

**ORDINANCE No. 236**

**AN ORDINANCE OF THE CITY OF SUNRISE BEACH VILLAGE, TEXAS, ADOPTING THE Texas Water Safety Act and CITY PARKS AND RECREATION REGULATIONS (Exhibit A); PROVIDING FOR WATER SAFETY REQUIREMENTS; ESTABLISHING EQUIPMENT REQUIREMENTS AND REGULATIONS FOR VESSELS WITHIN THE CITY OF SUNRISE BEACH VILLAGE AND AREAS ON LAKE LBJ IMMEDIATELY ADJACENT TO THE CITY LIMITS; PROVIDING FOR A PENALTY FOR VIOLATION HEREOF; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE OF ALL ORDINANCES; AMENDING THE CITY ORDINANCE AND THE CODE OF ORDINANCES; REPEALING ALL PARTS OF ORDINANCES IN CONFLICT; PROVIDING A SAVINGS CLAUSE; PROVIDING SEVERABILITY AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.**

**Whereas**, the public health, safety, and welfare require the adoption and enforcement of codes governing the parks, recreational areas, and waterways within the City of Sunrise Beach Village, Texas; and

**Whereas**, the public health, safety and welfare will be served by establishing rules regulations, and requirements for use of parks, public recreational areas, and waterways heretofore adopted by the City;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF SUNRISE BEACH VILLAGE, TEXAS, THAT:**

**Section 1 - Findings of Fact.**

The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The Board of Commissioners hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety, and quality of life.

**Section 2. Adoption and Amendment of Certain Ordinances.**

The Board of Commissioners hereby provides for, establishes and adopts the Parks and Recreation Regulations of the City of Sunrise Beach Village, Texas, and hereby establishes certain definitions and rules for the organization and construction of the Codes, as more particularly set forth in the Parks and Recreations Regulations attached hereto as Exhibit "A:" and incorporated herein as though fully transcribed herein for all purposes. To that end, to the extent, if any, that any term or provision of the Parks and Recreation Regulations are in conflict with any ordinance of the City, such ordinance is amended to the extent of such conflict with the Parks and Recreation Regulations only.

**Section 3. Parks and Recreation Regulations Adopted.**

The Board of Commissioners hereby adopts; the "Parks and Recreation Ordinance" in its entirety to read as set forth in and attached hereto entitled "Parks and Recreation Ordinance" attached to and incorporated in this ordinance as though fully transcribed herein for all purposes.

**Section 4. Amendment of Ordinances of the Sunrise Beach Village**

The City's Code of Ordinances is hereby amended in its entirety and all ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the city, the terms and provisions of this ordinance shall govern. This Ordinance shall be cumulative of all provisions of ordinances of the City of Sunrise Beach Village, Texas except where the provisions of this

ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting ordinances are hereby repealed.

**Section 5. Savings Clause.**

All rights and remedies of the City of Sunrise Beach Village are expressly saved as to any and all violations of the provisions of any ordinances affecting public recreations areas, boating and such other similar activities affected hereby including permit issuance, which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**Section 6. Effective Date.**

This ordinance shall take affect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Govt. Code.

**Section 7. Open Meeting.**

It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on the 16<sup>th</sup> day of March, 2006.

CITY OF SUNRISE BEACH VILLAGE, TEXAS



Patricia E. Frain, Mayor



Sheila Limon, City Attorney

Attest 

Hans J. Schneider, City Secretary

**EXHIBIT A**  
**SCOPE OF THE ORDINANCE**

This Ordinance shall apply in and to all public parks, public recreation areas and waters under the jurisdiction of the city of Sunrise Beach Village, Texas.

**DEFINITIONS:**

When used in this ordinance, the following definitions shall apply unless the context clearly indicates otherwise.

*"Boat"* means a vessel not more than 65 feet in length, measured from end to end over the deck, excluding sheer.

*"Firearm"* means any device capable of discharging a projectile through a barrel using the energy generated by an explosive charge or burning substance, or any device readily convertible to such use, including without limitation, and pistol, revolver, rifle, shotgun, BB gun, air gun, spring gun, or other weapon in which the propelling force is gunpowder, a spring or air.

*"Headway Speed"* means the speed just fast enough so that an operator can steer a boat.

*"Motorboat"* means any vessel propelled or designed to be propelled by machinery, whether or not the machinery is permanently or temporarily affixed or is the principal source of propulsion.

*"Nude"* means (1) the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast; or (2) a state of dress that fails to completely and opaquely cover a human buttock, anus, male genitals, female genitals, or any part of the female breast or breasts that is situated below a point immediately above the top of the areola.

*"Operate"* means to navigate or otherwise use a motorboat or a vessel.

*"Outboard"* motor means any self-contained internal combustion propulsion system, excluding fuel supply, which is used to propel a vessel and which is detachable as a unit from the vessel.

*"Owner"* means the person who rightfully claims lawful possession of a vessel by virtue of the legal title or an equitable interest.

*"Personal Watercraft"* means a type of motorboat that is specifically designed to be operated by a person or persons sitting, standing, or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel.

*"Pollution"* means the alteration of the physical, thermal, chemical or biological quality of, or the contamination of, any public water that renders the water harmful, detrimental or injurious to humans, animal life, vegetation or property, or to public health, safety or welfare or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

*"Public Recreation Area"* Means any and all recreational areas usually open to the general public for recreational activities located within the city limits of the city of Sunrise Beach Village.

*"Vessel"* means any watercraft or motorboat, other than a seaplane on water, used or capable of being used for transportation on water.

*"Vessel livery"* means a business establishment engaged in renting or hiring out vessels for profit.

*"Weapon"* means an instrument of offensive or defensive combat or anything used, or designed to be used, in destroying, defeating, or injuring another, including without limitations a slingshot.

## **I. Hours Open to Public**

The public parks and designated public recreation areas of the City shall be open from sunrise to 12:00 midnight. It shall be unlawful for any person to be in any such park or designated public recreation area between 12:00 midnight and sunrise, provided, however, that between 12:00 midnight and sunrise, any person may use the parks and recreation areas for the specific and limited purpose of fishing.

## **II. Violators Required to Leave Park**

If any person violates or fails to comply with any provision of this ordinance, after having been advised by an authorized enforcement Agent of the City to cease such violation or failure the City may require that person to leave any public park or public recreation area.

## **III. Prohibited Acts in Parks Other than Waterways**

It shall be unlawful for any person to:

1. Throw, discharge, or otherwise place or cause to be placed in any body of water in or adjacent to any public park or recreation area any substance, matter or thing liquid or solid which will or may result in the pollution of the water.
2. Fail to deposit any rubbish, refuse, garbage, or other material in receptacles provided in any public park or recreation area. Where receptacles are not provided, persons shall carry rubbish or waste away from the park and properly dispose of it elsewhere.
3. Drive any vehicle within any public park or public recreation area at a speed in excess of ten (10) miles per hour.
4. Bring into or have in his or her possession any firearm or weapon in any public park or public recreation area.
5. Have in his or her possession or discharge any fireworks within any Public Park or public recreation area, unless the City has issued a permit authorizing such possession or discharge.
6. Camp or stay overnight anywhere within any public park or public recreation area.
7. Be nude in any public park, or public recreation area, or a public body of water in or adjacent to the City.
8. Cause, create, or contribute to any noise which emits sounds beyond the person's immediate individual picnic or use site, whether by shouting or singing, by using a radio, phonograph, television or musical instrument, or by operating mechanical or electrical equipment between the hours of 11:00 p.m. and sunrise that creates a public nuisance.
9. Light, build or maintain a campfire or ground fire in any public park or public recreation or beach area, except in the facilities provided by the City, or by a City permit: provided however, that portable charcoal grills may be used in picnic areas.
10. Park any motor vehicle in a no-parking area, or disregard any barrier or sign placed in a public park or recreation areas by the City,
11. Sell or offer for sale any goods at services within any public park or public recreation areas, unless the City has issued the person a permit to do so. Such permits shall only be issued to non-profit community public service and civic organizations.

## **IV. Water Safety Regulations**

### **A. Proper Identification for Motorboats or Vessels**

Each motorboat and vessel operated within or docked within the waterways within or immediately adjacent to the city limits of the City of Sunrise Beach Village shall be bear upon the motorboat or vessel current registration decal, numbers and certificates applicable to the type and model of motorboat or vessel as required by law.

### **B. Operation of Motorboat or Vessel**

1. No person may operate any motorboat or vessel or manipulate any water skis, personal watercraft, aquaplane, or similar device in a willful or wantonly reckless or negligent manner that endangers the life, limb, or property of any person.
2. No person may operate any motorboat, vessel or personal watercraft at a rate of speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic or greater than will permit him or her, in the exercise of reasonable care, to bring the motorboat, personal watercraft or vessel to a stop within the assured clear distance ahead.
3. No person may operate a motorboat, vessel, or personal watercraft so as to create a hazardous wake or wash.
4. No person may launch or retrieve any vessel at any area other than designated ramps in any public park or any public recreation area within the City.
5. No person may operate a boat, vessel, or personal watercraft within 50 feet of the shoreline, structures, or swimmers at a speed greater than headway speed.

**C. Circular Course Around Fisherman or Swimmer**

1. No person may operate a motorboat in a circular course around any other boat any occupant of which is engaged in fishing or around any person swimming.
2. No swimmer or diver may come within 200 yards of a sight-seeing or excursion boat except for maintenance purposes or unless within an enclosed area.

**D. Interference With Markers or Ramps**

1. No person may moor or attach a boat to a buoy, beacon, light marker, stake, flag, or other aid to safe operation placed in Lake LBJ or The State of Texas. No person may move, remove, displace, tamper with, damage or destroy the markers or aids to safe operation.
2. No person may moor or attach a vessel, personal watercraft, or motorboat to a City-owned boat launching ramp except in connection with the launching or retrieving of a boat, vessel, or personal watercraft from the water.

**E. Obstructing Passage**

1. No person may anchor a motorboat, personal watercraft or vessel in the traveled portion of a public waterway so as to prevent, impede or interfere with the safe passage of any other motorboat, personal watercraft, or vessel through the same area.
2. No person may anchor a motorboat, watercraft or vessel near a city-owned boat ramp so as to prevent, impede, or interfere with the use of the boat ramp.

**F. Operating Boats In Restricted Areas**

No person may operate a motorboat, watercraft, or vessel within a water area that has been clearly marked, by buoys or some other distinguishing device, as a bathing, fishing, swimming, or otherwise restricted area by the City. This section does not apply to a patrol or rescue craft or in the case of an emergency.

**G. Operating Vessels in Scuba Diving or Snorkeling Areas**

1. No person may operate a motorboat, personal watercraft, or vessel within 50 feet of a buoy or of another vessel displaying a "diver down" flag that marks an area in which a person is scuba diving or snorkeling.
2. No person may operate a motorboat, personal watercraft, or vessel at a speed greater than the minimum speed necessary to maintain steerage and headway while the

- motorboat, watercraft or vessel is within 150 feet of a buoy or a vessel displaying a "Diver Down" flag that marks an area in which a person is scuba diving or snorkeling.
3. To be entitled to the protections of this section, a scuba diver or snorkeler must prominently display a "diver down" flag from a buoy or vessel.
  4. This section does not apply:
    - (a) to a person who is operating a patrol or rescue craft, or
    - (b) in an emergency.
  5. This section IV.G. does not apply to:
    - (a) a person who is already operating a vessel in an area when another person displays a "diver down" flag within 150 feet of that vessel,
    - (b) a person who is operating a vessel in a waterway that is less than 300 feet wide;
    - (c) a person who has permission to enter the area from the person who placed the buoy or the person who is operating the vessel displaying the "diver down" flag.
  6. In this section "diver down flag" means a square or rectangular red flag, at least 15 inches by 15 inches that has a diagonal white stripe

#### **H. Water Skis, Aquaplanes, etc; Time and Manner of Operation**

1. No person may operate a motorboat or a vessel on any waters of the City of Sunrise Beach Village towing a person or persons on water skis, surfboards, or similar devices and no person while being towed may engage in water-skiing surfboarding or similar activity at any time between the hours from one-half hour after sunset to one-half hour before sunrise.
2. All motorboats having in tow or otherwise assisting in towing a person on water skis, aquaplanes at similar contrivances 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.
3. A person being towed on water ski, aquaplanes or similar devices by any vessel is considered an occupant of the vessel.
4. No person may tow another person on water-skis such that the skier comes within 50 feet of the shoreline, docks, piers, or other fixed structures.

#### **I. Personal Watercraft**

1. No person shall operate a personal watercraft in the following manner or under the following circumstances:
  - a) unless each person riding on or towed behind the vessel is wearing a U.S. Coast Guard approved Type I, II, III, or V personal flotation device.
  - b) if the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch, unless such lanyard is attached to the person, clothing or personal flotation device of the operator as appropriate for the vessel involved.
  - c) during the period between thirty (30) minutes after sunset and thirty (30) minutes before sunrise.
  - d) within 50 feet of any other vessel, person, stationary platform or other object, or shore except at headway speed.
  - e) if the operator is under 16 years of age unless the operator
    - is accompanied by a person at least 18 years of age or
    - is at least 13 years of age and has successfully completed a boating safety course prescribed and approved by the Texas Department of Parks and Wildlife.
  - f) if the personal watercraft is a motorboat, within any area prohibited for operation of a motorboat.
  - g) while towing water skis, an aquaplane, a surfboard, a tube, or any other similar device, unless the towing vessel is designed to carry on board a minimum of two persons.

- h) by jumping the wake of another vessel recklessly or unnecessarily close to that vessel; or
  - i) in a manner that requires the operator to swerve at the last possible moment to avoid collision.
2. The provisions of this section do not apply to professional exhibitions or an officially sanctioned race, tournament or exhibition,
  3. Subsection (1)(d) of this section does not prohibit the operation of personal watercraft on bodies of water less than 100 feet in width.
  4. An owner of a personal watercraft permitting a person under 18 years of age to operate the personal watercraft in a manner prohibited by this section may be notified of the violation.
  5. For the purposes of this section, a person is considered to be accompanying the operator of a personal watercraft if the person is on board the personal watercraft when underway.

**J. Operation of Motorboat**

No person may operate a motorboat of over 15 horsepower within the city limits or immediately adjacent to the city limits of the City of Sunrise Beach Village unless the person is 16 years of age or older or;

1. is accompanied by a person (18) years of age or older, or
2. is at least 13 years of age and has successfully passed a boating -safety course prescribed and approved by the Department of Parks and Wildlife.

**K. Boater Education Course Required for Certain Persons**

1. This section applies only to a person who is:
  - a. born on or after September 1, 1984 and
  - b. operating on the public water of the City of Sunrise Beach Village.
    - a vessel powered by a motor of 10 horsepower or more, or
    - a windblown vessel over 14 feet in length.
2. A person subject to this section must have in the person's possession
  - a. a photographic identification card and
  - b. a boater identification card issued by the Texas Department of Parks and Wildlife.
3. The Department will issue a boater identification card to a person who has successfully completed
  - a. a boater education course approved by the Department or
  - b. a course equivalency examination approved by the Department
4. A boater identification card issued to a person who has successfully completed a boater education course or course equivalency examination does not expire.
5. Upon proof of completion of a boater safety education course a court shall dismiss a violation of Subsections (2)(a) and (b).

**L. Exemption From Boater Education Course Requirement**

Persons exempt from complying with the Boater Education Course requirements by the State shall not be required to provide proof of completion of such course.

**M. Operating Vessel Livery**

1. A vessel livery must purchase liability insurance from an insurer licensed to do business in this state,
2. Before releasing possession of a rented vessel, a vessel livery shall provide each operator of the rented vessel instruction relating to:
  - a. the provisions of this ordinance,
  - b. operational characteristics of the rented vessel and,
  - c. boating regulations that apply in the area of operation of the vessel.

3. After providing the instruction required by Subsection (2) and before releasing possession of the rented vessel, the vessel livery shall require each operator to sign an acknowledgment form indicating that the operator has received the required instruction. The vessel livery shall retain the form for at least six months.

**N. Required Response to Police Water Safety Vessel and Fire Boat**

The operator of a vessel or motorboat underway, on sighting a rotating or flashing blue or red beacon light, shall reduce power immediately and bring the vessel or motorboat to a no-wake speed and subsequent stop until the intention of the water safety vessel is understood.

**O. Equipment Required -- Operation of Vessels or Motorboats Without Required Equipment Prohibited**

No person may operate or give permission for the operation of a vessel that is not provided with the equipment required by this charter.

1. Lights

A vessel or motorboat when not at dock must have and exhibit at least one bright light, lantern, or flashlight from sunset to sunrise in all weather. A vessel or motorboat when underway between sunset and sunrise in all weather must have and exhibit the lights prescribed by the commandant of the Coast Guard for boats of its class. No other lights that may be mistaken for those prescribed may be exhibited.

2. Sound-Producing Devices

A motorboat must have an efficient whistle or other sound-producing device as required by the commandant of the Coast Guard.

3. Life Preserving Devices

- a. A motorboat must have at least one life preserver, life belt, ring buoy, or other device of the sort prescribed by the regulations of the commandant of the Coast Guard for each person on board, so placed as to be readily accessible.
- b. A Motorboat carrying passengers for hire must have a readily accessible life preserver of the sort prescribed by the regulations of the commandant of the Coast Guard for each person on board,
- c. The operator or a class A or class I motorboat, while underway, shall require every passenger under 13 years of age to wear a life preserver of the sort prescribed by the regulations of the commandant of the Coast Guard. A life belt or ring buoy does not satisfy this requirement.

4. Fire Extinguishers

- a. A motorboat must have the number, size, and type of fire extinguishers prescribed by the commandant of the Coast Guard.
- b. The fire extinguishers must be capable of promptly and effectively extinguishing burning gasoline. They must be kept in condition for immediate and effective use at all times and must be placed so as to be readily accessible.

5. Flame Arrestors; Backfire Traps

- a. A motorboat must have the carburetor or carburetors of every engine using gasoline as fuel, except outboard motors equipped, with an efficient flame arrestor, backfire trap or other similar device prescribed by the regulations of the commandant of the Coast Guard.

6. Ventilators

Each motorboat and vessel except an open boat using as fuel any liquid of a volatile nature must have the equipment prescribed by the commandant of the Coast Guard

designed to ventilate properly and efficiently the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

7. Exhaust Water Manifold, Muffler

A motorboat operating on the waters within or immediately adjacent to the City Limits of the City of Sunrise Beach Village must have an exhaust water manifold or a factory-type muffler installed on the engine.

8. Rearview Mirrors

- a. A vessel used to tow a person or persons on water skis or an aquaplane or similar device on the waters in or immediately adjacent to the City Limits of the City of Sunrise Beach Village must have a rearview mirror of a size no less than four inches from bottom to top and across from one side to the other. The mirror must be mounted firmly so as to give the boat operator a full and complete view beyond the rear of the boat at all times.
- b. Subsection (a) of this section does not apply to vessels used in water ski tournaments, competitions or exhibitions, or to a vessel that, in addition to its operator, has on board a person 13 years of age or older observing the progress of the person being towed.

**P. Canoes, Punts, Rowboats, Sailboats, Rubber Raft, Racing Shells, Rowing Sculls and Racing Kayaks, Equipment Exemptions.**

1. All canoes, punts, rowboats, sailboats, and rubber rafts when paddled, poled, oared, or windblown are exempt from all safety equipment requirements except the following:
  - a. one Coast Guard approved lifesaving device for each person aboard and
  - b. the lights prescribed by the commandant of the Coast Guard for class A vessels and required herein.
2. Racing shells, rowing sculls, and racing kayaks while participating in or practicing for an officially sanctioned race are exempt from all safety equipment requirements except the lights prescribed by the commandant of the Coast Guard for class A vessels and required herein.
3. In this section, "racing shell," "rowing scull" or "racing kayak" means a manually propelled boat
  - a. recognized by a national or international racing association for use in competitive racing;
  - b. not designed or used to carry equipment serving any purpose other than competitive racing; and
  - c. in which each occupant except a coxswain, rows, skulls or paddles.

## **V. Penalty**

Any person who violates any of the provisions of this chapter, or fails to comply therewith, or with any of the requirements thereof, or knowingly or intentionally provides false information on any permit application required pursuant to this Ordinance, within the City limits, is guilty of an offense and shall be liable for a fine not to exceed the sum of five hundred dollars (\$500.00). Such penalty shall be in addition to all the other remedies provided herein and at law.