

ORDINANCE NO. 08-871

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AMENDING SECTIONS 10.36.010 AND 10.36.020 OF BLACK DIAMOND MUNICIPAL CODE.

WHEREAS, boater safety education is critical in ensuring the safety of operators and passengers of recreational motor driven vessels and the safety of other persons using public waterways;

WHEREAS, the City has an interest in maintaining safe waterways by ensuring that operators of motor driven boats and vessels are properly trained on safe operation of such vehicles;

WHEREAS, the State Legislature re-codified RCW Chapter 88.12 Regulation of Recreation Vessels in RCW 79A.60 pursuant to 1999 c249 § 1601 and the City has not updated Chapter 10.36 of the Black Diamond Municipal Code to reflect this change; and

WHEREAS, the City wishes to maintain its authority to enforce state regulations regarding recreational motor driven boats and vessels; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, ORDAINS AS FOLLOWS:

SECTION 1. Section 10.36.010 of the Black Diamond Municipal Code is hereby amended to read as follows:

10.36.010 Sections of RCW Chapter 79A.60 adopted by reference – sections adopted.

The following sections of the Revised Code of Washington, are now enacted or as hereafter amended, are hereby adopted by reference and codified in this in Title 10 of this code:- 79A.60.010; 79A.60.020; 79A.60.030; 79A.60.040; 79A.60.050; 79A.60.070; 79A.60.080; 79A.60.090; 79A.60.100; 79A.60.110; 79A.60.120; 79A.60.130; 79A.60.140; 79A.60.150; 79A.60.160; 79A.60.170; 79A.60.180; 79A.60.200; 79A.60.210; 79A.60.220; 79A.60.230; 79A.60.240; 79A.60.250; 79A.60.260; 79A.60.270; 79A.60.280; 79A.60.290; 79A.60.300; 79A.60.640; and 79A.60.660.

SECTION 2. Section 10.36.010 of the Black Diamond Municipal Code is hereby amended to read as follows:

10.36.020 Certified copy on file at City Hall.

The City Clerk is directed to certify a true and correct copy of the provisions of Chapter 79A.60 RCW which are adopted by reference under BDMC 10.36.010, including all present and future updates and amendments and to keep such certified copy on file at City Hall.

SECTION 3. New section 8.24.015 is hereby added to the Black Diamond Municipal Code and reads as follows:

8.26.015 Boater Education Card

A. No person shall operate or permit the operation of motor driven boats and vessels with a mechanical power of fifteen horsepower or greater unless the person:

1. Is at least twelve years of age, or sixteen if a personal watercraft; and
2. Has in his or her possession a Washington State Boater Education Card, unless exempted under subsection (B) of this section; or is accompanied by and is under the direct supervision of a person sixteen years of age or older who is in possession of a boater education card, or who is not yet required to possess the card as provided in the program phase in subsection (A) (3).
3. The requirement to have a Washington State Boater Education Card shall apply to person of the particular age on or after the dates listed on the following schedule. The schedule for phase-in of the mandatory Washington State Boater Education Card requirement by age group is as follows:

January 1, 2008	All boat operators twenty years old and younger;
January 1, 2009	All boat operators twenty-five years old and younger;
January 1, 2010	All boat operators thirty years old and younger;
January 1, 2011	All boat operators thirty-five years old and younger;
January 1, 2012	All boat operators forty years old and younger;
January 1, 2013	All boat operators fifty years old and younger;

January 1, 2014	All boat operators sixty years old and younger;
January 1, 2015	All boat operators seventy years old and younger;
January 1, 2016	All boat operators.

B. The following persons are not required to carry a boater education card:

1. The operator of a vessel engaged in a lawful commercial fishery operation as licensed by the department of fish and wildlife under Title 77 RCW. However, the person when operating a vessel for recreational purposes must carry either a valid commercial fishing license issued by the department of fish and wildlife or a boater education card;

2. Any person who possesses a valid marine operator license issued by the United States coast guard when operating a vessel authorized by such coast guard license. However, the person when operating a vessel for recreational purposes must carry either a valid marine operator license issued by the United States coast guard or a boater education card;

3. Any person who is legally engaged in the operation of a vessel that is exempt from vessel registration requirements under chapter 88.02 RCW and applicable rules and is used for purposes of law enforcement or official government work. However, the person when operating a vessel for recreational purposes must carry a boater education card;

4. Any person at least twelve years old renting, chartering, or leasing a motor driven boat or vessel with an engine power of fifteen horsepower or greater who completes a commission-approved motor vessel safety operating and equipment checklist each time before operating the motor driven boat or vessel, except that an operator of a personal watercraft shall be sixteen;

5. Any person who is not a resident of Washington State and who does not operate a motor driven boat or vessel with an engine power of fifteen horsepower or greater in waters of the state for more than sixty consecutive days;

6. Any person who is not a resident of Washington state and who holds a current out-of-state or out-of-country certificate or card that is equivalent to the rules adopted by the commission;

7. Any person who has purchased the boat or vessel within the last sixty days, and has a bill of sale in his or her possession to document the date of purchase;

8. Any person, including those less than twelve years of age, who is involved in practicing for, or engaging in, a permitted racing event where a valid document has been issued by the appropriate local, state, or federal government agency for the event, and is available for inspection on-site during the racing event;

9. Any person who is not yet required to have a boater education card under the phased schedule in RCW 79A.60.630 (2) (a); and

10. Any person born before January 1, 1955.

C. Except as provided in subsection (B)(1) through (10) of this section, a boater must carry a boater education card while operating a vessel and is required to present the boater education card, or alternative license as provided in subsection (B)(1) through (10) of this section, to a law enforcement officer upon request.

D. Failure to possess a boater education card required by this section is an infraction. The penalty shall be waived if the boater provides proof to the court within sixty days that he or she has received a boater education card.

E. No person shall permit the rental, charter, or lease of a motor driven boat or vessel with an engine power of fifteen horsepower or greater to a person without first reviewing with that person, and all other persons who may be permitted by the person to operate the vessel, all the information contained in the motor vessel safety operating and equipment checklist.

SECTION 4. Section 8.24.060 of Black Diamond Municipal is hereby amended to read as follows:

8.26.060 Violation – Penalty.

A. Except where the violation is classified as a misdemeanor, violation of any provision of this chapter is an infraction. If, during a period of three hundred sixty-five days, a person has previously committed two infractions for violating the same provisions under the ordinance and if the violation is also committed during such period and is of the same provision as the previous violation, then

the violation will be a misdemeanor. All infraction violations shall be subject to a fine of one-hundred-twenty dollars.


B. Authority of Officer to Board Boats. Commissioned officers of the Black Diamond police department are hereby given the authority to board any vessel or watercraft found underway in the waters of Lake Sawyer for the purpose of inspection and enforcement of this chapter. (Ord. 664 § 6, 1999; Ord. 636 § 6, 1998)

ADOPTED by the City Council on October 16, 2008 at an open public meeting.



Howard Botts, Mayor

Attest:



Brenda Streepy, City Clerk

APPROVED AS TO FORM:

Loren D. Combs, City Attorney

Published: _____

Posted: _____

Effective Date: _____