monitored the success of such measures.
29. Shoreline maintenance and city regulation are a financial hardship on the property owner

Staff Response: The current and proposed codes do not mandate specific maintenance of the shoreline, with the exception of piers. Piers must be maintained to provide a safe and useable surface that does not pose risk of failure. Only with the proposed development or redevelopment of a primary structure or shoreline improvement (pier or bulkhead) does the current and proposed SMP require native plantings be installed with the permit. Regular maintenance of bulkheads or piers are generally reviewed through the administrative processes of the City and State. The current and proposed codes are intended to allow for the regular maintenance of structures within the shoreline setback and overwater. As each property and improvement is unique, City staff are trained to assist in determining the process through which each project falls, based on the scope, conditions, and current regulations.

30. Do these regulations help salmon habitat? What is the scientific proof?

Staff Response: The current SMP was written to incorporate policies and regulations which follow best available science to improve the shoreline environment along the 9.9 miles of Kirkland shoreline on Lake Washington. When the current SMP was developed, the City referred to many scientific studies to help align our goals and policies to accommodate environmental improvement of the shoreline and lake ecosystem.

31. What is the use of denying the property owner the ability to build a pier/boathouse/bulkhead, as long as they mitigate the effects?

Staff Response: Both the current and proposed adjustments to the SMP allow for single-family properties to replace or install an individual pier on the parcel. The maintenance of an existing bulkhead is also allowed through KZC 83.300. See question #14 above for information and background on the long history of boathouse prohibition in Kirkland and King County.

32. Why is “leafy” shade different then shade from a dock?

Staff Response: The dappled shade from vegetation overhanging the lake is a natural shading which provides cover for juvenile Chinook salmon that use the nearshore environment for predator avoidance, rest etc., plus the overhanging branches drop insects and debris which make up the diet of juvenile salmon and other small aquatic species. The grated decking required by all jurisdictions in Lake Washington (for the first 30 feet of the pier) mimics the 40% light transmittance, similar to native vegetation.

Shading provided by overwater coverage, such as a dock, provides cover for predators of salmon and causes salmon migration paths to be diverted into deeper water where there are more predators present.

General Concerns

33. Milfoil regulations are complicated, how to make regulations less of a financial hardship on homeowners

Staff Response: The proposed inclusion of notification was intended to allow neighboring property owners to know when herbicide chemicals would be broadcast into the lake within close proximity. The Department of Ecology is currently updating their standards for notification and the City is considering eliminating the proposed code, as it will be duplicative. The City acknowledges the importance of following the established DOE standards for completion of necessary permits and following the required notification process. Inclusion of the proposed code will allow for the City to educate and follow up with property owners through the Code Enforcement process.
34. Code and planning process do not consider the needs of those who live on the lake

Staff Response: The Comprehensive SMP Update in 2006-2010 included shoreline property owners and numerous professionals that work within the shoreline jurisdiction. While the City understands the position of shoreline property owners, the broader picture must consider the general public as a whole, whereas Lake Washington is a shoreline of the State and must be protected and maintained in a manner consistent with the Shoreline Management Act overarching goals and policies.

35. Is the scientific reasoning sound for regulations?

Staff Response:

The State requires shoreline regulations to use “the most current, accurate and complete scientific and technical information available”. When the current SMP was developed, extensive background documentation was prepared to ensure these standards were met and to help understand the City’s baseline condition. See the original inventory and analysis report prepared in 2006, and the cumulative impact analysis prepared in 2009. The City referred to many scientific studies to help align our goals and policies to accommodate environmental improvement of the shoreline and lake ecosystem. The scope of the periodic update does not include re-visiting the science used in 2010 for the comprehensive update.