

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

ORDINANCE

An Ordinance Amending the Code of Ordinances City of Lowell, Massachusetts, with respect to the establishment of a new Chapter 285, entitled "Boating and Watercraft".

-----

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

The City of Lowell through its City Council, by virtue of Massachusetts General Laws, Chapter 90B, Section 15, has the right to regulate the use of boats and other watercraft within its boundaries in a manner not contrary to the provisions of Chapter 90B and with the approval of the Director of the Division of Law Enforcement of the Department of Fisheries, Wildlife, and Environmental Law Enforcement.

The Merrimack River, in addition to being the City of Lowell's primary source of drinking water and a source of hydroelectric power, serves as a vital cultural and recreational resource, particularly along a stretch of the river from the Rourke Bridge to the Pawtucket Falls.

This stretch of the Merrimack River is the primary access point for recreational boating, rowing, kayaking, and other aquatic recreational activities.

This stretch of the Merrimack River contains the UMass Lowell Bellegarde Boathouse, Merrimack River Rowing Association, and Lowell Motor Boat Club, facilities from which rowboats, crew boats, motor boats, and other boats are launched from by students and the general public for athletic and recreational boating activities.

This stretch of the Merrimack River serves as an active and popular swimming location for residents and visitors due to the presence of Rynne Beach, the only public beach within the City's boundaries.

This stretch of the Merrimack River contains several parks along its edge, including Lowell Heritage State Park, Sampas Pavilion, and Vandenberg Esplanade, which are used by residents and visitors recreationally and for the holding of special events.

Due to the presence of the beach, boat launches, and parks, this stretch of the Merrimack River is very active with rowers, swimmers, and recreational boating.

Due to the high volume of rowers, swimmers, and motor boats concentrated in this limited area, the safe operation of watercraft in this stretch of the Merrimack River is of paramount importance.

Due to the high volume of row boats, swimmers, and motor boats in this area, the use of jet skis, surf jets, wetbikes, and other high speed, water propelled, personal watercraft pose unique safety dangers within this stretch of the Merrimack River.

Jet skis, surf jets, wetbikes, and other such watercraft operate at high speeds which pose a danger to swimmers, rowers, and other boaters within this stretch of the Merrimack River.

Jet skis, surf jets, wetbikes, and other such watercraft generate loud noise due to the nature of their water-jet propulsion engines, which disturbs swimmers, rowers, other boaters, and park goers.

Jet skis, surf jets, wetbikes, and other such watercraft are capable of entering the City of Lowell's canal system due to their size and speed, endangering their operators, the general public, and the canal system itself.

Given the busy and sensitive nature of this section of the Merrimack River and connecting canal system, the City Council wishes to prohibit the use of jet skis, surf jets, wetbikes, and other such watercraft in these areas to protect the safety of swimmers, rowers, and fellow boaters, reduce the chance of dangerous or fatal crashes, minimize potential property damage, and ameliorate environmental and noise pollution.

THEREFORE, "The Code of Ordinances City of Lowell, Massachusetts" hereinafter called the "Code", adopted by the City Council on December 23, 2008, is hereby amended with respect to Part II with the establishment of a new Chapter, Chapter 285, entitled "Boating and Watercraft," as follows:

§285-1. ESTABLISHED; FUNCTION AND PURPOSE.

The purpose and scope of this chapter is to protect the health, safety and welfare of the City by establishing local regulations and restrictions on the operation of personal watercraft within the City's waterways.

§285-2. DEFINITIONS.

A. "Merrimack River Waterway" shall mean that stretch of the Merrimack River within the City of Lowell's boundaries encompassing all water and coastal areas starting at those waters at the Rourke Bridge and ending at the Pawtucket Falls.

B. "City of Lowell Canal System" shall mean any artificial waterway within the City of Lowell's boundaries.

C. "Jet ski," "surf jet," and "wetbike" shall have the same definitions as in M.G.L. c. 90B, §1.

D. "Flyboard" shall mean any jetpack or board which supplies propulsion to fly or drive through the water through the use of water pumped through a hose which is then air propelled through jet nozzles within the boots or backpack of the apparatus.

E. The City of Lowell incorporates into this chapter by reference all terms so defined in Chapter 90B, Section 1 of the Massachusetts General Laws.

#### §285-3. PROHIBITION OF CERTAIN WATERCRAFT USE.

A. No person shall operate a jet ski, surf jet, wetbike, flyboard, or other such similar personal watercraft within the Merrimack River Waterway.

B. No person shall operate a jet ski, surf jet, wetbike, flyboard, or other such similar personal watercraft within the Lowell Canal System.

C. Nothing in this section shall prohibit the use of jet skis, wetbikes or other such similar personal watercraft by the Massachusetts Environmental Police, Lowell Police Department, Lowell Fire Department, or any other federal, state, or local agency within the City's waters for purposes of public safety, law enforcement, or search and rescue.

#### §285-4. ENFORCEMENT

A. The Lowell Police Department, Lowell Fire Department, and any other City department, agency, or employee so designated by the City Manager, shall be the enforcing authorities for this ordinance.

#### §285-5. PENALTIES

A. Any person or entity found in violation of this Ordinance shall be fined \$300 for the first and each subsequent offence. Each act and/or each day in violation of this section shall constitute a separate offense.

B. Any person, firm, store or entity that is licensed by the City and is found in violation of this section may, after a hearing, have any such local license revoked.

B. A penalty provided for under this section may be imposed in conjunction with any other charges or penalties that can be imposed for violation of any other local, state, or federal criminal or civil offenses committed.

§285-6 SEVERABILITY AND EFFECTIVENESS

A. If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance, which remaining portions shall continue in full force and effect.

B. This Ordinance shall take effect upon its approval by the Director of the Division of Law Enforcement of the Department of Fisheries, Wildlife, and Environmental Law Enforcement in accordance with M.G.L. c. 90B, §15.

APPROVED AS TO FORM:  
/s/Elliott J. Veloso  
Elliott J. Veloso  
Assistant City Solicitor



## City of Lowell - Law Department

375 Merrimack Street, 3<sup>rd</sup> Floor • Lowell MA 01852-5909  
Tel: 978.674.4050 • Fax: 978.453.1510 • [www.lowellma.gov](http://www.lowellma.gov)

**Christine P. O'Connor**  
*City Solicitor*

**Rachel M. Brown**  
*1<sup>st</sup> Assistant City Solicitor*

**C. Michael Carlson**  
**Lee Holland**  
**Hannah Pappenheim**  
**Elliott J. Veloso**  
**James F. Wellock**  
*Assistant City Solicitors*

August 18, 2017

City Manager Kevin J. Murphy  
Mayor Edward J. Kennedy, Jr.  
Members of the City Council

Re: Ordinance to Amend and add New Section on Boating and Watercraft

Dear Mr. Manager, Mayor Kennedy and Members of the City Council:

The Law Department, at the request of the City Manager, has prepared an ordinance to restrict the use of jet skis and other such personal watercraft in certain areas of the Merrimack River and the Lowell Canal System. Should the City Council approve the ordinance, it will be sent to the Director of the Division of Law Enforcement of the Department of Fisheries, Wildlife, and Environmental Law Enforcement for final approval pursuant to M.G.L. c. 90B, §15.

The attached Ordinance amends the Code of Ordinances, City of Lowell, Massachusetts, by adding a new section §285 entitled Boating and Watercraft.

Passage of this ordinance will serve to protect swimmers, rowers, boaters, and the public from the hazardous operation of jet skis and other such personal watercraft within certain areas of the City's waterways.

Yours very truly,

Christine P. O'Connor  
City Solicitor

V:ordinance/boatingandwatercraft

cc: William Taylor – Superintendent of Police  
Elliott J. Veloso – Assistant City Solicitor