

WAITAKERE CITY COUNCIL

BYLAW NO. 13 1990

WEST HARBOUR MARINA

The Waitakere City Council HEREBY MAKES BY SPECIAL ORDER the following bylaw pursuant to the powers and provisions contained in the Waitemata City Council (West Harbour) Empowering Act 1979, the Harbours Act 1950, the Local Government Act 1974, and in pursuance of all other powers and authorities in any other Act enabling the Council in that behalf.

1 CITATION

This Bylaw shall be cited and referred to as "Waitakere City Council Bylaw No. 13 - West Harbour Marina."

2 EFFECTIVE DATE

This Bylaw shall come into force on the 13th day of March 1990.

3 APPLICATION

This Bylaw shall apply to the area shown marked A and B on a plan lodged with the Ministry of Transport Marine Division under No. MD 15976; a copy of which plan is annexed hereto.

4 DEFINITIONS

In this Bylaw, unless inconsistent with the context:-

"the Act" means the Waitemata City Council (West Harbour) Empowering Act 1979.

"Access Lane" means an area set apart as such under Clause 6 of this Bylaw.

"Advertised" means one insertion of a notice in the public notice column of a daily newspaper generally circulating in the area in which the Boat Harbour is situated.

"Boat Harbour" means the area referred to in Clause 3 of this Bylaw.

"Boat Harbour Operator" means such person, firm company or corporation as is for the time being the holder of a seabed licence or sub-licence in respect of the Boat Harbour granted pursuant to the Act and includes any duly authorised officer of the Boat Harbour Operator.

"Council" means the Waitakere City Council.

"Marina Warden" means such person or persons who are for the time being appointed to be a marina warden pursuant to Clause 5(a) of this Bylaw.

"Small Craft" means a vessel that is less than 30 metres in overall length.

"Small Motor Craft" means any Small Craft that is propelled or driven otherwise than solely by oars, paddles, or the wind.

"Speed" means speed through the water.

5 CONTROL OF USE OF BOAT HARBOUR AND FACILITIES

- (a) The Council may from time to time appoint one or more persons to be Marina Wardens for the purposes of these Bylaws and to be litter officers for the purposes of the Litter Act 1979 in terms of Clause 9(b) of this Bylaw.
- (b) Any Marina Warden may from time to time:-
 - (i) Require any person who appears to be in charge of a Small Craft within the Boat Harbour to stop that craft.
 - (ii) Require any person who is found committing an offence against this Bylaw to supply his name and address to the Marina Warden.
 - (iii) Require the owner or the person appearing to be in charge of a Small Craft which is in such a position as to interfere unduly with, or constitute a danger to, navigation within the Boat Harbour or which is otherwise in breach of these bylaws, to remove the Small Craft from the Boat Harbour.
 - (iv) Require any person who is causing or contributing to any nuisance in the Boat Harbour immediately to cease causing or contributing to the nuisance or to require that person immediately to leave the Boat Harbour.
- (c) While purporting to exercise any right or perform any duty pursuant to this bylaw a Marina Warden shall carry a Warrant of Appointment issued under seal of the Council, and shall as soon as it is practicable produce it to any person when asked to do so.
- (d) Every person commits an offence against this Bylaw who, being required by a Marina Warden under subclause (b) to do anything, fails to comply with that requirement as soon as is reasonably possible.

6 CONTROL OF SMALL CRAFT IN BOAT HARBOUR

- (a) No craft or vessel other than a Small Craft shall be brought into the Boat Harbour except with the prior permission of the Boat Harbour Operator.
- (b) No Small Craft shall be allowed to lie or, to be anchored moored or berthed in the Boat Harbour other than at the berth assigned to that craft.
- (c) No person shall propel or navigate a Small Motor Craft, the engine of which causes excessive noise by reason of:-
 - (i) Lack of a silencing device; or
 - (ii) The disrepair of the engine; or
 - (iii) The construction or condition of any part of the Small Motor Craft or its machinery.
- (d) No person shall cause excessive noise by accelerating or racing the engine of a Small Motor Craft while the same is stationary.

BYLAW NO. 13
WEST HARBOUR MARINA

- (e) No person who is under the age of 15 years shall operate or navigate a Small Motor Craft within the Boat Harbour.
- (f) No person shall operate or navigate a Small Craft at a speed within the Boat Harbour exceeding 5 knots.
- (g) Every person who operates or navigates a Small Craft within the Boat Harbour shall as far as is practicable, do so at such a speed so that waves caused by the movement of the craft through the water do not break against the shore or against any structure within the Boat Harbour.
- (h) The Council may from time to time by resolution duly advertised, designate any specified area in the Boat Harbour as an Access Lane for any specified purpose.
- (i) A designation under sub-clause (h) may be made on or subject to such conditions and for such period or periods as the Council may specify in the resolution.
- (j) No person shall in any Access Lane propel, navigate, or manoeuvre a Small Motor Craft except by the most direct route through the Access Lane and on that side of the Access Lane that lies to the starboard or right-hand side of the craft.
- (k) No person within an Access Lane shall proceed in any manner that is dangerous in relation to any vessel or other person in the Access Lane.
- (l) Every Access Lane shall be indicated by notice boards that are prominently displayed in the vicinity of the Access Lane, and shall be marked out by orange posts with horizontal black bands.
- (m) An Access Lane may also be marked out by orange and black buoys confirming to the requirements of the Ministry of Transport.
- (n) No person shall do any act or make any omission in any Access Lane in contravention of any condition specified under this Bylaw by the Council in respect of that area.
- (o) No person shall obstruct or impede any other person while that other person is using an Access Lane for the purpose for which it has been designated under the Bylaw.
- (p) No person shall enter, remain in, or use an Access Lane for any purpose other than a purpose for which the lane is designated under this Bylaw.
- (q) The restriction specified in Subclause (p) of this clause shall not apply whilst:-
 - (i) The Access Lane is not being used by any person for any purpose for which it is designated; and
 - (ii) No condition has been specified by the Council under this Bylaw prohibiting the use of the Access Lane for any purpose other than a purpose for which it is designated.
- (r) No person shall moor or tie up any craft to another boat within the Boat Harbour but this provision shall not apply in the case of a dinghy then being used by a person in relation to such craft.

- (s) No person shall live on board any craft within the Boat Harbour without the approval of the Boat Harbour Operator which approval may be revoked by the Boat Harbour Operator or the Council. For the purposes of this Clause the word "live on board" shall mean sleeping overnight on the craft for two consecutive nights or more.
- (t) Every Small Craft shall have a name clearly displayed on both the port and starboard bow in letters of no less than 4 centimetres in height and of a distinctive colour.
- (u) The provisions of the Council's Operative District Scheme as it stands from time to time controlling the level of noise shall be incorporated and read as part of this Bylaw as if each and every use in the Boat Harbour where industrial uses for purposes of the said provisions of the District Scheme and the said provisions shall apply mutatis mutandis.

7 SAFETY

- (a) No person shall store kerosene, motor spirit, petroleum, petroleum products, fuel oil, liquefied petroleum gas, compressed natural gas or goods of a similarly dangerous or similarly inflammable nature on any Boat Harbour structure or area under the control of the Boat Harbour Operator without the prior approval of the Boat Harbour Operator.
- (b) No person shall bring within the Boat Harbour any kerosene, motorspirit, petroleum products, fuel oil, liquefied petroleum gas, compressed natural gas or goods of a similarly dangerous or similarly flammable character without the permission of the Boat Harbour Operator or a Marina Warden. Any such goods of a dangerous or inflammable character not removed, on demand by the Boat Harbour Operator or a Marina Warden, may be removed by the Boat Harbour Operator or a Marina Warden and stored in some suitable and convenient place and the owner, agent, or consignee thereof shall upon demand pay the costs of such removal and storage. Nothing in these provisions shall prevent operators of Small Craft in the Boat Harbour carrying fuel in safe containers in quantities reasonably required for the engines, stoves and other equipment of that Small Craft.
- (c) The person in charge of any Small Craft within the limits of the Boat Harbour shall before commencing any repairs, alterations or work thereon or thereto involving welding or flame cutting operations comply with the provisions of the General Harbour (Ship, Cargo and Dock Safety) Regulations 1968, or any amendment thereto or any regulation made in substitution therefore.
- (d) In carrying out any repairs, alterations or work on any Small Craft or its equipment, the person in charge of any such Small Craft shall ensure that the work is carried out in a safe and proper manner. If in the opinion of a Marina Warden the person in charge of any such Small Craft has not at any time, carried out any such work in a safe and proper manner, the person in charge shall refrain from all work on such Small Craft until compliance and neither the Council nor the Boat Harbour Operator shall be responsible for any loss thereby occasioned.
- (e) Any action by a Marina Warden in terms of the foregoing Bylaws shall not relieve the owner or person in charge from any liability, and such action shall not impute any responsibility to the Council or the Boat Harbour Operator to see that the provisions hereof are duly observed.

- (f) The person in charge of any Small Craft in the Boat Harbour shall take such measures as are necessary to prevent the escape of inflammable substances or water mixed therewith from such Small Craft into the Boat Harbour.
- (g) The person (other than a Marina Warden) removing any inflammable substances from a Small Craft in the Boat Harbour in pursuance of these Bylaws shall remove same from the Boat Harbour to such place as may be indicated by a Marina Warden, expeditiously and at his own risk and expense.
- (h) No Small Craft in the Boat Harbour shall be fumigated or smoked for the extermination of vermin except in a manner which does not interfere with other persons or Small Craft in the Boat Harbour.
- (i) No person shall bring any explosives within the Boat Harbour but this prohibition shall not apply to any distress equipment.
- (j) No person shall ignite or otherwise let off any distress flare or other distress signal within the Boat Harbour.
- (k) In the event of a fire or a fire hazard occurring on any Small Craft or on any Boat Harbour structure, the Boat Harbour Operator, the Council or any Marina Warden may take such steps as they may deem to be necessary to extinguish or reduce such fire or fire hazard, and neither Council nor the Boat Harbour Operator nor any Marina Warden will be responsible for any damage whatsoever done to such Small Craft, or otherwise, in consequence of any action so taken.
- (l) No person shall make an electrical connection to any of the Boat Harbour's electrical wiring installations without prior consent of the Boat Harbour Operator.
- (m) The provisions of the Dangerous Goods Act 1974 and any regulations or Bylaws made pursuant to that Act shall be complied with at all times.

8 **PROTECTION OF BOAT HARBOUR STRUCTURES**

- (a) No person shall carry out any boat maintenance or repairs in the Boat Harbour in such manner to cause damage, injury, nuisance or annoyance to other users of the Boat Harbour.
- (b) No person shall discharge or land or place on any Boat Harbour Structure any goods or articles of any description which shall be likely to occasion damage to such structure.
- (c) No person shall operate on any jetty or finger forming part of the Boat Harbour any vehicle other than a hand propelled vehicle of such size and weight as will not damage the jetty or finger and will not interfere with other users thereof.
- (d) In case any Small Craft does or causes any damage to any Boat Harbour structure or any part thereof, then, and in any such case, the operator of such vessel shall forthwith report the occurrence to a Marina Warden and any damage done or caused as aforesaid may be repaired by the Boat Harbour Operator and the cost thereof shall be paid to the Boat Harbour Operator by the person in charge of such Small Craft.

9 DISCHARGE OF POLLUTANTS LITTER AND RUBBISH

- (a) No person shall create a nuisance or suffer or permit a nuisance to be created in the Boat Harbour by casting or discharging (directly or indirectly) any sewage, garbage, stormwater, oil or petroleum products (or a mixture containing the same) or any other substance likely to be offensive, or to pollute detract or cause deterioration to the waters of the Boat Harbour or the waters adjacent thereto.
- (b) It is hereby declared that such parts of the Boat Harbour as are within the Council's territorial district area a "public place" for the purposes of the Litter Act 1979 and the appointment of a Marina Warden (as defined above) shall include his appointment as a litter control officer for the purposes of enforcing the provisions of that Act.
- (c) No person shall in any part of the Boat Harbour:-
 - (i) break or cause to be broken or throw or abandon cast or leave, whether broken or not any glass or pottery object, tins, bottles, paper, paper wrappings, plastic bags or containers, plastic sheet, litter, rubbish, oil petroleum products or other articles or thing likely to be unsightly or to cause any nuisance or danger to public health or safety;
 - (ii) scale, clean or gut any fish or throw cast or leave or deposit any fish, or any portion of a fish or a carcass of any dead animal, or fowl or any vegetable matter likely to cause a nuisance, injury or danger to public health or safety, nor shall any person leave offensive matter in any craft in the Boat Harbour.

10 CONDUCT OF PERSONS USING BOAT HARBOUR

- (a) Every person using, entering or leaving the Boat Harbour shall comply with such directions and orders as any Marina Warden shall give in order to prevent damage to any Small Craft or any Boat Harbour structure or to prevent injury, interference or nuisance to any other user thereof or to the Boat Harbour Operator.
- (b) No person being the driver or rider or person in charge of any vehicle, shall bring, operate, stop, stand or park that vehicle, whether attended or unattended, on any part of the Boat Harbour in contravention of any prohibition, limitation or restriction imposed by the Council and evidenced by a sign or signs erected or placed or made on the part of the Boat Harbour so affected.
- (c) No person shall bathe or swim in the waters of the Boat Harbour provided that this prohibition shall not apply to persons cleaning vessels under water in an otherwise permissible manner.
- (d) No person shall without the consent of a Marina Warden ride any bicycle, tricycle, motor vehicle or motor tricycle or such like vehicle upon any jetty or finger. No person without the prior consent of a Marina Warden shall take any vehicle onto any jetty or finger in the Boat Harbour (other than a hand propelled vehicle of the type referred to in subclause 8(c) hereof).
- (e) No person shall bring into the Boat Harbour any animal but this prohibition shall not apply to any domestic pet which is either caged or held on a leash and under the control of the person responsible for the same.

- (f) No person shall land or ship any goods, except passengers luggage of a portable nature at or from any public steps or landing place for passengers without prior consent of the Boat Harbour Operator.
- (g) No person shall resist, impede or obstruct, or incite or encourage any other person to resist, impede or obstruct any Marina Warden from performing his duties under these Bylaws.

11 **EMERGENCIES**

In case of emergency a Marina Warden may board any craft and move it to a temporary mooring in or out of the Boat Harbour for whatever time he considers necessary without prior notification to the owner of the craft.

12 **OFFENCES AND PENALTIES**

Every person commits an offence against this Bylaw who does any act in contravention of or fails to comply with any requirement thereof. Every person who commits an offence against this Bylaw is liable on summary conviction to a fine not exceeding \$500.00 and where the offence is a continuing one to a further fine not exceeding \$50.00 for every day or part of a day during which the offence continues. The continued existence of any work or thing in a state contrary to any requirement of this Bylaw shall be deemed a continuing offence.

The Common Seal of the)
WAITAKERE CITY COUNCIL)
was hereunto affixed pursuant to a)
resolution of Council passed on)
28 February 1990 in the presence of:)

CHIEF EXECUTIVE OFFICER

MANAGER: FINANCE & ADMINISTRATION