

ORDINANCE No. 119586

COUNCIL BILL No. 112806

AN ORDINANCE relating to land use and zoning, amending Ordinance 119453 to extend and expand a moratorium on the construction of new single-family dwellings over water, and declaring an emergency requiring a three-fourths vote of the Seattle City Council so that this amendatory Ordinance may take effect immediately.

COMPTROLLER FILE No. \_\_\_\_\_

Introduced: JUL 19 1999	By: CONLIN
Referred: JUL 19 1999	To: FULL COUNCIL
Referred:	To:
Referred:	To:
Reported: 8/2/99	Second Reading: Full Council Vote 7-0
Third Reading:	Signed:
Presented to Mayor: 8/3/99	Approved:
Returned to City Clerk: AUG 06 1999	Published: F.T.
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

US5047

Law Department

The City of Seattle--Le

REPORT OF COMM

Honorable President:

Your Committee on \_\_\_\_\_

to which was referred the within Council Bill No. \_\_\_\_\_  
report that we have considered the same and respectfully recommo

Committee C

SMEAD 45 YSP 17703

ORDINANCE 119586

AN ORDINANCE relating to land use and zoning, amending Ordinance 119453 to extend and expand a moratorium on the construction of new single-family dwellings over water, and declaring an emergency requiring a three-fourths vote of the Seattle City Council so that this amendatory Ordinance may take effect immediately.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council hereby makes the following legislative findings of fact and declarations:

1. The Seattle Shoreline Master Program authorizes the new construction of single-family residences over water in the Urban Stable and Conservancy Recreation shoreline environments, pursuant to SMC 23.60.604 and SMC 23.60.365.

2. In response to the listing of the Chinook salmon as a threatened species under the federal Endangered Species Act in 1999, the Seattle City Council adopted Ordinance 119453 to establish a temporary moratorium on single-family residential development over water in portions of the Urban Stable environment along Seaview Avenue Northwest. The moratorium was scheduled to expire on August 1, 1999.

3. Because analysis of the potential impacts of residential construction over water on salmon in Seattle's waters has not been completed, additional time is required before the City Council can determine the appropriate regulation of such development.

4. If proposals to establish residences in and over the waters of Salmon Bay or Lake Washington become legally vested before the analysis is complete and before the City Council has determined the appropriate scope of regulation, the Council's ultimate legislative decision may be frustrated, and uses may be permanently established which are harmful to salmon and salmon habitat, and inimical to the public health, safety, and welfare. Because the acquisition of vested rights may be imminent, an emergency exists which requires the extension of the moratorium on the acceptance of applications for or issuance of use permits until January 1, 2000, and the expansion of the moratorium to include potential over water development of new single-family dwellings within the Conservancy Recreation environment with the adoption of this moratorium ordinance.

5. The shorelines of the City are a unique and scarce resource which should generally be reserved for water-dependent or water-related uses, and single-family residences may be located elsewhere in the City without the need to preclude more appropriate water uses from the shoreline.

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6. The City has legal authority to establish a temporary, permit moratorium pursuant to the authority granted by Article 11, Section 11 of the Washington Constitution, the Growth Management Act, RCW 36.70A.390, and Matson v. Clark County, 79 Wn. App. 641 (1995).

Section 2. Section 2 of Ordinance 119453 is hereby amended to read as follows:  
Until January 1, 2000, no use permit application or construction permit application may be accepted or use or building permit issued for any single family residence proposed to be located in or over water pursuant to SMC 23.60.365 or 23.60.604.

Section 3. The City Council approves the work program for the analysis of development of over-water residences which is attached as Attachment 1 to this Ordinance, and directs City Council staff to schedule a public hearing on this Ordinance as prescribed by RCW 36.70A.390.

Section 4. This Ordinance shall become effective immediately upon the approval or signing of the ordinance by the Mayor or passage over his veto, as provided by the Charter of the City.

Passed by a three-fourths vote of all the members of the City Council the 2 day of August, 1999, and signed by me in open session in authentication of its passage this 2 day of August, 1999.

President Richard J. Matson of the City Council

Approved by me this 4th day of August, 1999.

Will Seely  
Mayor

Filed by me this 6 day of August, 1999.

Judith E. Lipp  
City Clerk

(SEAL)

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Attachment 1

**Work Program for Development of Over-water Residences Analysis**

The Department of Design, Construction, and Land Use (DCLU) will undertake the following work program to support the City Council's enactment of the moratorium on over-water residences pursuant to 23.60.365 and 23.60.604.

1. Review Comprehensive Plan, Shoreline Master Program, Critical Areas, SEPA, and Stormwater goals, policies, and regulations that may apply to the protection of salmon and the approval, mitigation, or denial of projects with potential impacts from over-water residential development.
2. Complete an inventory of areas in the city where over-water residential development is permitted.
3. At a minimum, gather information and data from the following sources (as available): City of Seattle Built Environment Study; Tri-county Urban Issues Study; Tri-county technical work group on regulations; NMFS 4d proposed rule and documentation, including biological assessment.
4. Develop options for addressing the potential impacts from over-water residential development, which could include the requirement for additional site specific studies or expanded environmental review, conditions on use and construction, amendments to development standards, or prohibition of new over-water residential development.
5. Conduct any required SEPA review on option(s) to be submitted to the City Council.
6. Prepare report and any accompanying proposed legislation to be submitted to the City Council for consideration, public comment, and possible action.

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STATE OF WASHINGTON - KING COUNTY

108953

City of Seattle, DCLU

—SS.

No. AMENDMENT

City of Seattle

NOTICE OF PUBLIC HEARING  
ON LAND USE CODE AMENDMENT

August 12, 1999

INTRODUCTION

The City Council adopted legislation on August 2, 1999 to extend and expand a moratorium on the construction of new single-family dwellings over water. Moreover, City Council declared an emergency requiring a three-fourths vote, so that this emergency ordinance may take effect immediately. The mayor signed the ordinance on August 4, 1999.

This action was taken in response to the listing of Chinook salmon as a threatened species under the Endangered Species Act in March 1999. Council is anticipating a series of legislative decisions over the course of the next few months to several years to affect uses and actions that are harmful to salmon or salmon habitat.

The moratorium will provide time for the City to analyze the impacts of single family over water development on Chinook salmon. The moratorium will prevent projects by this type of development from proceeding before the City can complete this analysis, so as not to frustrate Council's ultimate legislative decision or permanently establish uses which are harmful to salmon and salmon habitat. With the adoption of this legislation, City Council directed DCLU to complete this analysis within the timeframe of the moratorium. A work program for DCLU is on course as of the legislation. The moratorium is effective until January 1, 2000.

INFORMATION AVAILABLE

Copies of the ordinance are available at the City Clerk's Office, 1st Floor Municipal Building, 300 4th Ave., Seattle, 98104, or at the DCLU Public Resource Center, Harbor Horton Bldg., 700 2nd Ave., Seattle, 98104. For more information, call Mary Beth Binn at (206) 235-7199 or email Mary Beth at (marybeth.binn@ci.seattle.wa.us).

HOW TO COMMENT

PUBLIC HEARING:

A public hearing on the proposed legislation is scheduled before the Seattle City Council Utilities and Environmental Management Committee (UEMC) at 9:30 A.M. Thursday, September 16, 1999, in the City Council Chamber, 11th Floor of the Municipal Building, 600 Fourth Avenue. For those who wish to testify, a sign-up sheet will be provided outside the Council Chamber one half hour before the public hearing. Questions concerning the public hearing may be directed to Peter Clarke, Councilmember Margaret Pagola's office, by calling (206) 684-8807.

The City Council Chamber is accessible. Print and communications access is provided on prior request. Please call Teresa Dunbar at 684-8148 as soon as possible to request accommodations for a disability.

WRITTEN COMMENTS:

For those unable to attend the public hearing, comments will be accepted through the date of the public hearing by Councilmember Margaret Pagola, Chair, Utilities and Environmental Management Committee. Comments may be sent to the following address:

City of Seattle, City Council, Utilities and Environmental Management Committee, 11th Floor, Municipal Building, 600 Fourth Avenue, Seattle, Washington 98104. Attention: Peter Clarke, peter.clark@ci.seattle.wa.us

Date of publication in the Seattle Daily Journal of Commerce, August 12, 1999. 8/12/108953

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CTPH:LAND USE CODE

was published on

08/12/99

The amount of the fee charged for the foregoing publication is the sum of \$ , which amount has been paid in full.

Subscribed and sworn to before me on

08/12/99

Notary Public for the State of Washington  
residing in Seattle

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**STATE OF WASHINGTON - KING COUNTY**

108983  
City of Seattle, City Clerk

—ss.

No. ORD IN FULL

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CT:ORD 119586/FULL

was published on

08/13/99

The amount of the fee charged for the foregoing publication is the sum of \$ \_\_\_\_\_, which amount has been paid in full.

Subscribed and sworn to before me on

08/13/99

Notary Public for the State of Washington,  
residing in Seattle

Affidavit of Publication

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# City of Seattle

## ORDINANCE 110688

AN ORDINANCE relating to land use and zoning, amending Ordinance 110483 to extend and amend a moratorium on the construction of new single-family dwellings over water, and declaring an emergency requiring a three-fourths vote of the Seattle City Council so that this amending Ordinance may take effect immediately.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council hereby orders the following legislative findings of fact and declarations:

1. The Seattle Shoreline Master Program authorizes the new construction of single-family residences over water in the Urban Shore and Conservancy Association shoreline environment, pursuant to SSC 22.05.020 and SSC 22.05.025.

2. In response to the findings of the Citizens' Alliance as a threatened species

under the Federal Endangered Species Act in 1989, the Seattle City Council adopted Ordinance 110483 to establish a temporary moratorium on single-family residential development over water in portions of the Urban Shore environment along Shoreline Avenue, Shoreline. The moratorium was scheduled to expire on August 1, 1990.

3. Because analysis of the potential impacts of residential construction over water on salmon in Seattle's waters has not been completed, additional time is required before the City Council can determine the appropriate regulation of such development.

4. If proposals to establish residences in and over the waters of Salmon Bay or Lake Washington become legally vested before the moratorium is complete and before the City Council has determined the appropriate scope of regulation, the Council's ultimate legislative action may be frustrated, and there may be permanently established which are harmful to salmon and salmon habitat, and related to the public health, safety, and welfare. Because the acquisition of vested rights may be imminent, an emergency statute which requires the extension of the moratorium on the construction of applications for a license of use permits until January 1, 1990, and the extension of the moratorium to include potential over water development of new single-family dwellings within the Conservancy Association shoreline environment with the adoption of this amending ordinance.

5. The shoreline of the City is a unique and scenic resource which should generally be reserved for water-dependent or water-related uses, and single-family residences may be located elsewhere in the City without the need to prohibit more appropriate water uses from the shoreline.

6. The City has legal authority to establish a temporary permit moratorium pursuant to the authority granted by Article 11, Section 11 of the Washington Constitution, the Growth Management Act, RCW 36.70A.020, and *Moham v. Clark County*, 79 Wn. App. 841 (1990).

Section 2. Section 2 of Ordinance 110483 is hereby amended to read as follows: Until January 1, 1990, no use permit application or construction permit application may be accepted or use or building permit issued for any single-family residences proposed to be located in or over water pursuant to SSC 22.05.020 or 22.05.025.

Section 3. The City Council approves the work program for the analysis of development of over-water residences which is attached as Attachment 1 to this Ordinance, and directs City Council staff to schedule a public hearing on this Ordinance as prescribed by RCW 36.70A.020.

Section 4. This Ordinance shall become effective immediately upon the approval or signing of the ordinance by the Mayor or passage over his vote, as provided by the Charter of the City.

Passed by a three-fourths vote of all the members of the City Council the 2 day of August, 1989, and signed by me in execution in authentication of its passage this 2 day of August, 1989.

RICHARD J. McIVER,  
President of the City Council.  
Approved by me this 4th day of August, 1989.

PAUL SCHELL,  
Mayor.

Filed by me this 6th day of August, 1989.  
(Seal) JUDITH E. PIPPIN,  
City Clerk.

Publication ordered by JUDITH PIPPIN,  
City Clerk.

Date of official publication in Daily Journal of Commerce, Seattle, August 13, 1989.  
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