

**ORDINANCE NO. 15-1054**

**AN ORDINANCE OF THE CITY OF BLACK DIAMOND, WASHINGTON, RELATING TO WATER SAFETY, AMENDING THE BLACK DIAMOND MUNICIPAL CODE TO ELIMINATE OUTDATED LAWS RELATING TO WATER SAFETY, TO ADOPT NEW LAWS ON WATER SAFETY AND TO ADOPT CERTAIN STATE LAWS BY REFERENCE ON THE OPERATION OF RECREATIONAL VESSELS, REPEALING CHAPTER 8.24 AND CHAPTER 10.36, ADOPTING RCW 79A.60.010, RCW 79A.60.030, RCW 79A.60.040, RCW 79A.60.060, RCW 79A.60.080, RCW 79A.60.090, RCW 79A.60.100, RCW 79A.60.110, RCW 79A.60.120, RCW 79A.60.140, RCW 79A.60.150, RCW 79A.60.160, RCW 79A.60.180, RCW 79A.60.190, RCW 79A.70.640, RCW 88.02.550, RCW 88.02.570 BY REFERENCE, AND ADDING A NEW CHAPTER 8.24 TO THE BLACK DIAMOND MUNICIPAL CODE.**

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WHEREAS, Black Diamond Municipal Code (BDMC) Section 8.24.010(A) was originally adopted to incorporate the Boating Regulations from the King County Code by reference for enforcement on Lake Sawyer; and

WHEREAS, King County has eliminated boating regulations from its code; and

WHEREAS, the City wishes to continue to regulate boating and water safety by adopting updated water safety regulations into Chapter 8.24 of the BDMC as needed; and

WHEREAS, Chapter 10.36 of BDMC incorporates state provisions under Revised Code of Washington (RCW) Chapter 79A.60 relating to recreational vessels that requires consolidation into Chapter 8.24 of the BDMC;

WHEREAS, the City SEPA Official has determined that this Ordinance is exempt from SEPA under WAC 197-11-800(19) as purely procedural; and

WHEREAS, the Black Diamond City Council considered this Ordinance during a regular City Council meeting; Now, Therefore,

**THE BLACK DIAMOND CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:**

Section 1. Chapter 8.24 of the BDMC is hereby repealed.

Section 2. Chapter 10.36 of the BDMC is hereby repealed.

Section 3. A new chapter 8.24 is hereby added to the Black Diamond Municipal Code, which shall read as follows:

## CHAPTER 8.24 WATER SAFETY

### Sections:

- 8.24.100 General - State Provisions Adopted
  - 8.24.110 Authorization
  - 8.24.120 Liability for damages
  - 8.24.200 Operation of Recreational Vessels - State Provisions Adopted
  - 8.24.210 Speed
  - 8.24.220 Lake Sawyer Restrictions
  - 8.24.300 Vessel Registration and Equipment - State Provisions Adopted
  - 8.24.310 Registration
  - 8.24.400 People and Objects in Waterways
  - 8.24.410 Swimming
  - 8.24.420 Skin diving
  - 8.24.430 Abandoned and Derelict vessels
  - 8.24.440 Buoys
  - 8.24.500 Enforcement - State Provisions Adopted
  - 8.24.510 Marine Patrol Actions
  - 8.24.520 Authority of officers to board boats
  - 8.24.530 Violations
  - 8.24.540 Aiding and abetting violations
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**8.24.100 General - State Provisions Adopted.** The following statutes of the Revised Code of Washington (RCW), including any future amendments, additions thereto and repeals thereof, are adopted by reference and incorporated herein by this reference as if set forth in full:

RCW 79A.60.010 Definitions

**8.24.110 Authorization.** The City of Black Diamond, in the exercise of its police power, assumes control and jurisdiction over all lakes, rivers and all other waters within unincorporated areas inside its geographical boundaries.

**8.24.120 Liability for damages.** Nothing in this chapter shall be construed so as to release any person owning or controlling any vessel, pier, obstruction or other structure, from any liability for damages, and the safeguards to life and property required in this chapter shall not be construed as relieving any person from installing and maintaining all other safeguards that may be required by law.

**8.24.200 Operation of Recreational Vessels - State Provisions Adopted.** The following statutes of the State of Washington, including any future amendments, additions thereto and repeals thereof, are adopted by reference and incorporated herein by this reference as if set forth in full:

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, marijuana, or any drug --  
Consent to breath or blood test -- Penalty.

RCW 79A.60.060 Assault by watercraft -- Penalty.

RCW 79A.60.080 Failure to stop for law enforcement officer.

RCW 79A.60.090 Eluding a law enforcement vessel.

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.60.640 Requirements to operate motor driven boats/vessels--Exemptions--  
Penalty.

**8.24.210 Speed.** Except as otherwise specifically provided in this chapter, it is unlawful for any person to operate a vessel in excess of five (5) miles per hour.

#### **8.24.220 Lake Sawyer Restrictions**

A. Noise Restrictions. It is a civil infraction to use or operate any vessel powered by motor power on Lake Sawyer unless the vessel propulsion system is: (1) a water cooled outboard engine of stock manufacture or a stock manufactured inboard engine with an outboard drive unit (inboard-outboards) which vents all exhaust gases through the lower drive unit in conjunction with cooling water and/or vents at a point on the drive unit which is under water at all times; or (2) is a water cooled direct drive inboard engine or other type of engine equipped with a muffler, silencer or other device or mechanism of sufficient size and capacity to effectively muffle and reduce noise similar to that of outboards and inboard/outboards. This includes both propeller and jet propulsion vessel.

B. Allowable Speeding and Hours. Vessels may exceed the speed limit of five (5) miles per hour between the hours of two p.m. and seven p.m. on Mondays through Fridays and from eleven a.m. to three p.m. on Saturdays, Sundays and holidays. The maximum speed allowable during "speeding hours" shall be thirty-six miles per hour. Vessels operating in excess of five (5) miles per hour with or without someone in tow shall not operate between buoys and shorelines and within one hundred feet from other craft or persons and shall proceed in a "counterclockwise" direction.

C. Operation Inside Buoy Areas. All motorized vessels shall operate at a no wake speed on shoreline side of buoy areas at all times.

D. Operation of Vessels. No vessel shall be operated in a manner so as to create tight circles in the water, or "donuts."

#### E. Water Skiing

1. No vessel which has in tow a person on water skis, aquaplane, surfboard or similar contrivance shall be operated or propelled in the waters of the City unless such vessel is occupied by at least two competent persons. (Competent shall be defined as a person responsible and capable of alerting the driver of the boat of any activities that require the attention of the driver.) The primary responsibility of the driver is to operate the vessel and the other person will act as an observer of the person in tow. It is the observer's responsibility to

immediately inform the driver when a person under tow falls or is otherwise disengaged from the tow boat and to immediately raise a signal flag that is at least twelve inches square of bright orange or red material and mounted on a twenty-four inch or longer rod. Violation of this subsection shall constitute a misdemeanor.

2. No operator of a vessel shall have in tow a person on water skis, aquaplane, knee-board, surfboard or similar contrivance before sunrise or after sunset. Violation of this subsection shall constitute a civil infraction.

3. All persons being towed by vessel shall wear personal flotation devices that are approved by the United States Coast Guard. Violation of this subsection shall constitute a civil infraction.

F. Required distance from power craft to swimmers and row boats. It is unlawful for any motor powered craft to be operated while the propeller is engaged within fifty feet of any swimmer or any row boat, canoe, or other water conveyances on any lake within the City.

G. Marine Patrol Actions. Marine patrol officers shall have the discretion, depending on the volume of vessels on the lake, to require all boats not staying within the flow of traffic to move their activity to an area between the shoreline and the buoys described in subsection C of this section.

H. Aircraft on the water. All vessels 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 avoid impeding their navigation.

I. Posting. The City shall post a complete copy of this section at all public and commercial access areas to Lake Sawyer.

**8.24.300 Vessel Registration and Equipment - State Provisions Adopted.**

The following statutes of the State of Washington, including any future amendments, additions thereto and repeals thereof, are adopted by reference and incorporated herein by this reference as if set forth in full:

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.60.140 Personal flotation devices -- Inspection and approval -- Rules.

RCW 79A.60.150 Failure of vessel to contain safety equipment -- Owner/operator may be cited for applicable infraction or crime.

RCW 79A.60.160 Personal flotation devices required -- Penalty.

RCW 88.02.550 Registration and display of registration number and decal required -- Exemptions.

RCW 88.02.570 Exemptions.

**8.24.310 Registration.** All boats shall be registered as required under the Washington Administrative Code Chapter 308-93 shall have a valid King County boat

registration or county of registration decal and a Washington boat registration number on the boat in accordance with RCW Chapter 88.02, in a readily visible location in a contrasting color to the boat color.

#### **8.24.400 People and Objects in Waterways**

**8.24.410 Swimming.** Swimmers, snorkelers and divers more than one hundred feet from the shore must have a vessel along side during times when vessel speeds are allowed in excess of five (5) miles per hour. Boats with divers must have a red and white "dive flag" displayed.

**8.24.420 Skin diving.** Skin-diving shall be prohibited in the waters of the City within three hundred feet of any public boat ramp, patrolled public beach designated as a swimming area, except pursuant to permit therefore issued by the city and except for commercial diving, or in any other area unless the diver shall be accompanied by a vessel or the area in which he/she is diving shall be marked by an adequately displayed diver's flag.

**8.24.430 Abandoned and Derelict vessels.** Abandoned or derelict vessels found on or above aquatic lands within the city shall be subject to disposition by the city under Chapter 79.100 RCW.

#### **8.24.440 Buoys**

A. Floats, rafts and docks not attached to the shore shall be maintained in a safe and reasonable manner by the owner(s) of such facilities. Such facilities shall be located between the buoy line and the shoreline. In general, buoys shall be placed approximately two hundred feet from the shoreline around the lake. Buoys are to be provided and maintained only by the city of Black Diamond unless otherwise officially delegated to a community organization.

B It is unlawful to move, remove, molest, tamper with, destroy or attempt to destroy or moor or fasten a vessel to the buoys placed for the purpose of designating the slow speed zone.

**8.24.500 Enforcement - State Provisions Adopted.** The following statutes of the State of Washington, including any future amendments, additions thereto and repeals thereof, are adopted by reference and incorporated herein by this reference as if set forth in full:

RCW 79A.60.100 Enforcement -- Chapter to supplement federal law.

**8.24.510 Marine Patrol Actions.** Marine patrol officers shall have the discretion, depending on the volume of vessels on the lake, to require all boats not staying within the flow of traffic to move their activity to an area between the shoreline and the buoys described in section 8.24.440.

**8.24.520 Authority of officers to board boats.** Commissioned officers of the Police Department are hereby given the authority under RCW 79A.60.100 to board any vessel found underway in the waters of the City for the purpose of inspection and enforcement of this chapter.

**8.24.530 Violations.** Except where the violation is classified as a misdemeanor or gross misdemeanor, violation of any provision of this chapter is a civil infraction. If the current violation is the person's third violation of the same provision of this section during the past three hundred sixty-five days, then the violation shall be a misdemeanor. All infraction violations shall be subject to a fine of one hundred twenty dollars.

**8.24.540 Aiding and abetting violations.** It is unlawful to counsel, aid or abet the violation of, or failure to comply with any of the provisions of this chapter.

Section 4. Adoption by reference. Pursuant to RCW 35A.12.140, a copy of every state law adopted by reference in this Ordinance has been on file with the City Clerk for examination by the public while this Ordinance has been under consideration by the City Council.

Section 5. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 6. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 7. Effective Date. This Ordinance shall become effective five days after publication as provided by law.

ADOPTED by the City Council of the City of Black Diamond, signed by the Mayor and attested by the City Clerk in authentication of such passage on this 2nd day of July, 2015.

  
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Carol Benson, Mayor

ATTEST/AUTHENTICATED:

  
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Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

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Carol Morris, City Attorney

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