

ATTACHMENT A-2

Codes sections from SMC Chapter 23.60

23.60.004 - Shoreline goals and policies.

The Shoreline Goals and Policies are part of the Land Use Element of Seattle's Comprehensive Plan. The Shoreline Goals and Policies and the purpose and location criteria for each shoreline environment designation contained in SMC Section 23.60.220 shall be considered in making all discretionary decisions in the Shoreline District and in making discretionary decisions on lands adjacent to the shoreline where the intent of the Land Use Code is a criterion and the proposal may have an adverse impact on the Shoreline District. They shall also be considered by the Director in the promulgation of rules and interpretation decisions. The Shoreline Goals and Policies do not constitute regulations and shall not be the basis for enforcement actions.

(Ord. 118408 § 5, 1996; Ord. 113466 § 2(part), 1987.)

23.60.012 - Liberal construction.

This chapter shall be exempted from the rule of strict construction, and it shall be liberally construed to give full effect to the objectives and purposes of Chapter 90.58 RCW, the State Shoreline Management Act. This chapter shall not be used when construing other chapters of this title except for shoreline development or as stated in Sections 23.60.014 and 23.60.022.

(Ord. 118793 § 2, 1997; Ord. 118408 § 6, 1996; Ord. 113466 § 2(part), 1987.)

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.

(Ord. 120866 § 1, 2003; Ord. 118793 § 3, 1997; Ord. 113466 § 2(part), 1987.)

23.60.014 - Regulations supplemental.

The regulations of this chapter shall be superimposed upon and modify the underlying land use zones in the Shoreline District. The regulations of this chapter supplement other regulations of this title in the following manner

- A. Uses. To be permitted in the Shoreline District, a use must be permitted in both the shoreline environment and the underlying zone in which it is located.
- B. Development Standards.
 - 1. A development in the Shoreline District shall meet the development standards of the shoreline environment, any other overlay district in which it is located, as well as those of the underlying zone. In the case of irreconcilable conflicts between the regulations of the shoreline environment and the underlying zoning, the shoreline regulations shall apply, except as provided in this subsection B.
 - 2. The height permitted in the Shoreline District shall be the lower of the heights permitted by the applicable shoreline environment and the underlying zone, except in the Urban Harborfront (UH) Environment where the shoreline height limits shall control.
 - 3. The floor area ratio (FAR) of the underlying zone may not be exceeded, regardless of whether or not the maximum height and lot coverage permitted in the shoreline environment can be achieved.
 - 4. Where view corridors are required in the Shoreline District, yards and/or setbacks of the underlying zoning may be reduced or waived by the Director. Where view corridors are not required by the Shoreline District, yards and/or setbacks of the underlying zoning shall be required.
 - 5. Development standards for which there are regulations in the underlying zoning but not in this chapter shall apply to developments in the Shoreline District. Such standards include but shall not be limited to parking, open space, street-level location, facade treatments, building depth, width and modulation, and vehicular access. In the case of irreconcilable conflict between a shoreline regulation and a requirement of the underlying zoning, the shoreline regulation shall apply, unless otherwise provided in subsections B2 and B3 above.
 - 6. Measurements in the Shoreline District shall be as regulated in this chapter, Subchapter XVII, Measurements.
 - 7. Lake Union construction limit line.
 - a. Established. There is established along the shores of Lake Union and waters in the vicinity thereof in the City, a "Seattle Construction Limit Line." The Seattle Construction Limit Line, formerly designated on Exhibit "A" of SMC Section 24.82.010 which this subsection replaces, shall be superimposed upon and modify the Official Land Use Map of The City of Seattle, as established in Chapter 23.32.
 - b. Unlawful Construction-Exceptions. It is unlawful to erect, construct or maintain any building or structure outward from the shores of Lake Union beyond the Lake Union Construction Limit Line established in subsection 23.60.014 B7a except such buildings or structures as are expressly authorized by the laws of the United States or State of

Washington; provided, any residential structure located in whole or in part outside the construction limit line prior to December 18, 1968 shall be permitted as a lawful, nonconforming structure as long as the same is not extended, expanded or structurally altered.

- C. Standards applicable to environmentally critical areas as provided in Seattle Municipal Code Chapter 25.09, Regulations for Environmentally Critical Areas, shall apply in the Shoreline District. If there are any conflicts between the Seattle Shoreline Master Program and Seattle Municipal Code Chapter 25.09, the most restrictive requirements shall apply.

(Ord. 117571 § 1, 1995; Ord. 116325 § 1, 1992; Ord. 113466 § 2(part), 1987.)

23.60.020 - Substantial development permit required.

- A. No development, except for those listed in subsection C of this section below, shall be undertaken in the Shoreline District without first obtaining a substantial development permit from the Director. "Substantial development" means any development of which the total cost or fair market value exceeds Two Thousand Five Hundred Dollars (\$2,500) or any development which materially interferes with the normal public use of the water or shorelines of the City.
- B. Application and Interpretation of Exemptions.
 - 1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one (1) or more of the listed exemptions may be granted exemption from the substantial development permit process.
 - 2. An exemption from the substantial development permit process is not an exemption from compliance with the Shoreline Management Act or provisions of this chapter, nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of the Seattle Shoreline Master Program and the Shoreline Management Act. A development or use that is listed as a conditional use pursuant to this chapter or is an unlisted use, must obtain a conditional use permit even though the development or use does not require a substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this chapter, such development or use can only be authorized by approval of a variance.
 - 3. The burden of proof that a development or use is exempt from the permit process is on the applicant.
 - 4. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.
 - 5. The Director may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Shoreline Management Act and this chapter.
- C. Exemptions. The following developments or activities shall not be considered substantial development and are exempt from obtaining a substantial development permit from the Director.
 - 1. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" means those usual acts to prevent a decline, lapse or cessation from a lawfully established state comparable to its original condition, including but not limited to its size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resources or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment;
 - 2.

Construction of the normal protective bulkhead common to single-family residences. A "normal protective bulkhead" means those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical wall is being constructed or reconstructed, not more than one (1) cubic yard of fill per one (1) foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the State Department of Fish and Wildlife;

3. Emergency construction necessary to protect property from damage by the elements. An emergency means an unanticipated and imminent threat to public health, safety or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Director to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to Chapter 90.58 RCW or these regulations shall be obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and the Seattle Shoreline Master Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
4. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels; provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities;
5. Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids such as channel markers and anchor buoys;
6. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence, including those structures and developments within a contiguous ownership which are a normal appurtenance, for his or her own use or for the use of his or her family, which residence does not exceed a height of thirty-five (35) feet above average grade level and which meets all requirements of the City other than requirements imposed pursuant to this chapter. A normal appurtenance is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include, but are not limited to, a garage, deck, driveway,

- utilities, fences, installation of a septic tank and drainfield, and grading which does not exceed two hundred fifty (250) cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark;
7. Construction of a pier accessory to residential structures, including a community pier, designed for pleasure craft only, for the private noncommercial use of the owners, lessee or contract purchaser of a single-family or multifamily residence. This exception applies if either:
 - a. In salt waters, which include Puget Sound and all associated bays and inlets, the fair market value of the pier accessory to residential structures does not exceed Two Thousand Five Hundred Dollars (\$2,500), or
 - b. In fresh waters, the fair market value of the pier accessory to residential structures does not exceed Ten Thousand Dollars (\$10,000), but if subsequent construction having a fair market value exceeding Two Thousand Five Hundred Dollars (\$2,500) occurs within five (5) years of a completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;
 8. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater for the irrigation of lands;
 9. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
 10. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on June 4, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;
 11. Demolition of structures, except where the Director determines that such demolition will have a major impact upon the character upon of the shoreline;
 12. Any project with a certification from the Governor pursuant to Chapter 80.50 RCW;
 13. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
 - a. The activity does not interfere with the normal public use of the surface waters,
 - b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values,
 - c. The activity does not involve the installation of any structure, and upon the completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity,
 - d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to The City of Seattle to ensure that the site will be restored to preexisting conditions, and
 - e. The activity is not subject to the permit requirements of RCW 90.58.550;
 14. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, and regulated in Section 23.60.210 C of this chapter;
 15. Watershed restoration projects that implement a watershed restoration plan. The City of Seattle shall review the projects for consistency with its Shoreline Master Program in an expeditious manner and shall issue its decision along with any conditions within forty-five (45)

days of receiving from the applicant all materials necessary to review the request for exemption. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section;

16. A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, when all of the following apply:
 - a. The project has been approved in writing by the State Department of Fish and Wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the purpose,
 - b. The project has received hydraulic project approval by the State Department of Fish and Wildlife pursuant to Chapter 75.20 RCW, and
 - c. The project is consistent with the City's Shoreline Master Program. This determination shall be made in a timely manner and provided to the project proponent in writing; and
17. Hazardous substance remedial actions. The procedural requirements of Chapter 90.58 RCW shall not apply to a project for which a consent decree, order or agreed order has been issued pursuant to Chapter 70.105D RCW or to the State Department of Ecology when it conducts a remedial action under Chapter 70.105D RCW. The State Department of Ecology shall, in conjunction with The City of Seattle, assure that such projects comply with the substantive requirements of Chapter 90.58 RCW and the Seattle Shoreline Master Program.
- D. Developments proposed in the Shoreline District may require permits from other governmental agencies.

(Ord. 118793 § 4, 1997; Ord. 113764 § 1(part), 1987; Ord. 113466 § 2(part), 1987.)

23.60.034 - Criteria for shoreline conditional use approvals.

Uses or developments which are identified in this chapter as requiring shoreline conditional use approval, and other uses which, although not expressly mentioned in lists of permitted uses, are permitted in the underlying zones and are not prohibited in the Shoreline District, may be approved, approved with conditions or denied by the Director in specific cases based on the criteria in WAC 173-27-160, as now constituted or hereafter amended, and any additional criteria given in this chapter. Upon transmittal of the Director's approval to the Department of Ecology (DOE), the permit may be approved, approved with conditions or denied by DOE.

(Ord. 118793 § 6, 1997; Ord. 113466 § 2(part), 1987)

23.60.840 - Uses permitted outright on waterfront lots in the UI Environment.

The following uses shall be permitted outright on waterfront lots in the Urban Industrial Environment as either principal or accessory uses:

- A. Existing dwelling units;
- B. The following commercial uses:
 - 1. Marine sales and services except sale and rental of small boats, boat parts and accessories,
 - 2. Research and development laboratories,
 - 3. Wholesale showrooms, and
 - 4. Food processing and craft work, water-dependent or water-related;
- C. The following storage uses:
 - 1. Warehouses, and
 - 2. Outdoor storage uses;
- D. The following transportation facilities:
 - 1. Tugboat services,
 - 2. Commercial moorage,
 - 3. Dry boat storage,
 - 4. Passenger terminals, water-dependent or water-related, and
 - 5. Cargo terminals, water-dependent or water-related;
- E. Streets, railroads and bridges;
- F. The following utilities:
 - 1. Utility lines,
 - 2. Solid waste management uses, water-dependent or water-related,
 - 3. Recycling uses, water-dependent or water-related,
 - 4. Utility service uses whose operations require a shoreline location, and
 - 5. Minor communication utilities, except freestanding transmission towers;
- G. Manufacturing uses;
- H. The following institutional uses:
 - 1. Water-dependent or water-related research and education facilities of colleges and universities,
 - 2. Shoreline recreation facilities of colleges and universities, and
 - 3. Water-dependent or water-related colleges, institutes for advanced study, and vocational schools;
- I. High-impact uses, water-dependent or water-related;
- J. Public facilities, water-dependent or water-related;
- K. Shoreline recreation uses; and
- L. Aquaculture.

(Ord. 122310, § 28, 2006; Ord. 120927 § 21, 2002; Ord. 113466 § 2(part), 1987.)

23.60.906 - "C."

"Cargo, breakbulk" means cargo packed in separate packages or individual pieces of cargo and loaded, stored and unloaded individually.

"Cargo, containerized" means cargo packed in a large (typically eight (8) feet by eight (8) feet by twenty (20) feet)) trunklike box and loaded, stored and unloaded as a unit.

"Cargo, neo-bulk" means cargo which has historically been classified as generalized cargo, such as grain, oil, and automobiles, but now is moved in bulk movements usually in specialized vessels.

"Cargo terminal" means a transportation facility in which quantities of goods or container cargo are stored without undergoing any manufacturing processes, transferred to other carriers or stored outdoors in order to transfer them to other locations. Cargo terminals may include accessory warehouses, railroad yards, storage yards, and offices.

"Clerestory" means an outside wall of a room or building that rises above an adjoining roof and contains windows.

"Commercial use" means the following uses:

- General retail sales and services;
- Heavy sales and services;
- Eating and drinking establishments;
- Lodging;
- Offices;
- Entertainment;
- Automotive sales and services;
- Marine sales and services;
- Animal shelters and kennels;
- Food processing and craft work;
- Medical services;
- Research and development laboratories.

"Commercial moorage" means a parking and moorage use in which a system of piers, buoys, or floats is used to provide moorage, primarily for commercial vessels, except barges, for sale or rent, usually on a monthly or yearly basis. Minor vessel repair, haulout, dry boat storage, tugboat dispatch offices, and other services are also often accessory to or associated with the use.

Communication Devices and Utilities (and Related Terms). See Section 23.84A.006 "C."

"Conditional use" means a use identified in this chapter as requiring specific approval by either the Department of Ecology (Shoreline Conditional Use) or the City Council (Council Conditional Use). Unless specifically stated in this chapter the term "conditional use" without modification shall mean Shoreline Conditional Use.

(Ord. 122310, § 34, 2006; Ord. 120927 § 24, 2002; Ord. 113466 § 2(part), 1987.)

23.60.940 - "U."

"Use" means the purpose for which land or a building is designed, arranged or intended, or for which it is occupied or maintained, let or leased. For purposes of this chapter, uses shall also include activities and structures which modify the land, such as dredging, landfill, breakwaters, shoreline protective structures, and utility lines.

"Use, accessory" means a use which is incidental and intrinsic to the function of a principal use and is not a separate business establishment unless a home occupation.

"Use, principal" means any use, whether a separate business establishment or not, which has a separate and distinct purpose and function from other uses on the lot.

"Use, Water-dependent." See "Water-dependent use."

"Utilities" means the following uses:

- Communication utility;
- Utilities service uses;
- Solid waste management;
- Recycling;
- Sewage treatment plant;
- Power plant; and
- Utility lines.

"Utility extension, limited" means the extension of a utility service that: (1) is categorically exempt under Chapter 43.21C RCW for one (1) or more of the following: natural gas, electricity, telephone, water, or sewer; (2) will serve an existing use in compliance with this chapter; and (3) will not extend more than two thousand five hundred (2,500) linear feet within the shoreline areas subject to this chapter.

"Utility lines" means pipes, cables or other linear conveyance systems used to transport power, water, gas, oil, wastewater or similar items. Utility lines include outfalls and intakes.

(Ord. 122310, § 41, 2006; Ord. 118793 § 44, 1997; Ord. 113466 § 2(part), 1987.)