

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5202

AN ORDINANCE regarding the Bellevue Harbor Code; amending Bellevue City Code 12.04.440, Penalty for violation; 12.04.230, Water-skiing; and 12.04.020, Definitions, and adding new section 12.04.235, Operation of personal watercraft - Prohibited activities - Penalties, to the Bellevue City Code.

WHEREAS, the state legislature has enacted legislation decriminalizing certain criminal violations on the waters of the state and the City Harbor Code needs to be brought into compliance to facilitate marine code enforcement in the waters of the City; and

WHEREAS, the state legislature has also enacted new safety provisions relating to use of personal flotation devices and ski flags by persons using water-skis and to operation of personal watercraft, and City enforcement of these new laws would be facilitated by adding them to the City Harbor Code; now therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Bellevue City Code 12.04.440, Penalty for violation, is amended to read as follows:

**12.04.440 Penalty for violation.**

~~Any person who violates or fails to comply with any provision of this chapter, or any lawful order or direction of the chief of police or any person or officer charged with the enforcement hereof, shall be guilty of a misdemeanor.~~

1. *The following statutes of the state of Washington, as presently constituted or hereafter amended, are hereby adopted by reference:*

*RCW 7.84.100 Monetary penalties.*

*RCW 79A.60.020 Violations of chapter punishable as misdemeanor - Circumstances - Violations designated as civil infractions.*

2. Except where the violation is classified as a misdemeanor or gross misdemeanor, a violation of any provision of this chapter shall be classified as a civil infraction. Unless otherwise provided, a person found to have committed an infraction under this chapter shall be assessed a monetary penalty which may not exceed five hundred dollars. Said penalty shall be in an amount provided by an applicable court bail schedule, or, if none is in effect, in the amount of fifty dollars.

3. Unless otherwise provided, it is a misdemeanor for any person to commit a violation designated as an infraction under this title, if during a period of three hundred and sixty-five days the person has previously committed two infractions for violating the same provision under this chapter and if the violation is also committed during such period and is of the same provision as the previous violations.

4. Unless otherwise provided, a person convicted of a misdemeanor offense under this chapter shall be punished as provided in BCC 10.92.020.

5. Unless otherwise provided, a person convicted of a gross misdemeanor offense under this chapter shall be punished as provided in BCC 10.92.030.

Section 2. Bellevue City Code 12.04.230 Water-skiing, is amended to read as follows:

**12.04.230 Water-skiing.**

A. Persons in Attendant Boat. No watercraft, which shall have in tow or shall be otherwise assisting a person on water skis, aquaplane, surfboard or similar contrivances, shall be operated or propelled in the harbor unless such watercraft is occupied by at least two competent persons, an operator and an observer. The observer shall continuously observe the person or persons being towed and shall display a flag immediately after the towed person or persons fall into the water, and during the time preparatory to skiing while the person or persons are still in the water. Such flag shall be a bright red or brilliant orange color, measuring at least twelve inches square, mounted on a pole not less than twenty-four inches long and displayed as to be visible from every direction; provided, that this subsection shall not apply to watercraft used in only authorized water ski tournaments, competitions, expositions or trials therefor or to personal watercraft, the design of which makes no provision for carrying an operator or any other person on board, and that is actually operated by the person or persons being towed. Every remote-operated personal watercraft shall have a flag attached which meets the requirements of this subsection. Except as provided under RCW 79A.60.020, a violation of this subsection is an infraction under chapter 7.84 RCW as adopted by reference in BCC 12.04.440.

B. Distance from Shore. It is unlawful to water ski or to tow or otherwise assist anyone on water skis, aquaplane, surfboard or similar contrivance within 100 yards of shoreline, pier, restricted area or shore installations; provided, water skiers may start at a shore installation but must head away from shore to a point at least 100 yards, as set forth above, before skiing parallel with the shore. The return to the shore must be on a 45 degree angle to the shore line.

C. No person shall engage or attempt to engage in water skiing without wearing a United States Coast Guard approved personal flotation device. Except as provided under RCW 79B.60.020, a violation of this subsection is an infraction under chapter 7.84 RCW as adopted by reference in BCC 12.04.440.

CD. Night Skiing. No watercraft shall have in tow or shall otherwise be assisting a person on water skis, aquaplane, surfboard or similar contrivance from sunset to sunrise; provided, that this subsection shall not apply to watercraft used in duly authorized water ski tournaments, competitions, expositions or trials therefor.

DE. Prudent Operation of Boat. All watercraft having in tow or otherwise assisting a person on water skis, aquaplane, surfboard or similar contrivance, shall be operated in a careful and prudent manner and shall remain at all times at a reasonable and prudent distance from the person and property of others.

E-F. Prudent Skiing. Any person on water skis, aquaplane, surfboard or similar contrivance shall conduct himself upon the same in a careful and prudent manner and shall

remain at all times a reasonable and prudent distance from the person and property of others.

Section 3. Bellevue City Code 12.04.020 Definitions, is amended to read as follows:

**12.04.020 Definitions.**

For the purpose of this chapter:

A. "Anchorage" means a designated position where vessels or watercraft may anchor or moor.

B. "Aquatic event" means any organized water event of limited duration which is duly sanctioned at least seven days in advance by duly constituted authority and which is conducted according to a prearranged schedule and in which general public interest is manifested.

C. "Authorized emergency vessel" means any authorized vessel or watercraft of the Bellevue Police Department, Fire Department, King County Sheriff's Department, the United States Government, and the state of Washington authorized patrol vessels or watercraft.

*D. "Boater" means any person on a vessel on waters of the City of Bellevue.*

*E. "Darkness" means that period between sunset and sunrise.*

*DF.* "Diver's flag" means a red flag five units of measurement on the hoist by six units of measurement on the fly with a white stripe of one unit crossing the red diagonally, the flag to have a stiffener to make it stand out from the pole or mast. This flag shall only pertain to skin and SCUBA (self-contained underwater breathing apparatus) diving and shall supplement any nationally recognized diver's flag or marking.

*G. "Environmentally sensitive area" means a restricted body of water where discharge of untreated sewage from boats is especially detrimental because of limited flushing, shallow water, commercial or recreational shellfish, swimming areas, diversity of species, the absence of other pollution sources, or other characteristics.*

*H. "Marina" means a facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.*

*EI.* "Master" means the captain, skipper, pilot or any person having charge of any vessel or watercraft.

*J. "Motor driven boats and vessels" means all boats and vessels which are self propelled.*

*K. "Operate" means to steer, direct, or otherwise have physical control of a vessel that is underway.*

L. *"Operator" means an individual who steers, directs, or otherwise has physical control of a vessel that is underway or exercises actual authority to control the person at the helm.*

M. *"Observer" means the individual riding in a vessel who is responsible for observing a water skier at all times.*

FN. *"Obstruction" means any vessel or watercraft or any matter which may in any way blockade, interfere with or endanger any vessel or watercraft or impede navigation, or which cannot comply with the "Pilot Rules for Certain Inland Waters of the Atlantic and Pacific Coasts and of the Coast of the Gulf of Mexico."*

GO. *"Oil" means any oil or liquid, whether of animal, vegetable or mineral origin, or a mixture, compound or distillation thereof.*

HP. *"Owner" means the person who has lawful possession of a vessel or watercraft or obstruction by virtue of legal title or equitable interest therein which entitles him to such possession.*

Q. *"Personal flotation device" means a buoyance device, life preserver, buoyant vest, ring buoy, or buoy cushion that is designed to float a person in the water and that is approved by the United States Coast Guard.*

R. *"Personal watercraft" means a vessel of less than sixteen feet that uses a motor powering a water jet pump, as its primary source of motive power and that is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.*

IS. *"Pier" means any pier, wharf, dock, float, gridiron or other structure to promote the convenient loading or unloading or other discharge of vessels or watercraft, or the repair thereof.*

T. *"Polluted area" means a body of water used by boaters that is contaminated by boat wastes at unacceptable levels, based on applicable water quality and shellfish standards.*

U. *"Reckless" or "Recklessly" means acting carelessly and heedlessly in a willful and wanton disregard of the rights, safety, or property of another.*

IV. *"Restricted area" means an area that is closed to all traffic therein when properly marked and designated for certain purposes such as swimming, skin diving, ferry landings, aquatic and other special events. The method of markings and designation shall have been specified by the chief of police.*

W. *"Skin diving" means any free swimming person and/or any person who uses an artificial or mechanical means to replace his air, including self-contained underwater breathing apparatus, snorkel tube equipment and free diving gear, but shall not mean swimmers using patrolled public beaches designated as swimming areas.*

X. *"Towboat" means any vessel or watercraft engaged in towing or pushing another vessel or watercraft.*

*MY. "Vessel" means ~~any contrivance 110 feet or more in length overall, every description of watercraft on the water, other than a seaplane,~~ used or capable of being used as a means of transportation on water. ~~However it does not include inner tubes, air mattresses, sailboards, and small rafts or flotation devices or toys customarily used by swimmers.~~*

*Z. "Water skiing" means the physical act of being towed behind a vessel on, but not limited to, any skis, aquaplane, kneeboard, tube, or any other similar device ~~means all forms, manners, means or contrivances of person or persons being towed behind a motorboat.~~*

Section 4. A new section 12.04.235, Operation of personal watercraft - Prohibited activities - Penalties, is hereby added to the Bellevue City Code to read as follows:

**12.04.235 Operation of personal watercraft -- Prohibited activities -- Penalties.**

(1) A person shall not operate a personal watercraft unless each person aboard the personal watercraft is wearing a United States Coast Guard approved personal flotation device. Except as provided for in RCW 79A.60.020, a violation of this subsection is a civil infraction punishable under RCW 7.84.100 as adopted by reference in BCC 12.04.440.

(2) A person operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch shall attach the lanyard to his or her person, clothing, or personal flotation device as appropriate for the specific vessel. It is unlawful for any person to remove or disable a cutoff switch that was installed by the manufacturer.

(3) A person shall not operate a personal watercraft during darkness.

(4) A person under the age of fourteen shall not operate a personal watercraft on the waters of the City.

(5) A person shall not operate a personal watercraft in a reckless manner, including recklessly jumping the wake of another vessel unreasonably or unnecessarily close to the vessel or when visibility around the vessel is obstructed, or recklessly swerving at the last possible moment to avoid collision.

(6) A person shall not lease, hire, or rent a personal watercraft to a person under the age of sixteen.

(7) Subsections (1) through (6) of this section shall not apply to a performer engaged in a professional exhibition or a person participating in an authorized regatta, race, marine parade, tournament, or exhibition.

(8) Violations of subsections (2) through (6) of this section constitute a misdemeanor under BCC 10.92.020.

Section 5. This ordinance shall take effect and be in force thirty (30) days after passage by the City Council.

Passed by the City Council this 22nd day of February, 2000, and signed in authentication of its passage this 22<sup>nd</sup> day of February, 2000.

(SEAL)

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Connie Marshall, Deputy Mayor

Approved as to form:

Richard L. Andrews, City Attorney

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Lori Riordan, Assistant City Attorney

Attest:

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Myrna L. Basich, City Clerk

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