

ORDINANCE NO. C35612

An ordinance relating to boating safety; repealing Chapter 10.14 and Section 10.19.010; renaming Title 16A; and enacting a new chapter 16A.60 to the Spokane Municipal Code.

WHEREAS, the City of Spokane recognized the Spokane River as an important recreational area for many residents;

WHEREAS, clear and concise signage of the Rules of the River at heavily-trafficked river access locations will help the public be aware of the laws, safety issues, and potential fines surrounding improper river use;

WHEREAS, emergency services are required for numerous rescue operations annually on the River;

WHEREAS, Personal Flotation Devices (PFDs) are proven to save lives and are especially important on moving water such as the Spokane River; and

WHEREAS, the safety of all residents is up utmost priority to the City of Spokane.

NOW, THEREFORE, the City of Spokane does ordain:

Section 1. That Chapter 10.14 of the Spokane Municipal Code is hereby repealed in its entirety.

Section 2. That Section 10.19.010 of the Spokane Municipal Code is hereby repealed in its entirety.

Section 3. That Title 16A of the Spokane Municipal Code is hereby renamed "Transportation."

Section 4. That there is enacted a new chapter 16A.60 of the Spokane Municipal Code to read as follows:

Chapter 16A.60 Rules of the River
Section 16A.60.010 Definitions

Terms in this chapter shall mean as follows:

- A. "Boat livery" means a business which holds any vessel for renting or leasing.
- B. "Boating accident" means a collision, sinking, fire, explosion, injury or loss of life that involves a vessel, its equipment or its appendages.

- C. "Buoy" means a floating device or marker anchored in the water. All buoys, except for recreational buoys, shall comply with the Uniform State Waterway Marking System (USWMS).
- D. "Buoy line" means a straight line that would exist if drawn between the closest safety buoys.
- E. "Dock" means any manmade platform extending from the shoreline into the water.
- F. "Flotation device" means any device used or capable of being used as a means of transportation on the water and shall include, but not be limited to, inflatable beach toys, rubber inner tubes, rafts and air mattresses.
- G. "Mooring buoy" means a buoy placed for the mooring of vessels. Such buoys will be white with a blue stripe on top.
- H. "Motorboat" means any vessel propelled in whole or part by machinery, including those temporarily equipped with detachable motors.
- I. "Moving water" means a waterway which has a flow of water which can be measured in cubic feet per second.
- J. "Navigation lights" means a red port light and a green starboard light and a white stern light visible at a distance of one hundred yards.
- K. "Non-motorized vessel" means sailboats or vessels that are paddled, poled, or rowed.
- L. "Operator" means a person who is in actual physical control or in charge of a vessel when it is in use.
- M. "Owner" means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles them to such possession.
- N. "Personal flotation device (PFD)" means life preservers, life vests, flotation rings, or buoyant cushions approved by the United States Coast Guard (USCG) and designed to float a person in the water.
 - 1. Type I PFDs are designed for rough or remote waters where rescue may take a while. These devices are designed to turn an unconscious person face up in the water.
 - 2. Type II PFDs are designed for calm waters when a quick rescue is likely. These devices may not turn some unconscious persons face up in the water.

3. Type III PFDs are designed for calm waters when a quick rescue is likely. These devices are not designed for rough waters as they will not turn most unconscious persons face up in the water.
 4. Type IV PFDs are designed to be thrown to a person in the water. They are not designed to be worn.
 5. Type V PFDs are designed to be for special activities such as kayaking and water-skiing.
- O. "Personal watercraft" means a Class "A" inboard vessel, as defined by the U.S. Coast Guard, which uses an internal combustion engine powering a water jet pump as its primary source of motive propulsion and is designed to be operated by a person or persons sitting, standing or kneeling or being towed behind the product, rather than in the conventional manner of boat operation.
- P. "Port" is the left side of a vessel while facing forward.
- Q. "Safety buoy" means a buoy placed to regulate or control vessel speed or operations as required for the safety of the public.
- R. "Sailboat" means any vessel propelled primarily by the wind.
- S. "Shoreline" means any existing waterline.
- T. "Ski or swimming dock" means a manmade platform anchored to the bottom of a body of water.
- U. "Starboard" means the right side of a vessel while facing forward.
- V. "Underway" means that a vessel is not at anchor, or made fast to the shore, or a ground.
- W. "Use" means to operate, navigate or employ.
- X. "Vessel" means any watercraft used or capable of being used as a means of transportation on the water. This definition shall include, but not be limited to, the following:
1. Rowboats,
 2. Sailboats,
 3. Motorboats,
 4. Canoes,
 5. Kayaks,
 6. Paddleboards,
 7. Flotation Devices,

- 8. Personal watercraft, and
- 9. Hover craft.

- Y. "Wake speed" means a slow speed producing a wake not to exceed six inches in height at its apex when reaching any shoreline, dock or manmade structure on the shoreline and further not to exceed five miles per hour in any event.
- Z. "Waterway" is any waters, waterway, lake, river, tributary canal, lagoon or connecting waters within the incorporated boundaries of the City of Spokane.

Section 16A.60.020 Motorized Vessels Prohibited

- A. No person shall operate a motorboat or personal watercraft on any body of water, including the Spokane River, within the City of Spokane except for the area of the Spokane River to the east of Upriver Dam. Operators of motorboats or personal watercraft must follow all Federal, State and Local laws governing their use.
- B. This section does not apply to the City of Spokane, Spokane Police Department, Spokane Fire Department, Spokane County Sheriff's Department, Avista Utilities, Spokane Parks Department, contractors hired by any of the above, or emergency vessels in enforcement, training or rescue.

Section 16A.60.030 Swimming in the River

- A. No person may intentionally enter, swim, dive or float, with or without a boat, raft, craft or other flotation device, in or upon the water of the Spokane River at any point between the west line of the Division Street bridge and the west line of the Monroe Street bridge.
- B. The chief of police may, in accordance with procedures and criteria the chief may from time to time prescribe, grant permits for a person or persons to be in that portion of the Spokane River known as the forebay, being the south channel between Havermale Island and the south bank.
- C. The fact that a person is wearing or in possession of swimming, diving or flotation gear or equipment on the bank of the river in the prohibited portion is sufficient ground for an arrest for attempt under this section and shall be prima facie evidence of intent.

Section 16A.60.040 Personal Flotation Devices (PFD)

- A. All persons on a vessel, regardless of age, shall wear a United States Coast Guard (USCG) approved Type I, Type II, Type III or Type V PFD while on moving water.
- B. All persons being towed behind a vessel shall wear a United States Coast Guard (USCG) approved Type I, Type II, Type III or Type V PFD.

- C. All vessels sixteen feet or greater in length shall have one Type IV PFD that can be thrown in addition to the requirements in SMC 16A.60.040(A). Canoes and kayaks are exempt from this requirement.
- D. All PFDs shall be United States Coast Guard (USCG) approved and clearly marked with a USCG approval number. All PFDs shall be in serviceable condition, the appropriate size for the person wearing it, and readily accessible in case of an emergency.
- ~~A. ((All vessels shall have at least one United States Coast Guard (USCG) approved Type I, Type II, Type III or Type V PFDs for each person on board.~~
- ~~B. All vessels sixteen feet or greater in length shall have one Type IV PFD that can be thrown in addition to the requirements in SMC 16A.60.030(A). Canoes and kayaks are exempt from this requirement.~~
- ~~C. No person may operate a vessel underway, unless each person twelve years of age or younger thereon is wearing a United States Coast Guard (USCG) approved Type I, Type II, Type III, or Type V PFD.~~
- ~~D. All PFDs shall be United States Coast Guard (USCG) approved and clearly marked with a USCG approval number. All PFDs shall be in serviceable condition, the appropriate size for the person wearing it, and readily accessible in case of an emergency.~~
- ~~E. All persons on a vessel, regardless of age, shall wear a United States Coast Guard (USCG) approved Type I, Type II, Type III or Type V PFD while on moving water.~~
- ~~F. All persons being towed behind a vessel shall wear a United States Coast Guard (USCG) approved Type I, Type II, Type III or Type V PFD.))~~

Section 16A.60.050 Navigation Lights

- A. All non-motorized vessel less than sixty-five feet long but more than twenty three feet long shall be equipped with the following lights:
 - 1. A bright white light aft to show all around the horizon (thirty-two points of the compass) and be visible for two miles.
 - 2. A combination light in the forepart of the vessel that is three feet lower than the white light aft. The combination light, which shows green to starboard and a red to port, is fixed to throw the light from dead ahead to two points abaft the beam on respective sides and shall be visible for a distance of two miles or one mile if less than thirty-nine feet long.

- B. All non-motorized vessels less than twenty-three feet long that are underway after sunset and before sunrise shall have a lantern or flashlight capable of emitting a white light which shall be temporarily displayed as needed in sufficient time to prevent a collision.

Section 16A.60.060 Hazards to Navigation

No person may place or cause to be placed any ski, swim dock, buoy, or floating course waterways that creates a hazard to navigation.

Section 16A.60.070 Unlawful and Dangerous Vessel Operations

- A. No person shall operate a vessel upon any waterway in willful or wanton disregard for the safety, rights, or property of another person.
- B. No person shall operate a vessel in disregard of careful and prudent operation or in any manner that unduly or unreasonably endangers the life, limb, property, or rights of any person.
- C. If a law enforcement officer observes a vessel being used without sufficient lifesaving or fire-fighting devices or in an overloaded or other unsafe condition, and in the officer's judgment such use creates an especially dangerous condition, the officer may direct the operator to take whatever immediate and reasonable action may be necessary for the safety of those aboard the vessel, including directing the operator to return to mooring and remaining there until the situation creating the especially hazardous condition is corrected or ended.
- D. If the vessel is a for-hire vessel from a boat livery, it shall be the obligation of the lessee to insure proper vessel loading, operations, and that all safety equipment required by this chapter is present.

Section 16A.60.080 Operating a Vessel While Under the Influence – Prohibited

- A. No person shall operate any vessel while under the influence of any intoxicating liquor, narcotic drug, barbiturate, marijuana, usable marijuana, a marijuana-infused product or any other substance as defined under chapter 69.50 RCW.
- B. Determination of intoxication shall be by the same criteria as provided in RCW 46.61.506, or otherwise in the same manner as when an individual is alleged to be under the influence of an intoxicating liquor or drug while operating a motor vehicle.

Section 16A.60.090 Sound-Producing Devices

- A. All vessels, including personal watercraft, less than sixty-five feet in length shall carry on board a mouth, hand, or power-operated whistle or horn.

- B. All vessels more than sixty-five feet in length shall carry on board a mouth, hand, or power operated whistle or horn and a bell.
- C. No vessels may use a siren except vessels operated by law enforcement.

Section 16A.60.100 Vessel Accident Reporting

- A. In the case of a boating accident, it shall be the duty of the operator, if he or she can do so without serious danger to the operator's own vessel, to themselves or other persons on board, to render all practical and necessary assistance that may be necessary to other persons affected by such boating accident.
 - 1. Under no circumstances may the rendering of assistance or other compliance with this section be evidence of the liability of such operator for the accident.
- B. Any person who complies with subsection (A) of this section or who gratuitously and in good faith renders assistance at the scene of a vessel accident, without objection of any person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment or other assistance where the assisting person acts as any reasonably prudent person would have acted under the same or similar circumstances.
- C. Every accident involving a vessel on any waterway in which there is personal injury that requires medical attention beyond first aid or death or damage to property in excess of two thousand dollars shall be reported to the Spokane County Sheriff's Office within forty-eight hours by the vessel operator unless deceased, in which instance a passenger in the vessel, if any, shall have such duty.
 - 1. The Spokane County Sheriff's Office shall provide forms upon which the report shall be rendered.
- D. When as a result of an occurrence that involves a vessel or its equipment a person dies or disappears from a vessel, the operator, unless deceased, in which instance a passenger, if any, shall without delay notify the Spokane County Sheriff's Office of the:
 - 1. date, time and exact location of the occurrence;
 - 2. name of each person who dies or disappears;
 - 3. number and/or name of the vessels involved;
 - 4. names and addresses of the owner and operator of each vessel or vessels involved.

Section 16A.60.110 Authority to Board

Any law enforcement officer is hereby given the authority to board any vessel found underway in the waters of the City of Spokane for the purpose of inspection and enforcement of this chapter only.

Section 16A.60.120 Buoys

- A. The Spokane County Sheriff's Office may designate location and install in the water appropriately marked safety buoys that are required for the safety of the public.
- B. It shall be unlawful for any person to relocate, damage or alter any safety buoy.
- C. Any vessel operating within the area between the safety buoy line and the shorelines shall do so at wake speed unless such vessel is departing or towing a water skier in compliance with SMC 16A.60.050(D).
- D. It shall be unlawful for any vessel to use a safety buoy for the purpose of mooring or otherwise anchoring such vessel.
- E. Mooring buoys shall be placed inside the safety buoy line except that mooring buoys may be placed outside the safety buoy line if such buoys are appropriately marked and illuminated with a bright flashing white light between the hours of sunset and sunrise. It is the responsibility of the owner of the mooring buoy to maintain the light.
- F. Recreational buoys shall be placed one hundred feet from the established high water mark and if left unattended from sunset to sunrise shall be available for public use.
- G. The Spokane County Sheriff's Office shall attach a bright colored notice giving the owner seven days to remove or replace any buoy in violation of the Uniform State Waterway Marking System. After the seventh day, the buoy may be removed by the Spokane County Sheriff's Office. Provided, however, the Spokane County Sheriff's Office may remove any buoy, at any time, without notification to its owner, when the officer deems the buoy to be a hazard to navigation.

Section 16A.60.130 Garbage and Sewage

- A. No person shall discharge sewage into any waterway directly or indirectly from any vessel.
- B. It shall be unlawful for any person, while on any waterway, public or private shoreline, or river access point, to throw or discard into the water any waste, debris, refuse, oil, plastics, aluminum, garbage or other fluid or solid material which may

pollute the water or shoreline, or which may create or aggravate any conditions deleterious to the public health.

Section 16A.60.140 Closure of the River

The Mayor may, at any time, close the Spokane River for safety or emergency reasons. Such closure shall be enacted by a signed Executive Declaration of Emergency or Disaster and shall be formally rescinded by signed Executive Declaration.

Section 16A.60.150 Penalties – Civil Infraction

- A. Any person violating any of the above sections shall have committed a class 4 civil infraction and shall be liable for monetary penalties as set forth in SMC 1.05.210.
- B. The court may waive, reduce or suspend the civil penalty and clear the civil infraction as a warning for a person who has not been cited under this chapter within one year.
- C. A guardian may be cited for a separate violation of this chapter for each child under sixteen years of age on a vessel without an approved PFD.
- D. Each event under subsection (A) of this section shall be a separate violation.

Section 16A.60.160 Enforcement

This chapter having been ordained for the purpose of allowing officers of the Spokane County Sheriff's Office to enforce one body of boating safety laws on a continuous body of water without regard to municipal boundary lines, shall by mutual agreement between the City of Spokane and the County of Spokane be enforced by the Spokane County Sheriff's Office. Nothing in this section prohibits the Spokane Police Department from enforcement.

PASSED by the City Council on April 23, 2018

Ben Spunt
Council President

Attest:

Teri A. Goshko
City Clerk

Approved as to form:

Pat Dalf
Assistant City Attorney

David A. Curtis
Mayor

May 4, 2018
Date

June 3, 2018
Effective Date

