

ORDINANCE NO _____

An ordinance relating to environmental standards of the Unified Development Code; amending SMC sections 17E.060.280 and Table 17E.060-04.

The City of Spokane does ordain:

Section 1. That SMC section 17E.060.280 is amended to read as follows:

Section 17E.060.280 Physical and Visual Public Access

- A. The provisions of this section recognize that there are two types of public access to the shoreline: physical public access and visual public access. Visual access is an important shoreline management objective. Consideration must be given to protecting the shoreline's visual quality to and from waterways and their adjacent shoreland features.
 - 1. With respect to development on private property, the physical access requirements of this chapter are not intended to require property owners to increase the public's physical access to the shorelines. With respect to future development on private property, the fundamental principle underlying this chapter's access provisions is that development on private property should not result in a net loss of the public's currently existing rights to visual and physical access to the shorelines.
 - 2. With respect to public property, the physical access provisions are intended to promote an increase in the public's visual and physical access to the shoreline in a balanced manner, through mechanisms such as the further improvement of existing public property and potential future acquisition of additional public property.
- B. When required under this chapter, public access shall be a physical improvement in the form of one or combination of the following: pathway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat-launching ramp, or other areas serving as a means of view and/or physical approach to public waters for the public. Public access may also include, but not be limited to, interpretive centers and displays explaining the history and features of the Spokane River or Latah Creek.
- C. When public access is provided, it shall not result in a net loss of existing shoreline ecological functions.
- D. Except as provided in SMC 17E.060.~~((280))~~290(U) and (V), and subject to the limitations set forth in SMC 17E.060.~~((280))~~290(A), public access shall be

provided for any new development activity that requires a shoreline substantial development permit, conditional use permit, and/or variance permit where any of the following conditions are present:

1. Where a new development activity will create increased demand for public access to the shoreline, the development shall provide public access proportional to the degree of impact as mitigation.
 2. Where a new development will interfere with an existing public access way, the development shall provide public access to mitigate this impact. Such interference may be caused by blocking access or by discouraging use of existing on-site or nearby accesses; or
 3. Where a new development will interfere with a public use of lands or waters waterward of the ordinary-high-water-mark, the development shall provide public access.
- E. When provisions for public access are required as a condition of project approval, public access provisions shall be consistent with all relevant constitutional and other limitations on private property. The provisions of these shoreline regulations shall not be construed so as to deprive a property owner of economically viable use of private property.
- F. Submerged public rights-of-way shall not be diminished. Public access provided by existing shoreline street ends and public rights-of-way shall be preserved, maintained, and enhanced consistent with RCW 35.79.035. Vacation of shoreline street ends shall comply with the statutory provisions therein.
- G. Public access shall be fully developed and open to the public no later than the time of the director's final inspection of the proposed development.
- H. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of the plat or short plat as a condition running with the authorized land use. Such easement, plat, or other legal instrument evidencing the public access conditions shall be recorded with the Spokane County auditor's office.
- I. Maintenance of the public access shall be the responsibility of the owner or developer over the life of the use or development unless otherwise accepted by public or private agency through a formal agreement recorded with the County auditor's office. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.
- J. Minimum width of public access easements shall be ten feet, consistent with the dimensional standards for public access stated in Table 17E.060-5, unless the director determines that undue hardship will result. In such cases, easement

width may be reduced only to the minimum extent necessary to relieve the hardship.

K. Shoreline public access shall:

1. be located adjacent to other planned or existing public areas, public and private accesses and trails, and connected to the nearest public street or public walkway;
2. consist of an area on the property from which the water and water activities can be observed and there shall be no significant obstruction of the view from this viewpoint; and
3. include provisions for handicapped and physically impaired persons where feasible.

L. Where public access is required along the shoreline, a public pedestrian access walkway parallel to the ordinary high-water mark shall be preferred.

M. If a parcel exceeds three hundred feet of shoreline frontage and a continuous public access pathway parallel to the river is not feasible, shoreline access points shall be provided at an average of every three hundred feet.

N. At a maximum interval of three hundred feet of structure that is generally parallel to the river, there shall be a clear visual and pedestrian penetration at the ground level from a public street to the river corridor. The visual and pedestrian penetration shall not be less than thirty feet wide.

O. Pursuant to SMC 17E.060.730, public access may be provided within a required buffer area when said access demonstrates compliance with the critical areas ordinances and mitigation sequencing in SMC 17E.060.230 and shall be reviewed and approved on a case-by-case basis.

P. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority.

Q. Public access may be limited as to hours of availability and types of activities permitted. However, twenty-four hour availability shall be preferred and the access shall be available to the public on a regularly scheduled basis.

R. Approved signs that indicate the public's right of access and hours of access shall be installed and maintained by the owner.

- S. Access required for public projects shall include directional signage to points of interest and interpretive signage that describes shoreline features such as shoreline ecology, cultural history, and other site-specific information.
- T. Public access within the shoreline jurisdiction may be denied to any person who creates a nuisance or engages in illegal conduct on the property. The director may authorize public access to be temporarily or permanently closed if it is found that offensive conduct cannot otherwise be reasonably controlled.
- U. Physical and visual public access shall not be required for the following uses:
 - 1. Residential single-family.
 - 2. Residential two-family.
 - 3. Residential three-family.
 - 4. Residential subdivision of land into four or fewer parcels.
 - 5. Agriculture.
 - 6. Dredging.
 - 7. Forest practices.
 - 8. Landfill and excavation.
 - 9. Mining.
 - 10. Private docks serving four or fewer dwelling units.
 - 11. In-stream structures.
 - 12. Shoreline stabilization; and
 - 13. Ecological restoration or enhancement activities not associated with development when the purpose of the project would be undermined.
- V. Public access shall not be required where one or more of the following conditions apply:
 - 1. The City has adopted a public access plan that designates another preferred location in proximity to the project site.
 - 2. Environmental harm will result from the public access that cannot be mitigated.

3. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means; or
4. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions.

W. In granting an exception to required public access, the director shall review all reasonable alternatives for public access. The alternatives shall include a provision:

1. for access which is physically separated from a potential hazard or interference through barriers such as fencing and landscaping; and/or
2. of access at a site geographically separated from the development site but under the control of the applicant.

X. Except as provided in SMC 17E.060.290(U) and (V), applicants shall demonstrate that the proposed project will not decrease the existing level of physical and visual access to the shoreline. An increase in physical and visual public access is encouraged.

Y. No permit shall be issued for any new or expanded building or structure more than thirty-five feet above average grade level within the shoreline jurisdiction that will obstruct the view of a substantial number of residences on or adjoining such shorelines except where the SMP or underlying zoning does not prohibit such development and only when overriding considerations of the public interest will be served. The applicant shall be responsible for providing sufficient information to the director to determine that such development will not obstruct the view of a substantial number of residences on or adjoining such shorelines.

Section 2. That SMC section 17E.060.690, table 17E.060-04 is amended to read as follows:

TABLE 17E.060-04 SHORELINE PRIMARY USES							
Use is:		Shoreline Environments					
P:	Permitted (with shoreline substantial development permit or exemption)	NE	UCE	SRE	LUE	IUE	WTPE

N:	Not permitted						
L:	Allowed, but special limitations						
CU:	Conditional use review required						
Agriculture							
Low intensity agriculture	N	L ^[1] /CU	N	N	N	N	N
High intensity agriculture	N	N	N	N	N	N	N
Aquaculture							
Aquaculture	N	N	N	N	N	N	N
Boating Facilities							
Marinas	N	N	N	N	N	N	N
Launch ramps for small non-motorized watercraft	CU	CU	CU	CU	N	CU	CU
Capital Facilities and Utilities							
Maintenance of existing utilities or facilities	P	P	P	P	P	P	P
New construction or expansion of existing utilities or facilities	L ^[2] /CU	L ^[2] /CU	L ^[2] /CU	L ^[2] /CU	L ^[2] /CU	L ^[2] /CU	L ^[2] /CU
Over-water or underwater utility crossings	CU	CU	CU	CU	CU	CU	CU
New bridges solely for pipelines	N	N	N	N	N	N	N

Facilities which constitute the final termination or destination of a transmission line	N	N	N	N	N	N
Expansions or upgrades of existing wastewater treatment plant facilities and accessory uses	N	N	N	N	N	CU
New wastewater treatment plant facilities and pumping stations	N	N	N	N	N	L ^[2] /CU
New wastewater treatment outfall infrastructure	CU	CU	CU	CU	CU	P
New wireless communication support tower	N	N	N	N	N	N
Commercial Development						
Water-dependent commercial uses	N	P	N	P	P	N
Water-related commercial uses	N	P	N	P	P	N
Water-enjoyment commercial uses	N	P	N	P	P	N
Non-water-oriented commercial uses	N	L ^[3]	N	L ^[3]	L ^[3]	N
Forest Practices						
Forest practices	N	N	N	N	N	N
Industrial Development						
Water-dependent	N	CU	N	CU	CU	N

industrial uses						
Water-related industrial uses	N	CU	N	CU	CU	N
Non-water-oriented industrial uses	N	L ^[4] /CU	N	L ^[4] /CU	L ^[4] /CU	N
High-impact industrial uses	N	N	N	N	N	N
Institutional						
Water-dependent institutional	CU	CU	CU	CU	CU	N
Water-related institutional	CU	CU	CU	CU	CU	N
Water-enjoyment institutional	CU	CU	CU	CU	CU	CU
Non-water-oriented institutional	L ^[5] /CU	L ^[5] /CU	L ^[5] /CU	L ^[5] /CU	L ^[5] /CU	N
In-stream Structures						
In-stream structures	L ^[6] /CU	CU	CU	CU	CU	CU
Mining						
Mining	N	N	N	N	N	N
Recreational Development						
Water-dependent recreational	CU	CU	CU	CU	CU	N
Water-related recreation	CU	CU	CU	CU	CU	N
Water-enjoyment recreation	L ^[7] /CU	CU	CU	CU	CU	(N) <u>CU</u>
Non-water-oriented recreation	N	CU	CU	CU	CU	N

Residential Development						
Single-family residences	CU	P	P	P	P	N
Two-family residences	N	P	P	P	P	N
Three-family residences	N	P	P	P	P	N
Multi-family residences (4 or more dwelling units)	N	CU	CU	CU	CU	N
Accessory dwelling unit (ADU)	CU	P	P	P	P	N
Detached accessory structures	CU	P	P	P	P	N
Group living	N	CU	CU	CU	CU	N
Subdivision						
All subdivisions (including binding site plans)	L ^[8] /CU	CU	CU	CU	CU	N
Parking						
Commercial parking or parking facility as primary use	N	N	N	N	N	N
Parking, accessory to a permitted use	P	P	P	P	P	P
Transportation						
New streets or street expansions that are part of the City of Spokane designated regional arterial network	L ^[9] /CU	L ^[9] /CU	L ^[9] /CU	L ^[9] /CU	L ^[9] /CU	L ^[9] /CU

New local access streets or street expansions serving permitted shoreline uses	L ^[10] /CU	L ^[10]	L ^[10]	L ^[10]	L ^[10]	L ^[10]
Pedestrian and bicycle linkages to existing or planned transportation networks	L ^[11] /CU	P	P	P	P	P
Maintenance roads, accessory to a permitted use	P	P	P	P	P	P
Railroads and Rail Corridors						
New rail lines	L ^[12] /CU	L ^[12] /CU	L ^[12] /CU	L ^[12] /CU	L ^[12] /CU	L ^[12] /CU
Expansion of existing rail lines	P	P	P	P	P	P

ADOPTED BY THE CITY COUNCIL ON _____

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date