

Chapter 79.120 RCW
AQUATIC LANDS—WATERWAYS AND STREETS

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RCW 79.120.001 Intent—2005 c 155. See RCW 79.105.001.

RCW 79.120.010 First-class tidelands and shorelands to be platted—Public waterways and streets. It is the duty of the department simultaneously with the establishment of harbor lines and the determination of harbor areas in front of any city or town, or as soon as practicable, to survey and plat all first-class tidelands and shorelands not previously platted, and in platting the tidelands and shorelands to lay out streets which shall be dedicated to public use, subject to the control of the cities or towns in which they are situated.

The department shall also establish one or more public waterways not less than fifty nor more than one thousand feet wide, beginning at the outer harbor line and extending inland across the tidelands belonging to the state. These waterways shall include within their boundaries, as nearly as practicable, all navigable streams running through the tidelands, and shall be located at other places as in the judgment of the department may be necessary for the present and future convenience of commerce and navigation. All waterways shall be reserved from sale or lease and remain as public highways for watercraft until vacated as provided for in this chapter.

The department shall appraise the value of platted tidelands and shorelands and enter the appraisals in its records. [2005 c 155 § 401; 1982 1st ex.s. c 21 § 80. Formerly RCW 79.93.010.]

RCW 79.120.020 Streets, waterways, etc., validated. All alleys, streets, avenues, boulevards, waterways, and other public places and highways located and platted on the first-class tidelands and shorelands, or harbor areas, as provided by law, and not vacated as provided by law, are validated as public highways and dedicated to the use of the public for the purposes for which they were intended, subject to vacation as provided for in this chapter. [2005 c 155 § 402; 1982 1st ex.s. c 21 § 81. Formerly RCW 79.93.020.]

RCW 79.120.030 Approval of plans/authorize construction on state-owned aquatic lands. The department has the power to approve

plans for and authorize the construction of slopes, with rock, riprap, or other protection, upon any state-owned aquatic lands incident to the improvement of any abutting or adjacent street or avenue by any city or town in this state. [2005 c 155 § 403; 1982 1st ex.s. c 21 § 82. Formerly RCW 79.93.030.]

RCW 79.120.040 Permits to use waterways. If the United States government has established pierhead lines within a waterway created under the laws of this state at any distance from the boundaries established by the state, structures may be constructed in that strip of waterway between the waterway boundary and the nearest pierhead line only with the consent of the department and upon such plans, terms, and conditions and for such term as determined by the department. However, no permit shall extend for a period longer than thirty years.

The department may cancel any permit upon sixty days' notice for a substantial breach by the permittee of any of the permit conditions.

If a waterway is within the territorial limits of a port district, the duties assigned by this section to the department may be exercised by the port commission of the port district as provided in RCW 79.105.420.

Nothing in this section shall confer upon, create, or recognize in any abutting owner any right or privilege in or to any strip of waterway abutting any street and between prolongations of the lines of the street, but the control of and the right to use the strip is reserved to the state of Washington, except as authorized by RCW 79.105.420. [2005 c 155 § 404; 1984 c 221 § 21; 1982 1st ex.s. c 21 § 83. Formerly RCW 79.93.040.]

Effective date—1984 c 221: See RCW 79.105.902.

Application to existing property rights: RCW 79.105.040.

RCW 79.120.050 Excavation of waterways—Waterways open to public—Tide gates or locks. All waterways excavated through any state-owned tidelands or shorelands by virtue of the provisions of chapter 99, Laws of 1893, so far as they run through the tidelands or shorelands, are declared to be public waterways, free to all citizens upon equal terms, and subject to the jurisdiction of the proper authorities, as otherwise provided by law. However, where tide gates or locks are considered by the contracting parties excavating any waterways to be necessary to the efficiency of the waterway, the department may, in its discretion, authorize tide gates or locks to be constructed and may authorize the parties constructing the waterway to operate them and collect a reasonable toll from vessels passing through the tide gates or locks. Further, the state of Washington or the United States of America can, at any time, appropriate the tide gates or locks upon payment to the parties erecting them of the reasonable value of the tide gates or locks at the date of the appropriation, reasonable value to be ascertained and determined as in other cases of condemnation of private property for public use. [2005 c 155 § 405; 1982 1st ex.s. c 21 § 84. Formerly RCW 79.93.050.]

RCW 79.120.060 Vacation of waterways—Extension of streets. If a waterway established under the laws of this state, or any portion of the waterway, has not been excavated, or is not used for navigation, or is not required in the public interest to exist as a waterway, the waterway or a portion of the waterway may be vacated by written order of the commissioner upon request by ordinance or resolution of the city council of the city in which such waterway is located or by resolution of the port commission of the port district in which the waterway is located. If the waterway or a portion of the waterway which is vacated is navigable water of the United States, or otherwise within the jurisdiction of the United States, a copy of the resolution or ordinance, together with a copy of the vacation order of the commissioner shall be submitted to the United States army corps of engineers for their approval, and if they approve, the waterway or a portion of the waterway is vacated. However, if a port district owns property abutting the waterway and the provisions of this section are otherwise satisfied, the waterway, or the portion of the waterway that abuts the port district property, shall be vacated.

Upon vacation of a waterway, the commissioner shall notify the city in which the waterway is located, and the city has the right, if otherwise permitted by RCW 79.125.200, to extend across the portions so vacated any existing streets, or to select portions of the waterway as the city may desire for street purposes, in no case to exceed one hundred fifty feet in width for any one street. The selection shall be made within sixty days subsequent to the receipt of notice of the vacation of the portion of the waterway.

If the city fails to make a selection within the time, or selects only a portion of the waterway, the title of the remaining portions of the vacated waterway shall vest in the state, unless the waterway is located within the territorial limits of a port district, in which event, if otherwise permitted by RCW 79.125.200, the title shall vest in the port district. The title is subject to any railroad or street railway crossings existing at the time of the vacation. [2005 c 155 § 406; 1984 c 221 § 22; 1982 1st ex.s. c 21 § 85. Formerly RCW 79.93.060.]

Effective date—1984 c 221: See RCW 79.105.902.

Application to existing property rights: RCW 79.105.040.