

RCW 90.58.270 Nonapplication to certain structures, docks, developments, etc., placed in navigable waters—Nonapplication to certain rights of action, authority—Floating homes and floating on-water residences must be classified as a conforming preferred use.

(1) Nothing in this section shall constitute authority for requiring or ordering the removal of any structures, improvements, docks, fills, or developments placed in navigable waters prior to December 4, 1969, and the consent and authorization of the state of Washington to the impairment of public rights of navigation, and corollary rights incidental thereto, caused by the retention and maintenance of said structures, improvements, docks, fills or developments are hereby granted: PROVIDED, That the consent herein given shall not relate to any structures, improvements, docks, fills, or developments placed on tidelands, shorelands, or beds underlying said waters which are in trespass or in violation of state statutes.

(2) Nothing in this section shall be construed as altering or abridging any private right of action, other than a private right which is based upon the impairment of public rights consented to in subsection (1) of this section.

(3) Nothing in this section shall be construed as altering or abridging the authority of the state or local governments to suppress or abate nuisances or to abate pollution.

(4) Subsection (1) of this section shall apply to any case pending in the courts of this state on June 1, 1971 relating to the removal of structures, improvements, docks, fills, or developments based on the impairment of public navigational rights.

(5) (a) A floating home permitted or legally established prior to January 1, 2011, must be classified as a conforming preferred use.

(b) For the purposes of this subsection:

(i) "Conforming preferred use" means that applicable development and shoreline master program regulations may only impose reasonable conditions and mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable.

(ii) "Floating home" means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.

(6) (a) A floating on-water residence legally established prior to July 1, 2014, must be considered a conforming use and accommodated through reasonable shoreline master program regulations, permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating on-water residences and their moorages by rendering these actions impracticable. A substantial development permit is not required when replacing or remodeling a floating on-water residence if the size of the existing residence is not materially exceeded. A substantial development permit is required if the replacement or remodel of a floating on-water residence materially exceeds the size of the existing residence. All replacements and remodels which add one hundred twenty square feet or more to the living space must require on-board graywater containment or a wastewater connection that disposes of the graywater to a wastewater disposal system.

(b) For the purpose of this subsection, "floating on-water residence" means a vessel or any other floating structure other than a

floating home, as defined under subsection (5) of this section: (i) That is designed or used primarily as a residence on the water and has detachable utilities; and (ii) whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014. [2021 c 148 s 1; 2014 c 56 s 2; 2011 c 212 s 2; 1971 ex.s. c 286 s 27.]

Finding—Intent—2014 c 56: "(1) The legislature recognizes that all Washington residents benefit from the unique aesthetic, recreational, and economic opportunities that are derived from the state's aquatic resources, including its navigable waters and shoreline areas. The legislature also recognizes that, as affirmed in chapter 212, Laws of 2011, existing floating homes are an important cultural amenity and an element of the state's maritime history and economy. The 2011 legislation, which clarified the legal status of floating homes, was intended to ensure the vitality and long-term survival of existing floating single-family home communities.

(2) The legislature finds that further clarification of the status of other residential uses on water that meet specific requirements and share important cultural, historical, and economic commonalities with floating homes, is necessary.

(3) The legislature, therefore, intends to: Preserve the existence and vitality of current, floating on-water residential uses; establish greater clarity and regulatory uniformity for these uses; and respect the well-established authority of local governments to determine compliance with regulatory requirements applicable to their jurisdiction." [2014 c 56 s 1.]

Finding—2011 c 212: "The legislature recognizes that existing floating homes, as part of our state's existing houseboat communities, are an important cultural amenity and element of our maritime history. These surviving floating home communities are a linkage to the past, when our waterways were the focus of commerce, transport, and development. In order to ensure the vitality and long-term survival of these existing floating home communities, consistent with the legislature's goal of allowing their continued use, improvement, and replacement without undue burden, the legislature finds that it is necessary to clarify their legal status." [2011 c 212 s 1.]