Notes from October 1, 2013 public meeting
Preliminary draft Director's Rule for residential uses on vessels

The Department of Planning and Development hosted a public meeting on October 1, 2013 to take public input on a preliminary draft of a Director's Rule. The Director's Rule would help define what constitutes a vessel on which residential use is allowed under the current Shoreline Code, Chapter 23.60 of the Seattle Municipal Code.

In addition to comments, many questions were submitted for DPD to consider. DPD will review all comments from the meeting and those received via mail or email and will provide responses to questions in November 2013. A second draft of the Director's rule is expected to be released for public comment in November as well.

Six tables held discussions facilitated by DPD staff. Each table was asked to consider three main questions. Open discussion was also encouraged. Notes from those table discussions are presented below.

Table 1

What is designed for navigation?
-if it moves across the water, it is navigating
-movement over water does not have to be under its own power
-should use the federal definition of "navigation"
-should use the broadest possible interpretation of "designed for navigation"

What is used for navigation?
-"used for navigation" is not boater language; no marine person would say "used for navigation"—they would say "in navigation"
-question should be is it "in navigation"
-if it's "in navigation," then it is "used for navigation"

Steering and propulsion?
-yes, this should be part of the test
-does it have any means of steering? Shouldn't matter how good.
-does it have any means of propulsion?
--motor of any HP should be good enough
--need not be permanently attached
--many reasons permanent attachment is a bad thing:
---pollution
---maintenance issues
---insurance might prohibit permanent attachment

Other issues?

-Review by marine surveyor should be sufficient; naval architect is unnecessary, marine surveyor's membership in a certification organization should be sufficient evidence of qualifications.

-we worked hard at the stakeholders meeting and gave you our opinions; why are we here? just look at the stakeholders' report if you want our input.

-discussion of the federal and admiralty laws that have their own definitions of vessel and related terms and the suggestion that we should use those

-use the broadest possible definition

-why is the City so against living on the water; isn't houseboats what Seattle is all about?

-what about all the traditional boats lived aboard that do not run?

Table 2

Designed for navigation means:

1. Seems like something an expert would decide like a naval architect.
2. Don't think you need a naval architect, just a competent inspector.
3. There is a difference between designed to navigate and designed to float (haul design, center of gravity, etc.).
4. There are adaptations on commercial vessels for them to navigate. Do not necessarily apply to recreational vessels.
5. Simply means configured to allow movement through water.
6. Make it simple. City makes it too complicated. Floats on water and are able to steer.
7. Equals a vessel. Should be any vessel registered in state of WA or a visiting vessel which meets the number 1 U.S. Code subsection 3 definition and nothing more; which means to remove "designed and used for navigation."

Used for navigation means:

8. Seems irrelevant. No requirement for any other boat. Don't understand why needed. Doesn't matter what definition is.
9. Disregard. Who is kidding who? Get it out in the open.
10. Cannot require someone to take their vessel to test for "used for navigation" (no blanket test for all) except for license, inspection, or such requirement.
11. Able to demonstrate ability to move through water. I think it is unfair and an unequally applied standard/test.
12. "Used" or "in use" when floating in water in the state (not when on a trailer). As defined by federal law, insurance, etc.
13. Used based on definition of service of vessel. Vessels are evaluated based on intended use and design in their intended waters (with any restrictions by insurance companies). If in use, it has to meet all federal regulations which apply to the vessel size, type, fuel, etc.

Steering and self-propulsion – how to verify or demonstrate:

14. Think inspection is adequate. Don't think a literal demonstration necessary. One can determine without seeing (for example: can check fire extinguishers without having to use them on a fire).
15. Competent inspector. It is self-evident. City inspector, Christine, did a fine job in the past.
16. Needs to be in condition that can be used at any time (safety issue) except when under repair. Exception not a baseline condition.
17. Motor and fuel on a vessel increases fire and environmental hazard (examples: recent tug boat sinking, marine fires, and 4th of July fire).
18. Visual inspection adequate.
19. Steering and self-propulsion just part of marine survey. We hire marine inspector for insurance purposes. They go over all systems. By the time we hire surveyor, haul the boat out of the water, make needed repairs, the cost can be up to $3000. Naval architect just extra time and expense. It's not like our boats are never looked at. Upset if I had to pay that much to a naval architect on top of everything else.
20. Visual inspection. Verification of a marine survey. Don't want to do naval architect because it will increase the cost and the risk of the insurance.

Other things for DPD to consider:

21. It is the future versus the past. How can future regulations apply to vessels that already exist?
22. Previous inspections should be considered and honored. What Christine did was fine.
23. Culture on the lake is "if you get it on the lake, they won't kick you off." This has caused displacement of water dependent uses. Needs to be stopped from the point when it happens.
24. Recreational vessel much less safe and more polluting than we (house boats) are.
25. DPD needs to focus on rules that protect the environment and meet Shoreline Management Plan goals, which is not to get rid of house boats.
26. Should abandon attempt to cover existing and future in one document. Result is meaningless. Logically doesn't work.
27. City should use the same standards and regulations used by everyone else – U.S. Code, CFRs – and use the same definitions of "recreational vessel" that everyone else uses – such as the Department of Licensing.
28. Take the term "dwelling unit" out. Refers to building and structures, and if vessel is defined as "dwelling unit" then must meet all requirements of a "dwelling unit" which can not apply to vessels.
29. Focus on reducing pollution. (Look for document on outboards.)
30. Fire department will not allow people to move their vessels during emergency.
31. Eliminate "live-aboards"; use "residence."

Table 3

What does "designed for navigation" mean?

A stable vessel

Meets Coast Guard light and sound requirements

Ability to float
Look at maritime law, coast guard regs to answer this
"manufactured with the intent to travel over water"

What does "used for navigation" mean?
Able to be moved around on the water
To go from Point A to Point B on the water safely
A vessel that can navigate on the water.

Steering and Self-Propulsion- how to verify/demonstrate
Use marine surveyor, dump the naval architect idea
Requiring "going out a nautical mile" will expose the City to liability
Don't need to require taking the boat out
City is duplicating Coast Guard requirements
Can purchase a vessel without knowing how to operate it (e.g., "take it out")
Why "from the helm"? Owner can remotely control a boat from anywhere and it still moves the vessel
Can demonstrate "steering" at the dock without taking it out
If houseboats were stacked up 4 deep, who would arrange moving the ones in front so the one behind could be taken out?
The cost of insurance for being on the water is higher than the cost of insurance at the dock. Who pays for that?

Other issues
Houseboat community is affordable housing and stewards of the water
What are the penalties for not meeting the Rule?
How many days do you have to live on board to be a live-aboard?

Table 4

1. How would "demonstration must have occurred within the past twelve months work"? (p.3); boat owners should have either a notice of the inspection or a period of time to demonstration ability to navigate
2. Definition of live-aboard is problematic and is not sufficiently addressed by the director's rule; rule just says it is "requirements for living on the water", but doesn't say how long you have to live for this to kick in; live-aboard definition from SMP (which would likely be used) is problematic because it would apply to people who don't even sleep on the boat or who only sleep on it when they are out sailing
3. Could the definition of live-aboard be based on residency – i.e. if you have another residency that you are not a live-aboard?

4. Rule will mean good employment for naval architects
5. Rule ignores issues of stability (boats don't even have to be stable to meet the requirements
6. Naval architects are very costly
7. Naval architect in attendance said he would approve any application that he got as the rule is so vague
8. Oppression of marine industrial base has to stop (individual wanted to build overwater building with caretaker unit which he was prevented from doing)
9. One commenter want to make it clear he will litigate until the cows come home
10. Live-aboards provide benefits to community by increasing safety and monitoring of the area around where they live
11. Rules could encourage people to stop maintenance and upkeep of boats that don't qualify as vessels or just dump them; removal of derelict vessels is expensive for marina owners
12. Difficult for marina owners to kick people out
13. Language on p.3 "waters on which it is moored" should be clarified
14. Lake Union and Lake Washington are designed waterways and is thus under jurisdiction of federal government; we should define roles of various governments and the Port
15. Clarify definition of vessel – vessels can interfere with normal public use of the water since
16. Is a sail with a leeboard sufficient propulsion?
17. Comments on SMP code update generally
18. Live-aboard requirements will require sinks, toilets and other amenities which are too expensive and space-intensive for existing marinas to accommodate
19. Zoning restricts shipyards
20. Maritime tax base is derogated by limiting what they can do
21. No land is available for construction and expansion

Table 5

Designed for navigation means:

1. If you're <u>floating</u> on the water and can at least be <u>towed</u>

Used for navigation means:

2. Has it ever been towed?
3. Is there anyone who can certify that it has been towed?
4. Can't marina managers be trusted to do verification or coast guard & state license
5. Why does City need to confirm above?

Steering & Self propulsion:

6. Get out of this business
7. Not in current SMP

8. If you try to have us verify then it's outside the SMP & illegal

Other Comments

9. May I apply for registration if I'm not one of the 34 and I live on a House Barge?
10. If so, how do I apply
11. We want to City to re-open House Barge registration.
12. Why do we need to hire a naval architect or marine engineer?
13. Why not have marina manager verify that we have vessel insurance
14. Proposed system seems inequitable
15. If have to do test should only have to do it once
16. What is DPD trying to eliminate, achieve, protect us from?
17. Is proposed program voluntary or compulsory?
18. Will Marina managers be responsible for abandoned boats?
19. Is the rule intended to charge low-income houseboat owners more unfairly?
20. How will City ensure that rule is not enforced in an arbitrary & capricious manner?
21. How does one appeal?
22. What if I put a sail on my HB
23. Insurance concerns if I only have insurance for while I'm docked

Table 6

-Why is the removal of "home moorage" as a water-dependent use off the table? It ought to be on the table

-There ought to be some other way of showing "used for navigation" other than a naval architect. I.E. logs, traveling moorage receipts, affidavits, yacht race results.

-The performance test is:

-not safe –i.e. vessels sometimes need assistance (like a tug)

-More than what the underlying code requires – the code doesn't say you need to use steering and self propulsion.

-Clarify how the process in the rule fits with the SHG (stakeholder group) compliance process

-voluntary safe harbor

-in response to pre-NOV process

-every 12 months

-Licensed professional engineer requirement is due process issue because of no rational relationship to whether vessel was used in past for navigation

-Should be able to use past evidence of navigation

-12 months is ridiculous – is “ever” sufficient

-is safe harbor a one shot deal or every 12 months – clarify

-Is there a triggering event for evaluation? If so, it should be a very high standard for 2nd look

-Where is the city staff? They need to be more involved rather than 3rd parties.