

DPD

Draft Director's Rule X-2013

Applicant: City of Seattle Department of Planning and Development	Pages	Supersedes: NA
	Publication:	Effective:
Subject: Determining whether a dwelling unit floating on the water that is not a floating home or a registered house barge meets Seattle Shoreline Master Program requirements	Code and Section Reference: Seattle Municipal Code Chapter 23.60	
	Type of Rule: Code Interpretation	
	Ordinance Authority: SMC 3.06.040	
Index: City of Seattle Shoreline Master Program	Approved	Date
	Diane M. Sugimura, Director, DPD	

Application of this Rule

This Rule applies to dwelling units floating on the water, within the Seattle City limits, prior to the effective date of SMC Chapter 23.60A (Ordinance 124105). Chapter 23.60A is the new version of the Seattle Shoreline Master Program (SSMP or Shoreline Code). Ordinance 124105 was adopted by the Seattle City Council in January 2013 in response to a state requirement to regularly update the Shoreline Code and comply with updated state guidelines. The new Shoreline Code will not take effect until approved by the Washington State Department of Ecology, expected in early 2014. This Rule applies to floating dwelling units in place on Seattle waters prior to the time Chapter 23.60A takes effect; new floating dwelling units that locate on Seattle waters after the effective date of SMC Chapter 23.60A will be subject to the new code. As noted in the title and described below, this rule does not apply to floating homes or house barges. Nor does this rule apply to dwelling units that are fixed structures built on piers over the water or dwelling units on waterfront or upland lots.

Background

The purpose of the Seattle Shoreline Master Program (SSMP or Shoreline Code) is stated in SMC 23.60.002: "It is the purpose of this chapter to implement the policy and provisions of the Shoreline Management Act and the Shoreline Goals and Policies of the Seattle Comprehensive Plan by regulating development of the shorelines of the City in order to:

1. Protect the ecosystems of the shoreline areas;
2. Encourage water-dependent uses;
3. Provide for maximum public use and enjoyment of the shorelines of the City; and
4. Preserve, enhance and increase views of the water and access to the water."

To accomplish this, the Shoreline Code prohibits or severely restricts non-water-dependent uses from locating on the water. Under the current Shoreline Code, residential uses are classified as non-water-dependent uses.

When the City Shoreline Code was first adopted in 1977, the City recognized the historic character of the then-existing on-water community. Even with that recognition, however, the 1977 Shoreline Code placed strict limits on floating homes and those limits continue to apply today: Floating homes must be connected to sewer and water service, are limited in height and overwater coverage, and must get building permits for construction and additions. The availability of new moorage for floating homes is limited.

In 1987, the City updated the Shoreline Code. Among other changes, a reference to floating homes as a water dependent use in the 1977 code was deleted. Amendments in 1992 followed and addressed a new issue: constructing dwelling units on barges. "House barge" was defined as "a vessel that is designed or used as a place of residence without a means of self-propulsion and steering equipment or capability...." House barges located within the city by June 1990 had to register with the Department. These registered house barges must retain and pump out their black water (sewage), and are encouraged to use best practices to minimize the gray water, e.g., water used for showering, dish washing, laundry, etc., that they release into the water. There are 34 registered house barges in the city. Any new dwelling unit on a vessel that is a barge, i.e., without steering and self propulsion, is treated as a floating home and subject to floating home regulations.

In the course of the 1980's code amendment process, the City considered a prohibition against other floating dwelling units, such as those on board recreational vessels. That prohibition was not adopted. In an effort to further explain for customers the code provisions related to floating dwellings, the Department published Client Assistance Memo (CAM) 229 in September 1993. Client Assistance Memos were designed to provide user-friendly information on policies and procedures customers may encounter while conducting business with the City. The CAM was updated in July 2004 and then re-titled (with no change in content) as Tip 229 in 2013.

Tip 229 reflected the Department's practice relating to floating residential uses and described three ways for living on the water: on a floating home, on a registered house barge, or on a vessel. Regarding living on a vessel, the Tip listed a number of characteristics that were meant to help distinguish vessels on which dwelling units are allowed from house barges and floating homes. CAMs and Tips, however, are not formal rules, only summaries of codes and policies. Over the course of twenty years, a wide range of floating dwelling units have located in Seattle waters and clarity about what is a vessel that may be used as a dwelling unit under the SSMP is needed.

This Rule is adopted to clarify Seattle Shoreline Master Program requirements for living on the water in a floating dwelling unit that is not a registered house barge or a floating home.

Rule *(For any floating dwelling unit established prior to the effective date of Ordinance No. 124105).*

Living in a floating dwelling unit other than a floating home or registered house barge is prohibited except on vessels designed and used for navigation that have steering and self-propulsion, when each of the following four requirements is met:

- 1) The floating craft must be designed for navigation.
 - a. The following are recognized outright as being designed for navigation: Commercial and recreational ships and boats such as sail boats, cabin cruisers, yachts, tug boats, and research and fishing vessels;
 - b. Other floating craft must be verified as vessels designed for navigation through an assessment by a naval architect licensed as a professional engineer in Washington.
- 2) The floating craft must be used for navigation.
 - a. This must be demonstrated in a performance test verified by a naval architect licensed as a professional engineer in the state of Washington.
 - b. The required minimum standards for the performance test include:
 - i. The demonstration must have occurred within the past twelve months;
 - ii. The craft maneuvered away from and returned to dock under its own power;
 - iii. The entire voyage was self propelled;
 - iv. The craft was steered from its own helm; and
 - v. The voyage covered a distance of at least one nautical mile.
- 3) The floating craft must have steering capability that allows the craft to be safely navigated in the waters in which it is moored. Steering capability will be demonstrated in the performance test called for in requirement number 2. If a

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naval architect assessment is required, the assessment shall include whether the floating craft has working steering capability adequate for safe navigation.

- 4) The floating craft must be self propelled, with sufficient working horsepower to motor on or across the waters on which the vessel is moored. Self propulsion will be demonstrated in the performance test called for in requirement number 2. If a naval architect assessment is required under requirement number 1, the assessment shall include whether the floating craft has a self propulsion system, such as an engine and fuel delivery system, adequate for safe navigation.

Reason

Shoreline Code provisions: These sections provide a direct basis for this rule.

23.60.016 Inconsistent development prohibited.

No development shall be undertaken and no use, including a use that is located on a vessel, shall be established in the Shoreline District unless the Director has determined that it is consistent with the policy of the Shoreline Management Act and the regulations of this chapter. This restriction shall apply even if no substantial development permit is required.

23.60.018 Nonregulated actions.

Except as specifically provided otherwise, the regulations of this chapter shall not apply to the operation of boats, ships and other vessels designed and used for navigation *Emphasis added.*

23.60.090 Identification of principal permitted uses.

E. Principal uses which are water-dependent may be permitted over water. Principal uses which are non-water-dependent shall not be permitted over water unless specifically stated otherwise in the regulations for the applicable shoreline environment. For purposes of this chapter, this regulation shall be considered a use standard not subject to variance.

F. Floating structures, including vessels which do not have a means of self-propulsion and steering equipment and which are designed or used as a place of residence, with the exception of house barges moored within The City of Seattle in June 1990 and licensed by The City of Seattle, shall be regulated as floating homes pursuant to this chapter. Locating other non-water-dependent uses over water on floating structures, including vessels, which do not have a means of self-propulsion or steering equipment is prohibited unless specifically permitted on house barges or historic ships by other sections of this chapter.

23.60.942 "V."

"Vessel" means ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water, including historic ships which do not have a means of self-propulsion and steering equipment.

23.60.916 "H."

"House barge" means a vessel that is designed or used as a place of residence without a means of self-propulsion and steering equipment or capability. Historic ships which do not have a means of self-propulsion and steering equipment are regulated as vessels.

Department expertise: DPD has deep experience interpreting and enforcing the City's development regulations including the Shoreline Code. The Department, however, does not have expertise in vessel design. Once a vessel or other floating craft departs in design from what is easily known to be a ship or boat such as a sail boat, tug boat, fishing boat, cabin cruiser or yacht, the level of uncertainty about whether the vessel or floating craft is designed and used for navigation, has steering, and is self propelled can increase significantly. For these reasons, the services of an expert in naval design are required for answering whether something is "designed for navigation." The requirement for assessment or certification by a naval architect registered as a professional engineer in the state of Washington provides assurance of appropriate education, experience and oversight by the state for illegal or unprofessional practices.

State and Federal requirements: Other agencies have requirements for vessels to legally operate, including a current Washington vessel registration number and decal, personal flotation devices, visual distress signals, mounted fire extinguishers, a sound producing device, navigation lights, an engine ventilation system, a backfire flame arrestor for the engine, a copy of navigation rules, and a marine sanitation device. These requirements are state or federal requirements for the legal operation of vessels, but the absence of any of these requirements does not change the intrinsic design of the vessel or make the vessel incapable of navigation. Also, the City has no authority or expertise in enforcing requirements related to the operation of vessels. For this reason, DPD includes none of these requirements in this Rule.

END

See attached checklist with requirements for "non-house-barge" dwelling unit vessels.

Checklist for Dwelling Unit Vessel ("Non-house-barge")

1. DESIGNED FOR NAVIGATION		
Is your floating craft a typical recreational or commercial vessel such as a sail boat, yacht, cabin cruiser, tug boat, research vessel, or fishing boat?	<input type="radio"/> yes	If yes, your craft is designed for navigation
	<input type="radio"/> no	If no, you must provide a letter from a Naval Architect who is licensed as a professional engineer in the state of Washington. The letter must certify that your craft, including the hull and the superstructure, is designed to safely navigate the waters in which it is moored. The letter from the Naval Architect must address at least: 1.1 Stability of the craft while underway, and 1.2 Structural soundness of the hull and superstructure (for encountering and surviving water, wind and weather conditions that it is likely to be subject to).
2. USED FOR NAVIGATION		
Is your floating craft used for navigation	<input type="radio"/> yes	If yes:
	<input type="radio"/> no	a) You must submit verification from a naval architect* who witnessed the demonstration in person; b) The demonstration must meet the following standards: <ul style="list-style-type: none"> i. The demonstration must have occurred within the past twelve months; ii. The craft maneuvered away from and returned to dock under its own power; iii. The entire voyage was self propelled; iv. The craft was steered from its own helm; and v. The voyage covered a distance of at least one nautical mile. *The naval architect must be licensed as a professional engineer in the state of Washington
3. STEERING		
Does your floating craft have on board steering that allows safe navigation in the waters in which it is moored?	<input type="radio"/> yes	If you must provide a letter from a naval architect pursuant to question #1 above, the letter must include certification that the floating craft has a working steering system adequate to provide safe steering capability for the craft.
	<input type="radio"/> no	
4. SELF PROPULSION		
Is your floating craft self propelled?	<input type="radio"/> yes	If you must provide a letter from a naval architect pursuant to question #1 above, the letter must include certification that the structure or craft is self propelled and has sufficient engine power, fuel capacity, and control to allow for safe navigation across the waters on which it is moored.
	<input type="radio"/> no	