

23.100.090 Moorage – Docks, piers and mooring buoys.

Moorage including docks, piers and mooring buoys in shoreline areas shall be subject to the policies and regulations of this section and Chapter 23.90 WCC. Shared moorage with more than four berths and boat launching facilities are regulated under WCC [23.100.040](#), Boating facilities – Marinas and launch ramps.

A. Policies.

1. Moorage associated with a single-family residence is considered a water-dependent use; provided, that it is designed and used as a facility to access watercraft, and other moorage facilities are not available or feasible. Moorage for water-related and water-enjoyment uses or shared moorage for multifamily use should be allowed as part of a mixed use development or where it provides public access.
2. New moorage, excluding docks accessory to single-family residences, should be permitted only when the applicant/proponent has demonstrated that a specific need exists to support the intended water-dependent or public access use.
3. As an alternative to continued proliferation of individual private moorage, mooring buoys are preferred over docks or floats. Shared moorage facilities are preferred over single-user moorage where feasible, especially where water use conflicts exist or are predictable. New subdivisions of more than two lots and new multifamily development of more than two dwelling

units should provide shared moorage.

4. Docks, piers and mooring buoys, including those accessory to single-family residences, should avoid locations where they will adversely impact shoreline ecological functions or processes, including currents and littoral drift.

5. Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming and pleasure boating, as well as private riparian rights of adjacent land owners.

6. Moorage should be restricted to the minimum size necessary to meet the needs of the proposed use. The length, width and height of piers and docks should be no greater than that required for safety and practicality for the primary use.

7. Pile supports are preferred over fills because piles do not displace water surface and intertidal or aquatic habitat and are removable and thus more flexible in terms of long-term use patterns. Floats may be less desirable than pile structures where aquatic habitat or littoral drift are significant.

8. The use of buoys for small craft moorage is preferred over pile or float structures because of lesser long-term impact on shore features and users; moorage buoys should be placed as close to shore as possible to minimize obstruction to navigation.

9. Shoreline resources and water quality should be protected from overuse by boaters living on vessels (live aboards). Boaters living on vessels are restricted to established marinas with facilities to address waste handling and other sanitary services.

10. Vessels should be restricted from extended mooring on waters of the state unless authorization is obtained from the DNR and impacts to navigation and public access are mitigated.

11. Piers and docks should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.

12. New pier and dock development should be designed so as not to interfere with lawful public access to or use of shorelines. Developers of new piers and shared moorage should be encouraged to provide physical or visual public access to shorelines whenever safe and compatible with the primary use and shore features.

B. Regulations.

1. Shared moorage to serve new development shall be limited to the amount of moorage needed to serve lots with water frontage; provided, that a limited number of upland lots may also be accommodated. Applications for shared moorage shall demonstrate that mooring buoys are not feasible prior to approval of dock moorage. Shared moorage currently leased or proposed to be leased to upland property owners shall be reviewed as a marina.

2. Private recreational moorage for individual lots is permitted in existing subdivisions approved on or before January 28, 1993, only where shared moorage has not already been developed. Prior to development of a new dock for a single residential lot, the applicant/proponent shall demonstrate that:

- a. Existing facilities in the vicinity, including marinas and shared moorage, are not adequate or feasible for use;
- b. On marine shorelines, alternative moorage, such as mooring buoys or a dock sized to accommodate a tender to provide access in conjunction with a mooring buoy, are not adequate or feasible; and
- c. The applicant/proponent has contacted abutting property owners and none have indicated a willingness to share an existing dock or develop a shared moorage in conjunction with the applicant/proponent.
- d. If allowed, only one private dock shall be permitted on a shoreline residential lot.

3. Shared moorage shall be required in accordance with the following to prevent the proliferation of moorage facilities:

- a. Shared moorage shall be provided for all new residential developments of more than two dwelling units. New subdivisions shall contain a restriction on the face of the plat prohibiting individual docks. A site for shared moorage should be owned in undivided interest by property owners within the subdivision. Shared moorage facilities shall be available to property owners in the subdivision for community access and may be required to provide public access depending on the scale of the facility. If shared moorage is provided, the applicant/proponent shall file at the time of plat recordation a legally enforceable joint use agreement or other legal instrument that, at minimum, addresses the following:
 - i. Apportionment of construction and maintenance expenses;
 - ii. Easements and liability agreements; and
 - iii. Use restrictions.
- b. On marine shorelines a dock or pier may be approved only if it is not feasible to provide mooring buoys with an adequate landing area or a dock sized to accommodate tenders.
- c. Where a multifamily residential development, camping club or subdivision development provides shared moorage, space for the number of waterfront lots or dwelling units may be provided with an additional provision for sites without water frontage up to a ratio of 1.25 moorage spaces per total lots or units.
- d. Prior to issuing a permit for shared moorage, a proponent shall file with the Whatcom County auditor a legally enforceable joint use agreement that, at minimum, addresses the

following:

- i. Apportionment of construction and maintenance expenses;
- ii. Easements and liability agreements; and
- iii. Use restrictions.

4. Commercial docks shall be permitted only for water-dependent uses, and only if the applicant/proponent demonstrates that existing facilities in the vicinity, including marinas and shared moorage, are not adequate or feasible for the proposed water-dependent use.

5. Private moorage for float planes may be permitted as a conditional use where construction will not adversely affect shoreline functions or processes, including wildlife use. Ecological restoration may be required to compensate for the greater intensity of activity associated with the use.

6. Piers and docks shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Materials used for submerged portions of a pier or dock, decking and other components that may come in contact with water shall be approved by applicable state agencies for use in water to avoid discharge of pollutants from wave splash, rain or runoff. Wood treated with creosote, pentachlorophenol or other similarly toxic materials is prohibited. Piers and docks in lakes providing a public water supply shall be constructed of untreated materials, such as untreated wood, approved plastic composites, concrete or steel.

7. Piers and docks shall be the minimum size necessary to meet the needs of the proposed water-dependent use and shall observe the following criteria:

- a. If allowed under the provisions of this program, only one private dock with one accessory float, one boat lift, and one covered moorage accessory to a permitted moorage, shall be permitted on a shoreline lot owned for residential or private recreational use.
- b. Docks with or without a float shall be the minimum size required to provide for moorage. Single-family docks and floats shall not exceed 40 feet in length measured perpendicularly from the OHWM nor exceed three feet in height above the extreme high water level. Shared moorage may extend to 80 feet in length if demonstrated to be necessary to provide adequate moorage. In the case of pile docks at marine or river locations, the height shall be limited to that which may be reasonably necessary to accommodate landing and moorage of watercraft. Commercial docks shall be the minimum length necessary to serve the type of vessel served.
- c. Private docks up to 60 feet in length or shared moorage up to 100 feet in length measured perpendicularly from the OHWM, including floats, may be permitted by the administrator in shallow areas where a dock sized to accommodate a tender to provide access to a mooring buoy is not feasible and where existing docks on adjacent properties

presently extend out as far as that which is proposed, and where such added length is necessary in order to allow a reasonable use of the dock, as determined based upon adjacent uses; and where the extension in dock length will not adversely affect ecological processes and functions, provided the required dock length is the minimum necessary to achieve such purposes. Docks that cannot reasonably meet this standard may request a review under the variance provisions of this program.

d. Moorage shall be designed to avoid the need for maintenance dredging. The moorage of a boat larger than provided for in the original moorage design shall not be grounds for approval of dredging.

8. In order to minimize impacts on nearshore areas and avoid reduction in ambient light level:

a. The width of piers, docks and floats shall be the minimum necessary and shall not exceed four feet in width, except where specific information on use patterns justifies a greater width. Marine floats shall not exceed eight feet in width nor 40 feet in length and freshwater floats shall not exceed six feet in width and 20 feet in length unless authorized by a variance. Exceptionally large vessels or vessels that require a relatively deep draft may be required to use a buoy, other alternative mooring scheme, or to moor in a marina. Materials that will allow light to pass through the deck may be required where width exceeds four feet.

b. Dock surfaces designed to allow maximum light penetration shall be used on walkways or gangplanks in nearshore areas.

c. Piers, docks and floats shall be located along a north/south orientation to the maximum extent feasible.

9. Private docks shall not encroach into the required sideyard setbacks for residential development (both onshore and offshore); provided, that a shared moorage may be located adjacent to or upon a side property line of the affected properties upon filing of an easement agreement or other legal instrument by the affected property owners.

10. Dock and Pier Design.

a. Piers and docks shall use pile supports unless engineering studies demonstrate that pile supports are insufficient to ensure public safety. Riprapped or bulkheaded fills may be approved only as a conditional use and only when demonstrated that no feasible alternative is available. Mitigation shall be provided to ensure no net loss of shoreline ecological functions and processes.

b. Approaches to piers and docks shall use piers or other structures to span the entire upper foreshore to the point of intersection with stable upland soils and shall be design to avoid interference with littoral drift or wave refraction. Limited fill or excavation may be allowed landward of the OHWM to match the upland with the elevation of the pier or dock.

c. Pile spacing shall be the maximum feasible to minimize shading and avoid a "wall"

effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.

d. Offshore and foreshore pile structures shall allow for continuity of hydraulic energy patterns, unless specifically designed to reduce wave impact on shores.

11. Moorage buoys shall be placed at a distance specified by the Washington Department of Fish and Wildlife, the Washington Department of Natural Resources, and the U.S. Coast Guard to balance the goals of avoiding nearshore habitat and minimizing obstruction to navigation. Anchors and other design features shall meet Washington Department of Fish and Wildlife standards.

12. A covered moorage accessory to a single-family pier or dock, not accessory to a marina, shall have no walls other than an open structural framework to support a roof and shall not cover more than 200 square feet nor exceed 15 feet in height above OHWM. Roof materials shall be translucent, or at least 50 percent clear skylights.

13. Commercial covered moorage may be permitted only where vessel construction or repair work is to be the primary activity and covered work areas are demonstrated to be the minimum necessary over water, including demonstration that adequate upland sites are not feasible.

14. No private or shared moorage may be constructed to within 200 feet of OHWM on the opposite shore of any lake or semi-enclosed body of water such as a bay, cove, or natural channel. This restriction shall not apply within marinas, dredged canal systems or approved marina-home developments.

15. If a dock is provided with railing, such railing shall not exceed 36 inches in height and shall be an open framework that does not unreasonably interfere with shoreline views of adjoining properties or lawful use of water surfaces.

16. Water supply, sewage disposal and disposal of nonhazardous materials associated with activities on docks and piers shall conform to applicable health standards.

17. Moorage facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. Exterior finish shall be generally nonreflective.

18. Moorage facilities shall be constructed and maintained so that no part of a facility creates hazardous conditions nor damages other shore property or natural features during predictable flood conditions. Floats shall be securely anchored.

19. No pier or dock shall be used for a residence.

20. Storage of fuel, oils, and other toxic materials is prohibited on docks and piers except portable containers when provided with secondary containment.

21. Public access facilities shall be provided in accordance with policies and regulations in

WCC 23.90.080.

C. Shoreline Area Regulations.

1. Urban. Private and shared moorage are permitted subject to policies and regulations of this program. Public, commercial and industrial moorage, including expansion of existing piers, and covered moorage or floatplane moorage accessory to a permitted moorage may be permitted as a conditional use.

2. Urban Resort. Private, shared and public moorage, and covered moorage or floatplane moorage accessory to a permitted moorage, may be permitted as a conditional use subject to the policies and regulations of this program. Commercial moorage is prohibited, except piers serving small passenger vessels may be permitted as a conditional use. Industrial moorage is prohibited.

3. Urban Conservancy. Private and shared moorage on nonmarine shorelines are permitted subject to policies and regulations of this program. Private and shared moorage on marine shorelines, other than constructed marinas or canals, may be permitted as a conditional use. Public and commercial moorage, including the expansion of existing piers, and floatplane moorage accessory to a permitted moorage may be permitted as a conditional use. Industrial and covered moorage are prohibited.

4. Shoreline Residential. Private and shared moorage are permitted subject to policies and regulations of this program. Public and commercial moorage, including expansion of existing piers, and covered moorage or floatplane moorage accessory to a permitted moorage may be permitted as a conditional use. Industrial moorage is prohibited.

5. Rural. Private and shared moorage are permitted subject to policies and regulations of this program. Public, industrial and commercial moorage, including expansion of existing piers, and floatplane moorage accessory to a permitted moorage may be permitted as a conditional use. Covered moorage is prohibited.

6. Resource. Private and shared moorage are permitted subject to policies and regulations of this program. Public, industrial and commercial moorage, including expansion of existing piers, and floatplane moorage accessory to a permitted moorage may be permitted as a conditional use. Covered moorage is prohibited.

7. Conservancy. Private and shared moorage on nonmarine shorelines are permitted subject to policies and regulations of this program. Private and shared moorage on marine shorelines, other than constructed marinas or canals, may be permitted as a conditional use. Public and commercial moorage, including the expansion of existing piers, and floatplane moorage accessory to a permitted moorage may be permitted as a conditional use. Industrial and covered moorages are prohibited.

8. Natural. Moorage is prohibited, except public access, interpretive or nature observation facilities that are compatible with the area's physical and visual character may be conditionally permitted subject to policies and regulations of this program. Covered and floatplane moorage

are prohibited.

9. Aquatic. Moorage is permitted, subject to the use and development regulations of the abutting upland shoreline area designation. Unless authorized by WA DNR or its designees, extended moorage longer than 60 consecutive days in one location shall be considered an obstruction which interferes with the normal public use of the surface of the waters of the state, and is prohibited. (Ord. 2009-13 § 1 (Exh. 1)).