

ORDINANCE NO. 97-2

AN ORDINANCE ESTABLISHING WATER SAFETY REGULATIONS FOR THE CITY OF JAMAICA BEACH, TEXAS ; PROVIDING FOR DEFINITIONS ; REQUIRING CERTAIN VESSEL EQUIPMENT ; ESTABLISHING BOATING REGULATIONS ; PROVIDING FOR ENFORCEMENT ; PROVIDING A PENALTY BY A FINE OF NOT LESS THAN TWENTY-FIVE DOLLARS (\$25.00) NOR MORE THAN FIVE HUNDRED DOLLARS (\$500.00) ; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JAMAICA BEACH, STATE OF TEXAS :

Section 1. General Provisions.

A. Title. This Ordinance may be cited as the Water Safety Ordinance

B. Policy. It is the policy of the this City to promote recreational water safety for persons and property in and connected with the use of all recreational water facilities in the City, to promote safety in the operation and equipment of facilities, and to promote uniformity of laws relating to water safety.

C. Definitions.

1. "Boat" means a vessel not more than sixty-five feet (65') in length, measured from end to end over the deck, excluding sheer, and manufactured or used primarily for noncommercial use.
2. "Vessel" means any watercraft, other than a seaplane on water, used or capable of being used for transportation on water.
3. "Motorboat" means any vessel propelled or designed to be propelled by machinery, whether or not the machinery is permanently or temporarily affixed or is the principal source of propulsion.
4. "Owner" means the person who rightfully claims lawful possession of a vessel by virtue of the legal title or an equitable interest.
5. "Water of this City" means any public water within the territorial limits of this City
6. "Operate" means to navigate or otherwise use a motorboat or a vessel.
7. "Undocumented motorboat" means a vessel that is not required to have, and does not have, a valid marine document issued by the Bureau of Customs of the United States government or its successor.
8. "Outboard motor" means any self-contained internal combustion propulsion system, excluding fuel supply, which is used to propel a vessel and which is detachable as a unit from the vessel.
9. "Personal watercraft" means a motorboat up to ten feet (10') in length, which is designed to be operated by a person or persons sitting, standing, or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel.

D. Application of Ordinance.

The provisions of this Ordinance apply to all public water in the City and to all watercraft navigated or moving on the public water. Privately owned water is not subject to the provisions of this Ordinance.

Section 2. Required Equipment.

A. Operation of Vessels without Required Equipment Prohibited. No person may operate or give permission for the operation of a vessel that is not provided with the equipment required by this Ordinance.

B. Classes of Motorboats. Motorboats subject to the provisions of this Ordinance are divided into four classes according to length as follows:

Class A. Less than sixteen feet (16') in length.

Class 1. Sixteen feet (16') or over and less than twenty six (26') in length

Class 2. Twenty-six feet (26') or over and less than forty feet(40') in length or over.

C. Lights.

1. A vessel or motorboat when not at dock must have and exhibit at least one bright light, lantern, or flashlight from sunset to sunrise in all weather. A vessel or motorboat when underway between sunset and sunrise in all weather must have and exhibit the lights prescribed below for boats of its class. No other lights that may be mistaken for those prescribed may be exhibited.

2. Each Class A and Class 1 motorboat must have the following lights:

- a bright white light aft to show all around the horizon ; and
- a combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two (2) points abaft the beam on their respective sides.

3. Each Class 2 and Class 3 motorboat must have the following lights and light screens:

(a). a bright white light in the fore part of the vessel as near the stern as practicable, so constructed as to show an unbroken light over an arc of the horizon of twenty (20) points of the compass and so fixed as to throw the light ten (10) points on each side of the vessel, namely from right ahead to two (2) points abaft the beam on either side;

(b). a bright white light aft to show all around the horizon and higher than the white light forward;

(c). a green light on the starboard side so constructed as to show an unbroken light over an arc of the horizon of ten (10) points of the compass and so fixed as to throw the light from right ahead to two (2) points abaft the beam on the starboard side;

(d). a red light on the port side so constructed as to show an unbroken light over an arc of the horizon of ten (10) points of the compass and so fixed as to throw the light from right ahead to two (2) points abaft the beam on the port side; and

(e). inboard screens fitted on the starboard and port side lights of sufficient length and so set as to prevent the side lights from being seen across the bow.

4. Each class A and Class 1 motorboat when propelled by sail alone must have the combined lantern but not the white light aft prescribed in paragraph 2(b) of Subsection C above.
5. Each Class 2 and Class 3 motorboat when propelled by sail alone must have the colored side lights, suitably screened, but not the white lights prescribed in paragraph 3 of Subsection C above.
6. Motorboats of all classes when propelled by sail alone must have ready at hand a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert a collision.
7. A white light required by this Section must be visible at a distance of at least two (2) miles. A colored light required by this Section must be visible at a distance of at least one (1) mile. In this Section, "visible" means visible on dark nights with clear atmosphere.
8. A motorboat propelled by sail and machinery must have the lights required by this Section for motorboats propelled by machinery alone.
9. A motorboat may have and exhibit the lights required by the Regulations for Preventing Collisions at Sea, 1948, Act of October 11, 1951, as amended, instead of the lights specified by this Ordinance.

D. Whistles; Bells.

1. A motorboat of Classes 1, 2, or 3 must have an efficient whistle or other sound-producing mechanical appliance.
2. A motorboat of Classes 2 or 3 must have an efficient bell.

E. Life Preserving Devices.

1. A motorboat must have at least one (1) life preserver, life belt, ring buoy, or other device of the sort prescribed by the regulations of the commandant of the Coast Guard for each person on board, so placed as to be readily accessible.
2. A motorboat carrying passengers for hire must have a readily accessible life preserver of the sort prescribed by the regulations of the commandant of the Coast Guard for each person on board.
3. The Operator of a Class A or Class 1 motorboat, while underway, shall require every passenger under 13 years of age to wear a life preserver of the sort prescribed by the regulations of the commandant of the Coast Guard. A life belt or ring buoy does not satisfy this requirement.

F. Fire Extinguishers.

1. A motorboat must have the number, size and type of fire extinguishers prescribed by the regulations of the commandant of the Coast Guard.
2. The fire extinguishers must be capable of promptly and effectively extinguishing burning gasoline. They must be kept in condition for immediate and effective use at all times and must be placed so as to be readily accessible.

G. Flame Arrestors; Backfire Traps

A motorboat must have the carburetor or carburetors of every engine using gasoline as fuel, except outboard motors, equipped with an efficient flame arrestor,

backfire trap, or other similar device prescribed by the regulations of the commandant of the Coast Guard.

H. Ventilators.

Each motorboat and vessel, except an open boat, using as fuel any liquid of a volatile nature must have the equipment prescribed by the regulations of the commandant of the Coast Guard designed to ventilate properly and efficiently the bilge's of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

I. Exhaust Water Manifold; Muffler

A motorboat operating on the water on this City must have an exhaust water manifold or a factory-type muffler installed on the engine.

J. Canoes, Punts, Rowboats, Paddleboats, Sailboats, and Rubber Rafts

Equipment Exemptions. All canoes, punts, rowboats, paddleboats, sailboats, and rubber rafts when paddled, poled, oared, or windblown are exempt from all required safety equipment except the following:

- one (1) Coast Guard approved lifesaving device for each person aboard; and
- the lights prescribed for Class A vessels in paragraph 2 of Subsection C above.

Section 3. Boating Regulations

A. Rules of the Road.

The United States Coast Guard Inland Rules apply to all public water of this City to the extent they are applicable.

B. Excessive Speed.

(1). No person may operate any boat at a rate of speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic, or greater than will permit him, in the exercise of reasonable care, to bring the boat to a stop within the assured clear distance ahead.

C. Hazardous Wake or Wash.

No person may operate a motorboat so as to create a hazardous wake or wash.

D. Circular Course Around Fisherman or Swimmer.

1. No person may operate a motorboat or jet ski in a circular course around any other boat or any occupant of which is engaged in fishing or around any person swimming.
2. No swimmer or diver may come within two hundred (200) yards of a sightseeing or excursion boat except for maintenance purposes or unless within an enclosed area.

E. Interference with Markers or Ramps.

1. No person may moor or attach a boat to a buoy, beacon, light marker stake, flag, or other aid to safe operation placed upon the public water of this City. No person may move, remove, displace, tamper with, damage, or destroy the markers or aids to safe operation.
2. No person may moor or attach a vessel to a public boat launching ramp except in connection with the launching or retrieving of a boat from the water.

F. Obstructing Passage.

1. No person may anchor a boat in the traveled portion of a canal or channel so as to prevent, impede, or interfere with the safe passage of any other boat through the same area.
2. No person may anchor a vessel near a public boat ramp so as to prevent, impede, or interfere with the use of the boat ramp.

G. Operating Boats in Restricted Area.

No person may operate a boat within a water area that has been clearly marked, by buoys or some other distinguishing device, as a bathing, fishing, swimming, or otherwise restricted area by the City. This Subsection does not apply to a patrol or rescue craft or in any case of an emergency.

H. Operating Vessels in Scuba Diving or Snorkeling Areas.

1. No person may operate a vessel within fifty feet (50') of a buoy or of another vessel displaying a "diver down" flag that marks an area in which a person is scuba diving or snorkeling.
2. No person may operate a vessel at a speed greater than the minimum speed necessary to maintain steerage way and headway while the vessel is within one hundred fifty feet (150') of a buoy or a vessel displaying a "diver down" flag that marks an area in which a person is scuba diving or snorkeling.
3. To be entitled to the protections of this Subsection, a scuba diver or snorkeler must prominently display a "diver down" flag from a buoy or a vessel.
4. This Section does not apply:
  - to a person who is operating a patrol or rescue craft; or
  - in an emergency
5. Paragraph 1 of this Subsection does not apply:
  - to a person who is already operating a vessel in an area when another person displays a "diver down" flag within one hundred fifty feet (150') of that vessel;
  - to a person who is operating a vessel in a waterway that is less than three hundred feet (300') wide; or
  - to a person who has permission to enter the area from the person who placed the buoy or the person who is operating the vessel displaying the "diver down" flag.

6. In this Subsection, "diver down ' flag" means a square or rectangular red flag that has a diagonal white stripe and is at least twenty-four (24" x 24") in size.

Section 4     Enforcement and Penalties

A. Enforcement Officers.

1. All peace officers of this City are enforcement officers for the purpose of this Ordinance.
2. The enforcement officers may enforce the provisions of this Ordinance by arresting and taking into custody any person who commits any act or offense prohibited by this Ordinance or who violates any provision of this Ordinance.

B. Water Safety Vessels : Lights

Only Police water vessels may use rotating or flashing blue beacon lights.

C. Required Response to Police Water Safety Vessel.

The operator of a vessel underway, on sighting a rotating or flashing blue beacon light, shall reduce power immediately and bring the vessel to a no-wake speed and subsequent stop until the intention of the water safety vessel is understood.

D. Inspection of Vessels

1. In order to enforce the provisions of this Ordinance, an enforcement officer may stop and board any vessel subject to this Ordinance and may inspect the boat to determine compliance with applicable provisions.
2. An officer boarding a vessel shall first identify himself by presenting proper credentials.
3. No person operating a boat on the water of this City may refuse to obey the directions of an enforcement officer when the officer is acting under the provisions of this Ordinance.
4. The safety of the vessel shall always be the paramount consideration of an arresting officer.
5. If an enforcement officer determines that a vessel and its associated equipment is being used in violation of this Ordinance so as to create an especially hazardous condition, he may direct the operator to return to mooring and the vessel may not be used until the condition creating the violation is corrected

E. Violation; Notice to Appear

1. An enforcement officer who arrests a person for a violation of this Ordinance may deliver to the alleged violator a written notice to appear before the court having jurisdiction of the offense.
2. The person arrested shall sign the notice to appear promising to make his appearance in accordance with the requirements set forth in the notice. After signing the notice, the person may be released. Failure to appear

before the court having jurisdiction constitutes a violation of this Ordinance. A warrant for the arrested person failing to appear may be issued.

F. Penalties.

1. A person who violates or fails to comply with any provision of this Ordinance, for which no other penalty is applicable, commits an offense that is a Class C Parks and Wildlife Code Misdemeanor punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00).

Section 5. Repealer

All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 6 Severability.

In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Jamaica Beach, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one more parts.

PASSED AND APPROVED this 16 day of  
of June, 1997.

ATTEST:

TPwhite  
TERI WHITE  
CITY SECRETARY

Paul E Schmidt  
PAUL SCHMIDT  
MAYOR

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