

	THRU		Comments from LUA	
	SECTION	LANGUAGE	PROBLEM	SOLUTION
1	<b>23.0.020</b>			
	A.3.	Shoreline Substantial Development Permit	CU requires SCU permit even if no SSD Permit is needed If no SSD permit is needed, then the project is less than \$5,000. and should not require any permit.	Consider deletion of this section.
<b>DPD Response</b>				
This provision is accurate and required by statute. It cannot be deleted. RCW 90.58.140(1) says that all development (not just substantial development) must be consistent with the SMA and the SMP. If the SMP states that a type of development is a conditional use, the application requires a conditional use permit from the City, even if a SSDP is not required. RCW 90.58.140(10) states that any local permit for a conditional use (or a variance) issued under a SMP must be submitted to ecology for approval.				
2	<b>23.60.090</b>	<b>Uses Standards</b>		
	C.	Principal/Accessory Uses	Unclear language	Work with industry to revise.
<b>DPD Response</b>				
Section revised to clarify				
3	<b>23.60.092</b>	<b>Temporary Dev. &amp; Use</b>		
	A.	Dev. Limited to floats & uses < 4 weeks	Floats are an allowed WD use. Does this mean floats not in dev. use cannot be in the water?	Work with industry to revise and clarify intent.
<b>DPD Response</b>				
This is for temporary floats and is meant to be limited b/c the requirements are less restrictions . If the proposal is to construct a new permanent float then this provision would not apply.				
4	<b>23.60.122</b>	<b>Non-Conforming (NC) Uses</b>		
	B. 2.	Conforming structure with NC use	Can't be rebuilt.	Replication of a conforming structure should always be allowed.
<b>DPD Response</b>				

Nonconformities, whether they are uses or structures, are disfavored in the law. While on the one hand they can be continued until they are abandoned, local governments can also amortize their removal by allowing the use to stay for a reasonable time. The City is allowing the structure to be maintained and improved (as long as it doesn't expand), which enables the nonconforming use to stay on, just as would happen with rebuilding the structure. But if the structure containing a nonconforming use is being rebuilt that seems to be a reasonable time to end the nonconforming use in it. If the nonconforming use is only one of the uses in the building it is not unreasonable, and at the opposite end of the spectrum where the use defines the nature of the structure, so it can only be used for a nonconforming use, it is reasonable to bar reconstruction to end the nonconforming use.

Section of the code revised to allow a reasonable compromise. The structure containing the non-conforming use is allowed to be replaced if the structure will be able to be used for a

5	E. 1.& 2.	Reconfiguration of NC moorage	Creation of NC moorages has occurred in the new Table of uses creating confusion and undue permit requirements.	Work with industry to include uses in our built environment.
				There is great concern that all structures and most uses will be NC under this section. Language as to when it is allowed to rebuild is confusing & may be inconsistent with RCW 90.58.030, SMA Guideline Policy and WAC's.

**DPD Response**

This section does not create non-conforming uses or moorages it describes how these uses are regulated.

6	<b>23.60.124</b>	<b>Nonconforming Structures</b>		
	C.	Rebuild o.k except over water then: D.2	No grandfathering provisions with whole page of subsection requirement.	Replication should always be allowed. Choose 23.60.124 B language for overwater structures

**DPD Response**

Non-conforming structures can be rebuilt if destroyed by fire, etc and this is true for structures outside the Shoreline District. Non-conforming structures are disfavored. However, the proposed

7	D.2 a,b,c.	Limits portion of lot	We are awaiting GIS details, but believe that in UC most dryland areas are under 50'. To require 30' of setback in a 65' lot depth is unreasonable.	Give incentives to lower the footprint Those that are in UM/UI should have zero setback Views from waterfront residences should not be considered D.2.c.
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**DPD Response**

See new sections 23.60.384 and 23.60.504 regarding small lots Please provide a list of incentives that could be used. WAC requirement for views and there are exceptions for when view corridors are not allowed. Continueing to evaluae exception for WD uses on submerged land.

8	I	If rebuilt, NC structures must result in reduced ecological impacts	Arbitrary to conclude that reconfiguration will merit need for net reduction in	Remove standard.
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			impacts	
	<b>DPD Response</b>			
	This provisions is an additional allowance existing code only allows replacement as is this provision allows for reconfiguration and is an incentive.			
9	<b>23.60.152</b>	<b>Development Standards</b>		
	A.	No net loss of ecological functions	Throughout the draft does not recognize existing uses i.e. If a dry dock is moved from one location to another, there is no net loss of functions, but the code operates as if there is.	Work with industry to revise and clarify .
	<b>DPD Response</b>			
	Mitigation in the existing code and in the proposed code is the same and is assessed by comparing pre-project conditions with post-project conditions.			
10	C.	All shoreline developments ...to prevent need for shoreline defense and stabilization measures...	Does not recognize an artificial canal that mostly requires hard stabilization.	Amend the language to recognize unique requirements for stabilization.
	<b>DPD Response</b>			
	Shoreline stabilization is allowed for WD/WR uses and the section of the code that is cited pertains to new development, which should not be located in a manner that would cause the need for shoreline stabilization. The ship canal already has shoreline stabilization and therefore is not regulated by this section.			
11	I.	All in-and over-water structures shall be... located...to keep adverse impacts.. due to shading, to a minimum	Language does not recognize WD uses nor structures that cannot be moved w/o shoreline penalties.	Amend the language to speak to "new development" and release what will become non-conforming structures from mitigation or penalties.
	<b>DPD Response</b>			
	This is for new development or for when an overwater structure is redeveloped. The term shall indicates this and see Section 23.60.016. The standards in the SMP are required by teh Director when issuing an approval for a proposal – they are not general rules of conduct that apply to existing development that is not seeking City approvals.			
12	K.	Pilings treated with creosote shall not be repaired to extend the life of the piling...	Language does not recognize situations where it is physically impossible to replace piling nor the	Work with the the industry and property owners to revise the language.
	<b>DPD Response</b>			
	Section revised to allow sleaving of creosote piles when piles are under a building and provide incentives to remove these creosote piles during pier replacement.			
13	N.	Facilities, equipment and established procedures	Businesses can have boom & oil spill pads available, but it is	Work with the the industry and property owners to revise the language.

		for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage...	unclear how to mitigate. This provision leaves no room for use of third party providers	
<b>DPD Response</b>				
Revised to allow third party however facilities should have the minimum equipment available even if a third party is used.				
14	P.	...projects involving concrete, a concrete truck chute..	Leaves no room for small concrete projects	Amend language
<b>DPD Response</b>				
If it is a small project and a concrete truck is used then a concrete clean out area is required if the the truck is required to be cleaned out before entering City streets.				
15	T.	Discharge of water... including heating or cooling systems shall not discharge water that is warmer than the ambient freshwater temperature...	Systems on board vessels can include heat pumps	Amend language
<b>DPD Response</b>				
<b>23.60.152.T was deleted</b>				
16	23.60.158	Standards for mitigation sequencing.	It is unclear when mitigation would be required and how it differs from current SEPA requirements.	Work with the the industry and property owners to clarify and revise the language.
<b>DPD Response</b>				
Per 23.60.158.A "For the purpose of this Chapter 23.60, mitigation is the action taken to prevent, minimize or replace the loss of ecological functions resulting from new development, shoreline modifications or uses,..." Regarding SEPA, SEPA conditioning authority generally does not apply when a regulation addresses the impact. Legally, the City cannot condition a project beyond the impact it creates, regardless of whether more than one regulatory scheme provides conditioning authority. Section 158 states that is the extent of the mitigation authorized. The City customarily relies on (cites) all of its conditioning authority when conditioning a project.				
17	23.60.162	Standards for parking requirements	This section is problematic with narrow depth lots and in UM, UI zones. Landscaping may not be possible. Reduction of parking by 20% may make a property non-compliant	Work with property owners to revise the language.

**DPD Response**  
 Per subsection 23.60.162.F landscaping is not required in the UM or UI shoreline environment because the underlying zone in these shoreline environments is IG1, IG2, IB or IC. RE: 20% reduction this is if you are moving existing overwater coverage and only applies in that situation. This will not render a property non-compliant in any way.

18	<b>23.60.164</b>	<b>Public Access</b>		
			Requiring public access on private property may destroy a fundamental attribute of property ownership in the ability to exclude others.	Work with property owners and land use attorneys to assure that the SMA Guidelines are being correctly interpreted. Work with property owners and land use attorneys to assure that the requirement to grant an easement is not a taking. It is suggested that the granting of public access have incentives rather than requirements attached to it.

**DPD Response**  
 The SMA identifies many important interests in using the shoreline, including using water front lots for water dependent uses and providing public access to the shoreline. RCW 90.58.020. When the use on a water front lot is not the preferred water-dependent use, the public access purpose is implemented. This policy is set out in the WAC, which the City is required to follow. RCW 98.58.100(1). The public access requirements in the SMA and WAC are based on the Public Trust doctrine, which inherently applies to all property, including shoreline property. Thus, it is not a taking to prohibit property from being used in a manner that creates a nuisance, and it is not a taking to require property to be used consistent with the Public Trust doctrine; i.e., property that is being used for uses that are not water dependent and even uses in the water should achieve another Public Trust/SMA purpose of providing public access.

19	A.2.	The minimum regulated public access shall consist of an improved walkway at least 5' wide on an easement 10' wide, leading from the street..directly to a waterfront use area or to an area on the property...	In many areas of the waterfront, there are no physical means given contradictory information  Also, there is no provision that additional public access will not be required each time a permit is requested.	Work with property owners to revise the language.
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**DPD Response**  
 The provisions of the Code allow alternatives to accommodate site restrictions, safety, use conflicts etc. and once the public access requirement for a site has been met more public access is not required. Additionally, exceptions added so that recreational marinas with 35-ft or less of dry land are not required to provide public access.

20	<b>23.60.164</b>	<b>View Corridors</b>		
	B.3.	Structures, including but not limited to...may not be located in view corridors	It is not clear that these structures would include covered moorage or not.	Work with property owners to revise the language.

**DPD Response**

	No change from existing code covered moorage is not allowed in view corridor open wet moorage is.			
21	<b>23.60.182</b>	<b>Standards for Dredging</b>		
	C.	Dredging...is necessary for assuring safe and efficient accomodation of existing navigational uses.	Existing navigational uses may be restricted because of the depth of the water.	Delete the word "existing".
	<b>DPD Response</b>			
	This is a WAC requirement and the majority of what shorelines/water bodies in Seattle are an existing navigational use.			
22	<b>23.60.187</b>	<b>Standards for Piers &amp; Floats &amp; overwater structures</b>		
	C.	Non-residential development	What is feasible and what is practical have two different meanings.	
	C.2.c.	maintain the maxium light permeability feasible.		Work with property owners to revise the language.
	<b>DPD Response</b>			
	Code section revised to include standards that if they exist on the site then grated decking is not required.			
23	C.3.	Wood treated with ... or comparable toxic compounds is prohibited for decking or piling.	The marina industry is being given contradictory information on what is an allowed treatment for wood.	Defer to the standards set by the American Wood Preserver Association should treated wood be necessary to use.
	<b>DPD Response</b>			
	If a material is deemed to be toxic based on best available science then it will not be allowed.			
	<b>MARINA STANDARDS - COMMERCIAL &amp; RECREATIONAL</b>			
24	<b>23.60.200</b>			
	B.1 -10	BMP's, waste, maint.	BMP's are already written & required by DOE/DNR	B.1 Defer to DOE guidelines and reference them as needing to be included in moorage agreements. B.2 Defer to DOE guidelines
	<b>DPD Response</b>			
	Revised as suggested			
25	B.3	Upland restrooms	# of restrooms & hours of operation are overreaching. & interfere with management & business decisions.	B.3 'Lavatory facilities connected to a sanitary sewer or and adequate to serve the marina shall be provided.' Eliminate word "upland".
	<b>DPD Response</b>			
	Revised as suggested			
26	B.4.	All types of waste	No upland may be available to	B.4 Waste: Signage as to how to handle sewage, bilge, fuels

			handle bilge & fuel waste.	should be posted. (DOE requirements). Keep "facilities can be on/off site."
<b>DPD Response</b>				
See revised section 23.60.200 BMPs follow Ecology's requirements				
27	B.4.a.	Sewage & Bilge waste	>3,500 l.f. OR slips > 20' Boats greater than 20' would include any marina.	B.4.a. Increase l.f. to 6,000 l.f. and B.4.a. Eliminate > 20' part of sentence which would include all marinas.
<b>DPD Response</b>				
This provision is in the existing code and this is good shoreline management. Please explain why your proposal is better.				
28	B.4.a.2	Bilge	Bilge water can be hazardous waste	B.4 a. 2. & b - Signage to handle all waste materials. Allow third party providers to handle waste.
<b>DPD Response</b>				
See revised section 23.60.200 BMPs follow Ecology's requirements				
29		Garbage	Mixes bigger & smaller marinas with above	All marinas should provide garbage disposal facilities; not all can provide rest of section requirements. We would suggest a new draft of section B.4.
<b>DPD Response</b>				
See revised section 23.60.200 BMPs follow Ecology's requirements				
30	B.5.	Marinas shall have equipment and post procedures on-site for the containment, recovery & mitigation of spilled petroleum, sewage and other hazardous materials.	Mixing of recovery equipment for petroleum products along with sewage, gas, etc. makes it unclear what is required. Unknown how to recover sewage or gas and many other hazardous materials.	Work with the the industry and property owners to clarify and revise the language.
<b>DPD Response</b>				
See revised section 23.60.200 BMPs follow Ecology's requirements				
31	B.6. a.	Slip-side maintenance of vessels is limited to... interior ....excluding hull scraping...	Mixing of interior work with hull scraping language.	
<b>DPD Response</b>				
Revised see section 23.60.200				
32	B.6.b.	Exterior scraping, sanding..	The number of people working	Work with the the industry and property owners to

		is limited to an area that can be contained by the number of people working on the vessel calculated...	on a vessel is not relevant and limits how, when and where the # of people are employed.	clarify and revise the language.
<b>DPD Response</b>				
Revised see section 23.60.187 and 23.60.200				
33	B.7.	All buildings and open areas used for boat and/or trailer storage are required to be screened with natural existing vegetated buffers or planted landscaped areas.	Unclear purpose for WD use. Too broad a statement. May not be achievable in many areas.	Delete language
<b>DPD Response</b>				
<b>DPD continues to evaluate this standard.</b>				
34	d	Overwater projections lifts & moorage restrictions	Eliminates WD uses. Eliminates hand launched boats, use of cranes, view platforms and economic use of large portions of property.	Delete language.
<b>DPD Response</b>				
Revised to provide relief from standard if not practical and practical is defined.				
35	B.9.	Piers & floats shall be grated ...maximum extent feasible...	Use of the word 'feasible' does not take into account economic factors.	Work with the the industry and property owners to clarify and revise the language.
<b>DPD Response</b>				
<b>Standard[s revised to include allowing solid deck for WD uses.</b>				
	C.	<b>Additional Standards for Recreational Marinas</b>		
See response to #22.				
	23.60.200	Public Access is required	Public access via marina customers is inherent.	Delete the requirement.
36	C.1.	as follows:	In the UC, virtually every	Add incentives to property owners for additional public access they wish to include.

			waterfront property has some form of a marina.	
			This section appears then to create a series of paths on private property that really should be burden born by the general public.	
<b>DPD Response</b>				
This is a WAC requirement and the City is required to follow this requiremnt see RCW 90.58.100(1). Additional exceptions provided for marinas with 35-ft or less of dry land.				
37	C.1.a.	...providing <2,000 lf of moorage and containing only WD/WR uses are exempt	If the calculation is for moorage, then the use is 100% WD.	C.1.a. Change to < 6,000 l.f. in public marinas and eliminate rest of WD/WR use in sentence.
<b>DPD Response</b>				
See response to #36. DPD is allowing an exception please explain why the exception should be increased to 6,000 s.f.?				
38	C.1.b	The minimum public access for a marine providing less than 9,000 lf of moorage.. walkway 5' wide on an easement 10' wide... leading to an area located at the water's edge.	Physically impossible in most UC areas; should not be required in UM or UI zones.	Limit public access to public property.
<b>DPD Response</b>				
See response to #19: The provision allows alternatives to accommodate site restrictions, safety, use conflicts, etc.				
39	C.2.	Transient Moorage	Eliminates WD moorage	C.2. In public marinas; Restaurant should pay for any transient space.
	C.2.a.2.	...required at ..40 lf ...for each 1,000 lf of moorage space	income all year long	C.2. Eliminate "or other use not WDWR operates during eve/weekend.
<b>DPD Response</b>				
The intent of this provision is to accommodate transient moorage and this is good policygoal to help water dependent users of the City's shorelines. And the provision is only for larger marinas.				
40	C.2.c.	Transient for Commercial	the limit of greater than 9,000 lf affects 2 known marinas and	Add the word "public"
<b>DPD Response</b>				
The intent of this provision is to accommodate transient moorage and we believe this is a good policy to help water dependent users of the City's shorelines. Additionally, the provision is only for larger marinas.				

41	D.	Transient for Recreational	should be a business decision.	Add the word "public"
<b>DPD Response</b>				
See response to comment #40.				
	E.	<b>Additional Standards for live-aboards</b>		
42	E.1.a.	The live-aboard vessel is the type of vessel allowed...	Definition of allowed vessel? Is this a business decision?	Eliminate language
<b>DPD Response</b>				
The liveaboard regulations have been revised see Sections 23.60.200, 3.60.204 and 23.60.214				
43	E.1.b.	If moorage is provided for a vessel that is used as a live-aboard vessel for 4 or more days in any 7 day period:	Definition makes virtually all 4-day weekenders live-aboards.	E. 1.b. Create a better definition of live-aboard
<b>DPD Response</b>				
See response to comment #43.				
44	E.1.b.1	Shower facilities	Are existing marinas grandfathered?	Clarify intent.
<b>DPD Response</b>				
Yes existing marinas are "grandfathered" this requirement is for new development and see response to #11.				
45	E.1.b.2	Vessels with live-aboard use are limited to 25% of the.. slips..and liveaboard use of a commercial fishing vessel	Micromanaging a business decision. This is private property & the City is not our landlord. Commercial vessels may require staffing.	Delete.
<b>DPD Response</b>				
See response to comment #43.				
46	E.2	Non-compliance	Liveaboard buys new boat can't use if it over 25% or can use it?	Re-write so that it's clear new vessel is allowed.
<b>DPD Response</b>				
See response to comment #43.				

47	E.3.	Registration	Annual registration creates an after the fact process, unclear to purpose and interferes with a WD business decision. It creates unnecessary costs and red-tape.	Delete registration process.
<b>DPD Response</b>				
See response to comment #43.				
48	E.3.b	Violations	Process is 23.90 Unclear as what fines are, how determined or where to find them in 23.90.	Delete along with the registration.
<b>DPD Response</b>				
See response to comment #43.				
	<b>23.60.204</b>	Standards for house barges		
49	A.	New house barges are prohibited.	The definition of house barges would include all vessels. It is also unclear why a vessel would be prohibited.	Work with the the industry and property owners to clarify and revise the language.
<b>DPD Response</b>				
The definition of house barge will not include all vessels. This is a use issue and if a vessel is designed primarily as a place of residences with only the secondary ability to navigate then this use is just like a floating home and is required to be prohibited by the WAC (WAC 173-26-241(3)(j)).				
50	B.	Permit not transferable	Does not allow owner to buy a new house barge replacement.	Consider amending this sentence to allow junk vessels to be replaced.
<b>DPD Response</b>				
This is the current provision in 23.60.090.G.1. Residential uses over water are not a preferred use and should be prohibited. WAC 173-26-241(3)(j). Reasonable accommodation is provided for existing house barges, which are allowed to remain.				
51	D.	Overboard Discharge	Prohibited	Amend language to black water discharges. would require marina to add sewer connections.
<b>DPD Response</b>				
A sewage line would work but the requirement can be met by having a holding tank and having the holding tank pumped out.				

52	E	BMP's	BMP's for marinas are in existence	Defer to DOE guidelines
<b>DPD Response</b>				
53	H.2.	Enforcement	Chapter 23.90 is unclear	Enforcement and fines need to be clearly stated. This is mostly a Ship Canal environment designation. We are waiting for the GIS maps to determine the amount of dry land available to most properties inside the Locks.
<b>DPD Response</b>				
Comment is too broad, please explain what specifically in 23.90 is unclear.				
<b>23.60.382 URBAN COMMERCIAL (UC)</b>				
54	A.	TABLES	Only 5 outright allowed commercial uses plus accessory parking on waterfront lots.	Allow other uses without penalties or requiring habitat units. Work with property owners and industry to identify needs.
<b>DPD Response</b>				
See updated uses tables. DPD is required to meet the WAC standards for uses in the Shoreline District; therefore WD and WR commercial uses are allowed and uses that are not WD or WR require public access or ecological enhancement to meet one of the other goals of the SMP				
55	B.1.	Prohibited Uses are: Eating/drinking establishments, Entertainment uses, Custom & craft work, Sales & service, general and Offices	Forbids most commercial uses.	Recognize and foster the already built commercial environment without penalties. Clarify to encourage business uses; work with landowners create language fostering a 'mix of uses'.
<b>DPD Response</b>				
These uses are allowed when another SMP goal is provided see response to comment #54.				
56	B.2.	Requirements to meet office use.	Most buildings in UC are built over the water with less than 50' in lot depth - making them nonconforming structures. Most UC buildings require non WD/WR uses to fill an	Revise the language so nonconforming structures are not created. Recognize that offices above the lowest floor help keep an economy vibrant.

			economic reality.	
		Example:	It is unclear that an office for a tugboat use would be allowed.	Revise the Table to allow more uses and recognize WD/WR office use for allowed businesses.
	<b>DPD Response</b>			
	See updated use table that includes separate regulations for small lots and lots overwater Sections 23.60.384 and 23.60.504.			
57	B.3.a,c,d	Requirements to allow prohibited uses	Uses are tied to a long list of interrelated benchmarks and requirements which include public access, habitat units, historic vessels,	Work with landowners to streamline and clarify need.
	<b>DPD Response</b>			
	Existing regulations to allow greater flexibility with uses when the interrelated benchmarks are required. DPD has simplified the use table for the UC, UI and UM shoreline environments. See Sections 23.60.382, 23.60.482, and 23.60.502.			
58	B.3.d.4.	Requirements to provide: Moorage marked as being exclusively for commercial fishing vessels at rates equivalent to that charged at public moorage facilities of 500 l.f. or greater	First, the need for moorage for fishing vessels can be seasonal with no economic return when unoccupied. Second: setting rates for private moorage is considered price fixing.	Work with moorage owners to clarify intent.  Work with moorage owners to amend the language.
	<b>DPD Response</b>			
	These provisions are incentives for allowing non-water dependent uses on a site and are needed to meet Department of Ecology's requirements			
59	B.3.d.5.	Saltwater moorage of 1,500 l.f. or greater	In the UC designation, this eliminates most of the users.	Include the term freshwater; or eliminate the term saltwater.
	<b>DPD Response</b>			
	This section is a list of options that provide better recreational use, public access or ecological enhancement in exchange for allowing non-water dependent uses at a site. The provision for saltwater moorage is for recreational boaters on the Sound and not for recreational boaters on in Lake Union or the Ship Canal. Please explain why this has been a problem.			
60	B.4.	Prohibited uses on submerged land, except allowed in existing structures as a SCU if lot depth is less than 35'... and 23.60.382B.3.c. are met	Generally changing the use inside an existing building does not affect the zero net loss of ecological functions. Shoreline Conditional Use (SCU)	Work with the landowners and property users to streamline the change of use process and requirements.  Consider changing the definition of Urban Commercial to reflect

		which states: 14 habitat units per square foot of gross floor area of a new use are provided within the same Geographic Area as proposed project.	is a difficult permit to obtain	the built environment.
<b>DPD Response</b>				
DPD is required to meet WAC 173-26 Shoreline Master Program Guidelines. Preferred uses overwater are water-dependent uses; therefore, in order to meet the WAC requirements if a non-water dependent use is going to be allowed on a site then another goal of the SMP is required. DPD has included an overwater section for the UC shoreline environment				
61	D.	Prohibits Offices over the water.	A confusing provision considering the other sections just quoted.	Recognize that the UC designation is a vibrant mixed use area.
<b>DPD Response</b>				
Revised code to inluded uses that are allowed overwater on small lots. See Section 23.60.384.				
62	F.2.	Calculation of Steet Level	Most buildings in the UC zone have a lower floor than the street level which WD/WR uses depend upon.	Change the language to 'lowest floor' or 'floor closest to OHW'.
<b>DPD Response</b>				
SMP revised to use the term "lowest floor level" and defined to mean that lowest floor level is the level of the structure that is closest to the OHW				
63	<b>23.60.384</b>	<b>Shoreline Modifications</b>		
	H.2.	Hard shoreline stabilization is allowed as a special use.	A large amount of the shoreland inside the Locks necessarily uses hard stabilization and the SU permit is a difficult one to obtain.	Work with the landowners to amend the language.
<b>DPD Response</b>				
Because the property at issue has existing shoreline stabilization repair and replacment of the shoreline stabilization is allowed. Additionally DPD has including standards that if they exist at a site, will help to facilitate replacement of shoreline stabilization at a site. See revised Section 23.60.188.F. Additionally SU permits do not require special approval from Ecology.				
64	<b>23.60.386</b>	<b>Height</b>	There are four separate height zones and the reasons are unclear.	Work with the landowners to clarify and amend the language.
	A.	Maximum Height is		

		30' with exceptions	Height should be a minimum of 35' to allow for construction of commercial ceiling heights.	
	<b>DPD Response</b>			
	The 30-ft height limit is for overwater structures and is part of the existing code and is intended to achieve the both environmental protection and view requirements while balancing water-dependent uses.			
65	<b>23.60.388</b>	<b>Lot Coverage</b>		
	A.1	50% of submerged including structures, floats & piers	Overreaching; is at odds with fostering WD/WR uses.	Work with the landowners to clarify and amend the language.
	<b>DPD Response</b>			
	Existing code provision and is intended to achieve the balance for water-dependent uses, shoreline views and ecological protection.			
66	A.2	50% of dry land	Overreaching exaction especially	Work with the landowners to amend the language to address
67	C.1	65% of dry land	in conjunction with other	a legitimate public problem without being oppressive.
68	C.2.	Single Family	lot setbacks & requirements.	
	<b>DPD Response</b>			
	See answer to #65 and setback requirements help to achieve lot coverage requirements.			
69	<b>23.60.390</b>	<b>Setbacks</b>		
	A.	15' setback for WD/WR use	Does not recognize narrow lot depth in most UC areas.	Work with landowners to amend the language.
	B.	35' setback for non WD/WR uses		
	<b>DPD Response</b>			
	The regulations provides exceptions for small lots. New section for included that provides development standards for lots that have little or no dry land.			
70	<b>23.60.392</b>	<b>Public Access</b>		
	B.1.	On private property	Inconsistent with SMA Guidelines Policy for WD uses.	Work with the landowners to amend the language to use incentives for providing public access.
	<b>DPD Response</b>			
	Public access is not required for WD uses except for boating facilities, which is required by the WAC. And see response to #19			
71	B.1.b.	In development and uses that are not WD	Most properties in UC have a component with non-WD uses; this provision becomes contradictory when non-WD is	Work with the landowners & industry to amend the language to use incentives for providing public access.

			allowed on upper floors.	
<b>DPD Response</b>				
The WAC requires that uses that are not WD, which are not a preferred use, provide public access it does not depend where on the site the non-water dependent use is located.				
72	B.1.c.	Marinas, with exceptions	Inconsistent with SMA Guidelines Policy for WD uses Marinas are a WD use and have not created a public evil.	Recognize that the SMA has Governing Principles that it is not solely imposed on private property and must be commensurate with actual impacts and constitutional limitations on overreaching and unlawful exactions.
<b>DPD Response</b>				
Boating facilities are required to provide public access per the WAC 173-26-241(3)(c) and the City is required to follow the WAC, see RCW 90.58.100(1). Also see answer to comment #35.				
73	B.1.d.	Existing yacht, boat and beach clubs that have facilities that are not WD over water	Retroactive requirements in an already built environment.	Amend the language to recognize grandfathered uses and structures.
<b>DPD Response</b>				
This is not retroactive but is an existing requirement and is implemented when such a project comes in for a shoreline permit.				
The wording of the requirement has changed because new non-water dependent use are not allowed overwater.				
74	B.3	If a lot contains a mix of uses that require public access and uses that are exempt, public access shall be provided unless the percentage of the dry lot that is covered by uses that are exempt from public access is more than 75%	All together, the provisions require public access on virtually every piece of UC property. This is a burden that should be born on public property.	Amend the language to include submerged land in the lot area and use calculations.
<b>DPD Response</b>				
DPD continues to consider this comment.				
75	<b>23.60.394</b>	<b>View Corridors</b>		
	A.	...35% of the width of the lot shall be ...	Overreaching. Most UC lots have less than 50' in depth and must give up 70' on a 200' width.	Work with the landowners to revise the provision.

	D.	...65% of the width of the lot shall be... Seaview Ave.	Overreaching. A 200' wide lot would give up 130' to views.	Work with the landowners to revise the provision.
	E.	...shall be reduced to 25% of the width of the lot if WD uses occupy more than 40% of the dry land area of the lot.	Does not recognize submerged land.	Use total lot coverage in all calculations.
<b>DPD Response</b>				
Subsection 23.60.394 A, D, and E are existing provisions. The SMA requires a conservation element to preserve “scenic vistas and aesthetics.” RCW 90.58.1900(2)(f). The WAC states that public access includes views of the water. WAC 173-26-221(4)(d)(iv) implements this saying that SMP should have view corridors to minimize the impacts to existing views from public property (e.g. streets) and substantial numbers of residences; where there is an irreconcilable conflict between water dependent uses and maintaining views, the water dependent use gets priority. So requiring the view corridor meets the WAC requirement and subsection E addresses water dependent uses. The variance procedure is available when there is a hardship.				
76	<b>23.60.402</b>	<b>URBAN GENERAL (UG)</b>		
	A.	Table for Uses	Good flexibility for different uses; however boat moorage becomes a CU	Revise table to include moorage as an allowed WD use.
<b>DPD Response</b>				
Requested revision made.				
	<b>23.60.404</b>	<b>Shoreline Modifications</b>		
77	H.	Piers and floats are allowed as a Shoreline Conditional Use if accessory...or water dependent use that is allowed...	Boat moorage is by definition a water dependent use. Piers and floats should be an allowed use.	Revise the language to allow boat moorage outright.
<b>DPD Response</b>				
Requested revision made.				
	<b>23.60.408</b>	<b>not WD/WR.</b>		
78	B.	A shoreline setback of 35' from the OHW mark is required for uses that are not WD/WR.	Given that this zone has minor access to the water, requiring a setback unless WD/WR uses are in place is contradictory.	Work with the landowners to revise the provision.

	<b>DPD Response</b>			
	Comment is not clear on what makes the requirement contradictory. The SMP balances the need for water-dependent uses, public access and shoreline protection. When a use is not water dependent then the goal of the shoreline environment is to meet one of the other SMP goals. A shoreline setback meets a minimal environmental protection goal.			
79	<b>23.60.412</b>	<b>View Corridors</b>		
		..35% of the width of the lot	Overreaching.	Work with the landowners to revise the provision.
	<b>DPD Response</b>			
	See response to comment #75.			
			given that this zone has minor	
80	<b>23.60.414</b>	<b>Public Access</b>		
	B. 1 & 2.	Marinas and non WD development must provide public access	It is unclear how private property on a steep bank or a college soccer field will provide public access. The Burke Gilman trail already provides access.	Work with the landowners to revise the provision.
	<b>DPD Response</b>			
	This provision pertains to waterfront lots and is existing code language and is required to meet the WAC for uses that are not water-depenent and for boating facilities. Additionally, Section 23.60.164 provides alternatives for situations where there are siting issues or other means of providing access. And see response to #19.			
81	<b>23.60.480</b>	<b>Urban Industrial</b>		
	A.	Table of Uses	Only 4 outright allowed industrial/commercial uses allowed outright on waterfront lots.	Work with landowners and the regulated tenants to amend the table of uses and revise the provisions.
			1. Protecting industrial uses needs to include flexibility to conduct business.	
			2. UI uses on the Duwamish will be necessarily different from UI uses in the Ship Canal as most waterfront lots do not have the same owner as the upland lot; and the range of uses are limited by the Locks.	
			3. Uses should be	

			allowed outright, especially those relating to manufacturing, warehousing & storage and general sales & service.	
			4. Remember that all businesses need a place to conduct their business in an office.	
			5. Making a business use CU or SU creates a hardship to establish, maintain or expand industrial uses.	
<b>DPD Response</b>				
See revised Section 23.60.502 WD and WR uses are allowed.				
82	<b>23.60.486</b>	<b>Height</b>		
	A.	35'	35' is too strict for support of the industrial uses.	Work with landowners and the regulated businesses to revise the language.
	C.	55' for WD/WR authorized by Director if residential views not ...blocked...	Prevents height increases due to view protection for others.	Work with landowners and the regulated businesses to revise the language.
<b>DPD Response</b>				
Height is required to be limited see RCW 90.58.320. Section revised to allow additional height in specific situations within the constraints of the RCW.				
83	<b>23.60.490</b>	<b>Shoreline Setbacks</b>		
	A.	15' setback for WD/WR uses	In an industrial zone no setbacks should be required.	Work with landowners and the regulated businesses to revise the language.
	B.	35' setback for open space		
	C.	50' setback for non WD/WR		
		Between the two setbacks are development criteria.		
<b>DPD Response</b>				
15-ft is for the structure and is needed to protect shoreline slopes. The water-dependent use can occur within the 15-ft setback. The 35-ft open space setback will not apply to WD/WR industrial uses and the 60-ft shoreline setback is existing language and works as an incentive for WD/WR uses on industrial waterfront property.				
84	<b>23.60.492</b>	<b>View Corridors</b>	35% of the lot width is excessive. Submerged land is not counted in the equation.	Work with landowners and the regulated businesses to revise the language.

	<b>DPD Response</b>			
	See response to comment #75.			
85	<b>23.60.494</b>	<b>Public Access</b>	Should not be required in industrial areas.	Work with landowners and the regulated businesses to revise the language.
			Urban Industrial areas are set aside to be the most intensely used, this provision undermines that use.	
	<b>DPD Response</b>			
	Public access is not required for WD uses. For WR uses it is a WAC requirement unless there are safety concerns at the site. DPD is proposing a Public Access plan to provide for a payment in lieu for public access in industrial areas. And see response to comment #19.			
86	<b>23.60.502</b>	<b>Urban Maritime</b>		
	A.	Table of Uses	Only 3 industrial or commercial uses allowed outright on waterfront lots.	Work with landowners and the regulated tenants to amend the table of uses and revise the provisions. See restriction comments on UI.
	<b>DPD Response</b>			
	See revised Sections 23.60.502 and 23.60.504.			
87	B.1.2.b	..non WD/WR commercial uses can occupy no more than 10% of the dry-land area of the lot; except if the lot provides more than 9,000 lf of commercial moorage,...it may occupy up to 20%	Submerged water dependent land not calculated. Only one facility in Ship Canal provides more than 9,000 lf of commercial moorage.	Work with landowners and the regulated businesses to revise the language.
	<b>DPD Response</b>			
	See revised Sections 23.60.502 and 23.60.504 where changes were made to the uses allowed. However, WD/WR uses are the preferred use and when this is not met then another goal of the SMP is required.			
88	C.	Heavy commercial services are prohibited on waterfront lots.	Most of the water dependent uses occur on waterfront lots in the Ship Canal.	Work with landowners and the regulated businesses to revise the language.
	<b>DPD Response</b>			

	See revised Section 23.60.502 WD/WR heavy commercial uses are allowed.			
89	G.	Covered moorage in Lake Union & Portage Bay is prohibited and is otherwise allowed.	Puts UM users at a disadvantage in this geographical split.	Work with landowners and the regulated businesses to revise the language.
<b>DPD Response</b>				
Existing code language and is a requirement to meet the view standards and ecological protection and overwater coverage standards.				
90	H.	Existing recreational marinas on waterfront lots are allowed to reconfigure ...but may not expand. Expansion includes additional over water coverage due to piers, floats, larger vessels, housebarges, or floating homes or additional vessels or housebarges. New recreational marinas are prohibited.	1. Recreational marinas are located in the UM zone because of historic use. Most could not accommodate commercial vessels due to vessel size or configuration of the marina. 2. It really should be a business decision as to whether recreational vessels are allowed. 3. There is enough confusion about commercial businesses doing work on recreational vessels.	Delete this provision.
<b>DPD Response</b>				
See revised Section 23.60.502 recreational marinas are allowed in the Lake Union and Ship Canal area.				
	<b>23.60.506</b>	<b>Height</b>		
92	A.	...35'	This is too strict for the support of maritime businesses.	Work with landowners and the regulated businesses to revise the language.
	C.	...up to 55' with exceptions		
<b>DPD Response</b>				
See response to comment #82.				
93	C.1	Not more than 25% of the lot area would be covered by a structure with the increased height.	It is unclear why a WD/WR use is being so restricted.	Work with landowners and the regulated businesses to revise the language.
<b>DPD Response</b>				

	RCW requirement to keep view of the water. See response to comment #75			
94	C.2	Views of upland residents would not be substantially blocked.	1. This is inconsistent with the SMA Guidelines on territory. 2. An upland residential use should not be given preference.	Delete.
<b>DPD Response</b>				
See response to comment #75. RCW requirement. RCW 90.58.320 states “no permit shall be issued for any new or expanding building or structure of more than 35 feet . . . that will obstruct the view of a substantial number of residences adjoining such shorelines . . .” These are the upland residences.				
95	<b>23.60.508</b>	<b>Lot Coverage</b>		
	A.	Waterfront lots..the following requirements apply:		
	A.1	Structures, including floats and piers, shall not occupy more than 50% of the submerged portion of a waterfront lot, with exceptions.	If a property in UM has no dry land, this deeply limits what can be done with a business.	Work with landowners and the regulated businesses to revise the language.
<b>DPD Response</b>				
See new Section 23.60.504, for uses allowed on submerged land.				
96	C.1	...up to 65%..that has a depth of less than 50' of dry land.	If a property in UM has no dry land, this deeply limits what can be done with a business.	Work with landowners and the regulated businesses to revise the language.
<b>DPD Response</b>				
See new Section 23.60.504, for uses on submerged land.				
97	<b>23.60.510</b>	<b>Setbacks</b>		
	A.	...15' for minimum	None of the requirements encourage a urban maritime business.	Work with landowners and the regulated businesses to revise the language.
	B.	...35' for open space		
	C.	...50' for non-WD/WR uses		
<b>DPD Response</b>				
See response to comment #83.				

98	<b>23.60.512</b>	<b>View Corridors</b>		
	A.	...35% of the width of the lot... with exceptions and reductions in B - D	None of the requirements encourage a urban maritime business.	Work with landowners and the regulated businesses to revise the language.
<b>DPD Response</b>				
See response to comment #75				
99	<b>23.60.514</b>	<b>Public Access</b>		
	B.	Private Property Public access ...shall be provided and maintained... in:	Urban Maritime areas are set aside to be more intensely used, this provision undermines that use.	
<b>DPD Response</b>				
See response to comments #19 & #38: The provisions of the Code allow alternatives to accommodate site restrictions, safety, use conflicts etc.				
100	B.1.	Marinas	This may result in public access into unsafe conditions.	Work with landowners and the regulated businesses to revise the language.
<b>DPD Response</b>				
See response to comments #19 & #38: The provisions of the Code allow alternatives to accommodate site restrictions, safety, use conflicts etc.				
101	B.3.	Developments and uses that are not WD...	Any non-WD use triggers the public access condition into areas where the public may	Work with landowners and the regulated businesses to revise the language.
<b>DPD Response</b>				
See response to comments #19 & #38: The provisions of the Code allow alternatives to accommodate site restrictions, safety, use conflicts etc.				





























