

ORDINANCE NO. 2007-16

AN ORDINANCE of the City of Bainbridge Island, Washington, regulating establishment of an open water marina within Eagle Harbor and amending BIMC 16.12 and the Shoreline Management Master Program.

WHEREAS, the City of Bainbridge Island (the "City") adopted a Comprehensive Plan on September 1, 1994 and amended on December 8, 2004, which establishes goals and policies for managing the land, shorelines and resources areas of Bainbridge Island; and

WHEREAS, the City adopted a Shoreline Management Master Program (Ordinance 96-38) on November 26, 1996, and the Washington State Department of Ecology subsequently approved the City's program; and

WHEREAS, the City adopted Shoreline Management Master Program amendments (Ordinance Nos. 2003-25, 2003-30 and 2005-02), and the Washington State Department of Ecology approved the City's amendments; and

WHEREAS, in accordance with RCW 90.58, the Shoreline Management Act, the City is required to adopt and amend the City's Shoreline Management Master Program consistent with the Shoreline Management Act and any required elements of the Shoreline Master Program procedures and guidelines adopted by the Washington State Department of Ecology; and

WHEREAS, Eagle Harbor is an inlet located along the eastern shoreline of Bainbridge Island, just south of Winslow, that extends approximately 2.5 miles inland and contains approximately 483 acres of water area; Eagle Harbor is used primarily for recreational boating and vessel anchoring and mooring, and contains nine private marinas and yacht clubs, as well as about 75 vessels anchored and moored independently, primarily within the Middle Harbor zone, some of which are occupied as residences; and

WHEREAS, the Bainbridge Island community has long had a commitment to supporting the diverse interests and lifestyles of its citizens, including both recreational boating and residential use of vessels; and

WHEREAS, on November 30, 1999, the Bainbridge Island City Council directed the Bainbridge Island Harbor Commission to designate an open water anchoring and mooring area in Eagle Harbor for recreational vessels and citizens who wish to live aboard vessels in accordance with BIMC 12.40.080; and

WHEREAS, on November 1, 2002, the State of Washington Department of Natural Resources ("DNR") promulgated a new rule (Residential Use Rule) in

Washington Administrative Code (WAC) 332-30 to allow residential uses on state-owned aquatic lands, including "open water moorage and anchoring areas"; and

WHEREAS, the DNR Residential Use Rule will not allow the City to get a lease from DNR for an open water moorage and anchorage area unless the City specifically authorizes and regulates open water moorage and anchorage areas in its Shoreline Management Master Program before November 17, 2007; and

WHEREAS, the City has prepared a document titled "Eagle Harbor Anchoring and Mooring Plan, March 2005," delineating an open water moorage and anchorage area within Eagle Harbor, and outlining anchoring and mooring responsibilities and procedures for vessel owners/operators and for the Harbormaster; and

WHEREAS, the City would like to establish new policies and regulations, consistent with and furthering the polices of the Shoreline Management Act (RCW 90.58.020), regulating establishment of an open water moorage and anchorage area in Eagle Harbor in order to preserve the unique character of the harbor and promote compatible recreational and limited residential use of the harbor for the citizens of Bainbridge Island and the State; now, therefore

THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN, AS FOLLOWS:

Section 1. Section II (Definitions) of the City of Bainbridge Island Shoreline Management Master Program (Ordinance 96-38, as amended) is amended to insert the following definition:

"Open Water Moorage and Anchorage Area – A designated area of state-owned aquatic lands leased for the moorage and anchorage of vessels that does not abut uplands and does not include a built connection to the uplands. Open water moorage and anchorage areas are leased only by municipalities in accordance with WAC 332-30 and subject to the restrictions therein."

Section 2. Section II (Definitions) of the City of Bainbridge Island Shoreline Management Master Program (Ordinance 96-38, as amended) is further amended to read as follows:

"Marina - A commercial or public facility with the primary purpose of providing moorage for six (6) or more vessels, which consists of a system of piers, buoys, or floats. Foreshore marinas are located in the intertidal or offshore zone (the Aquatic environment). Backshore marinas are located landward of OHWM. There are two common types of backshore marinas, one with wet moorage that is dredged out of the land to artificially create a basin, and the other, dry moorage, which has upland storage with a hoist, marine travel lift, or ramp for water access. Open water marinas, including open water moorage and anchorage areas, are

generally located in the center of a waterbody to provide moorage in addition to any marinas and docks along the edge of the waterbody.”

Section 3. Section IV (Environment Designations), Subsection I (Master Program Summary Matrices) of the City of Bainbridge Island Shoreline Management Master Program (Ordinance 96-38, as amended) is amended to read as follows:

“Table 4-1. Shoreline Use and Modification Activity Matrix

KEY FOR TABLE 4-1 AND TABLE 4-2	
P	= Permitted (An SSDP may be required)
CUP	= Permitted subject to a shoreline conditional use permit (An SSDP may also be required.)
X	= Prohibited unless otherwise noted
#	= Same as adjacent upland environment
NA	= Not applicable

SHORELINE USE	UPLAND ENVIRONMENTS					WATER ENVIRONMENTS	
	Natural	Conservancy	Rural	Semi-rural	Urban	Aquatic	Aquatic Conservancy
Agriculture	X	X	X	X	X	NA	NA
Aquaculture	X	CUP	CUP	CUP	CUP	CUP	X
Boating Facilities	X	X ¹	CUP ²	CUP ²	P	# ³	X
Commercial Development							
Water-dependent	X	X	X	CUP	P	#	X
Water-related and – enjoyment	X	X	X	CUP	P	X	X
Nonwater-oriented	X	X	X	X	CUP	X	X

¹Permitted in public parks. Recreational mooring buoys are permitted.

²Community and joint use docks providing moorage for six (6) or more vessels are permitted with an SSDP but must comply with the provisions in Section V, subsection D, Boating Facilities, as well as the provisions in Section VI, subsection F, Piers, Docks, Recreational Floats, and Mooring Buoys.

³One open water moorage and anchorage area located in Eagle Harbor is permitted in the Aquatic environment adjacent to all upland environments.

SHORELINE USE	UPLAND ENVIRONMENTS					WATER ENVIRONMENTS	
	Natural	Conservancy	Rural	Semi-rural	Urban	Aquatic	Aquatic Conservancy
Flood Hazard Management	X	CUP	CUP	CUP	CUP	CUP	X
Forest Practices	X	CUP	CUP	CUP	CUP	NA	NA
Industry ⁴							
Water-dependent	X	X	X	X	P	#	X
Water-related	X	X	X	X	CUP	#	X
Nonwater-oriented	X	X	X	X	X	X	X
Mining	X	X	X	X	X	X	X
Parking (accessory) ⁵	C	P	P	P	P	X	X
Parking (primary) ⁴	X	X	X	X	X	X	X
Recreational Development							
Water-oriented	CUP ⁵	P	P	P	P	P	X
Golf Courses	X	CUP	CUP	CUP	CUP	X	X
Nonwater-oriented	X	X	X	CUP	CUP	X	X
Residential							
Single-family	X	CUP	P	P	P	X	X
Multiple-family	X	X	X	P	P	X	X
Land division	CUP	CUP	P	P	P	#	#
Solid Waste Disposal	X	X	X	X	X	X	X
Transportation							
Trails	P	P	P	P	P	NA	NA
Publicly-owned ferry terminal facilities and services	X	X	X	X	CUP ⁶	#	X
Float plane facilities and services	X	X	X	X	CUP	#	X

⁴Heliports and float plane facilities are transportation uses.

⁵See Section III, subsection F, Parking; Section V, subsection E, Commercial Development Regulation 7; and Section V, Parking and Circulation, subsection D, Boating Facilities Regulations - Design and Renovation/Expansion Regulation 7.

⁶New over-water facilities are permitted as a conditional use only in the ferry terminal district. Normal repair and maintenance of existing facilities do not require a conditional use permit, but may require an SSDP.

SHORELINE USE	UPLAND ENVIRONMENTS					WATER ENVIRONMENTS	
	Natural	Conservancy	Rural	Semi-rural	Urban	Aquatic	Aquatic Conservancy
Roads							
Railroads, heliports, new bridge to Bainbridge Island, highways, arterials, secondary roads	X	X	X	X	X	X	X
Utilities (primary)	X	X	CUP ⁷	CUP ⁷	CUP ⁷	#	X
Breakwaters, Dikes, Levees, Jetties, Groins, Gabions, and Seawalls	X	X	X	X	X	X	X
Beach Enhancement	CUP ⁸	CUP ⁸	CUP ⁸	CUP ⁸	CUP ⁸	CUP ⁸	CUP ⁸
Revetments	X	X	P ⁹	P ⁹	P ⁹	X ¹⁰	X
Bulkheads	X	X	P ⁹	P ⁹	P ⁹	X ¹⁰	X
Dredging ¹¹	X	X	X	X	X	CUP ¹²	X
Landfill	CUP ¹²	CUP ¹²	CUP	CUP	CUP	CUP ¹²	X
Piers and Docks	X	CUP	P	P	P	#	X
Recreational Floats and Mooring Buoys	X	X	P	P	P	#	X ¹²

Section 4. Section V (Specific Shoreline Use Policies and Regulations), Subsection D (Boating Facilities) of the City of Bainbridge Island Shoreline Management Master Program (Ordinance 96-38, as amended) is amended to read as follows:

⁷Permitted as a conditional use if no feasible alternative exists.

⁸For restoration, enhancement or maintenance of natural resources or to enhance public access to the shoreline.

⁹If there are no revetments or bulkhead within 100 feet on either side of the property, new revetments and bulkheads shall be conditional uses.

¹⁰Bulkheads and revetments maybe permitted in the aquatic environment where permitted in the adjacent upland environment but must be located at or near the ordinary high water mark.

¹¹These regulations do not apply to aquaculture activities.

¹²For restoration, enhancement or maintenance of natural resources for navigational channels or public uses only.

"D. Boating Facilities

Applicability

Boating facilities include marinas (both backshore and foreshore, dry storage and wet moorage, and open water types), boat launch ramps, covered moorage, marine railways, and marine travel lifts. (Refer to Section II for definitions.) Community, yacht club, camp, and resort moorage facilities must comply with boating facility requirements if they provide moorage for six (6) or more vessels. Both marina and nonmarina boating facilities, including single-family, must comply with Section VI, subsection F, Piers, Docks, Recreational Floats, and Mooring Buoys. Other portions of Section VI may also apply.

Accessory uses found in marinas may include fuel docks and storage, boating equipment sales and rental, repair services, boat launches, bait and tackle shops, potable water, waste disposal, administration, parking, and grocery and dry good shops. Uses which are not clearly accessory are also subject to their respective provisions in this section. (Examples might include commercial, industrial, or transportation facilities.) Boating facilities are also subject to Section III, General Policies and Regulations and to Section IV, Environment Designations, including the standards in Table 4-2.

Regulations governing boating activities in the bays and harbors of Bainbridge Island are contained in City harbors and waters code and may also apply. See Section VI, subsection F, for regulations governing mooring buoys.

Policies

1. Boating facilities should be located, designed, and operated to provide the maximum feasible protection and enhancement of all forms of aquatic, littoral, or terrestrial life including animals, fish, shellfish, birds and plants, their habitats, and their migratory routes. Marinas should be located in areas of low biologic productivity.
2. Boating facilities should be located and designed to minimize adverse effects upon, and to enhance if possible, beneficial shoreline features and processes including erosion, littoral or riparian transport and accretion shoreforms, as well as scarce and valuable shore features, including riparian habitat and wetlands.
3. Boating facilities should be located and designed so their structures and operations will be aesthetically compatible with the area visually affected, and will not unreasonably impair shoreline views from adjacent shoreline properties.

4. Joint use of piers and docks (community docks) should be encouraged so long as they serve the adjacent, upland owners. They should include no more than (1) one moorage space per ownership.
5. Areas which have been identified as hazardous due to storm tides, high winds, or flooding should not be considered as potential marina sites.
6. Embayments with poor flushing action should not be considered for marina sites.
7. Regional as well as local needs should be considered when determining the location of marinas and boat launches. Potential sites near high-use or potentially high-use areas should be identified.
8. Consumption of limited shoreline resources should be minimized by considering:
 - a. The expansion of existing marinas over the addition of new marina sites;
 - b. The development of marinas and launch ramps over the development of individual docking facilities for private, noncommercial pleasure craft; and
 - c. The use of launching ramps and recreational boat dry storage or other new technologies over year-round wet-moorage.
9. Boating facilities should not unduly restrict or impair ingress-egress or the use and enjoyment of the water or beach on adjoining properties.
10. New marina facilities should be designed to accommodate public access and enjoyment of the shoreline, including provisions for walkways, view points, restroom facilities, and other recreational uses according to the scale of the facility.
11. Foreshore marinas, wherever possible, should use open-type construction to prevent degradation of fish and/or shellfish resources and habitat.
12. Installation and maintenance of sewage disposal (pump-out) facilities or services should be required and conveniently available to all users of marina facilities.
13. Floating homes should be prohibited. Houseboats and live-aboard vessels should be allowed only in those limited circumstances where their environmental and use impacts can be substantially avoided.
14. Transient moorage should be made available, with most of this need being met through use of short-term vacancies.
15. Vegetative screening should be provided around parking and other storage areas.

Regulations - General

1. Boating facilities, including marinas, shall be allowed as follows:
 - a. Boating facilities shall be permitted in the Urban environment and allowed as a conditional use in the Semi-rural and Rural environments.
 - b. Boating facilities shall be prohibited in the Natural, Conservancy, and Aquatic Conservancy environments.
 - c. Boating facilities shall be permitted in the Aquatic environment if permitted in the adjacent upland environment, allowed as a conditional use if so allowed in the adjacent upland environment, and prohibited if prohibited in the adjacent upland environment.
 - d. Boating facilities shall be permitted in public parks designated Conservancy environment and in the adjacent Aquatic environment.
 - e. One (1) open water moorage and anchorage area shall be a permitted use in the Aquatic environment adjacent to all upland environments east of Stetson Spit and west of the Washington State Ferry Maintenance Facility.
2. Boating facility development and/or renovation shall comply with all other applicable State and Federal agency policies and regulations including, but not limited to, the Department of Fish and Wildlife, Federal Marine Sanitation standards (Environmental Protection Agency 1972) requiring water quality certification from the U.S. Army Corps of Engineers (Section 10), U.S. Army Corps of Engineers dredging standards (Section 404), and State and Federal standards for the storage of fuels and toxic materials.
3. The City shall require the following information in its review of marina proposals:
 - a. Existing natural shoreline and backshore features and uses and bathymetric contours (1-foot increments);
 - b. Geo-hydraulic processes and flushing characteristics, volume, rates, and frequencies;
 - c. Biological resources and habitats for the backshore, foreshore, and aquatic environments;
 - d. Area of surface waters appropriated, and leased areas;
 - e. Site orientation; exposure to wind, waves, flooding or tidal/storm surges; and type and extent of shore defense works or shoreline stabilization and flood protection necessary;
 - f. Impact upon existing and created demand for shoreline and water uses including physical access, recreation, and views;
 - g. The regional need for additional facilities;
 - h. The design of the facilities including sewage disposal, restrooms, solid waste disposal, proposed signage, proposed exterior lighting, a proposed landscaping plan,

- and proposed use of noise-generating equipment;
- i. Management and operations including accommodation of live-aboard vessels, including houseboats, provisions for the prevention and control of fuel spillage, and restrictions related to disposal of wastes and toxic materials; and
 - j. Other information that may be requested by the Director.
4. Accessory uses at a marina or public launch ramp shall be limited to those which are water-dependent, related to boating, necessary for marina operation, or which provide physical or visual shoreline access to substantial numbers of the general public. Accessory uses shall be consistent in scale and intensity with the marina and/or launch ramp and surrounding uses.
 5. Shoreline permits for marinas shall be conditioned to include boater education addressing boater impacts on water quality and other shoreline resources, boater safety and requirements for boater use of sewage pumpouts.
 6. New marinas and expansion areas in existing marinas shall not have covered moorage.
 7. New floating homes and those that are not determined to be legally non-conforming shall be prohibited in all marinas and elsewhere in the shoreline jurisdiction of Bainbridge Island. Live-aboard vessels, including houseboats, shall be permitted in marinas. No more than 25% of the surface area of a marina or 25% of its slips, whichever is less, shall be devoted to live-aboard vessels, including houseboats.

Regulations - Location

1. When new sites are considered, sufficient evidence must be presented to show that existing marinas are inadequate and cannot be expanded to meet regional demand.
2. Marinas shall be sited to prevent any restrictions in the use of commercial and recreational shellfish beds. The specific distance shall be determined in conjunction with the Washington State Department of Health Services, the Washington State Department of Ecology, and other agencies with expertise. Criteria for determining the specific distance may include:
 - a. The size and depth of the water body;
 - b. Tidal flushing action in the project area;
 - c. Size of the marina and projected intensity of use;
 - d. Whether fuel will be handled or stored;
 - e. Existence of a sewer hook-up; and
 - f. Expected or planned changes in adjacent land uses that could result in additional water quality impacts or sanitary treatment requirements.
3. Marinas and public launch ramps shall be allowed only on stable shorelines where water depths are adequate to eliminate or

minimize the need for offshore or foreshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach enhancement, and other harbor and channel maintenance activities.

4. Marinas and launch ramps shall be located only in areas where there is adequate water mixing and flushing and shall be designed so as not to retard or negatively influence flushing characteristics.
5. Boating facilities shall not require fixed breakwaters.
6. Marina and boat launch entrances shall not be located closer than one thousand (1,000) feet from beaches commonly used for swimming, or from valuable areas for commercial or recreational fishing or shellfish collection.
7. Marinas and launch ramps shall not be located at or along:
 - a. Significant littoral drift sectors, including resource material areas such as, feeder bluffs and accretion beaches, points, spits and hooks;
 - b. Wetlands, marshes, bogs, swamps and lagoons;
 - c. Mud flats and salt marshes;
 - d. Fish and shellfish spawning and rearing areas; or
 - e. Poorly flushed lagoons and backwaters.

(See Section III, subsection D, Environmentally Sensitive Areas.)

8. Backshore marinas involving the creation of a basin for wet moorage shall be prohibited by the Master Program.
9. Marinas shall not extend seaward farther than the following limits:
 - a. In Eagle Harbor, the Construction Limit Line, except that open water moorage and anchorage areas shall be allowed waterward of the Construction Limit Line.
 - b. Elsewhere, the offshore ends of the adjacent marinas where present, and in no instance two hundred (200) feet beyond extreme low tide or the -3 fathom contour, whichever is less. [WAC 332-30-122(1) (ii) or its successor and WAC 332-30-142 (8)(d) or its successor].

Regulations - Design/Renovation/Expansion

1. Proposals for marinas shall include public launch facilities unless the applicant can demonstrate that providing such facilities is not feasible.
2. Marina design shall provide thorough flushing of all enclosed water areas and shall not restrict the movement of aquatic life requiring shallow water.
3. The marina design shall minimize interference with geo-hydraulic processes and disruption of existing shore forms.
4. Boating facilities shall be designed so their structures and operations will be aesthetically compatible with or will enhance existing shoreline features and uses. Boating facilities shall

- mitigate for adverse development impacts on-site and to adjacent properties.
5. Shoreline embankments of all boating facilities shall be stabilized both above and below the water's edge both during and after construction.
 6. Long-term dry moorage (for 6 or more vessels) and all other storage areas shall be set back at a preferred distance of one hundred (100) feet from the OHWM. This shall not apply to hand-launch vessels.
 7. Short-term loading areas may be located at ramps or near berthing areas. Long-term parking and paved storage areas shall be separated from the OHWM by a vegetated native vegetation zone of at least fifty (50) feet.
 8. Unless native vegetation on the perimeter of parking, dry moorage, and other storage areas is retained, these perimeter areas shall be landscaped with native plants or other approved materials. The permit application shall identify the size, location, and species of landscaping materials stressing native vegetation.
 9. Public access, both visual and physical, shall be an integral part of all marina design and development commensurate with the particular proposal and must include the following:
 - a. Views from upland lots and public view corridors shall be preserved. Visual access shall not be reduced to less than thirty-five (35) percent of the width of the lot, except that one-half of such requirement may be satisfied by an abutting street or waterway.
 - b. Parking, landscaping, and recreational uses shall be permitted in the view corridor provided all other Master Program provisions are met.
 10. All boating facilities and accessory uses must conform to the general provisions (Section III) and environment designation provisions (Section IV), including meeting the setback and height restrictions in Table 4-2.

Regulations - Parking and Circulation

1. To the maximum extent possible, marinas and accessory uses shall share parking facilities, with marina usage given preference.
2. a. Parking facilities shall be provided according to the following schedule:

First 50 moorage slips:	1 vehicle space per 2 slips
Slips 51 to 100:	1 vehicle space per 3 slips
Slips over 100:	1 vehicle space per 4 slips

An additional parking space shall be provided for every four hundred (400) square feet of interior floor space devoted to accessory retail sales or services. Where live-aboards are permitted, additional parking shall be provided at a rate of 1

vehicle per live-aboard vessel or houseboat allowed.

- b. Parking facilities for open water moorage and anchorage areas shall be provided as follows: Live-aboard tenants of open water moorage and anchorage areas shall provide either a) evidence of access to one legal vehicle parking space per anchorage/moorage space for the duration of the anchorage/moorage period; or b) an affidavit stating that no vehicle is owned or used by the tenant. Day-use parking shall be provided according to the following schedule:

First 50 moorage slips: 1 vehicle space per 2 slips

Slips 51 to 100: ~ 1 vehicle space per 3 slips

Slips over 100: 1 vehicle space per 4 slips

In addition, two load/unload parking spaces shall be provided for transient users of open water moorage and anchorage areas.

3. Marinas and launch ramps shall be located where access streets are adequate to handle the traffic load generated by the facility and shall be designed to minimize other circulation and access conflicts. Backing of trailers on public roads shall be prohibited and identified with appropriate signs.
4. Collector roads between marinas and arterial routes shall have all-weather surfacing and be satisfactory to the City in terms of width, safety, alignment, sign distance, grade, and intersection controls.
5. Marinas and boat launches shall be designed so that existing or potential public access along beaches is not unnecessarily blocked nor made dangerous, and so that public use of the surface waters below the OHWM is not unduly impaired.
6. At each public or quasi-public launch ramp, at least ten (10) car and trailer spaces at least ten (10) feet by forty (40) feet shall be provided for each ramp lane.

Regulations - Utilities

1. All marinas shall have accessible boat sewage disposal systems on-site or other pump-out services. Existing marinas shall comply within one (1) year of the effective date of this regulation.
2. The marina shall provide facilities for the adequate collection and dumping of marina originated materials including, but not limited to, sewage, solid waste, and petroleum waste.
3. All marinas shall provide restrooms for boaters' use, including upland or floating facilities supporting open water moorage and anchorage areas. Upland restrooms shall be located within seventy-five (75) feet of the landward end of the dock or pier and floating restroom facilities shall be located to conveniently serve the tenants. Restrooms shall be identified by signs and be

accessible to tenants twenty-four (24) hours a day. Marinas with fewer than ten (10) slips shall provide one (1) toilet and hand washing facility. Marinas with ten to one hundred slips shall provide one (1) toilet and hand washing facility for each gender. Marinas exceeding one hundred (100) slips shall provide an additional toilet and lavatory for each gender. Existing marinas shall comply within one (1) year of the effective date of this regulation.

4. Distribution systems for plumbing and wiring at a marina site shall be placed at or below ground and dock levels.
5. Public boat launch facilities shall provide and maintain dump stations and restrooms or portable toilets.

Regulations - Management and Operations

1. The discharge of sewage and/or toxic material from boats and/or shore installations shall be prohibited. The responsibility for the adequate and approved collection and disposal of marina originated sewage, solid waste, and petroleum waste is that of the marina operator.
2. No commercial fish or shellfish processing discharge or discarding of unused bait, scrapfish, or viscera shall be permitted.
3. Marinas which dispense fuel shall have adequate facilities and establish posted operational procedures for fuel handling and storage in order to prevent/minimize accidental spillage.
4. Marinas shall have facilities, equipment, and established posted procedures for containment, recovery, and mitigation of spilled petroleum, sewage, and toxic products.
5. Marina operators shall post signs where they are readily visible to all marina users describing regulations:
 - a. Pertaining to handling and disposal of waste, wastewater, toxic materials, and recycling;
 - b. Prohibiting the use of marine toilets (i.e., no untreated sewage discharge);
 - c. Prohibiting the disposal of fish and shellfish cleaning wastes; and
 - d. Describing best management practices (BMPs) for boat maintenance and repairs on site.
6. Garbage or litter receptacles shall be provided and maintained by the marina operator at several locations convenient to users in sufficient numbers to properly store all solid waste generated on site.
7. Marina docks shall be equipped with adequate lifesaving equipment such as life rings, hooks, and ropes.
8. Swimming shall be prohibited within marina facilities unless the swimming area is adequately separated, protected, and posted.
9. If dredging at marina entrances changes the littoral drift processes

and adversely affects adjacent shores, the marina operator shall be required to periodically replenish these shores with the appropriate quantity and quality of aggregate as determined by a geo-hydraulic study, paid for by the operator and completed to the satisfaction of the Director.

10. Temporarily vacant moorage spaces shall be made available for "transient moorage" (less than two-week stay) when at least one of the following apply:
 - a. The marina is owned, operated, or franchised by a governmental agency for use by the public;
 - b. The marina provides more than three thousand (3,000) lineal feet of moorage; or
 - c. The marina is part of a mixed-use development which includes restaurants or other water-enjoyment uses.Additional transient moorage requirements may be established for Eagle Harbor in the Winslow Master Plan.
11. Marina operators shall execute a lease, contract, or deed which establishes permission to use a slip for a stated period of time and which establishes conditions for use of the slip, including the requirement that all boats meet applicable sanitation regulations.

Regulations - Boat Launches (includes marine railways)

(See subsections above for additional provisions.)

1. Boat launches may be allowed only on or along low energy drift sectors.
2. Boat launches may be permitted on marine accretion shoreforms, provided any necessary grading is not harmful to affected resources and any accessory facilities are located out of the floodway.
3. Boat launches may be allowed on stable banks where no or a minimum number of current deflectors or other stabilization structures will be necessary.
4. Boat launches shall not be permitted where the upland slope within twenty-five (25) feet of the OHWM exceeds twenty-five (25) percent and/or where substantial cutting, grading, filling, or defense works is necessary.
5. Boat launches, minor accessory buildings, and haul out facilities shall be designed to be in character and scale with the surrounding shoreline.
6. Boat launches shall be built from flexible, hinge-segmented pads which can adapt to changes in beach profiles, unless a solid structure is demonstrated to be more appropriate for the intended level of use.
7. Boat launches shall be placed and kept near flush with the foreshore slope to minimize the interruption of geo-hydraulic

processes.

8. Marine railways for boat launching shall be located on existing grade and shall not obstruct access or littoral drift to and along the shoreline.
9. Parking and shuttle areas for launch ramps shall not be located on scarce accretion shoreforms which have high value for general shore recreation.”

Section 5. Paragraph number 18 of section V (Specific Shoreline Use Policies and Regulations), subsection K (Residential Development), subsection titled “Regulations – General” of the City of Bainbridge Island Shoreline Management Master Program (Ordinance 96-38, as amended) is amended to read as follows:

- “18. a. Floating homes compliant with all the requirements of BIMC 12.40.080 and occupying the same location since November 25, 1996 shall be considered legally non-conforming.
- b. ~~Vessels having owners living aboard~~ Live-aboard vessels, houseboats, and legally non-conforming floating homes shall be allowed only at marinas or in a designated area of Eagle Harbor to be administered by the City of Bainbridge Island open water moorage and anchorage area in Eagle Harbor.
- c. Existing live-aboard vessels, houseboats, and legally non-conforming floating homes not located within a marina shall be required to relocate to a marina or open water moorage and anchorage area within Eagle Harbor within six (6) months after the establishment of such an open water moorage and anchorage area. Individuals who wish to moor in the ~~designated area~~ open water moorage and anchorage area must register their vessel with the police and sign a live-aboard agreement with the City.
- d. Live-aboard vessels, houseboats, and floating homes ~~Such vessels~~ must comply with all marine regulations, policies and procedures of the Coast Guard, Federal and State governments which pertain to health, safety and/or environmental protection. Proof of seaworthiness of the vessel and the adequacy of the mooring arrangement must be provided and laws governing all the citizens of Bainbridge Island must be obeyed. The City ~~will~~ may charge fees to cover administrative costs and reserves the right to terminate the live-aboard agreement and expel and non-compliant vessel from the harbor.”

Section 6. Section VI (Shoreline Modification Policies and Regulations), subsection F (Piers, Docks, Recreational Floats, and Mooring Buoys), subsection titled “Regulations -- Mooring Buoys and Recreational Floats - General” of the City of

Bainbridge Island Shoreline Management Master Program (Ordinance 96-38, as amended) is amended to read as follows:

“Regulations -- Mooring Buoys and Recreational Floats -General

1. Mooring buoys and recreational floats shall be prohibited in the Aquatic Conservancy environment. Mooring buoys and floats for recreational use shall be permitted in the Aquatic environment offshore from Conservancy, Rural, Semi-rural, and Urban environments and shall be prohibited offshore from the Natural environment. Mooring buoys for commercial use shall be permitted only as conditional uses offshore from the Urban environment. Mooring buoys for open water moorage and anchorage areas shall be permitted in the Aquatic environment offshore of all upland environments.
2. Buoys shall not interfere with navigation, shall be visible in daylight one hundred (100) yards away, and shall have reflectors for night visibility.
3. If a buoy is located offshore of the extreme low tide line, the owner shall obtain a lease for the bed of navigable waters from Department of Natural Resources. [WAC 332-30-122 (1)(ii) or its successor].
4. Buoys shall lie between the waterfront property side lot lines extended beyond the shoreline, except those on Department of Natural Resources tidelands. Vessels moored to the buoys shall not swing across the extended side lot lines. Where the configuration of the waterfront lot precludes these requirements, a mooring buoy owner shall file with the City a written statement from the affected, adjacent, waterfront property owners agreeing to the buoy placement. This provision shall not apply to buoys for open water moorage and anchorage areas.
5. Mooring buoys shall be installed at least twenty (20) yards from other permitted piers, docks, floats, or buoys so as not to interfere with or obstruct existing piers, docks, floats, or buoys.
6. Owners of waterfront property are permitted to install one (1) mooring buoy per waterfront lot, except that where the waterfront lot is owned in community, the City may permit upon the owners' application, additional mooring buoys with the total not more than one (1) per owner in the community. [WAC 332-30-122 (1)(ii) or its successor].
7. Buoys shall be located offshore no farther than the Construction Limit Line in Eagle Harbor, and elsewhere not more than two hundred (200) feet beyond extreme low tide, the -3 fathom depth contour (-18 feet at mean low water), or the line of navigation, whichever is closest to shore. [WAC 332-30-148(2) or its successor]. Buoys for open water moorage and anchorage areas shall be allowed waterward of the Construction Limit Line in

Eagle Harbor.

8. The owners or lessees of waterfront property zoned for commercial or industrial use may install mooring buoys for commercial vessels, subject to obtaining a Shoreline conditional use permit from the City for each mooring buoy.
9. A contractor doing waterfront work involving floating equipment may place a temporary mooring buoy convenient to the work site, provided it is the responsibility of the contractor to ensure that all necessary permits are obtained from all agencies with jurisdiction.
10. Recreational floats shall be located as close to shore as possible. They shall be located no farther than the following limits:
 - a. In Eagle Harbor, the construction limit line.
 - b. Elsewhere, the distance necessary to obtain a depth of four (4) feet of water as measured at extreme low tide at the landward end of the float, or the line of navigation, whichever is closer to shore.
11. Recreational floats must be built so that the deck surface is one (1) foot above the water's surface and shall have reflectors for night visibility.
12. Single-property-owner recreational floats shall not exceed eight (8) feet by (8) feet.
13. All recreational floats shall include stops which serve to keep the floats off the bottom of tidelands at low tide."

Section 7. BIMC 16.12.030 is amended to insert the following definition:

"Open Water Moorage and Anchorage Area – A designated area of state-owned aquatic lands leased for the moorage and anchorage of vessels that does not abut uplands and does not include a built connection to the uplands. Open water moorage and anchorage areas are leased only by municipalities in accordance with WAC 332-30 and subject to the restrictions therein."

Section 8. BIMC 16.12.030 is further amended to read as follows:

"Marina - A commercial or public facility with the primary purpose of providing moorage for six (6) or more vessels, which consists of a system of piers, buoys, or floats. Foreshore marinas are located in the intertidal or offshore zone (the Aquatic environment). Backshore marinas are located landward of OHWM. There are two common types of backshore marinas, one with wet moorage that is dredged out of the land to artificially create a basin, and the other, dry moorage, which has upland storage with a hoist, marine travel lift, or ramp for water access. Open water marinas, including open water moorage and anchorage areas, are generally located in the center of a waterbody to provide moorage in addition to any marinas and docks along the edge of the waterbody."

Section 9. BIMC 16.12.150 is amended to read as follows:

“Table 4-1. Shoreline Use and Modification Activity Matrix

KEY FOR TABLE 4-1 AND TABLE 4-2	
P	= Permitted (An SSDP may be required)
CUP	= Permitted subject to a shoreline conditional use permit (An SSDP may also be required.)
X	= Prohibited unless otherwise noted
#	= Same as adjacent upland environment
NA	= Not applicable

SHORELINE USE	UPLAND ENVIRONMENTS					WATER ENVIRONMENTS	
	Natural	Conservancy	Rural	Semi-rural	Urban	Aquatic	Aquatic Conservancy
Agriculture	X	X	X	X	X	NA	NA
Aquaculture	X	CUP	CUP	CUP	CUP	CUP	X
Boating Facilities	X	X ¹³	CUP ¹⁴	CUP ²	P	# ¹⁵	X
Commercial Development							
Water-dependent	X	X	X	CUP	P	#	X
Water-related and - enjoyment	X	X	X	CUP	P	X	X
Nonwater-oriented	X	X	X	X	CUP	X	X
Flood Hazard Management	X	CUP	CUP	CUP	CUP	CUP	X

¹³Permitted in public parks. Recreational mooring buoys are permitted.

¹⁴Community and joint use docks providing moorage for six (6) or more vessels are permitted with an SSDP but must comply with the provisions in Section V, subsection D, Boating Facilities, as well as the provisions in Section VI, subsection F, Piers, Docks, Recreational Floats, and Mooring Buoys.

¹⁵One open water moorage and anchorage area located in Eagle Harbor is permitted in the Aquatic environment adjacent to all upland environments.

SHORELINE USE	UPLAND ENVIRONMENTS					WATER ENVIRONMENTS	
	Rural	Conservancy	Rural	Semi-rural	Urban	Aquatic	Aquatic Conservancy
Forest Practices	X	CUP	CUP	CUP	CUP	NA	NA
Industry ¹⁶							
Water-dependent	X	X	X	X	P	#	X
Water-related	X	X	X	X	CUP	#	X
Nonwater-oriented	X	X	X	X	X	X	X
Mining	X	X	X	X	X	X	X
Parking (accessory) ¹⁷	C	P	P	P	P	X	X
Parking (primary) ⁴	X	X	X	X	X	X	X
Recreational Development							
Water-oriented	CUP5	P	P	P	P	P	X
Golf Courses	X	CUP	CUP	CUP	CUP	X	X
Nonwater-oriented	X	X	X	CUP	CUP	X	X
Residential							
Single-family	X	CUP	P	P	P	X	X
Multiple-family	X	X	X	P	P	X	X
Land division	CUP	CUP	P	P	P	#	#
Solid Waste Disposal	X	X	X	X	X	X	X
Transportation							
Trails	P	P	P	P	P	NA	NA
Publicly-owned ferry terminal facilities and services	X	X	X	X	CUP ¹⁸	#	X
Float plane facilities and services	X	X	X	X	CUP	#	X
Roads							

¹⁶Heliports and float plane facilities are transportation uses.

¹⁷See Section III, subsection F, Parking; Section V, subsection E, Commercial Development Regulation 7; and Section V, Parking and Circulation, subsection D, Boating Facilities Regulations - Design and Renovation/Expansion Regulation 7.

¹⁸New over-water facilities are permitted as a conditional use only in the ferry terminal district. Normal repair and maintenance of existing facilities do not require a conditional use permit, but may require an SSDP.

SHORELINE USE	UPLAND ENVIRONMENTS					WATER ENVIRONMENTS	
	Natural	Conservancy	Rural	Semi-rural	Urban	Aquatic	Aquatic Conservancy
Railroads, heliports, new bridge to Bainbridge Island, highways, arterials, secondary roads	X	X	X	X	X	X	X
Utilities (primary)	X	X	CUP ⁹	CUP ⁷	CUP ⁷	#	X
Breakwaters, Dikes, Levees, Jetties, Groins, Gabions, and Seawalls	X	X	X	X	X	X	X
Beach Enhancement	CUP ²⁰	CUP ⁸	CUP ⁸	CUP ⁸	CUP ⁸	CUP ⁸	CUP ⁸
Revetments	X	X	P ²¹	P ⁹	P ⁹	X ²²	X
Bulkheads	X	X	P ⁹	P ⁹	P ⁹	X ¹⁰	X
Dredging ²³	X	X	X	X	X	CUP ²⁴	X
Landfill	CUP ¹²	CUP ¹²	CUP	CUP	CUP	CUP ¹²	X
Piers and Docks	X	CUP	P	P	P	#	X
Recreational Floats and Mooring Buoys	X	X	P	P	P	#	X"

Section 10. BIMC 16.12.180 is amended to read as follows:

"16.12.180 Boating Facilities

¹⁹Permitted as a conditional use if no feasible alternative exists.

²⁰For restoration, enhancement or maintenance of natural resources or to enhance public access to the shoreline.

²¹If there are no revetments or bulkhead within 100 feet on either side of the property, new revetments and bulkheads shall be conditional uses.

²²Bulkheads and revetments maybe permitted in the aquatic environment where permitted in the adjacent upland environment but must be located at or near the ordinary high water mark.

²³These regulations do not apply to aquaculture activities.

²⁴For restoration, enhancement or maintenance of natural resources for navigational channels or public uses only.

A. Applicability. Boating facilities include marinas (both backshore and foreshore, dry storage and wet moorage, and open water types), boat launch ramps, covered moorage, marine railways, and marine travel lifts. (Refer to Section II for definitions.) Community, yacht club, camp, and resort moorage facilities must comply with boating facility requirements if they provide moorage for six (6) or more vessels. Both marina and nonmarina boating facilities, including single-family, must comply with BIMC 16.12.340, Piers, Docks, Recreational Floats, and Mooring Buoys. Other portions of Part VI may also apply.

Accessory uses found in marinas may include fuel docks and storage, boating equipment sales and rental, repair services, boat launches, bait and tackle shops, potable water, waste disposal, administration, parking, and grocery and dry good shops. Uses which are not clearly accessory are also subject to their respective provisions in this section. (Examples might include commercial, industrial, or transportation facilities.) Boating facilities are also subject to Section III, General Policies and Regulations and to Section IV, Environment Designations, including the standards in Table 4-2.

Regulations governing boating activities in the bays and harbors of Bainbridge Island are contained in City harbors and waters code and may also apply. See BIMC 16.12.340 for regulations governing mooring buoys.

B. Regulations - General.

1. Boating facilities, including marinas, shall be allowed as follows:
 - a. Boating facilities shall be permitted in the Urban environment and allowed as a conditional use in the Semi-rural and Rural environments.
 - b. Boating facilities shall be prohibited in the Natural, Conservancy, and Aquatic Conservancy environments.
 - c. Boating facilities shall be permitted in the Aquatic environment if permitted in the adjacent upland environment, allowed as a conditional use if so allowed in the adjacent upland environment, and prohibited if prohibited in the adjacent upland environment.
 - d. Boating facilities shall be permitted in public parks designated Conservancy environment and in the adjacent Aquatic environment.
 - e. One (1) open water moorage and anchorage area shall be a permitted use in the Aquatic environment adjacent to all upland environments east of Stetson Spit and west of the Washington State Ferry Maintenance Facility.
2. Boating facility development and/or renovation shall comply with all other applicable State and Federal agency policies and

- regulations including, but not limited to, the Department of Fish and Wildlife, Federal Marine Sanitation standards (Environmental Protection Agency 1972) requiring water quality certification from the U.S. Army Corps of Engineers (Section 10), U.S. Army Corps of Engineers dredging standards (Section 404), and State and Federal standards for the storage of fuels and toxic materials.
3. The City shall require the following information in its review of marina proposals:
 - a. Existing natural shoreline and backshore features and uses and bathymetric contours (1-foot increments);
 - b. Geo-hydraulic processes and flushing characteristics, volume, rates, and frequencies;
 - c. Biological resources and habitats for the backshore, foreshore, and aquatic environments;
 - d. Area of surface waters appropriated, and leased areas;
 - e. Site orientation; exposure to wind, waves, flooding or tidal/storm surges; and type and extent of shore defense works or shoreline stabilization and flood protection necessary;
 - f. Impact upon existing and created demand for shoreline and water uses including physical access, recreation, and views;
 - g. The regional need for additional facilities;
 - h. The design of the facilities including sewage disposal, restrooms, solid waste disposal, proposed signage, proposed exterior lighting, a proposed landscaping plan, and proposed use of noise-generating equipment;
 - i. Management and operations including accommodation of live-aboard vessels, including houseboats, provisions for the prevention and control of fuel spillage, and restrictions related to disposal of wastes and toxic materials; and
 - j. Other information that may be requested by the Director.
 4. Accessory uses at a marina or public launch ramp shall be limited to those which are water-dependent, related to boating, necessary for marina operation, or which provide physical or visual shoreline access to substantial numbers of the general public. Accessory uses shall be consistent in scale and intensity with the marina and/or launch ramp and surrounding uses.
 5. Shoreline permits for marinas shall be conditioned to include boater education addressing boater impacts on water quality and other shoreline resources, boater safety and requirements for boater use of sewage pumpouts.
 6. New marinas and expansion areas in existing marinas shall not have covered moorage.
 7. New floating homes and those that are not determined to be legally non-conforming shall be prohibited in all marinas and elsewhere in the shoreline jurisdiction of Bainbridge Island. Live-aboard

vessels, including houseboats, shall be permitted in marinas. No more than 25% of the surface area of a marina or 25% of its slips, whichever is less, shall be devoted to live-aboard vessels, including houseboats.

C. Regulations – Location.

1. When new sites are considered, sufficient evidence must be presented to show that existing marinas are inadequate and cannot be expanded to meet regional demand.
2. Marinas shall be sited to prevent any restrictions in the use of commercial and recreational shellfish beds. The specific distance shall be determined in conjunction with the Washington State Department of Health Services, the Washington State Department of Ecology, and other agencies with expertise. Criteria for determining the specific distance may include:
 - a. The size and depth of the water body;
 - b. Tidal flushing action in the project area;
 - c. Size of the marina and projected intensity of use;
 - d. Whether fuel will be handled or stored;
 - e. Existence of a sewer hook-up; and
 - f. Expected or planned changes in adjacent land uses that could result in additional water quality impacts or sanitary treatment requirements.
3. Marinas and public launch ramps shall be allowed only on stable shorelines where water depths are adequate to eliminate or minimize the need for offshore or foreshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach enhancement, and other harbor and channel maintenance activities.
4. Marinas and launch ramps shall be located only in areas where there is adequate water mixing and flushing and shall be designed so as not to retard or negatively influence flushing characteristics.
5. Boating facilities shall not require fixed breakwaters.
6. Marina and boat launch entrances shall not be located closer than one thousand (1,000) feet from beaches commonly used for swimming, or from valuable areas for commercial or recreational fishing or shellfish collection.
7. Marinas and launch ramps shall not be located at or along:
 - a. Significant littoral drift sectors, including resource material areas such as, feeder bluffs and accretion beaches, points, spits and hooks;
 - b. Wetlands, marshes, bogs, swamps and lagoons;
 - c. Mud flats and salt marshes;
 - d. Fish and shellfish spawning and rearing areas; or
 - e. Poorly flushed lagoons and backwaters.(See BIMC 16.12.080, Environmentally sensitive areas.)
8. Backshore marinas involving the creation of a basin for wet

moorage shall be prohibited by the Master Program.

9. Marinas shall not extend seaward farther than the following limits:
 - a. In Eagle Harbor, the Construction Limit Line, except that open water moorage and anchorage areas shall be allowed waterward of the Construction Limit Line.
 - b. Elsewhere, the offshore ends of the adjacent marinas where present, and in no instance two hundred (200) feet beyond extreme low tide or the -3 fathom contour, whichever is less. [WAC 332-30-122(1) (ii) or its successor and WAC 332-30-142 (8)(d) or its successor].

D. Regulations - Design/Renovation/Expansion

1. Proposals for marinas shall include public launch facilities unless the applicant can demonstrate that providing such facilities is not feasible.
2. Marina design shall provide thorough flushing of all enclosed water areas and shall not restrict the movement of aquatic life requiring shallow water.
3. The marina design shall minimize interference with geo-hydraulic processes and disruption of existing shore forms.
4. Boating facilities shall be designed so their structures and operations will be aesthetically compatible with or will enhance existing shoreline features and uses. Boating facilities shall mitigate for adverse development impacts on-site and to adjacent properties.
5. Shoreline embankments of all boating facilities shall be stabilized both above and below the water's edge both during and after construction.
6. Long-term dry moorage (for 6 or more vessels) and all other storage areas shall be set back at a preferred distance of one hundred (100) feet from the OHWM. This shall not apply to hand-launch vessels.
7. Short-term loading areas may be located at ramps or near berthing areas. Long-term parking and paved storage areas shall be separated from the OHWM by a vegetated native vegetation zone of at least fifty (50) feet.
8. Unless native vegetation on the perimeter of parking, dry moorage, and other storage areas is retained, these perimeter areas shall be landscaped with native plants or other approved materials. The permit application shall identify the size, location, and species of landscaping materials stressing native vegetation.
9. Public access, both visual and physical, shall be an integral part of all marina design and development commensurate with the particular proposal and must include the following:
 - a. Views from upland lots and public view corridors shall be preserved. Visual access shall not be reduced to less than

thirty-five (35) percent of the width of the lot, except that one-half of such requirement may be satisfied by an abutting street or waterway.

- b. Parking, landscaping, and recreational uses shall be permitted in the view corridor provided all other Master Program provisions are met.
10. All boating facilities and accessory uses must conform to the general provisions (Section III) and environment designation provisions (Section IV), including meeting the setback and height restrictions in Table 4-2.

E. Regulations - Parking and Circulation.

1. To the maximum extent possible, marinas and accessory uses shall share parking facilities, with marina usage given preference.

2. a. Parking facilities shall be provided according to the following schedule:

First 50 moorage slips:	1 vehicle space per 2 slips
Slips 51 to 100:	1 vehicle space per 3 slips
Slips over 100:	1 vehicle space per 4 slips

An additional parking space shall be provided for every four hundred (400) square feet of interior floor space devoted to accessory retail sales or services. Where live-aboards are permitted, additional parking shall be provided at a rate of 1 vehicle per live-aboard vessel or houseboat allowed.

- b. Parking facilities for open water moorage and anchorage areas shall be provided as follows: Live-aboard tenants of open water moorage and anchorage areas shall provide either a) evidence of access to one legal vehicle parking space per anchorage/moorage space for the duration of the anchorage/moorage period; or b) an affidavit stating that no vehicle is owned or used by the tenant. Day-use parking shall be provided according to the following schedule:

<u>First 50 moorage slips:</u>	<u>1 vehicle space per 2 slips</u>
<u>Slips 51 to 100:</u>	<u>1 vehicle space per 3 slips</u>
<u>Slips over 100:</u>	<u>1 vehicle space per 4 slips</u>

In addition, two load/unload parking spaces shall be provided for transient users of open water moorage and anchorage areas.

3. Marinas and launch ramps shall be located where access streets are adequate to handle the traffic load generated by the facility and shall be designed to minimize other circulation and access conflicts. Backing of trailers on public roads shall be prohibited and identified with appropriate signs.
4. Collector roads between marinas and arterial routes shall have all-weather surfacing and be satisfactory to the City in terms of width, safety, alignment, sign distance, grade, and intersection controls.

5. Marinas and boat launches shall be designed so that existing or potential public access along beaches is not unnecessarily blocked nor made dangerous, and so that public use of the surface waters below the OHWM is not unduly impaired.
6. At each public or quasi-public launch ramp, at least ten (10) car and trailer spaces at least ten (10) feet by forty (40) feet shall be provided for each ramp lane.

F. Regulations – Utilities.

1. All marinas shall have accessible boat sewage disposal systems on-site or other pump-out services. Existing marinas shall comply within one (1) year of the effective date of this regulation.
2. The marina shall provide facilities for the adequate collection and dumping of marina originated materials including, but not limited to, sewage, solid waste, and petroleum waste.
3. All marinas shall provide restrooms for boaters' use, including upland or floating facilities supporting open water moorage and anchorage areas. Upland restrooms shall be located within seventy-five (75) feet of the landward end of the dock or pier and floating restroom facilities shall be located to conveniently serve the tenants. Restrooms shall be identified by signs and be accessible to tenants twenty-four (24) hours a day. Marinas with fewer than ten (10) slips shall provide one (1) toilet and hand washing facility. Marinas with ten to one hundred slips shall provide one (1) toilet and hand washing facility for each gender. Marinas exceeding one hundred (100) slips shall provide an additional toilet and lavatory for each gender. Existing marinas shall comply within one (1) year of the effective date of this regulation.
4. Distribution systems for plumbing and wiring at a marina site shall be placed at or below ground and dock levels.
5. Public boat launch facilities shall provide and maintain dump stations and restrooms or portable toilets.

G. Regulations - Management and Operations.

1. The discharge of sewage and/or toxic material from boats and/or shore installations shall be prohibited. The responsibility for the adequate and approved collection and disposal of marina originated sewage, solid waste, and petroleum waste is that of the marina operator.
2. No commercial fish or shellfish processing discharge or discarding of unused bait, scrapfish, or viscera shall be permitted.
3. Marinas which dispense fuel shall have adequate facilities and establish posted operational procedures for fuel handling and storage in order to prevent/minimize accidental spillage.
4. Marinas shall have facilities, equipment, and established posted

- procedures for containment, recovery, and mitigation of spilled petroleum, sewage, and toxic products.
5. Marina operators shall post signs where they are readily visible to all marina users describing regulations:
 - a. Pertaining to handling and disposal of waste, wastewater, toxic materials, and recycling;
 - b. Prohibiting the use of marine toilets (i.e., no untreated sewage discharge);
 - c. Prohibiting the disposal of fish and shellfish cleaning wastes; and
 - d. Describing best management practices (BMPs) for boat maintenance and repairs on site.
 6. Garbage or litter receptacles shall be provided and maintained by the marina operator at several locations convenient to users in sufficient numbers to properly store all solid waste generated on site.
 7. Marina docks shall be equipped with adequate lifesaving equipment such as life rings, hooks, and ropes.
 8. Swimming shall be prohibited within marina facilities unless the swimming area is adequately separated, protected, and posted.
 9. If dredging at marina entrances changes the littoral drift processes and adversely affects adjacent shores, the marina operator shall be required to periodically replenish these shores with the appropriate quantity and quality of aggregate as determined by a geo-hydraulic study, paid for by the operator and completed to the satisfaction of the Director.
 10. Temporarily vacant moorage spaces shall be made available for "transient moorage" (less than two-week stay) when at least one of the following apply:
 - a. The marina is owned, operated, or franchised by a governmental agency for use by the public;
 - b. The marina provides more than three thousand (3,000) lineal feet of moorage; or
 - c. The marina is part of a mixed-use development which includes restaurants or other water-enjoyment uses.Additional transient moorage requirements may be established for Eagle Harbor in the Winslow Master Plan.
 11. Marina operators shall execute a lease, contract, or deed which establishes permission to use a slip for a stated period of time and which establishes conditions for use of the slip, including the requirement that all boats meet applicable sanitation regulations."

Section 11. BIMC 16.12.260(B)(18) is amended to read as follows:

- "18. a. Floating homes compliant with all the requirements of BIMC 12.40.080 and occupying the same location since November 25, 1996 shall be considered legally non-

- conforming.
- b. ~~Vessels having owners living aboard~~ Live-aboard vessels, houseboats, and legally non-conforming floating homes shall be allowed only at marinas or in a designated area of Eagle Harbor to be administered by the City of Bainbridge Island open water moorage and anchorage area in Eagle Harbor.
 - c. ~~Existing live-aboard vessels, houseboats, and legally non-conforming floating homes not located within a marina shall be required to relocate to a marina or open water moorage and anchorage area within Eagle Harbor within six (6) months after the establishment of such an open water moorage and anchorage area. Individuals who wish to moor in the designated area open water moorage and anchorage area must register their vessel with the police and sign a live-aboard agreement with the City.~~
 - d. Live-aboard vessels, houseboats, and floating homes ~~Such vessels must comply with all marine regulations, policies and procedures of the Coast Guard, Federal and State governments which pertain to health, safety and/or environmental protection. Proof of seaworthiness of the vessel and the adequacy of the mooring arrangement must be provided and laws governing all the citizens of Bainbridge Island must be obeyed. The City will~~ may charge fees to cover administrative costs and reserves the right to terminate the live-aboard agreement and expel and non-compliant vessel from the harbor.”

Section 12. BIMC 16.12.340(H) is amended to read as follows:

“H. Regulations -- Mooring Buoys and Recreational Floats.

1. Mooring buoys and recreational floats shall be prohibited in the Aquatic Conservancy environment. Mooring buoys and floats for recreational use shall be permitted in the Aquatic environment offshore from Conservancy, Rural, Semi-rural, and Urban environments and shall be prohibited offshore from the Natural environment. Mooring buoys for commercial use shall be permitted only as conditional uses offshore from the Urban environment. Mooring buoys for open water moorage and anchorage areas shall be permitted in the Aquatic environment offshore of all upland environments.
2. Buoys shall not interfere with navigation, shall be visible in daylight one hundred (100) yards away, and shall have reflectors for night visibility.
3. If a buoy is located offshore of the extreme low tide line, the owner shall obtain a lease for the bed of navigable waters from

- Department of Natural Resources. [WAC 332-30-122 (1)(ii) or its successor].
4. Buoys shall lie between the waterfront property side lot lines extended beyond the shoreline, except those on Department of Natural Resources tidelands. Vessels moored to the buoys shall not swing across the extended side lot lines. Where the configuration of the waterfront lot precludes these requirements, a mooring buoy owner shall file with the City a written statement from the affected, adjacent, waterfront property owners agreeing to the buoy placement. This provision shall not apply to buoys for open water moorage and anchorage areas.
 5. Mooring buoys shall be installed at least twenty (20) yards from other permitted piers, docks, floats, or buoys so as not to interfere with or obstruct existing piers, docks, floats, or buoys.
 6. Owners of waterfront property are permitted to install one (1) mooring buoy per waterfront lot, except that where the waterfront lot is owned in community, the City may permit upon the owners' application, additional mooring buoys with the total not more than one (1) per owner in the community. [WAC 332-30-122 (1)(ii) or its successor].
 7. Buoys shall be located offshore no farther than the Construction Limit Line in Eagle Harbor, and elsewhere not more than two hundred (200) feet beyond extreme low tide, the -3 fathom depth contour (-18 feet at mean low water), or the line of navigation, whichever is closest to shore. [WAC 332-30-148(2) or its successor]. Buoys for open water moorage and anchorage areas shall be allowed waterward of the Construction Limit Line in Eagle Harbor.
 8. The owners or lessees of waterfront property zoned for commercial or industrial use may install mooring buoys for commercial vessels, subject to obtaining a Shoreline conditional use permit from the City for each mooring buoy.
 9. A contractor doing waterfront work involving floating equipment may place a temporary mooring buoy convenient to the work site, provided it is the responsibility of the contractor to ensure that all necessary permits are obtained from all agencies with jurisdiction.
 10. Recreational floats shall be located as close to shore as possible. They shall be located no farther than the following limits:
 - a. In Eagle Harbor, the construction limit line.
 - b. Elsewhere, the distance necessary to obtain a depth of four (4) feet of water as measured at extreme low tide at the landward end of the float, or the line of navigation, whichever is closer to shore.
 11. Recreational floats must be built so that the deck surface is one (1) foot above the water's surface and shall have reflectors for night visibility.

12. Single-property-owner recreational floats shall not exceed eight (8) feet by (8) feet.
13. All recreational floats shall include stops which serve to keep the floats off the bottom of tidelands at low tide.”

Section 13. Pursuant to state law, the Shoreline Management Master Program amendments adopted by this ordinance become effective on the date of a letter to the City from the Washington State Department of Ecology approving the amendments. After the City receives such a letter from the Washington State Department of Ecology, the City Clerk shall publish in the City’s official newspaper a notice of the date on which the Shoreline Management Master Program amendments became effective.

Section 14. If any section, sentence, clause or phrase of this ordinance shall be held to be 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.

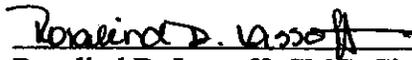
Section 15. This ordinance shall take effect on and be in force five (5) days from and after its passage, approval, and publication as required by law, or upon the date of a letter to the City from the Washington State Department of Ecology approving the Shoreline Management Master Program amendment adopted by this ordinance, whichever occurs last in time.

PASSED BY THE CITY COUNCIL this 10th day of October 2007.

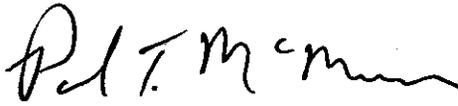
APPROVED BY THE MAYOR this 11th day of October 2007.


- Darlene Kordonowy, Mayor

ATTEST/AUTHENTICATE:


Rosalind D. Lassoff, CMC, City Clerk

APPROVED AS TO FORM:


Paul McMurray, City Attorney

FILED WITH THE CITY CLERK: July 11, 2007
PASSED BY THE CITY COUNCIL: October 10, 2007
PUBLISHED: October 17, 2007

EFFECTIVE DATE: This ordinance shall take effect on and be in force five (5) days from and after its passage, approval, and publication as required by law, or upon the date of a letter to the City from the Washington State Department of Ecology approving the Shoreline Management Master Program amendment adopted by this ordinance, whichever occurs last in time.

ORDINANCE NO.: 2007-16



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

November 25, 2009

Katharine Cook
Planning and Community Development Director
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110

CITY OF
BAINBRIDGE ISLAND
NOV 30 2009
DEPT OF PLANNING &
COMMUNITY DEVELOPMENT

**Re: Shoreline Master Program Limited Amendment
Open Water Marina Amendment Ordinance # 2007-16**

Dear Katharine Cook:

I would like to take this opportunity to commend the City of Bainbridge Island (City) for its efforts in developing the proposed Shoreline Master Program amendment. It is not only consistent with the needs of the City, but also with the policy and procedural requirements of the Shoreline Management Act of 1971 and the Shoreline Master Program Guidelines.

That said, it pleases me to inform you that the City of Bainbridge Island's proposed amendment is approved as submitted. The amendment is effective as of the date of this letter. The enclosed Findings and Conclusions (Attachment A) provides more information about our decision.

Congratulations! We look forward to similar positive results with future amendment proposals.

As a reminder, you are now required to promptly publish a newspaper notice stating that the Department of Ecology has taken final action on the amendment. The publication of the notice begins a 60-day public appeal period.

Should you have any questions, please contact our regional planner, Barbara Nightingale, at bnig461@ecy.wa.gov /425 649-4309.

Sincerely,

Ted Sturdevant
Director

Enclosures

By Certified Mail

cc: Barbara Nightingale, Ecology NWRO
Peter Skowlund, Ecology HQ
Interested Parties



**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED OPEN WATER MARINA AMENDMENT TO
THE CITY OF BAINBRIDGE ISLAND
SHORELINE MASTER PROGRAM**

SMP Submittal October 19, 2007, Ordinance No.2007-16
Prepared by Barbara Nightingale, on November 6, 2009

Brief Description of Proposed Amendment:

The City of Bainbridge Island proposes a "less than comprehensive" amendment to its Shoreline Master Program (SMP). In general, this amendment: 1) adds a definition for an Open Water Moorage and Anchorage Area, as a designated area of state-owned aquatic lands leased for the moorage and anchorage of commercial, recreational, and residential vessels; 2) adds open water marinas, to the existing SMP definition of Marina and Boating Facilities; 3) allows one open water moorage and anchorage area to be permitted in the Eagle Harbor Aquatic Environment, and 4) limits live-aboard vessels, houseboats, and non-conforming floating homes to a designated open water moorage area. This amendment does not establish the open water moorage area. Rather, it provides the basis for evaluating any future proposal for an open water marina under the Shoreline Substantial Development Permit (SSDP) process.

FINDINGS OF FACT

Need for Amendment: Historically, the middle of Eagle Harbor has been used for moorage and anchorage of recreational, commercial, and live-aboard vessels. However, as these vessels are anchored over state-owned aquatic lands, they are also subject to Washington State Department of Natural Resources (DNR) requirements, which historically did not allow for residential uses. In 2002, DNR promulgated a new rule, the Residential Use Rule, to allow residential uses over state-owned aquatic lands. This rule, defining open water moorage and anchorage areas, required the City to identify open water moorage area(s) for residential use, through an SMP amendment, before November 17, 2007. On October 10, 2007, the City Council passed Ordinance 2007-16 defining a potential open water moorage area in Eagle Harbor and amending its existing SMP. This amendment brings the City into compliance with WDNR management of aquatic lands per WAC 332-30-106(45) and allows DNR to lease open water moorage and anchorage areas to the City (WAC 332-30-139).

SMP Provisions To Be Changed By The Amendment As Proposed: This amendment adds to the existing SMP a definition for an Open Water Moorage and Anchorage Area as "*a designated area of state-owned aquatic lands leased for the moorage and anchorage of vessels that does not abut uplands and does not include a built connection to the uplands*". Open water moorage and anchorage areas are leased only by municipalities that have authorized these areas in their SMP, per WAC 332-30. The amendment adds Open Water Marinas, to the existing SMP definition of Marina and Boating Facilities and applies associated parking, utilities, mooring buoy, residential development SMP regulations to those areas. It allows one open water moorage and anchorage area to be permitted in the Aquatic Environment in the Middle Harbor Zone of Eagle Harbor.

In summary, the proposed amendment to the City's SMP (BIMC, Chapter 16.120;

- Provides regulations for the establishment and operation of an open water marina in the Middle Harbor Zone of Eagle Harbor;
- Provides the basis for evaluating any future proposal for an open water marina under the Shoreline Substantial Development (SSDP) process.
- Adds a definition of an "open water moorage and anchorage area" that closely parallels the definition provided in Washington State Department of Natural Resources (WDNR) regulations (WAC 332-30-106[45]) in order to ensure consistency with the WDNR leasing program for such facilities;
- Defines the open water moorage and anchorage area as a "marina", thus insuring that existing standards for marinas apply;
- Makes changes to existing marina regulations regarding parking, sanitary facilities, the construction limit line, and residential uses;
- Establishes a general location for any future open water marina, and
- Includes one open water marina as a permitted use in the Aquatic Environment adjacent to all upland designations in that location.

Amendment History, Review Process: The proposed SMP amendment originated from a local planning process beginning in 1999. The record shows that workshops, open to the public, were held on June 19, 2007, July 11, 2007, and September 5, 2007. The City Council held three public hearings before the City Council on August 29, 2007, September 12, 2007 and October 10, 2007. With passage of Ordinance No. 2007-16 on October 10, 2007, the City Council authorized staff to forward the proposed amendment to Ecology for approval.

The proposed amendment was received by Ecology for state review and verified as complete on January 13, 2009. Ecology opened a 30-day public comment period from January 23, 2009 through February 23, 2009. Ecology received fifteen (15) comments on the proposed amendment. Four (4) of these comments were in opposition to the amendment: a) claiming there was ample available marina space; b) claiming, in general, additional marina space was needed, and c) expressing concern for navigation risks, lack of enforcement, and debris containment. Eleven (11) comments supported the amendment. Six (6) of these comments supported the amendment to preserve community diversity and historical uses. Eight (8) of these comments referenced the need for management and enforcement of environmental regulations, particularly sanitation, waste disposal and debris containment. Ecology prepared a public comments responsiveness summary for the City summarizing and providing copies of all public comments received during that period. The City did not submit responses to those issues until October 8, 2009.

Upon inquiry, the City has clarified that Ordinance 2007-16 referencing of Table 4-1 in two separate sections, on pages 3 and 18, with different footnoting numbering is due to the footnotes on page 3 referring to changes to the SMP, which is correctly footnoted; while the footnotes on page 18 are referring to how the table will appear in the Bainbridge Island Municipal Code (BIMC), which will have a different footnote numbering system from the SMP. Please note the attached letter of November 3, 2009 from Director Katharine Cook from the City of Bainbridge Island Department of Planning and Community Development clarifying these different footnoting systems.

Consistency with Chapter 90.58 RCW: The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria and procedural requirements for amending an SMP contained in RCW 90.58.090.

Consistency with "applicable guidelines" (Chapter 173-26 WAC, Part III): The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program guidelines (WAC 173-26-171 through 211 and -020 definitions). This included review of a SMP Submittal Checklist, completed by the City.

Consistency with SEPA Requirements: The City submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance for the proposed SMP amendment on August 7, 2007 notice of the SEPA determination was published in the Bainbridge Review on August 11, 2007. Ecology did not comment on the DNS.

Summary of Issues Raised During The Public Review Process: The City's amendment drafting and public review process centered on navigation, sanitation, water quality, enforcement and affordable housing issues.

Summary of Issues Identified by Ecology as Relevant To Its Decision: Whether this amendment is consistent with RCW 90.58 and WAC-173-26-171 through 211.

CONCLUSIONS OF LAW

Upon review of the complete record, Ecology concludes that the City's SMP amendment is consistent with the policies and standards of RCW 90.58 and the applicable SMP guidelines, WAC 173-26-171 through 211. This includes a conclusion that the proposed SMP amendment, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of this new SMP amendments (WAC 173-26-201(2)(c)).

Ecology concludes that the City has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP amendment process.

Eagle Harbor is a shoreline of statewide significance. Ecology concludes that this amendment relates to shorelines of statewide significance and provides for optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)) to satisfy the statewide interest. Much analysis and public outreach has brought this amendment to its present state of ensuring that the public's interest in navigability, safety and environmental protection can be achieved.

Ecology concludes that the City has complied with the purpose and intent of the local amendment process required by WAC 173-26-100, including conducting workshops and public hearings, notices, consultation with parties of interest, and solicitation of comments from tribes, government agencies, and Ecology.

Ecology concludes that this limited amendment submittal to Ecology complies with WAC 173-26-201(1) and does not trigger a comprehensive amendment. The criteria for meeting this status includes that: a) the amendment does not represent a significant modification to City shoreline management practices and does not modify uses in shoreline environment designation, as the current SMP allows boating facilities in areas designated Aquatic; b) physical shoreline conditions have not changed since the last comprehensive amendment; c) the amendment does not affect a substantial portion of the shoreline area; d) the amendment does not trigger any changes to use conflicts or public access, and e) the amendment does not change the consistency between the existing SMP and the City's comprehensive plan. This limited amendment has been moving towards a local and formal adoption for a decade. This amendment is required by WAC 332-30-106(45) for lands managed by WDNR, to allow the City to enter into a lease with WDNR and comply with WDNR management of state-owned aquatic lands.

Ecology concludes that the City's amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) requiring a SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in WAC 173-26-120.

Ecology concludes that the City has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendment is consistent with the policy of the Shoreline Management Act, the applicable guidelines and implementing rules. It is recommended that Ecology approve this limited amendment without changes.

Based on the preceding, the City's clarification of different Table 4-1 footnote numbering systems in the SMP and the Bainbridge Island Municipal Code (BIMC) in Ordinance 2007-16 does not affect the Ecology decision to approve this amendment as is it refers to future numbering systems of the BIMC.

**CITY OF BAINBRIDGE ISLAND
NOTICE OF STATE APPROVAL**

YOU ARE HEREBY NOTIFIED – Pursuant to the Shoreline Management Act (RCW 90.58 & WAC 173-26), the Washington State Department of Ecology has approved the City of Bainbridge Island Shoreline Management Master Program amendment (Ordinance 2007-16) which provides regulations for the establishment and operation of an open water marina in the Middle Harbor zone of Eagle Harbor. Pursuant to WAC 173-26-130(1), appeals can be filed with the Central Puget Sound Growth Management Hearings Board. Questions should be directed to:

Kelly Dickson, Planner
City of Bainbridge Island
Department of Planning and Community Development
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Bainbridge Island, WA 98110
pcd@ci.bainbridge-isl.wa.us
(206) 780-3725

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