

ORDINANCE O-4406

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING AND UPDATING TITLE 14 OF THE KIRKLAND MUNICIPAL CODE RELATING TO WATERCRAFT AND THE CITY HARBOR.

The City Council of the City of Kirkland ordains as follows:

Section 1. Kirkland Municipal Code ("KMC") Section 14.04.010 is hereby amended to read as follows:

**14.04.010 Authorization.**

The city 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 title, be known as "the harbor." This title shall be known and may be cited as the Kirkland Harbor Code~~boat control ordinance.~~

Section 2. KMC Section 14.04.020 is amended to read as follows:

**14.04.020 Application and justification.**

The provisions of this title shall be applicable to all vessels and watercraft operating in the harbor of the city. As authorized by RCW 35A.21.290, the powers and jurisdiction of the city with boundaries adjacent to or fronting on any lake, or other navigable waters, shall extend into and over such waters to the middle of such lake or other waters in every manner and for every purpose that such powers and jurisdiction could be exercised if the waters were within the city limits. The provisions of this title 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 3. KMC Section 14.04.050 is amended to read as follows:

**14.04.050 Authorized emergency vessels and watercraft exempt.**

The provisions of this title shall be applicable to the operation of any and all vessels or watercraft in the harbor 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 any 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 city harbor, ~~nor shall it protect the operator of such emergency vessel or watercraft from the consequence of a reckless disregard for the safety of others;~~ provided, further, ~~the provisions of this section shall in no event extend any special privilege or immunity in operation of any authorized~~

~~emergency vessel or watercraft for any purpose other than for which the same has been authorized.~~

Section 4. KMC Sections 14.04.060 and 14.04.070 are hereby repealed.

Section 5. A new KMC Section 14.04.090 is hereby adopted to read as follows:

**14.04.090 Statutes adopted by reference.**

The following statutes of the state of Washington, including those statutes, rules and/or regulations referenced within them, as presently constituted or hereafter amended or recodified, are hereby adopted by reference and shall be given the same force and effect as if fully set forth herein:

- RCW 7.80.120 Monetary penalties – Restitution.
- RCW 7.84.100 Monetary penalties.
- RCW 79A.60.010 Definitions.
- RCW 79A.60.020 Violations of chapter punishable as misdemeanor – Circumstances – Violations designated as civil infractions.
- RCW 79A.60.030 Operation of vessel in a negligent manner – Penalty.
- RCW 79A.60.040 Operation of vessel in a reckless manner – Operation of a vessel under the influence of intoxicating liquor – Penalty.
- RCW 79A.60.080 Failure to stop for law enforcement vessel.
- RCW 79A.60.100 Enforcement – Chapter to supplement federal law.
- RCW 79A.60.110 Equipment standards – Rules – Penalty.
- RCW 79A.60.120 Tampering with vessel lights or signals – Exhibiting false lights or signals – Penalty.
- RCW 79A.60.130 Muffler or underwater exhaust system required – Exemptions – Enforcement – Penalty.
- RCW 79A.60.140 Personal flotation devices – Inspection and approval – Rules.
- RCW 79A.60.150 Failure of vessel to contain required equipment – Liability of operator or owner – Penalty.
- RCW 79A.60.160 Personal flotation devices required – Penalty.
- RCW 79A.60.170 Waterskiing safety – Requirements.
- RCW 79A.60.180 Loading or powering vessel beyond safe operating ability – Penalties.
- RCW 79A.60.190 Operation of personal watercraft – Prohibited activities – Penalties.
- RCW 79A.60.200 Duty of operator involved in collision, accident, or other casualty – Immunity from liability of persons rendering assistance – Penalties.
- RCW 79A.60.640 Requirements to operate motor driven boats/vessels – Exemptions – Penalty.
- RCW 79A.60.660 Operating motor driven boat or vessel for teak surfing, platform dragging, bodysurfing – Prohibition – Exceptions – Penalty.
- RCW 88.02.310 Definitions.

- RCW 88.02.340 Inspection of registration – Violation of chapter.
- RCW 88.02.380 Penalties – Disposition of moneys collected – Enforcement authority.
- RCW 88.02.400 Evasive registration – Penalty.
- RCW 88.02.510 Application – When, by whom.
- RCW 88.02.550 Registration and display of registration number and decal prerequisite to ownership or operation of vessel – Exceptions.
- RCW 88.02.560 Application – Registration fee and excise tax – Registration number and decal – Registration periods – Renewals – Marine oil refuse dump and holding tank information – Transfer of registrations.
- RCW 88.02.570 Exceptions from vessel registration.
- RCW 88.02.650 Issuance of registrations – Agents – Deposit of fees in general fund – Allocation for boating safety and education and law enforcement.
- RCW 88.02.655 Allocation of funds under RCW 88.02.040 to counties – Deposit to account for boating safety programs.
- RCW 88.02.790 Vessel dealer display decals – Use.
- RCW 88.02.795 Additional penalties for unauthorized or personal use of dealer display decals.

Section 6. KMC Section 14.08.040 is hereby amended to read as follows:

**14.08.040 Authorized emergency vessel.**

“Authorized emergency vessel” means any authorized vessel or watercraft of the ~~city harbor department, city police department, city fire department, King County Sheriff’s department~~ Office, the United States Government, and state of Washington authorized patrol vessels or watercraft.

Section 7. KMC Section 14.08.090 is hereby amended to read as follows:

**14.08.090 Obstruction.**

“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.” (C.F. 236479)~~

Section 8. KMC Section 14.08.110 is hereby amended to read as follows:

**14.08.110 Owner.**

“Owner” means ~~the a~~ person who has lawful possession of a vessel or watercraft or obstruction by purchase, exchange, gift, lease, inheritance, or legal action, whether or not the vessel is subject to a security interest ~~virtue of legal title or equitable interest therein which entitles him to such possession.~~

Section 9. KMC Section 14.08.140 is hereby amended to read as follows:

**14.08.140 Port warden.**

"Port warden" means the chief of police or his or her designee~~any individual or individuals so designated by the mayor with approval of the city council.~~

Section 10. KMC Section 14.08.150 is hereby amended to read as follows:

**14.08.150 Restricted area.**

"Restricted area" means an area that is closed to all water traffic or where water traffic is regulated for the health, safety and welfare of the public~~has been marked in accordance with and as authorized by the laws or regulations of the city to be used for, or closed to, certain designated purposes such as swimming, skin diving, ferry landings, and aquatic events, the method of marking and designation of which shall have been made by the port warden in accordance with the provisions of this title.~~

Section 11. KMC Section 14.08.170 is hereby amended to read as follows:

**14.08.170 Vessel.**

"Vessel" means ~~any contrivance one hundred fifty feet or more in length overall,~~ every watercraft used or capable of being used as a means of transportation on water, other than a seaplane.

Section 12. KMC Section 14.08.180 is hereby amended to read as follows:

**14.08.180 Watercraft.**

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

Section 13. KMC Section 14.08.180 is hereby amended to read as follows:

**14.12.010 Duties.**

The duties of the port warden ~~as head of the harbor department~~ shall be to:

- (1) ~~Enforce~~ Provide for the enforcement of the ordinances and regulations of the city upon the waters of the harbor and adjacent thereto when the harbor is affected;
- (2) Maintain or provide for regular patrols ~~in~~ of 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;

- ~~(3) Investigate and report~~ Provide for the investigation and reporting upon of marine and maritime accidents in the harbor;
- ~~(4) Perform all necessary functions in connection with search and rescue in the harbor;~~
- ~~(5) 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;~~
- ~~(6) Designate, indicate the location of, and to patrol anchorage locations for watercraft or vessels within areas set forth by the ordinances of the city;~~
- ~~(74) Establish, maintain and regulate~~ Provide for the establishment, maintenance and regulation of the use of moorage buoys in the harbor for the convenience of watercraft and vessels;
- ~~(85) Designate restricted areas.~~

Section 14. KMC Sections 14.12.020, 14.12.030 and 14.12.040 are hereby repealed.

Section 15. The Title of KMC Chapter 14.16 is hereby changed to "Restricted Areas and Obstructions."

Section 16. KMC Sections 14.16.010, 14.16.020, 14.16.030 and 14.16.040 are hereby repealed.

Section 17. A new KMC Section 14.16.010 is hereby created to read as follows:

**14.16.010 Restricted areas.**

In interests of safe navigation, public safety and the protection of property, the port warden may designate restricted areas, stating the purposes for which (if any) the restricted area shall be used; 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 18. A new KMC Section 14.16.020 is hereby created to read as follows:

**14.16.020 Obstruction – Moving of same.**

(1) 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 first obtaining permission therefor from the port warden.

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

(3) The port warden shall have the power to cause or arrange for the removal of any:

(a) Vessel, watercraft or obstruction anchored in any channel or fairway or made fast to any buoy, pier or other structure owned by or under the authority and control of the city;

(b) Towboat and/or its tow which is obstructing navigation in any channel or fairway;

- (c) Vessel, watercraft or obstruction lying at any pier in the harbor, which is obstructing any slip, fairway or other vessel or watercraft.
- (4) It shall be unlawful to fail to remove or refuse to remove any vessel, watercraft or obstruction after being directed to do so by the port warden.

Section 19. KMC Section 14.20.020 is hereby amended to read as follows:

**14.20.020 Skin diving and scuba diving.**

Skin diving and scuba diving are is prohibited in the harbor within three hundred feet of any public pier, boat launch dock or ferry slip, ~~except pursuant to permit therefor issued by the port warden and~~ except for commercial diving. Whenever any diver is in the water more than 100 feet from shore or a dock, he or she shall be accompanied by a watercraft or the area in which he or she is diving shall be marked by an adequately displayed diver's flag.

Section 20. KMC Section 14.20.030 is hereby amended to read as follows:

**14.20.030 Water skiing.**

(a) 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 waters of the city unless such watercraft shall be occupied by at least two competent persons; ~~provided, that this subsection shall not apply to watercraft used in duly authorized water ski tournaments, competitions, expositions, or trial therefor.~~

(b) Water skiing on waters of the city shall be regulated as follows:

(1) It is unlawful to ski parallel to the shoreline, within one hundred yards of any shoreline pier, restricted area or shore installation. Skiing within one hundred yards of any shoreline, pier restricted area or shore installation, except for return to the shore, must be in a direction headed away from the shoreline. The return to shore must be at an angle of not less than forty-five degrees to the shoreline. Watercraft complying with this regulation may exceed speed regulations provided in Section 14.24.030;

(2) No watercraft shall have in tow or shall otherwise be assisting a person on water skis, aquaplane, surfboard or similar contrivance from one-half hour after sunset to sunrise;

(3) All persons being towed by watercraft shall wear an adequate floatation device;

(4) 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 at a reasonable distance from persons and property so as not to endanger the life or property of any person.

~~(c) Regulations stated in this section shall not apply to watercraft used in duly authorized water ski tournaments, competitions, expositions, or trials therefor, which have been duly authorized by the appropriate governmental agency, the city.~~

Section 21. KMC Section 14.24.010 is hereby amended to read as follows:

**14.24.010 Negligent operation of a watercraft.**

Any person who operates 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~~ the operator, in the exercise of reasonable care, to bring the watercraft to a stop within the assured clear distance ahead, is guilty of negligent operation of a watercraft ~~and a is in violation of this title.~~

Section 22. KMC Section 14.24.020 is hereby amended to read as follows:

**14.24.020 Reckless operation of a watercraft.**

No person shall operate a ~~boat~~ watercraft in a reckless manner, or at an excessive rate of speed so as to endanger, or be likely to endanger, the life or property of any person, having due regard for the presence of other ~~boats~~ watercraft, or persons, or other objects in or on a ~~waterway~~ the Kirkland harbor. Nor shall any such person operate any ~~boat~~ watercraft at a rate of speed which causes waves to damage docks, wharves, ~~seawalls~~ bulkheads, or ~~boats~~ watercraft moored to docks or wharves ~~along a waterway in the Kirkland harbor.~~

Section 23. KMC Section 14.24.050 is hereby amended to read as follows:

**14.24.050 Intoxication.**

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

(b) It is 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~~ alcohol or drugs.

Section 24. KMC Chapter 14.28 is hereby repealed.

Section 25. KMC Section 14.32.010 is hereby amended to read as follows:

**14.32.010 Unsafe piers.**

Whenever any pier or gangway devoted to ~~passenger traffic~~ public use ~~appears to be dangerous for such use is damaged or appears to the port warden to become unsafe so as to render the same or any portion thereof unsafe for life or property~~, the port warden shall report the matter to the city building official superintendent who shall inspect the same and shall order any unsafe portion thereof barricaded with proper fencing until such time as necessary repairs ~~thereto~~ shall be made, ~~and if~~ If the owner, agent or lessee of such pier or gangway fails to comply with the orders of the city building inspector immediately, the city building official inspector shall prohibit the use of

the unsafe portion of such pier or gangway and may erect the necessary fencing or barricade and the expense ~~thereof of which~~ shall be paid by and recoverable from the owner, agent or lessee of such pier. It is unlawful for any person to allow any such pier or gangway to be used or open to use.

Section 26. KMC Sections 14.32.020, 14.32.030, 14.32.040, 14.32.050 and 14.32.070 are hereby repealed.

Section 27. KMC Section 14.40.040 is hereby amended to read as follows:

**14.40.040 Nuisances.**

Sunken or swamped 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, boom 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~~ It is unlawful for any person to ~~throw or place in, or cause or permit to be thrown or placed in~~ put any of the above named articles or substances in the Kirkland Harbor, or upon the shores thereof, or in such position that the same may or can be washed into the harbor, either by high ~~tides~~ waters, storms, floods or otherwise. Any person causing or permitting the such nuisances ~~to be placed as aforesaid~~ shall remove the same and upon ~~his~~ failure so to do, the same may be removed by the port warden and the expense thereof shall be paid by and recoverable from the person creating the 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 28. A new KMC Section 14.44.050 is hereby adopted to read as follows:

**14.44.050 Impound.**

Whenever it appears reasonably necessary to protect property, an arresting officer may impound a watercraft or vessel when it cannot be otherwise secured or released. The arresting officer, in lieu of impound may release the watercraft to a person who, in the officer's opinion, can safely operate the watercraft or vessel or secure said watercraft or vessel to a moorage facility when same has been approved for such purpose. The owner or operator of the watercraft or vessel must sign a waiver of impound to allow the arresting officer an option other than impounding the watercraft or vessel.

Section 29. KMC Sections 14.48.010, 14.48.020, 14.48.040 and 14.48.060 are hereby repealed.

Section 30. KMC Section 14.48.030 is hereby amended to read as follows:

**14.48.030 Enforcement.**

The port warden and any of his or her authorized deputies or employees and 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 title ~~except as the enforcement thereof is otherwise specified.~~ In addition, the city may contract with other agencies, including but not limited to the King County Sheriff's Office, for enforcement of the provisions of this title and all other applicable laws. Any agency that the city contracts with for enforcement of the provisions of this title shall have authority to the same extent as the City with respect to enforcement of the provisions of this title and all other applicable laws. ~~It shall be the duty of the port warden to make complaints for the 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 31. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 32. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this \_\_\_\_ day of \_\_\_\_\_, 2013.

Signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

PUBLICATION SUMMARY  
OF ORDINANCE O-4406

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING AND UPDATING TITLE 14 OF THE KIRKLAND MUNICIPAL CODE RELATING TO WATERCRAFT AND THE CITY HARBOR.

SECTION 1. Amends KMC Section 14.04.010 relating to authorization and provides that KMC Title 14 shall be known as the Kirkland Harbor Code.

SECTION 2. Amends KMC Section 14.04.020 relating to applicability of KMC Title 14 to all vessels and watercraft operating in the harbor of the city.

SECTION 3. Amends KMC Section 14.04.050 relating to authorized emergency vessels and exempt watercraft.

SECTION 4. Repeals KMC Sections 14.04.060 and 14.04.070.

SECTION 5. Adds a new KMC Section 14.04.090 relating to statutes adopted by reference.

SECTION 6. Amends KMC Section 14.08.040 relating to the definition of "authorized emergency vessel."

SECTION 7. Amends KMC Section 14.08.090 relating to the definition of "obstruction."

SECTION 8. Amends KMC Section 14.08.110 relating to the definition of "owner."

SECTION 9. Amends KMC Section 14.08.140 relating to the definition of "port warden."

SECTION 10. Amends KMC Section 14.08.150 relating to the definition of "restricted area."

SECTION 11. Amends KMC Section 14.08.170 relating to the definition of "vessel."

SECTION 12. Amends KMC Section 14.08.180 relating to the definition of "watercraft."

SECTION 13. Amends KMC Section 14.12.010 relating to the duties of the port warden.

SECTION 14. Repeals KMC Sections 14.12.020, 14.12.030 and 14.12.040.

SECTION 15. Changes the title of KMC Chapter 14.16 to "Restricted Areas and Obstructions."

SECTION 16. Repeals KMC Sections 14.16.010, 14.16.020, 14.16.030 and 14.16.040.

SECTION 17. Adds a new KMC Section 14.16.010 relating to restricted areas.

SECTION 18. Adds a new KMC Section 14.16.020 relating to obstructions and the moving of same.

SECTION 19. Amends KMC Section 14.20.020 relating to skin diving and scuba diving.

SECTION 20. Amends KMC Section 14.20.030 relating to water skiing.

SECTION 21. Amends KMC Section 14.24.010 relating to negligent operation of a watercraft.

SECTION 22. Amends KMC Section 14.24.020 relating to the reckless operation of a watercraft.

SECTION 23. Amends KMC Section 14.24.050 relating to the unlawful operation or physical control of any vessel or watercraft while under the influence of alcohol or drugs.

SECTION 24. Repeals KMC Chapter 14.28.

SECTION 25. Amends KMC Section 14.32.010 relating to unsafe piers.

SECTION 26. Repeals KMC Sections 14.32.020, 14.32.030, 14.32.040, 14.32.050 and 14.32.070.

SECTION 27. Amends KMC Section 14.40.040 related to public nuisances in the Kirkland Harbor, or upon the shores thereof, or in such a position that the same may be or can be washed into the harbor.

SECTION 28. Adds a new KMC Section 14.44.050 relating to impounding of watercraft or vessels.

SECTION 29. Repeals KMC Sections 14.48.010, 14.48.020, 14.48.040 and 14.48.060.

SECTION 30. Amends KMC Section 14.48.030 relating to enforcement by the port warden, his or her authorized deputies or employees and authorized personnel.

SECTION 31. Provides a severability clause for the ordinance.

SECTION 32. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

I certify that the foregoing is a summary of Ordinance \_\_\_\_\_ approved by the Kirkland City Council for summary publication.

\_\_\_\_\_  
City Clerk