



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND**

**AB 6340
September 19, 2023
Regular Business**

AGENDA BILL INFORMATION

TITLE:	AB 6340: Shoreline Master Program Amendments (Ordinance No. 23C-15 First Reading)	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
RECOMMENDED ACTION:	Set second reading and adoption of Ordinance No. 23C-15 for October 3, 2023.	

DEPARTMENT:	Community Planning and Development
STAFF:	Jeff Thomas, Community Planning and Development Director Alison Van Gorp, Community Planning and Development Deputy Director Molly McGuire, Planner
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Ordinance No. 23C-15 2. Department of Ecology Letter, dated August 3, 2023. 3. Planning Commission Recommendation
CITY COUNCIL PRIORITY:	n/a

AMOUNT OF EXPENDITURE	\$ n/a
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUIRED	\$ n/a

EXECUTIVE SUMMARY

The purpose of this agenda bill is to present Ordinance No. 23C-15 for a first reading. Ordinance No. 23C-15 (Exhibit 1) would amend the Shoreline Master Program (SMP) in Chapter 19.13 Mercer Island City Code (MICC) to add “marina” and associated development standards as a new use, add “marina” as a definition in Chapter 19.16 MICC, and amend MICC 19.13.010 to clarify the relationship between the Mercer Island Shoreline Master Program and state law.

- The Shoreline Management Act (SMA) requires cities and counties to adopt shoreline master programs to regulate shorelines of the state. Lake Washington is a shoreline of the state.
- The City has adopted an SMP element of the Comprehensive Plan and has implemented regulations in Chapter 19.13 MICC, consistent with Chapter 90.58 RCW.
- In 2022, the Mercer Island Beach Club (MIBC) submitted an annual docket request for amendment of the Mercer Island SMP to allow for the redevelopment of their existing marina.
- City Council directed the Planning Commission to consider amendments to the SMP proposed by the MIBC.

- Between February and June 2023, the Planning Commission reviewed and refined the proposed amendments with a unanimous recommendation being made on June 7, 2023 for the City Council to adopt the proposed amendments to the SMP and MICC.
- On July 7, 2023, the City submitted the proposed amendments to the Washington State Department of Ecology (Ecology) for their initial review.
- On August 3, 2023, Ecology provided a formal written statement of initial concurrence with the proposed amendments (Exhibit 2).

BACKGROUND

The Washington State Shoreline Management Act requires all cities and counties to adopt Shoreline Master Programs (SMP). An SMP establishes standards and requirements for development in the shorelines of the state, which includes the area 200 feet landward of the Ordinary High Water Mark (OHWM). The Washington State Department of Ecology (Ecology) evaluates and reviews all SMPs for consistency with the Shoreline Management Act by Ecology prior to adoption.

The Mercer Island SMP is established by [Element 7 of the Comprehensive Plan](#) and [Chapter 19.13 MICC](#). [MICC 19.13.040 - Table B Shoreland Uses Waterward of the Ordinary High Water Mark](#) specifies the uses that are allowed within each shoreline environment designation, and which permits are required for the use. The table currently includes a footnote that prohibits any use that is not listed in the table from being constructed on the shoreline. Given that footnote, a new or expanded marina would be prohibited. [MICC 19.13.050 – Shoreland development standards](#) establishes development standards for all development within the shoreline.

On September 29, 2022, the Mercer Island Beach Club (MIBC) submitted a code amendment request through the annual docket. They proposed amending the SMP to allow redevelopment and expansion of their existing boating facility, which is currently prohibited by the footnotes in MICC 19.13.040 – Table B. On December 6, 2022, the MIBC code amendment request was added to the final docket by [Resolution No. 1641](#).

The City is authorized to review and make amendments to its SMP it deems necessary by [WAC 173-26-090](#). [WAC 173-26-104](#), which authorizes local governments to use a joint review process with Ecology. This process combines local, and state public comment periods and hearings required by [RCW 90.58.090](#). The joint review process requires close coordination with the City and Ecology staff in conducting a joint public review of the proposed amendments. City and Ecology staff held several coordination meetings throughout the legislative process to ensure the proposal was consistent with state standards prior to Planning Commission review. Ecology staff was present at both joint public hearings to provide feedback and answer questions regarding state standards for shoreline uses and the joint review process. Ecology also provided public comment on the proposed amendments and recommended proposed alternatives to the Planning Commission.

The Planning Commission legislative review took place between February and June 2023. City staff coordinated with Ecology and the Planning Commission to develop amendments that would resolve the problem originally raised in the MIBC docket request, while remaining consistent with the requirements of the Shoreline Management Act. The Planning Commission review took place as follows:

- February 22, 2023 – Initial Planning Commission review of proposal and staff alternative;
- March 22, 2023 – Joint public hearing with Planning Commission and the Washington State Department of Ecology (Ecology) regarding the proposal and alternative. Planning Commission asked staff to draft a new alternative to establish new regulations for marinas;

- April 26, 2023 – Planning Commission review of staff drafted alternative; and
- June 7, 2023 – Joint public hearing with Planning Commission and Ecology regarding the proposed alternative. Following the public hearing, the Planning Commission unanimously recommended the adoption of the proposed amendments to the SMP and MICC.

During the March 22, 2023, joint public hearing with Ecology, the Planning Commission requested that staff draft an alternative to allow “marina” with a Shoreline Conditional Use Permit (SCUP). This alternative required amendments to [MICC 19.13.040 Table B](#) to allow the use, and drafting new development standards for marinas under [MICC 19.13.050 Shoreland Development Standards](#). The Planning Commission was briefed and provided input on the alternative on April 26, 2023. On June 7, 2023, the Planning Commission held a second joint public hearing with Ecology, during which the Planning Commission considered public comments and staff feedback. Following the public hearing, the Planning Commission unanimously recommended adoption of the proposed amendments to the SMP.

Following the Planning Commission recommendation to adopt the proposed amendments, the proposal was sent to Ecology for its initial review for consistency with state standards. A Determination of Consistency for the initial proposal was received on August 3, 2023.

ISSUE/DISCUSSION

Ordinance No. 23C-15 would amend MICC 19.13.010(E), MICC 19.13.040 Table B, MICC 19.13.050, and MICC 19.16.010 as follows.

Section 1: Amends MICC 19.13.010

MICC 19.13.010 establishes the authority and purpose of the SMP. Subsection (E) establishes the relationship of the SMP and other federal and state laws. It does not allow for the SMP to relieve any responsibility to comply with other federal and state laws or permits. This section would be amended to provide clarity on processing various shoreline permits, a clarification that is necessary to allow for the City to implement the appropriate permit processing procedures found in WAC 173-27 for shoreline management permit and enforcement procedures.

Section 2: Amends MICC 19.13.040

MICC 19.13.040 Table B contains shoreland uses waterward of the ordinary high water make, the shoreline environment those uses are allowed or not permitted within, and the type of permitting process an applicant must go through to obtain a permit for a proposed use. During the March 22, 2023, Planning Commission public hearing, staff were directed to explore an alternative to the originally proposed amendment in which “marina” would be added as a shoreland use waterward of the OHWM. In the proposed Ordinance, marina has been added to Table B, allowed through the Shoreline Conditional Use Permit (SCUP) process in the Urban Residential Shoreline Environment Designation, and Not Permitted in the Urban Park Shoreline Environment Designation.

Section 3: Amends MICC 19.13.050

MICC 19.13.050 establishes shoreland development standards in which all development within the shoreline jurisdiction shall be in compliance with all development requirements specified in this chapter. Because “marina” was added as a new use in Table B, development standards consistent with state regulations for boating facilities and marinas were necessary to include in the City’s SMP. Ordinance No. 23C-15 includes proposed standards for marinas, including eligibility, location, size, and environmental requirements.

Section 4: Amends MICC 19.16.010

MICC 19.16.010 contains definitions for terms used throughout the code. Since “marina” is a new use and has not been established throughout the code, a new definition was added to this section.

Section 6: Effective Date

Following the Planning Commission recommendation to adopt the proposed amendment and prior to the first City Council reading, Ecology provided an initial determination of consistency on August 3, 2023. After City Council reviews and adopts the proposed amendments, Ecology will conduct a second review and approval. Ordinance No. 23C-15 will not go into effect until approval from Ecology is received.

NEXT STEPS

- Second reading of Ordinance No. 23C-15 on October 3.
- Following City Council’s action, the proposed amendment will be sent to Ecology for final review and approval.

RECOMMENDED ACTION

Move to set Ordinance No. 23C-15 for second reading and adoption at the October 3, 2023, City Council meeting.