

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 611

AN ORDINANCE relating to the waters within the City of Bellevue, providing for the control thereof; declaring certain things to be nuisances and authorizing the abatement thereof; defining offenses; providing penalties; amending the Bellevue City Code by adding thereto Chapter 13.09 entitled Harbor Code; and repealing Chapter 13.08 of Bellevue City Code.

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

Section 1. The Bellevue City Code is hereby amended by adding thereto Chapter 13.09, entitled Harbor Code, which shall read as follows:

Section 13.09.010 AUTHORIZATION: The City of Bellevue in the exercise of its police power hereby assumes control and jurisdiction over all waters within its limits, and such waters shall, for the purpose of this ordinance, be known as "The Harbor."

Section 13.09.020 DEFINITIONS. For the purpose of this ordinance:

"Anchorage" shall mean a designated position where vessels or watercraft may anchor or moor.

"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 pre-arranged schedule and in which general public interest is manifested.

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

"City" shall mean the City of Bellevue.

"Diver's Flag" shall mean a red flag 5 units of measurement on the hoist by 6 units of measurement on the fly with a white stripe of 1 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.

"Master" shall mean the captain, skipper, pilot or any person having charge of any vessel or watercraft.

"Obstruction" shall mean 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."

"Oil" shall mean any oil or liquid, whether of animal, vegetable or mineral origin, or a mixture, compound or distillation thereof.

"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.

"Person" shall, when necessary, be held and construed to mean and include natural persons, associations, co-partnerships and corporations, whether acting by themselves or by a servant, agent or employee; the singular number shall, when necessary, be held to mean and include the plural, and the masculine pronoun to include the feminine.

"Pier" shall mean 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.

"Restricted area" shall mean 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.

"Skin Diving" shall mean 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.

"Towboat" shall mean any vessel or watercraft engaged in towing or pushing another vessel or watercraft or anything other than a vessel or watercraft.

"Vessel" means any contrivance 110 feet or more in length overall, used or capable of being used as a means of transportation on water.

"Watercraft" means any contrivance less than 110 feet in length overall, used or capable of being used as a means of transportation on water. Aircraft, cribs or piles, shinglebolts, booms of logs, rafts of logs and rafts of lumber shall not be included within the terms "watercraft" or "vessel", but shall be included within the term "obstruction" when they shall be floating loose and not under control or when under control and obstructing any navigable channel.

"Water Ski" shall mean all forms, manners, means, or contrivances of person or persons being towed behind a motor boat.

Section 13.09.030 DUTIES OF THE POLICE DEPARTMENT: The duties of the Police Department shall be:

A. To enforce the ordinances and regulations of the City upon the waters adjacent thereto.

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B. To maintain regular patrols in the harbor for the protection of life and property including, but not limited to, the removal and disposition of oil pollution, drifting debris and nuisances from the waters of the harbor.

C. To investigate and report upon marine and maritime accidents in the harbor.

D. To perform all necessary functions in connection with search and rescue in the harbor.

E. To cooperate with the authorities of the United States, the State of Washington and its political subdivisions in the enforcement of the laws and regulations of the United States, the State of Washington and its political subdivisions.

F. To designate, indicate the location of, and to patrol anchorage locations for watercraft or vessels within areas set forth by the ordinances of the city.

G. To designate restricted areas.

Section 13.09.040 APPLICATION AND JUSTIFICATION: The provisions of this ordinance shall be applicable to all vessels and watercraft operating in the harbor of this City. The provisions of this ordinance shall be construed to supplement United States laws and State laws and regulations when not expressly inconsistent therewith in the harbor where such United States and State laws and regulations are applicable.

Section 13.09.050 NEGLIGENT OPERATION: Any person who shall operate any watercraft in a manner so as to endanger or be likely to endanger any person or property or at a rate of speed greater than will permit him in the exercise of reasonable care to bring the watercraft to a stop within the assured clear distance ahead, shall be guilty of negligent operation and a violation of this ordinance.

Section 13.09.060 RECKLESS OPERATION: Any person who shall operate any watercraft or vessel in a reckless manner so as to endanger the life or limb, or damage the property of any person, shall be guilty of reckless operation and a violation of this ordinance.

Section 13.09.070 SPEED REGULATIONS: It shall be unlawful for any person to operate any watercraft or vessel at a speed in excess of 7 nautical miles per hour within 100 yards of shore.

Section 13.09.080 INTERFERENCE WITH NAVIGATION: No person shall operate any watercraft or vessel in a manner which shall unreasonably or unnecessarily interfere with other watercraft or vessels or with the free and proper navigation of the waterways of the City. Anchoring or mooring under bridges or in heavily travelled channels shall constitute such interference if unreasonable under the prevailing circumstances.

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Section 13.09.090 OBSTRUCTIONS AND THE MOVING OF SAME:

(a) No master or person having charge of any vessel, watercraft or obstruction shall anchor the same in any anchorage or fairway nor make the same fast to any buoy, pier or other structure owned by or under the authority and control of the City without obtaining permission therefor from the Police Department.

(b) No master, owner or other person in charge of any towboat shall while towing any vessel, watercraft or obstruction, obstruct any channel or fairway.

(c) The Police Dept. shall have the power to order:

(1) any vessel, or watercraft or obstruction anchored in any anchorage or fairway or made fast to any buoy, pier or other structure owned by or under the authority and control of the City

(2) any towboat and/or its tow obstructing navigation in any channel or fairway, and

(3) any vessel, watercraft or obstruction lying at any pier in the harbor which is obstructing any slip, fairway or other vessel or watercraft,

to be removed, and it shall be unlawful to fail, neglect or refuse to do so.

Section 13.09.100 SUNKEN VESSELS: When any vessel or watercraft or obstruction has been sunk or grounded, or has been delayed in such manner as to stop or seriously interfere with or endanger navigation, the Chief of Police may order the same immediately removed and if the owner, or other person in charge thereof, after being so ordered, does not proceed immediately with such removal, the Chief of Police may take immediate possession thereof and remove the same, using such methods as in his judgment will prevent unnecessary damage to such vessel or watercraft, or obstruction, and the expense incurred by such removal shall be paid by such vessel or watercraft or obstruction or the owner or other person in charge thereof; and in case of failure to pay the same, the City may maintain an action for the recovery thereof.

Section 13.09.110 FLOATING OBJECTS: All vessels, watercraft, logs, piling building material, scows, houseboats or any other article of value found adrift may be taken in charge by the Police Department and shall be subject to reclamation by the owner thereof, on payment by him to the City of any expenses incurred by the City and in case of failure to reclaim may be sold or disposed of according to law.

Section 13.09.120 INTOXICATION:

(a) It shall be unlawful for any person who is under the influence of intoxicating liquor or narcotic or habit-forming drugs to operate or be in actual physical control of any vessel or watercraft.

- (b) It shall be unlawful for the owner of any vessel or watercraft or any person having such in charge or in control to authorize or knowingly permit the same to be operated by any person who is under the influence of intoxicating liquor, narcotic or habit-forming drugs.
- (c) Whenever it appears reasonably certain to any police officer that any person under the influence of, or affected by the use of, intoxicating liquor or of any narcotic drug is about to operate a watercraft or vessel in violation of sub-division (a) of this section, said officer may take reasonable measures to prevent any such person from so doing, either by taking from him the keys of such watercraft or vessel and locking the same, or by some other appropriate means, and shall deposit said keys or other articles, if any, taken from said watercraft or vessel or person with his Commanding Officer. Such keys or other articles may be returned to any person upon his demand and proper identification of himself when it appears that he is no longer under the influence of intoxicating liquor or narcotic drug.

Section 13.09.130 INCAPACITY OF OPERATOR: It shall be unlawful for the owner of any vessel or watercraft or any person having such in charge or in control to authorize or knowingly permit the same to be operated by any person who by reason of physical or mental disability is incapable of operating such vessel or watercraft under the prevailing circumstances.

Section 13.09.140 ACCIDENTS: The operator of any watercraft involved in an accident resulting in injury or death to any person or in damage to property shall immediately stop such watercraft at the scene of such accident and shall give his name, address, the name and/or number of his watercraft, and the name and address of the owner, to the person struck or the operator or occupants of the vessel or watercraft collided with or property damaged, and shall render to any person injured in such an accident reasonable assistance.

Section 13.09.150 ACCIDENT REPORTS: The master, owner or operator of any watercraft shall file a report within 48 hours with the Police Department of any accident involving death or personal injury or property damage in excess of \$200.00 in which such watercraft shall have been involved.

Section 13.09.160 REPORTS CONFIDENTIAL, INADMISSIBILITY AS EVIDENCE: All required accident reports and supplemental reports and copies thereof shall be without prejudice to the individual so reporting and shall be for the confidential use of the Bellevue Police Department, City Attorney, or other peace and enforcement officer as provided herein, except that any such officer may disclose the identity of a person reported as involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident. No such accident report or copy thereof shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that any officer above named for receiving accident reports shall furnish, upon demand of any person, who has, or who claims to have, made such a report, or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the Bellevue Police Department, solely to prove a compliance or a failure to comply with the requirement that such a report be made in the manner required by law.

Section 13.09.170 OVERLOADING: No watercraft shall be loaded with passengers or cargo beyond its safe carrying capacity nor carry passengers in an unsafe manner taking into consideration weather and other existing operating conditions.

Section 13.09.180 RESTRICTED AREAS: In the interests of safe navigation, life safety and the protection of property, the Chief of Police shall designate restricted areas and the purpose for which same shall be used. No person shall operate a vessel or watercraft within a restricted area; provided, that this section shall not apply to vessels or watercraft engaged in or accompanying the activity to which the area is restricted, nor to patrol or rescue craft or in the case of an emergency.

Section 13.09.190 SWIMMING: Swimming in the waters of the City shall be confined to

- (a) restricted swimming areas or
- (b) to within a distance of fifty feet from the shore, or a pier unless the swimmer is accompanied by a watercraft.

Section 13.09.200 SKIN-DIVING: Skin-Diving shall be prohibited

- (a) within 300 feet of any public boat ramp, patrolled public beach designated as a swimming area, except pursuant to permit therefor issued by the Chief of Police; or
- (b) in any other area unless the diver shall be accompanied by a watercraft or the area in which he is diving shall be marked by an adequately displayed diver's flag.

Section 13.09.210 WATER SKIING:

- (a) No watercraft which shall have in tow or shall be otherwise assisting a person on water skis, aqua-plane, surf-board or similar contrivances shall be operated or propelled in the harbor unless such watercraft shall be occupied by at least two competent persons: PROVIDED, that this subsection shall not apply to watercraft used in only authorized water ski tournaments, competitions, expositions, or trials therefor.
- (b) It shall be unlawful to water-ski or to tow or otherwise assist anyone on water skis, aqua-plane, surf-board or similar contrivance within 100 yards of shore, 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 90 degree angle to the shore line.

- (c) No watercraft shall have in tow or shall otherwise be assisting a person on water skis, aqua-plane, surf-board 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.
- (d) All watercraft having in tow or otherwise assisting a person on water skis, aqua-plane, surf-board 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) Any person on water skis, aqua-plane, surf-board 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 13.09.220 MUFFLERS: It shall be unlawful to use or operate any engine in the waters of the City unless said engine is operated with and connected to a muffler or silencer of sufficient size and capacity effectually to muffle and prevent excessive or unusual noise from the exhaust of said engine.

Section 13.09.230 EQUIPMENT AND NUMBERING: All watercraft or vessels shall carry the equipment required by any applicable United States laws as now or hereafter amended, and shall be numbered or designated in accordance with any applicable United States laws as now or hereafter amended.

Section 13.09.240 RACING: Nothing in the provisions of this ordinance shall be construed to mean that the operator of a watercraft competing in a race or regatta, or trials therefore, which has been duly authorized shall be prohibited from attempting to attain high speeds on a duly designated and indicated racing course nor, while so engaged, shall such watercraft be required to comply with section nos. 13.09.220 or 13.09.230 of this ordinance.

Section 13.09.250 AIRCRAFT ON THE WATER: All vessels or watercraft shall keep clear of aircraft landing within any area now or hereafter set aside by law for such purpose. Aircraft on the water shall keep clear of all vessels and watercraft and avoid impeding their navigation.

Section 13.09.260 RULES OF THE ROAD: Except as herein otherwise specified, vessels or watercraft shall be subject to the "Rules to Prevent Collisions of Vessels and Pilot Rules for Certain Inland Waters of the Atlantic and Pacific Coasts and of the Coast of the Gulf of Mexico", promulgated by the United States Coast Guard, pursuant to Act of Congress, as such rules are now or may hereafter from time to time be adopted.

Section 13.09.270 PROPELLERS: No master, owner or other person in charge of any vessels or watercraft shall, while the same is lying in any slip or at any pier, either cause or allow the propeller or wheel of such vessel or watercraft to be worked in such a manner as to endanger any other vessel, watercraft, or structure.

Section 13.09.280 EXPLOSIVES: Every vessel or watercraft approaching or passing any vessel or watercraft engaged in the transfer of explosives and from which is displayed the red powder flag shall slow down to a speed of not exceeding six (6) nautical miles an hour before coming abreast of such vessel or watercraft and in time to prevent accident by reason of swells.

Section 13.09.290 DANGEROUS GANGWAYS: Whenever any gangway devoted to public use shall appear to be dangerous for such use, the Chief of Police shall report the matter to the City Building Inspector who shall inspect the same and shall forbid the use of such gangway for such purpose until the same shall have been repaired or reconstructed so as to render the same safe for such use and until the same as so reconstructed or repaired has been inspected and its use for such purpose approved by him.

Section 13.09.300 DRIFTING DEBRIS: It shall be unlawful for the owner, agent or lessee in charge of any pier to allow the whole, or any part thereof to fall into or remain adrift in the navigable waters or to drift away. Fender piles, broken or loose, shall be removed by the owner, agent or lessee of any pier, and upon failure so to do, the same may be removed by the Police Department and the expense thereof shall be paid by and recoverable from the owner, agent or lessee of such pier to the City.

Section 13.09.310 NUISANCES: Sunken vessels or watercraft, refuse of all kinds, structures or pieces of any structure, dock sweepings, dead fish or parts thereof, dead animals or parts thereof, timber, logs, piles, boon sticks, lumber, boxes, empty containers and oil of any kind floating uncontrolled on the water, and all other substances or articles of a similar nature, are hereby declared to be public nuisances and it shall be unlawful for any person to throw or place in, or cause or permit to be thrown or placed any of the above named articles or substances in water of the City, or upon the shores thereof or in such position that the same may or can be washed into said waters, either by high tides, storms, floods or otherwise. Any person causing or permitting said nuisances to be placed as aforesaid shall remove the same and upon his failure so to do, the same may be removed by the Police Department and the expense thereof shall be paid by and recoverable from the person creating said nuisance. In all cases such nuisances may be abated in the manner provided by law. The abatement of any such public nuisances shall not excuse the person responsible therefor from prosecution hereunder.

Section 13.09.320 PUBLIC HEALTH: All watercraft and vessels entering waters of the City, shall comply with the applicable public health laws and regulations of the United States, the State of Washington and its political subdivisions.

Section 13.09.330 ENFORCEMENT: The Chief of Police and any of his authorized officers or authorized personnel of the governments of the United States, the State of Washington or its political subdivisions by virtue of their election or appointment shall have authority to enter upon and inspect any vessel or watercraft in the harbor and are hereby charged with the enforcement of the provisions of this ordinance except as the enforcement thereof is herein otherwise specified. It shall be the duty of the Police Department to make complaints for any violation of the same, or any part hereof in the name of the City; Provided, That this provision shall not operate to preclude the making of such complaint by any other person legally authorized so to do.

Section 13.09.340 RELEASE FROM ARREST ON NOTICE TO APPEAR: Whenever any person is arrested for any violation of this ordinance the arresting officer may serve upon him a citation and notice to appear in court. The arrested person, in order to secure release, and when permitted by the arresting officer, must give his written promise to appear in court, as required by the citation and notice by signing in the appropriate place the written citation and notice served by the arresting officer. Upon the arrested person's failing or refusing to sign such written promise, he may be taken into the custody of such arresting officer and so remain or be placed in confinement.

Section 13.09.350 EXEMPTION TO AUTHORIZED EMERGENCY VESSELS AND WATERCRAFT: The provisions of this ordinance shall be applicable to the operation of any and all vessels or watercraft in the waters of the City except that they shall not apply in the following cases:

To any authorized emergency vessel or watercraft actually responding to an emergency call or in immediate pursuit of an actual or suspected violator of the law, within the purpose for which such emergency vessel or watercraft has been authorized; Provided, That the provisions of this section shall not relieve the operator of an authorized emergency vessel or watercraft of the duty to operate with due regard for the safety of all persons using the waters of the City.

Section 13.09.360 AIDING AND ABETTING VIOLATION: It is unlawful to counsel, aid, or abet the violation of, or failure to comply with any of the provisions of this ordinance.

Section 13.09.370 EMERGENCY POWERS: The Chief of Police and his duly authorized officers are hereby authorized to direct all waterborne traffic, either in person or by means of visible or audible signal in conformance with the provisions of this ordinance; Provided, That where necessary to expedite waterborne traffic, or to prevent or eliminate congestion or to safeguard persons or property, such officers, or in the event of a fire or other emergency such officers and other authorized officers of appropriate governmental agencies, may direct waterborne traffic as conditions may require, notwithstanding the provisions of this ordinance.

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Section 13.09.380 YIELDING RIGHT OF WAY TO AUTHORIZED EMERGENCY VESSELS AND WATERCRAFT: It shall be the duty of the master, owner or operator of a vessel or watercraft to reduce speed and if necessary stop his vessel or watercraft and at the same time yielding right of way as herein otherwise specified upon the approach of an authorized emergency vessel or watercraft displaying a red light and sounding a siren and while actually responding to an emergency or in immediate pursuit of any actual or suspected violator of the law, within the purpose for which such emergency vessel or watercraft has been authorized.

Section 13.09.390 FILING OF FALSE INFORMATION AND CONCEALMENT OF PERTINENT FACTS: It shall be a violation of this ordinance for any master, owner, operator or other occupants of any vessel or watercraft involved in a reportable accident under the provisions of this ordinance or involved in any violation of this ordinance to willfully and knowingly file false information and/or conceal pertinent facts to the accident or violation with the persons duly authorized to investigate the said accident or violation. This section shall constitute a separate violation and shall not preclude prosecution for the original violation or accident.

Section 13.09.400 PENALTY: Any person who shall violate or fail to comply with any provision of this ordinance, or any lawful order or direction of the Chief of Police or any person or officer charged with the enforcement hereof, shall, on conviction thereof, be punished by a fine in any sum not exceeding two hundred fifty (\$250.00) dollars or by imprisonment in the city jail for a term not to exceed ninety days (90) or both such fine and imprisonment.

Section 13.09.410 SAVING CLAUSE: In the event any section or provision of this ordinance shall be held invalid or of no effect, such decision shall not effect the validity of any other section or provision thereof.

Section 13.09.420 REPEAL: Sections 7 and 8 of Ordinance No. 75, Ordinance Nos. 312 and 540, and Chapter 13.08 of Bellevue City Code, are hereby repealed.

Section 13.09.430 EFFECTIVE DATE: This Ordinance shall take effect and be in force five (5) days after its passage, approval and legal publication.

PASSED by the City Council on this 19th day of November, 1963, and signed in authentication of its passage this 19th day of November, 1963.

Clarence Willard
Scott McDermott
Mayor pro tem

(SEAL)

Approved as to Form:

Joseph S. Miller
Joseph S. Miller
City Attorney

Attest:

Jean S. Scholer
Jean S. Scholer
City Clerk

FILED NO. 0281

CITY OF BELLEVUE

DATE November 28, 1963

CITY CLERK *Jean S. Scholer*

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