

ORDINANCE NO. 551, 1994

An Ordinance amending the existing Boating and Water Safety Ordinance for the operation of boats and personal watercraft in waters of Clallam County.

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

**C.C.C. Chapter 15.04**

**Boating and Water Safety**

Amend Chapter 15.04 to read as follows, "All new material shall be underlined, material deleted shall be placed within double parentheses and scored through."

Sections:

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15.04.090	Operating Age - Exception
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**C.C.C. 15.04.010.** Purpose. It is necessary for the public health, safety, and welfare that the operation of vessels and swimming in the waters of Clallam County be regulated.

**C.C.C. 15.04.020.** Applicability. The regulations below shall apply within navigable waters of Clallam County.

**C.C.C. 15.04.030.** Definitions. The following words and phrases as used in this chapter, unless the context clearly indicates otherwise, shall have the following meanings:

- (1) "Darkness" means that period between sunset and sunrise.
- (2) "Infraction in this chapter means an offense which, by terms of Title 75, 76, 77, or 79 RCW or chapter 43.30, 43.51, or 88.12 RCW and rules adopted under these titles and chapters, is declared not to be a criminal offense and is subject to the provisions of this chapter.
- (3) "Muffler" and "muffler system" means a sound suppression device system, including underwater exhaust system, designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and that prevents excessive or unusual noise.
- (4) "Observer". The individual riding in a vessel who is responsible for observing a water skier at all times.

(5) "Operator". 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.

(6) "Person". Any individual, firm, corporation, co-partnership, company, association, or joint stock association, including any trustee, administrator, executor, receiver, assignee or other personal representative thereof.

(7) "Personal Flotation Device" means a buoyancy device, life preserver, buoyant vest, ring buoy, or buoy cushion that is designed to float a person in the water and is approved by the Washington State Parks and Recreation Commission.

(8) "Personal Watercraft" means a vessel 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 means of sitting or standing inside the vessel.

(9) "Reckless" or "recklessly" means acting carelessly and heedlessly in a willful and wanton disregard of the rights, safety or property of another.

(10) "Underway" means that a vessel is not at anchor, or made fast to the shore, or aground.

(11) "Vessel" includes every description of watercraft on the water, other than a seaplane, used or capable of being used as a means of transportation on the water. However, it does not include inner tubes, air mattresses, and small rafts or flotation devices or toys customarily used by swimmers.

(12) "Water skiing" means the physical act of being towed behind a vessel on, but not limited to, any skis, aquaplane, kneeboard, tube or other similar device.

(13) "Waters of the County" means any waters within the territorial limits of Clallam County.

(14) "Waterway marker" means any device designed to be placed in or near water to convey a message to a vessel operator, including signs, bells and buoys.

**C.C.C. 15.04.040. Reasonable Care Required**

(1) A person shall not operate a vessel in a negligent manner. For the purposes of this section, to operate in a "negligent manner" means operating a vessel in disregard of careful and prudent operation, or in disregard of careful and prudent rates of speeds that are no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, size of the lake or body of water, freedom from obstruction to view ahead, effects of vessel wake, and so as not to unduly or unreasonably endanger life, limb, property or other rights of any person entitled to the use of such waters. A violation of this section is an infraction under Chapter 7.84 RCW.

(2) It shall be unlawful for any person to operate a vessel in a reckless manner. A violation of this section is a misdemeanor punishable as provided under RCW 9.92.030.

(3) It shall be unlawful for any person to operate a vessel while under the influence of intoxicating liquor or any drug. A person is considered to be under the influence of intoxicating liquor or any drug if:

(a) The person has 0.10 grams or more of alcohol per two hundred ten liters of breath, as shown by analysis of the person's breath made under RCW 46.61.506; or

(b) The person has 0.10 percent or more by weight of alcohol in the person's blood, as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) The person is under the influence of or affected by intoxicating liquor and any drug.

The fact that any person charged with a violation of this section is or has been entitled to use such a drug under the laws of this State shall not constitute a defense against any charge of violating this section.

A person cited under this subsection may, upon request, be given a breath test for breath alcohol or may request to have a blood sample taken for blood alcohol analysis. An arresting officer shall administer field sobriety tests when circumstances permit.

A violation of this section is a misdemeanor, punishable as provided under RCW 9.92.030.

**C.C.C. 15.04.050. General Speed Limit.** No person shall operate a (()) vessel at a rate of speed greater than will permit him, in the exercise of reasonable care, to bring the (()) vessel to a stop within half the assured clear distance ahead, and in no event at a speed greater than forty (40) miles per hour. A violation of this section is an infraction.

**C.C.C. 15.04.060. Rules of Operation.**

(1) The following rules of operation shall apply whenever vessels are approaching one another, so as to involve the risk of collision, except whenever a vessel under mechanical power and a sailboat are proceeding in such a direction as to involve the risk of collision, the vessel shall keep out of the way of the sailboat and allow the sailboat the right of way:

(a) When two vessels are approaching each other "head-on", or nearly so it shall be the duty of each vessel to bear to the right and to pass the other boat on its left side.

(b) When boats approach each other obliquely (at near right angles), the vessel approaching on the right side has the right-of-way.

(c) One vessel may overtake another on either side, but must grant right-of-way to the overtaken vessel. The overtaken vessel will maintain course and speed until it is safely passed.

(2) No vessel shall operate closer to other vessels than is reasonable and safe and shall stay a reasonable and safe distance from slower moving vessels.

(3) No person operating a vessel shall allow any person to ride or sit on the gunwales thereof or on the decking over the bow of the vessel while underway, provided, that nothing in this section shall be construed to mean that passengers or other persons aboard a vessel cannot stand on the decking over the bow of the vessel to moor the vessel to a mooring buoy or to cast off from such buoy or to secure the vessel to a dock or wharf or to cast off from the same, or for any other necessary purpose.

(4) It shall be unlawful to operate a vessel between one-half hour after sunset and one-half hour before sunrise without a white light distinctly visible for 360 degrees horizontally and for a distance of at least three hundred (300) feet under clear conditions.

(5) No person shall operate a personal watercraft during darkness.

(6) A person under the age of fourteen (14) shall not operate a personal watercraft.

(7) A person shall not lease, hire, or rent a personal watercraft to a person under the age of sixteen (16).

(8) A person shall not operate a personal watercraft in a reckless manner, including recklessly weaving through congested vessel traffic, 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 moment to avoid collision.

(9) A person shall not load, or permit to be loaded, a vessel with passengers or cargo beyond its safe carrying ability or carry passengers or cargo in an unsafe manner, taking into consideration weather and other existing operating conditions, except where the overloading is reasonably advisable to effect a rescue or for some other similar purpose.

(10) No person may operate or permit the operation of a vessel without an approved personal flotation device on board for each person on the vessel. Each personal flotation device shall be in serviceable condition, of appropriate size and readily accessible.

(11) No person shall operate a personal watercraft without wearing a personal flotation device.

(12) A person operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cut-off 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 cut-off switch that was installed by the manufacturer or to operate a personal watercraft with a defective or disabled cut-off switch.

#### C.C.C. 15.04.070. Skin Diving.

(1) A red flag with a white diagonal running from the upper left hand corner (from mast head to lower outside corner) and known as a "diver's flag" shall be displayed on the water by any person engaged in skin diving, scuba diving or snorkeling to indicate the presence of a diver submerged in the immediate area. (The blue internationally accepted diver flag may be substituted for the red and white flag.)

(2) Operators of vessels will exercise caution when such a flag is displayed and will not come within seventy-five feet (75') of such a flag.

#### C.C.C. 15.04.080. Safety - Other Equipment, When Required.

(1) Every vessel registered with the State Department of Licensing must display State registration numbers and a current registration decal on each side of the bow. Violation of this subsection is a misdemeanor.

(2) Every vessel registered with the U.S. Coast Guard as a documented vessel or registered with the State Department of Revenue as a commercial vessel shall display a current Department of Revenue decal on the vessel. Violation of this subsection is a misdemeanor.

(3) A person shall not operate, or permit to be operated, a vessel equipped with a motor or other propulsion machinery of a power beyond the vessel's ability to operate safely, taking into consideration the vessel type, use, construction, condition, the weather conditions and other existing operating conditions, except when the overpowering is reasonably advisable to effect a rescue or for some similar emergency purpose.

(4) If it appears reasonably certain to any law enforcement officer that a person is operating a vessel clearly loaded or powered beyond its safe operating ability and in the judgment of that officer the operation creates an especially hazardous condition, the officer may direct the operator to take immediate

and reasonable steps necessary for the safety of the individuals on board the vessel, including directing the operator to return to shore or a mooring buoy and to remain there until the situation creating the hazard is corrected or ended. Failure to follow the direction of an officer under this subsection is a misdemeanor punishable as provided under RCW 9.92.030.

(5) The requirements of Sections 15.04.040(1), (2), and 15.04.060 (1), (2), (3), (5), (8), (9), (12) and 15.04.100 (5) and (7) of this chapter shall not apply to persons engaged in tournaments, competitions, or exhibitions that have been authorized or otherwise permitted by the Sheriff of Clallam County.

**C.C.C. 15.04.090. Operating Age Exception.** A person under the age of fourteen (14) years may operate a vessel if accompanied by a parent, guardian or responsible adult, or if the is powered by a motor less than ten (10) horsepower or is not mechanically powered.

**C.C.C. 15.04.100. Water Skiing and Swimming.**

(1) No person shall operate a vessel within 100 feet (100') of an area where persons are swimming; provided, that water skiers shall be allowed to start and stop from lake shore. All vessels shall reduce speed to a minimum (no wake) when docking or landing. All swimmers more than 100 feet (100') from shore or outside any officially placed regulatory buoy shall be accompanied by a vessel with an operator and an observer.

(2) No vessel operator may tow or attempt to tow a water-skier unless such vessel shall be occupied by at least an operator and an observer. The operator and the observer shall not be the same person.

(3) The observer shall CONTINUOUSLY observe the person or persons being towed. Violation of this subsection is an infraction.

(4) Except on safe take-offs and landings, vessels with skiers under tow must keep 100 feet (100') or more from shore. A take-off or landing will not be considered safe unless it can be accomplished without risk to any swimmers or other vessels and does not inhibit other persons' use of the water. Skiers must be picked up by the vessel before passing the 100 foot (100') from shore line. When safe, the skier, but not the vessel, may ski inside the 100 foot (100') from shore line, but not nearer than 50 feet (50') from shore, except when in the process of landing.

(5) When a skier falls more than fifty feet (50') from shore or from a float, the towing vessel shall return at once to the downed skier, giving due regard to the safety of any other skiers it may be towing. While the skier is down in the water and during the time preparatory to skiing while the person is in the water, the towing vessel will display a warning flag.

(a) Such flag shall be a bright red or brilliant orange, measuring at least twelve inches (12") square, mounted on a pole or staff at least twenty-four inches (24") long and displayed to be visible from every direction.

(6) No person shall engage or attempt to engage in water skiing without wearing a personal flotation device approved by the Washington State Parks and Recreation Commission.

(7) No person engaged in water skiing either as an operator, observer or skier shall conduct himself or herself in a reckless manner that willfully or wantonly endangers or is likely to endanger any person or property.

**C.C.C. 15.04.110. Litter and Human Waste.**

(1) No person shall maintain or operate any vessel which is equipped with a toilet unless such toilet has a holding tank device to render waste harmless or unless such toilet is rendered inoperative by having the discharge outlet effectively sealed.

(2) No litter or debris, including human waste, shall be discarded from a vessel into the waters of the County.

**C.C.C. 15.04.120. Vessel Noise Performance.**

(1) All motor-propelled vessels shall be equipped and maintained with an effective muffler that is in good working order and in constant use.

(2) A person shall not remove, alter, or otherwise modify in any way a muffler system in a manner that will prevent it from being operated in accordance with this section.

(3) Vessels that are equipped with an engine modified to increase performance beyond the manufacturer's stock configuration shall have an exhaust system that complies with the standards in this section.

**C.C.C. 15.04.130. Special Rules - Lake Sutherland and Lake Pleasant.** The following regulations shall apply only to Lake Sutherland and Lake Pleasant:

(1) Mooring of vessels. No vessel shall be moored more than twenty feet (20') off shore other than when fastened to a dock.

(2) Speed rules. Subject to the general rules of CCC 15.04.050, no vessel shall exceed the following speeds on the lake:

(a) Within 100 feet (100') of the shore, the outer extremity of any dock, or between the shore and any officially placed regulatory buoy: Six miles per hour (6 MPH), except for boats with skiers under tow on safe take-offs and landings;

(b) Within 100 feet (100') of a sailboat, rowboat or canoe: Six miles per hour (6 MPH);

(c) From sunset to sunrise on the entire lake: Ten miles per hour (10 MPH);

(d) Note the six miles per hour (6 MPH) limit is intended to create a no wake zone.

(3) All vessels under mechanical power shall move in a counterclockwise pattern, except when within 100 feet (100') of shore, taking off or landing at shore or a dock. Vessels shall proceed as perpendicular to shore as practicable to the 100 foot (100') from shore line. On both take-offs and landings, vessels and water skiers shall keep as far a distance as possible from adjoining docks, floats, the shoreline and other boats.

**C.C.C. 15.04140. Special Rules - Lake Aldwell.** The following regulations shall apply to Lake Aldwell:

No motor boat shall be operated at a speed in excess of ten miles per hour (10 mph) on the lake.

**C.C.C. 15.04.150. Accidents.**

(1) The operator of a vessel involved in a collision, accident or other casualty, to the extent the operator can do so without serious danger to the operator's own vessel or persons aboard, shall render all practical and necessary assistance to persons affected by the collision, accident or casualty to save them from danger caused by the incident. Under no circumstances may the rendering of assistance or other

compliance with this section be evidence of the liability of such operator for the collision, accident or casualty.

(2) The operator shall also give all pertinent accident information, as specified by the Washington State Parks and Recreation Commission, to the law enforcement agency having jurisdiction; provided that this requirement shall not apply to operators of vessels when they are participating in an organized competitive event authorized by the Sheriff of Clallam County.

**C.C.C. 15.04.160. Penalties.**

(1) Unless otherwise noted, a violation of the provisions of this chapter shall be a misdemeanor punishable as provided under RCW 9.92.030.

(2) Violations of section of this chapter that are not misdemeanors are infractions under RCW 7.84.

**C.C.C. 15.04.170. Repeal of Prior Ordinances.** Clallam County Ordinance Chapter 15.04, adopted 7/31/79, and any former ordinances or amendments or provisions thereof conflicting or inconsistent with the provisions of this chapter, are hereby repealed, provided that prosecution for any violation of C.C.C. 15.04 occurring prior to the effective date of this chapter shall not be affected or abated.


**C.C.C. 15.04.180. Severability.** If any section, subsection, paragraph, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portion of this chapter; it being hereby expressly declared that this chapter and each section, subsection, paragraph, sentence, clause and phrase thereof would have been adopted irrespective of the fact that any one or more other sections, subsection, paragraphs, sentences, clauses or phrases be declared invalid or unconstitutional.

**C.C.C. 15.04.190. Effective Date.** This chapter shall take effect ten (10) days after adoption.

SOURCE: SHB 1318 (Chapter 244, Laws of 1993)

ADOPTED this 31 day of May, 1994.

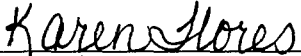
BOARD OF CLALLAM COUNTY COMMISSIONERS

  
Lawrence Gaydeski, Chair

  
Dorothy Duncan

  
Dave Cameron

Attest:

  
Karen Flores  
Clerk of the Board

ORDINANCE NO. 551, 1994.

cc: Sheriff (2nd original)  
Minutes  
File