

March 23, 2022

**Comments on ERO 019-5119, “Seeking input about the use of floating accommodations on waterways over Ontario’s public lands.”**

Thank you for the opportunity to comment on regulations that apply to floating accommodations.

This is not a new issue, or a new practice. In the early 1900s, large houseboats that could accommodate up to two dozen people were part of the scenery of southeastern Georgian Bay. They would be towed to anchorages by commercial tugs and left there for the summer holidays, and people would commute back and forth to Midland or Penetanguishene by boat. The issue has also simmered in recent decades, as modern houseboats have been used to similar ends. In 2008, the province fined a Midland area contractor \$4,000 (on his third conviction) for anchoring a “floating cottage” in the waters of Giant’s Tomb, which is part of Awenda Provincial Park. But most recently, municipalities on Georgian Bay (foremost, perhaps, Georgian Bay Township) have become exercised over the publicity generated by a man who built a “floating box dream home” and was profiled on CTV in October 2021, outlining his plan to build and sell converted floating shipping containers to people who wanted water-borne cottages they could anchor wherever they wanted. My sense is that this particular case is what is driving the current review of applicable regulations and possible remedies to thwart an envisioned invasion of such summer homes masquerading as cruising boats.

I have been boating on Georgian Bay for more than 25 years, in a variety of sailboats and powerboats from 20 to 29 feet. My wife and I currently have a Limestone 24 Express Cruiser we keep at Wye Heritage Marina, down the road from our home. I have also been covering boating and cottaging issues as a journalist for decades, and currently have a not-for-profit blog, Wild Great Lakes ([wildgreatlakes.com](http://wildgreatlakes.com)), where I have followed the floating-cottage issue and maintain an article on anchoring rights that I have been updating regularly since 2008. I am not a legal authority, but I have followed the issues as best I can. I will address each of the ERO bulletin’s four questions.

**1/ Should the types of watercraft that are allowed as “camping units” be clarified?**

The bulletin states: “Over the years, the use of provincial waterways by watercraft has expanded to include floating accommodations, which are designed primarily to provide accommodation for longer stays (i.e., similar to a cottage) and not for navigation or for camping purposes.” Most cruising boats however are not for “camping purposes” in a literal sense, and I cannot see how you would change the definition of boats for camping purposes that would aid in prohibiting “floating cottages.” A lot of large cruising boats for that matter are already “floating cottages” with extensive onboard amenities, but they can anchor where they want under the broad navigation rights of the Canada Shipping Act. (In fact, cruising yachts operating as “floating cottages” congregating at what one Georgian Bay Township councillor recently called “yachting out-stations,” island cottage properties where entire flotillas congregate, may be more of a legitimate concern than the converted containers that are causing such anxiety.) The problem with trying to restrict the types of vessel to which anchoring rights would apply is inseparable from the fact that the Shipping Act doesn’t define them. A barge under tow has the same

navigation rights to anchor as a 50-foot motor yacht with onboard TV, refrigeration, and induction cooking. Trying to slice and dice permitted vessel types is a dead-end proposition.

## **2/ Should the meaning of “camping purposes” be clarified?**

To what end? Any non-commercial use of the waterway can consist of whatever people want to do, and I have known people to fish, hang out and read books, paint watercolours, and scuba dive. People can literally do nothing at all and be entitled to be at anchor while so engaged.

## **3/ Should changes be made to the camping rules set out in Ontario Regulation 161/17 as they relate to camping on waterways over public lands?**

The regs say you cannot stay in one spot for more than 21 days without moving 100 meters. Those 21 days are also non-consecutive, so you can't stay 20 days, go away for a day, then come back to the same area (within a 100 meter radius) and start another 21-day count. That's the basic test for a non-permanent occupation of Crown land, whether it's dry land or the bottom of a navigable body of water. It may be possible to tighten up this regulation without causing a lot of grief for legitimate navigating boaters. My guess is that very, very few cruising boaters would consider staying anchored in one place for three consecutive weeks. The food would run out, the holding tank would need to be pumped, and cruising usually involves going from one place to another during an extended holiday. The province could consider adding to the 21-day cumulative occupancy an additional proviso of a 14-day *consecutive* occupancy. I don't think anyone being limited to two uninterrupted weeks in one spot, on land or on the water, for recreational purposes, would cause any measurable hardship, and might in fact help some of the “squatting” you do occasionally encounter by some cruising boats. (I have seen at least one large powerboat occupy a prime anchoring cove, run a spider's web of lines to shore to hog the spot, then presumably run back and forth to the nearest port for supplies by dinghy.) Tightening up occupancy to 14 consecutive days would create logistical headaches for de-facto floating cottages that might further discourage them.

My feeling otherwise is that the current occupancy rule remains an effective tool for discouraging long-term occupations. The owner of the “floating box dream home” designed his with legs that can be deployed so that the floating structure can be fixed to the bottom. His stated proposal was that a floating residence could be left this way for the winter. What to do with one of these things in the off-season is a big question, and his concept of leaving them in navigable waters, fixed to the bottom on legs, for some six months during freeze up, would be an obvious violation of the occupancy rule and a simple matter to prosecute.

## **4. Should more restrictive municipal bylaws apply where they exist / are created?**

I don't know how municipal bylaws could be used to override the essential right in question, of anchoring in navigable waters enshrined in the Canada Shipping Act. Occupation of the crown bed through anchoring remains a right that is limited by the province. One solution would be to transfer crown bed in areas of concern to municipalities so that they could exercise some control over anchoring through water lots, but this strikes me as a nuclear solution, as it could cause so much trouble for legitimate recreational boaters. Municipalities might instead consider their powers under zoning approvals for marinas. Floating homes have to go somewhere in the winter (it may be their Achilles' heel, legally). It might be possible for municipalities to restrict the commercial activities of marinas and other waterfront property owners if they seek to be winter

havens, or to provide summer services to them such as shuttle craft. Of course, if the marina is in one municipality (say, Midland or Tay) but the floating home is spending its summers in a different one (say, Georgian Bay Twp), some cooperation would be required between municipalities for zoning restrictions to have an impact. And zoning regulations have the familiar problem of defining a “floating cottage.”

In closing, my sense is that the floating-cottage issue is one generating a lot of concern without a lot of evidence as to the practicality of these craft. I do recall some years ago that there had been a plan to operate a floating-cottage business on or out of Blackstone Bay, presumably by moving owner or rental units to spots within Massasauga Provincial Park for the summer, and I believe that the province found a way to shoot it down. How the province did so would be worth investigating.

The essential challenge of making these de-facto cottages feasible is that buying one will be expensive (probably \$500,000), and they come with abundant logistical problems in moving them to anchorages and dealing with the off-season, even under existing regulations. Most everything that someone would want to accomplish with a floating home can be addressed at a similar or lower cost with a motor yacht, without the legal uncertainties. I’m not suggesting the province or municipalities (or recreational users of our waters) dismiss the concerns they raise. A couple floating cottages could completely dominate and deny one anchorage used by dozens and dozens of transient boaters over a summer, for one thing. But I do feel that any measures designed to thwart their proliferation should not make it more difficult for recreational boaters to enjoy those same waters.

Sincerely,

Douglas Hunter, PhD  
Tay Township, Ontario