

ATTACHMENT B: REQUIRED AND LOCAL CHOICE REGULATIONS

Local Choices: The City has more flexibility for the regulations listed below as local choices column. The local choices included in the draft regulations have been researched by staff and adapted from state guidance and surrounding jurisdictions. Local choices listed in the table are highlighted in yellow.

State Requirement: The regulations included in the “State Requirements” column are required by the Washington Administrative Code (WAC). These are not able to be changed. This column contains summaries of each regulation. Please see the Draft Marina Regulations document for the full regulations.

Code Section	Proposed Text	Required or Local Choice	Source/Discussion
Amend MICC 19.13.040 Table B - Shoreland Uses Waterward of the Ordinary High Water Mark.	Marinas are added as a new use and are allowed in the Urban Residential Environment shoreline designation as a Permitted (P) use. Marinas are Not Permitted (NP) in the Urban Park Environment shoreline designation.	Local Choice	During the March 22 public hearing, the Planning Commission recommended that Marinas be allowed as a permitted use, which would require only a Shoreline Substantial Development Permit (SSDP). Marinas were not considered as an allowed use through an SSDP during the most recent periodic update, so the resulting cumulative impacts were not analyzed. Due to the variability in size, intensity, and impacts, and the necessity for public input and evaluation of cumulative impacts, staff recommends allowing marinas by Shoreline Conditional Use Permit. Please review the staff memo for further discussion.
Amend MICC 19.13.050(F) Shoreland Development Standards for Moorage Facilities.	<i>Moorage facilities.</i> All permits for new and expanded moorage facility, other than <u>marinas and public access piers or boardwalks</u> , shall meet the following standards unless otherwise exempted. Moorage facilities have the option of meeting either the development standards prescribed in subsection (F)(1) or (F)(2) of this section, or the "alternative development standards" in subsection (F)(3) of this section.	Local Choice	Moorage Facilities standards are highly focused on privately owned residential facilities. The standards in this section should not apply to marinas due to size and ownership differences. Public access piers, docks, or boardwalks, which are more like marinas, are also exempted from this section.
Proposed new MICC 19.13.050(L)(1) Shoreland Development Standards – Proposed new section (L) for “Marinas”.	L. <i>Marinas.</i> Marinas must comply with the following standards. 1. With the exception of the requirements for moorage facilities related to width and length, marinas shall comply with design standards required for moorage facilities listed in Table D, Requirements for Moorage Facilities and Development Located Waterward from OHWM.	Local Choice	Marinas are a different use to privately owned residential moorage facilities and proposed to be subject to different width and length requirements. Under this proposed regulation, Marinas would be subject to the other design standards in Table D, such as setbacks and height limits.
Proposed new MICC 19.13.050(L)(2)	2. Marinas are allowed only if they provide significant public access to the shoreline meeting one of three conditions (owned or operated by a public agency, owned or operated by an organization serving 50+ people, or open to the general public without access limited by a membership)	Local Choice	This requirement is in line with one of the goals of the SMA to maintain public access to the shorelines and waters of the state. This would prevent private, single-family residences from developing a marina.
Proposed new MICC 19.13.050(L)(3)(a) Application Requirements.	3. <i>Application Requirements.</i> Applications for marinas must include the following. a. A no net loss plan, consistent with MICC 19.13.020(C), which demonstrates that the proposed project will not create a net loss in ecological function of the shorelands.	Required	Marinas are a high intensity use that should always require a no net loss plan based on the SMA no net loss requirements.

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Proposed new MICC 19.13.050(L)(3)(b) Application Requirements.	<p>b. A demand analysis or master plan that projects future needs for pier or dock space during the life of the development.</p> <p>i. The total amount of moorage spaces proposed;</p> <p>ii. The total number of commercial moorage spaces within a one-mile radius of the proposed facility; and</p> <p>iii. The expected population and vessel characteristics of the potential users of the facility and how these characteristics relate to specific facility design elements including slip sizes, pier and dock length, and necessary water depth.</p>	Required and Local Choice	<p>A demand analysis for new nonresidential docks is required by WAC 173-26-231(3)(b).</p> <p>While the demand analysis is a state requirement, the requirements within the analysis are more flexible. Staff has proposed three requirements to gather more information on the proposal and to ensure that the facility has been designed to the minimum necessary to meet demand needs.</p>
Proposed new MICC 19.13.050(L)(4)(a) General Requirements.	<p>4. <i>General Requirements.</i> The following standards apply to all marinas.</p> <p>a. Marinas shall be designed and operated consistent with federal and state water quality laws and established best management practices (BMPs) for marina operators, including BMPs for bilge water discharge, hazardous waste, waste oil and spills, sewer management, and spill prevention and response. Rules for spill prevention and response, including reporting requirements, shall be posted on site.</p>	Local Choice	<p>Requiring state and federal approval is a standard found throughout the SMP for moorage facilities and public access piers, docks, and boardwalks. Requiring BMPs and on-site spill response to be posted is a recommendation from <u>Pollution Prevention For WA State Marinas</u>, marina best management practices published by the University of Washington. https://wsg.washington.edu/wordpress/wp-content/uploads/marina-handbook.pdf</p>
Proposed new MICC 19.13.050(L)(4)(b) General Requirements.	<p>b. Marinas shall be designed and sited to prevent the need for maintenance dredging during the life of the development. Moorage must be designed to avoid vessels resting on the lakebed.</p>	Required	<p>Requirement from WAC 173-26-231(3)(f)</p>
Proposed new MICC 19.13.050(L)(4)(c) General Requirements.	<p>c. Marinas must not be larger than necessary to accommodate the expected need as determined by the required demand analysis, this includes:</p> <p>i. Piers, docks, and floats must not be wider or longer than necessary to accommodate the expected need;</p> <p>ii. The number of slips provided must not exceed the expected need; and</p> <p>iii. The slip dimensions must not be larger than necessary to moor the expected vessels moored.</p>	Required	<p>Requirement from WAC 173-26-231(3)(b)</p> <p>Ensures that the marina is designed to be the minimum size necessary to meet the demand demonstrated by the demand analysis to prevent unnecessary impacts.</p>
Proposed new MICC 19.13.050(L)(4)(d) General Requirements.	<p>d. Marinas shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. All other exterior finishes above the waterline must be nonreflective.</p>	Local Choice	<p>This is a common standard included in several surrounding jurisdiction's codes and a recommended regulation in Ecology's SMP Handbook (page 8).</p>
Proposed new MICC 19.13.050(L)(4)(e) General Requirements.	<p>e. Marinas must not include materials treated with pentachlorophenol, creosote, chromated copper arsenate, or comparably toxic compounds. Any paint, stain or preservative applied to components of the marina must be leach resistant and completely dried or cured prior to installation.</p>	Required	<p>WAC 220-660-140(4)(c) & Ecology's SMP Handbook (page 12)</p>
Proposed new MICC 19.13.050(L)(4)(f) General Requirements.	<p>f. Marinas must not interfere with the public use and enjoyment of the water or create a hazard to navigation.</p>	Required	<p>WAC 173-26-241(3)(c)(vii)</p>

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Proposed new MICC 19.13.050(L)(4)(g) General Requirements.	g. At least one (1) pumpout facility for use by the general public shall be provided. This facility must be easily accessible to the general public and clearly marked for public use.	Local Choice	Would reduce potential water pollution by providing boaters with a facility to safely dispose of wastewater.
Proposed new MICC 19.13.050(L)(4)(h) General Requirements.	h. At least one (1) Public restroom must be provided upland of the OHWM.	Local Choice	Would reduce potential water pollution by providing the public with a designated public restroom.
Proposed new MICC 19.13.050(L)(4)(i) General Requirements.	i. At least one (1) covered and secured waste receptacle must be provided upland of the OHWM.	Local Choice	Would reduce potential water pollution by providing marina users with a designated trash receptacle.
Proposed new MICC 19.13.050(L)(4)(j) General Requirements.	j. Utility and service lines located waterward of the OHWM must be affixed below the pier deck and above the water. Utility and service lines located upland of the OHWM shall be underground, where feasible.	Local Choice	Ensure that utility lines on marinas would not be placed above the dock. This would reduce negative visual impacts. Esthetic impacts and visual access are part of 'public access' goals under the SMA.
Proposed new MICC 19.13.050(L)(4)(k) General Requirements.	k. Covered moorage is prohibited in marinas.	Local Choice	Covered moorage is largely discouraged in Ecology's SMP Handbook (page 12) due to shading impacts.
Proposed new MICC 19.13.050(L)(4)(l) General Requirements.	l. Floating homes and live aboard vessels are prohibited.	Local Choice	Floating homes are prohibited in Table B of the SMP. Prohibiting live aboard vessels as well provides more clarity for allowed uses in the marina.
Proposed new MICC 19.13.050(L)(4)(m) General Requirements.	m. Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48 hours of the completion of construction. Woody vegetation components shall be planted in the fall or early winter, whichever occurs first. The applicant shall take appropriate measures to ensure revegetation success.	Local Choice	This standard is used elsewhere in the SMP to ensure that bank vegetation is minimally disturbed and replaced as necessary.
Proposed new MICC 19.13.050(L)(4)(n) General Requirements.	n. Exterior lighting mounted on piers, docks or other overwater components of a marina shall be at ground or dock level, be directed away from adjacent properties and the water, and designed and located to prevent light from spilling onto the lake water. The following development activities are exempt from this requirement: i. Emergency lighting required for public safety; ii. Lighting required by state or federal regulations; iii. Lighting for public rights-of-way; iv. Outdoor lighting for temporary or periodic events (e.g., community events at public parks); and v. Seasonal decorative lighting.	Local Choice	Ensures that lighting will not be mounted overhead and reduces the visual impacts of the marina.
Proposed new MICC 19.13.050(L)(4)(o) General Requirements.	o. The applicant must provide documentation of approval of the marina by both the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife.	Required	State and federal agency approvals are required for all overwater structures. This same standard is used elsewhere in the SMP for both privately owned residential moorage facilities and public access piers, docks, and boardwalks.
Proposed new MICC 19.13.050(L)(4)(p) General Requirements.	p. Vessels shall be restricted from extended mooring on waters of the state, except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.	Required	WAC 173-26-231(3)(c)(viii)

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Proposed new MICC 19.13.050(L)(5)(a) Piles.	5. Piles. Piles associated with a marina must comply with the following requirements. a. Piles shall be placed at least eighteen (18) feet from the OHWM.	Local Choice	Limits disturbance of lakebed near the shoreline and is also required for public access piers, docks, and boardwalks elsewhere in the SMP.
Proposed new MICC 19.13.050(L)(5)(b) Piles.	b. Piles shall not be treated with pentachlorophenol, creosote, chromated copper arsenate or comparably toxic compounds.	Required	WAC 220-660-140(4)(c) and Ecology's SMP Handbook (page 12).
Proposed new MICC 19.13.050(L)(5)(c) Piles.	c. Piles must be spaced eighteen (18) feet apart. The code official may authorize alternate spacing of piles provided the applicant demonstrates that the alternate spacing reduces the total number of piles needed for the project.	Local Choice	Allows for flexibility in spacing of the piles and gives the applicant the opportunity to use fewer piles which would result in less disturbance of the lakebed.
Proposed new MICC 19.13.050(L)(5)(d) Piles.	d. Piles must not exceed twelve (12) inches in diameter. The code official may authorize larger piles provided the applicant demonstrates that the larger piles reduce the total number of piles needed for the project.	Local Choice	Allows for flexibility in diameter of the piles and gives the applicant the opportunity to use fewer piles which would result in less disturbance of the lakebed.
Proposed new MICC 19.13.050(L)(5)(e) Piles.	e. Piles must be fitted with devices to prevent perching by fish-eating birds.	Required	WAC 220-660-140(4)(e).
Proposed new MICC 19.13.050(L)(6)(a) Piers, docks, and floats.	6. Piers, docks, and floats. Piers, docks, and floats associated with a marina must comply with the following requirements. a. Marina piers, docks, and floats must be designed to minimize the lakebed shading to the greatest degree feasible. i. Piers, docks, and floats within thirty (30) feet of the OHWM must not exceed six feet in width. ii. Piers, docks, and floats more than thirty (30) feet from the OHWM may be wider than six (6) feet provided: A. Piers, docks and floats wider than six (6) feet must be approved by the Army Corps of Engineers and/or Washington Department of Fish and Wildlife; B. Potential environmental impacts of piers, docks, and floats with a width greater than six (6) feet must addressed in the required no net loss plan; and C. The code official may condition approval to require mitigation for any pier, dock, or float exceeding six (6) feet in width. iv. Piers, docks, and floats must be fully grated. The grating material's open area must be at least sixty (60) percent.	Required and Local Choice	WAC 220-660-140(3)(c)(iv)(E) WAC 220-660-140(3)(c) WAC 220-660-140(3)(c)(i) 19.13.050(L)(6)(a)(ii), Allowing floats more than 30 feet from the OHWM to be wider than six feet is a local choice. This gives the applicant flexibility in marina designs while requiring the backstop of state and federal agency approvals, and demonstration of no net loss of ecological function of the shorelands. This provision also gives the code official the opportunity to require mitigation to ensure no net loss is met for docks that exceed 6 feet in width.
Proposed new MICC 19.13.050(L)(6)(b) Piers, docks, and floats.	b. Length. Marina piers, docks, and floats must be designed to avoid adversely affecting navigability of waterways. i. Piers, docks, and floats shall not extend more than one-hundred and fifty (150) feet waterward of the OHWM. ii. The code official may condition approval to reduce the maximum length to reduce the effects of piers, docks, and floats on navigability of the waterway.	Local Choice	150 feet is the maximum distance allowed in other areas of the SMP and is suggested here for consistency. The 150 foot maximum is a local choice, but the SMA requires jurisdictions to avoid impacts to navigability. Establishing the maximum distance from the OHWM of 150 feet is one of the ways the City's SMP avoids impacting navigability of waterways.

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Proposed new MICC 19.13.050(L)(6)(c) Piers, docks, and floats.	<p>c. Floats. Floats associated with a marina must comply with the following requirements.</p> <p>i. All floats shall be designed to prevent the bottom of the float from resting on the lakebed.</p> <p>ii. All floats must be fully enclosed and contained in a shell, tub, or wrap. The shell, tub, or wrap must prevent breakup or loss of the flotation material into the water. The shell or wrap must not be readily subject to damage by ultraviolet radiation and abrasion.</p>	Local Choice and Required	<p>WAC 220-660-140(3)(e)</p> <p>The regulation requiring that floats not rest on the lakebed is a local choice. This will minimize impacts to aquatic vegetation and habitat. Nearly all of the other marina regulations reviewed had similar requirements.</p>
MICC 19.16.010 Definitions, proposed new definition for "Marina".	<p><i>Marina</i>: A private or public moorage facility providing the purchase, lease, and/or use of a slip for storing, berthing, and securing watercraft, including both long-term and transient moorage. Marinas may include accessory facilities for providing incidental services to users of the marina, such as waste collection, boat sales, or rental activities, and retail establishments providing fuel service, repair, or service of watercraft. Marinas do not include moorage facilities serving four or fewer single-family residences.</p>	Local Choice	<p>Standard definition used by the City of Kirkland and contains language from state requirements.</p>

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