



# SEATTLE CITY COUNCIL

## Legislative Summary

CB 119471

Record No.: CB 119471

Type: Ordinance (Ord)

Status: Passed

Version: 2

Ord. no: Ord 125882

In Control: City Clerk

File Created: 12/12/2018

Final Action: 08/09/2019

**Title:** AN ORDINANCE relating to land use and zoning; clarifying the definition of vessel and consistently using the term vessel in the Shoreline Master Program; and amending Sections 23.60A.204, 23.60A.916, and 23.60A.942 of the Seattle Municipal Code.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Johnson

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: bonita.chinn@seattle.gov

Filing Requirements/Dept Action:

**History of Legislative File**

Legal Notice Published:

Yes

No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	02/19/2019	Mayor's leg transmitted to Council	City Clerk			
1	City Clerk	02/19/2019	sent for review	Council President's Office			
	<b>Action Text:</b> The Council Bill (CB) was sent for review. to the Council President's Office						
	<b>Notes:</b>						
1	Council President's Office	02/22/2019	sent for review	Planning, Land Use, and Zoning Committee			
	<b>Action Text:</b> The Council Bill (CB) was sent for review. to the Planning, Land Use, and Zoning Committee						
	<b>Notes:</b>						
1	City Council	03/04/2019	referred	Planning, Land Use, and Zoning Committee			
	<b>Action Text:</b> The Council Bill (CB) was referred. to the Planning, Land Use, and Zoning Committee						

**Legislative Summary Continued (CB 119471)**

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**Notes:**

- 1 Planning, Land Use, and Zoning Committee 05/01/2019 discussed  
**Action Text:** The Council Bill (CB) was discussed in Committee.  
**Notes:**
- 1 Planning, Land Use, and Zoning Committee 06/05/2019 held  
**Action Text:** The Council Bill (CB) was held.
- 1 Planning, Land Use, and Zoning Committee 06/19/2019 pass as amended Pass  
**Action Text:** The Committee recommends that City Council pass as amended the Council Bill (CB).  
In Favor: 3 Chair Pacheco, Vice Chair O'Brien, Member Herbold  
Opposed: 0
- 1 City Council 08/05/2019 passed Pass  
**Action Text:** The Council Bill (CB) was passed by the following vote, and the President signed the Bill:  
In Favor: 9 Councilmember Bagshaw, Councilmember González, Council President Harrell, Councilmember Herbold, Councilmember Juarez, Councilmember Mosqueda, Councilmember O'Brien, Councilmember Pacheco, Councilmember Sawant  
Opposed: 0
- 2 City Clerk 08/09/2019 submitted for Mayor  
Mayor's signature
- 2 Mayor 08/09/2019 Signed
- 2 Mayor 08/09/2019 returned City Clerk
- 2 City Clerk 08/09/2019 attested by City Clerk  
**Action Text:** The Ordinance (Ord) was attested by City Clerk.
-

CITY OF SEATTLE

ORDINANCE 125882

COUNCIL BILL 119471

AN ORDINANCE relating to land use and zoning; clarifying the definition of vessel and consistently using the term vessel in the Shoreline Master Program; and amending Sections 23.60A.204, 23.60A.916, and 23.60A.942 of the Seattle Municipal Code.

WHEREAS, the goals of the Shoreline Management Act are to promote water dependent uses, protect the shoreline environment, and promote public access to the shorelines; and

WHEREAS, the State's Shoreline Management Act and Shoreline Master Program Guidelines direct the City to implement the Shoreline Master Program regulations in a manner that provides the most protection for the shoreline environment and provides the area needed for water-dependent uses and public access to the shorelines; and

WHEREAS, when implementing the Shoreline Master Program Guidelines uses that occur over the water are to be limited to water-dependent uses to minimize environmental damage; and

WHEREAS, redefining a vessel, which is water-dependent and exists over water, as a floating on-water residence, which is not water-dependent and exists over water, conflicts with the goals and policies of the State Shoreline Management Act and the City's Shoreline Master Program regulations; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Section 23.60A.204 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

**23.60A.204 Floating structures and standards for house barges**

\* \* \*

1 B. For purposes of this Chapter 23.60A, house barges are only allowed under the  
2 following conditions:

3 1. The house barge was moored at a recreational marina in the City before July  
4 1990.

5 2. A permit for the house barge was secured from the Seattle Department of  
6 Construction and Inspections verifying that the house barge existed and was used for residential  
7 purposes within the City before July 1990 and has been continuously used since that time.

8 3. Verification

9 a. Each house barge must be verified by the Director, and owners shall pay  
10 a one-time fee to receive a verification number. The fee shall be established by the Director to  
11 recover the reasonable costs of the program for issuing a verification number. Owners of house  
12 barges authorized by this Section 23.60A.204 may apply to the Director for verification or may  
13 wait until the Director asks for verification information. If a house barge is not verified pursuant  
14 to this subsection 23.60A.204.B, the Director may require the owner to submit verification  
15 information and pay the required fee.

16 b. If an owner disputes the Director's denial of verification as a house barge  
17 under this Section 23.60A.204, the owner may appeal the Director's determination to the hearing  
18 examiner, in conformance with the hearing examiner rules, within 30 days of date the Director's  
19 determination was mailed. The appeal shall be conducted de novo, and the City shall have the  
20 burden of showing by a preponderance of the evidence that the decision of the Director was correct.  
21 Nothing in this Section 23.60A.204 precludes the City from enforcing this code under Chapter  
22 23.90 if there is no timely appeal to the hearing examiner or following a decision of the hearing  
23 examiner upholding the City's denial of house barge verification.

1 c. The owner of a house barge that complies with the requirements of  
2 subsections 23.60A.204.B.1 and 23.60A.204.B.2 may choose to have the house barge verified  
3 and regulated as a floating on-water residence under Section 23.60A.203 instead of under this  
4 Section 23.60A.204.

5 d. The owner shall display the verification number issued by the Seattle  
6 Department of Construction and Inspections on the pier and landward side of the ((~~vessel~~)) house  
7 barge, in numerals at least 3 inches high in a location legible from the pier, or on the side most  
8 commonly used for access from the pier, or if public access to the pier is not available then on a  
9 side visible from the water.

10 e. Failure to verify an authorized house barge or correctly display a  
11 verification number is a violation of this Chapter 23.60A that is subject to the enforcement  
12 process in Chapter 23.90 and does not forfeit the owner's right to maintain an authorized house  
13 barge.

14 4. A house barge verification number is transferable between owners but is not  
15 transferable to another house barge, except to a house barge that has been replaced as provided in  
16 subsection 23.60A.204.C.

17 5. House barges must be moored at a recreational marina, as defined by Section  
18 23.60A.926.

19 \* \* \*

20 Section 2. Section 23.60A.916 of the Seattle Municipal Code, last amended by Ordinance  
21 124750, is amended as follows:

22 **23.60A.916 - Definitions — "H"**

23 \* \* \*

1 "House barge" means a (~~vessel~~) structure that floats on water and is designed or used as  
2 a place of residence without a means of self-propulsion and steering equipment or capability.

3 \* \* \*

4 Section 3. Section 23.60.942, last amended by Ordinance 124750, is amended as follows:

5 **23.60.942 Definitions — "V"**

6 \* \* \*

7 "Vessel" means ships, boats, barges, or any other floating craft that are designed for  
8 navigation in order to transport people or goods over water, (~~and~~) are used for or capable of  
9 being used for navigation, and do not interfere with the normal public use of the water(~~(;~~  
10 ~~including~~)). A vessel is considered capable of being used for navigation even if it is not used for  
11 navigation due to actions or inactions of the vessel owner(s) or due to conditions affecting the  
12 use of the vessel for navigation, which include, but are not limited to, broken engines, lack of an  
13 engine, hull damage, physical modifications, or missing sails. Vessel also means historic ships  
14 that do not have means of self-propulsion and steering equipment (~~and house barges~~).

15 \* \* \*

16 Section 4. Nothing in this ordinance alters the status of floating on-water residences that  
17 received verifications from the City, prior to the effective date of this ordinance, pursuant to the  
18 requirements of subsection 23.60A.203.B and the definition of floating on-water residence in  
19 Section 23.60A.912.

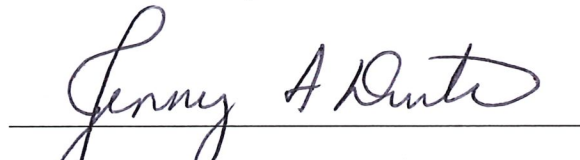
1 Section 5. This ordinance shall take effect and be in force on whichever is the later of: (a)  
2 the effective date of approval of the amendments in this ordinance by the Washington State  
3 Department of Ecology; or (b) 30 days from and after its approval by the Mayor, but if not  
4 approved and returned by the Mayor within ten days after presentation, it shall take effect as  
5 provided by Seattle Municipal Code Section 1.04.020.

6 Passed by the City Council the 5<sup>th</sup> day of August, 2019,  
7 and signed by me in open session in authentication of its passage this 5<sup>th</sup> day of  
8 August, 2019.

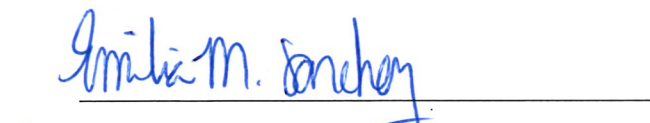
9 

10 President \_\_\_\_\_ of the City Council

11 Approved by me this 9<sup>th</sup> day of August, 2019.

12   
13 Jenny A. Durkan, Mayor

14 Filed by me this 9<sup>th</sup> day of AUGUST, 2019.

15   
16 for Monica Martinez Simmons, City Clerk

17 (Seal)

## SUMMARY and FISCAL NOTE\*

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
Construction and Inspections	Margaret Glowacki/206-386-4036	Christie Parker/206-684-5211

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

**Legislation Title:** AN ORDINANCE relating to land use and zoning; clarifying the definition of vessel and consistently using the term vessel in the Shoreline Master Program; and amending Sections 23.60A.204, 23.60A.916, and 23.60A.942 of the Seattle Municipal Code.

**Summary and background of the Legislation:** In 2016 the City’s Hearing Examiner ruled that a vessel with a broken engine was no longer a “vessel” because it could not be used for navigation. This decision allows for the transformation of vessels that are water-dependent and serve a purpose in the maritime community, into “structures” that are a non-water-dependent use and yet remain in the water, displacing maritime uses.

The City's Hearing Examiner decision interpreting the definition of “vessel”, particularly the “used for navigation” language, is problematic because it has the consequence of transforming vessels that were not intended to meet the definition of a "floating on-water residence" simply by virtue of neglect or disuse by a vessel owner. If it is determined that every vessel that existed as of July 1, 2014 is not a vessel because it has not been “used for navigation” either because of a broken engine or potentially other reasons, then these vessels can be verified as floating on-water residences. This changes the use of these vessels from a water-dependent maritime use, which is a preferred use, to a non-water dependent use, which is not a preferred use under the Shoreline Management Act (SMA). This allowed change of use is inconsistent with the goals and policies of the SMA and the City’s Shoreline Master Program (SMP).

The consequences from this allowed change of use is that there is now a potential for many more floating on-water residences than were originally contemplated when Council adopted the 2015 SMP update. This SMP update limited the floating on-water residences to those grandfathered by the 2014 state legislation.

In 2014, the legislature amended the SMA (RCW 90.58.270) to allow existing floating on-water residences to remain on waters of the State. This legislation stated that these structures needed to exist prior to July 1, 2014 and defined a floating on-water residence as a structure that was neither a vessel nor a floating home. Floating homes were already an allowed use and the 2014 state legislation did not change this. However, like floating homes, there was to be a finite number of these existing floating on-water residences, which is the number that existed as of July 1, 2014.



The proposed amendments to the vessel definition address the consequence of the 2016 Hearing Examiner’s decision that interprets the term “used for navigation”, in the definition of “vessel”, literally. The amendment clarifies that if a vessel has been designed for navigation, was used for navigation in the past, and is capable of being used for navigation, that such a vessel still meets the definition of vessel.

A more detailed summary of the proposed amendments is included in the Director’s Report.

**2. CAPITAL IMPROVEMENT PROGRAM**

**Does this legislation create, fund, or amend a CIP Project?** \_\_\_ Yes  X  No

**3. SUMMARY OF FINANCIAL IMPLICATIONS**

**Does this legislation amend the Adopted Budget?** \_\_\_ Yes  X  No

**Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**

The proposed amendment will result in less staff time needed to review verification applications from vessels than would result from continuation of the Hearing Examiner’s precedential effect on the SMP.

**Is there financial cost or other impacts of *not* implementing the legislation?**

No direct financial impacts. Failure to adopt the proposed amendments to the Shoreline Master Program would continue lack of clarity causing more time to be spent on reviewing verification applications from vessels.

**4. OTHER IMPLICATIONS**

**a. Does this legislation affect any departments besides the originating department?**

No.

**b. Is a public hearing required for this legislation?**

Yes. The City Council must hold a public hearing, to be scheduled before the Planning, Land Use and Zoning Committee.

Additionally, because the proposed legislation amends the City’s Shoreline Master Program, SDCI will work with the Department of Ecology through the joint review process per WAC [173-26-104](#). Per the WAC at least one joint City/Ecology hearing is required to consider the draft proposal. Notice of this joint City/Ecology hearing will be published in *The Daily Journal of Commerce* and in SDCI’s Land Use Information Bulletin. The City Council public hearing mentioned above will serve as the required joint City/Ecology hearing.

**c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**

No.

**d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**

Yes. Publication of notice of the Council public hearing will be made in *The Daily Journal of Commerce* and in the City's Land Use Information Bulletin (LUIB). Environmental review under the State Environmental Policy Act (SEPA) is also required for this legislation, and publication of notice of the environmental determination was made in *The Daily Journal of Commerce* and in the Land Use Information Bulletin on July 16, 2018.

Additionally, the Department of Ecology will provide notice to the state interested parties list of persons, groups, agencies, and tribes that have requested in writing notice of the proposed amendments to Seattle's Shoreline Master Program per the joint review process in WAC [173-26-104](#).

**e. Does this legislation affect a piece of property?**

No.

**f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?**

No implications for RSJI are anticipated. The legislation will not impact vulnerable or historically disadvantaged communities.

**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).**

The legislation does not include a new initiative or programmatic expansion.

**List attachments/exhibits below:** None.

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STATE OF WASHINGTON -- KING COUNTY

--SS.

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377047

No.

CITY OF SEATTLE, CLERKS OFFICE

**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 12<sup>th</sup> 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

CT:125876-885 TITLE ONLY

was published on

08/22/19

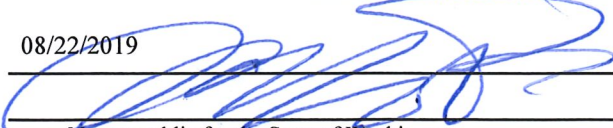
The amount of the fee charged for the foregoing publication is the sum of \$189.75.



Affidavit of Publication

  
Subscribed and sworn to before me on

08/22/2019

  
Notary public for the State of Washington,  
residing in Seattle

# State of Washington, King County

## City of Seattle

The full text of the following legislation, passed by the City Council on August 05, 2019, and published below by title only, will be mailed upon request, or can be accessed at <http://seattle.legistar.com>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

**Ordinance 125876**  
**Council Bill 119596**

AN ORDINANCE appropriating money to pay certain audited claims for the week of July 22, 2019 through July 26, 2019 and ordering the payment thereof.

**Ordinance 125877**  
**Council Bill 119582**

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the acquisition of real property commonly known as 7900 10th Avenue South; authorizing acceptance of a recording of the deed for open space, park, and recreation purposes; and ratifying and confirming certain prior acts.

**Ordinance 125878**  
**Council Bill 119587**

AN ORDINANCE relating to Seattle Parks and Recreation; authorizing the acceptance of a gift of three art pieces, and art tiles entitled "Explorer Voyage," from the Friends of Christie Park to be installed in Christie Park for public use.

**Ordinance 125879**  
**Council Bill 119588**

AN ORDINANCE relating to Seattle Parks and Recreation; amending Ordinance 125724, which adopted the 2019 budget including the 2019-2024 Capital Improvement Program (CIP); authorizing the acceptance of a donation of real property in Seattle from Forterra NW for open space, park, and recreation purposes; authorizing acceptance of a donation of cash; increasing appropriations to Seattle Parks and Recreation in the 2019 Adopted Budget; and revising project allocations for certain projects in the 2019-2024 CIP.

**Ordinance 125880**  
**Council Bill 119579**

AN ORDINANCE relating to City employment; establishing new wage relationships for certain job titles.

**Ordinance 125881**  
**Council Bill 119589**

AN ORDINANCE relating to the City's criminal code; conforming the Seattle Municipal Code to state law for crimes that require the submission of biological samples to the State of Washington; making technical corrections; adding a new Chapter 12A.09 to the Seattle Municipal Code; amending Sections 3.33.020, 12A.04.100, 12A.06.030, 12A.06.130, 12A.06.155, 12A.06.195, and 12A.10.070 of the Seattle Municipal Code; and repealing Sections 12A.06.010, 12A.06.035, 12A.06.040, 12A.06.180, 12A.10.040, 12A.10.130, and 12A.10.140 of the Seattle Municipal Code.

**Ordinance 125882**  
**Council Bill 119471**

AN ORDINANCE relating to land use and zoning; clarifying the definition of vessel and consistently using the term vessel in the Shoreline Master Program; and amending Sections 23.60A.204, 23.60A.916, and 23.60A.942 of the Seattle Municipal Code.

**Ordinance 125883**  
**Council Bill 119564**

AN ORDINANCE relating to the Department of Parks and Recreation; accepting an easement from and entering

into a Maintenance Agreement with Seattle Children's Hospital, a Washington nonprofit corporation, as a condition of the public benefit requirement for the street vacation of portions of 41st Avenue NE and a portion of NE 46th Street petition approval contained in Clerk File 309690.

**Ordinance 125884**  
**Council Bill 119562**

AN ORDINANCE vacating a portion of 41st Avenue Northeast and a portion of Northeast 46th Street, on the petition of Seattle Children's Hospital (Clerk File 309690).

**Ordinance 125885**  
**Council Bill 119581**

AN ORDINANCE relating to Seattle's Commute Trip Reduction (CTR) program; adopting an updated Strategic Plan; adopting a local designation of Seattle's Center City as a "Growth and Transportation Efficiency Center" as defined by RCW 70.94.528; and amending Sections 25.02.030, 25.02.035, 25.02.040, 25.02.050, 25.02.055, 25.02.070, 25.02.080, and 25.02.090 of the Seattle Municipal Code.

Date of publication in the Seattle Daily Journal of Commerce, August 22, 2019.  
8/22(377047)