

ORDINANCE NO. 2004-03

AN ORDINANCE

**PROHIBITING LIVING ABOARD WATER CRAFT WITHIN THE CITY LIMITS;
PROVIDING AN EXCEPTION FOR WATER CRAFT IN THE BAHIA MARINA;
PROVIDING DEFINITIONS; PROHIBITING POLLUTION; REPEALING
ORDINANCES IN CONFLICT; PROVIDING A PENALTY; PROVIDING FOR RIGHT
OF ENTRY; PROVIDING FOR SEVERANCE; PROVIDING FOR PUBLICATION**

WHEREAS, Ingleside on the Bay is situated on the water which provides a pleasant and wholesome setting for families and the community;

WHEREAS, waterfront property is a natural asset to the community and provides mooring space for boats and water craft;

WHEREAS, recreational use of boats and water craft is an essential element of life in Ingleside on the Bay and provides a wholesome family activity;

WHEREAS, use of such boats and water craft as a dwelling unit is detrimental to the wholesome, family and community environment of Ingleside on the Bay;

WHEREAS, experience has shown that use of such boats and water craft as a dwelling unit produces pollution, is unsightly and causes destruction and/or diminution of property values;

WHEREAS, the City Council of Ingleside on the Bay finds and declares that the use of boats and water craft within the City for a dwelling unit is a nuisance; and

WHEREAS, prohibition of use of boats and water craft as a dwelling unit is in the interest of public health, safety and welfare.

NOW THEREFORE IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF INGLESIDE ON THE BAY:

Section 1. The City Council finds and adopts the Whereas clauses of this Ordinance as findings of fact.

Section 2. Definitions. The following terms shall mean:

"Water craft" means any vessel, boat, motor boat, sail boat or other vessel used or capable of being used for transportation on water.

"Dwelling unit" means any water craft which is being used as a permanent abode or residence in which a person or persons have the intention of remaining.

"Permanent abode" means use by a person or persons as a place of sleeping for five (5) hours a day for a period of three (3) consecutive days in any calendar week.

Section 3. No water craft whatsoever which is being used by the person or persons aboard as a dwelling unit shall be permitted to moor, tie up or anchor within the Ingleside on the Bay City Limits, its basins, fairways and anchorage areas, as such areas are defined and described in the United States Corps of Engineers geodetic chart and map of said area. As used herein "dwelling" means any water craft which is being used as a permanent abode or residence in which a person or persons have the intention of remaining. Consideration shall be given to whether the person or persons residing thereon maintain another dwelling place, but whether or not another dwelling place is maintained shall not be determinative of whether the water craft is being used as a dwelling unit. Use of a water craft for more than a consecutive three-day period as a residence or dwelling shall be prima facie evidence that such water craft is a dwelling as prohibited herein.

Section 4. The Ingleside on the Bay Building Inspector shall be in charge of enforcing this Ordinance. Any complaint of violation of this Ordinance shall be referred to the Building Inspector. The Building Inspector shall investigate any complaint of violation of this Ordinance and the Inspector shall evaluate the complaint under the terms of this Ordinance. If the Inspector determines a person or persons are in violation of this Ordinance, the Inspector shall issue an Order directing the person or persons to cease and desist the violation. The determination of the Inspector of a violation shall be final.

Section 5. The prohibition of use of a water craft herein shall not be applicable to water craft lawfully docked and within the Bahia Marina. The City Council finds that Bahia Marina has adequate provision for regulating such use and for prevention of pollution from such use of water craft within the confines of Bahia Marina.

Section 6. No raw sewage, garbage, junk, waste, oil, grey water or any other substance whatsoever which might pollute or damage the aesthetics or the water quality shall be deposited or permitted to be deposited in the waters of or within the Ingleside on the Bay City Limits, its basins, fairways and/or anchorage areas. It shall be unlawful for any person to throw or discharge any organic refuse, galley scraps, wastes, garbage, trash, rubbish, waste foods, fish, brush, wood, boxes, crates, cartons, pieces of paper, or any other such material in the waters of or within the Ingleside on the Bay City Limits, its basins, fairways and/or anchorage areas. No person shall pump the bilge of any water craft into the waters of or within the Ingleside on the Bay City Limits, its basins, fairways and/or anchorage areas.

Section 7. Any Ordinance in conflict with this Ordinance is hereby repealed.

Section 8. Right of entry.

A full-time employee authorized by the City of Ingleside on the Bay to administer the provisions of this Ordinance may enter upon private property for the purposes specified in this Ordinance to examine vessels pursuant to this Ordinance. The municipal court, if applicable, or if the municipal court is not applicable the City Council of the City of Ingleside on the Bay, shall have authority to issue all orders necessary to enforce this Ordinance.

Section 9. Penalty and costs.

A person commits an offense if the person violates this Ordinance. An offense under this Ordinance is a misdemeanor punishable by a fine not to exceed \$200. Each day that the violation continues is a separate offense and each separate offense is punishable upon conviction by a fine not to exceed \$200. The municipal court, if applicable, or if the municipal court is not applicable, the City Council shall order the violator to cease and desist. In addition, the City Attorney is authorized to pursue all the remedies available to enforce this Ordinance including seeking a mandatory injunction from a court of competent jurisdiction requiring the violator to cease and desist.

Section 10. Remedy cumulative.

The remedies and procedures established in this Ordinance are cumulative to any other right, remedy or procedure. Nothing in this Ordinance shall affect any rule, regulation, law or ordinance that permits immediate removal of a vehicle left on public property that constitutes an obstruction to traffic.

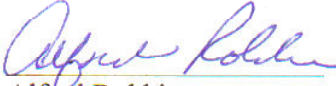
Section 11. Severance.

If any sentence, paragraph or section or any part thereof of this Ordinance is held invalid or unenforceable for any reason by a court of competent jurisdiction then the remaining sentences, paragraphs or sections or parts thereof shall remain in full force and effect, it being the intention of the City Council to enact each sentence, paragraph or section or any part thereof without any other portion of this Ordinance.

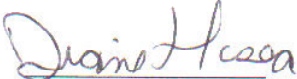
Section 12. Publication.

This Ordinance shall become effective from any after its publication, such publication to be in the official newspaper of the City of Ingleside on the Bay and made by publishing the caption hereof.

PASSED AND APPROVED this the 20th day of April, 2004.


Alfred Robbins,
Mayor

ATTEST:


Diane Hosea
City Secretary

INGLESIDE
ON THE BAY
ORDINANCE
2004-03

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Published In The Ingleside Index, April 22, 2004.

THE STATE OF TEXAS
COUNTY OF SAN PATRICIO:

Before me, the undersigned authority, personally appeared

PATSY DICKEN of The Ingleside Index, who after being

by me duly sworn, on his oath deposes and said:

1. That ~~he~~ (she) is ADV. DIRECTOR of The Ingleside Index a weekly newspaper published in San Patricio County, Texas.

2. That the INGLESIDE ON THE BAY ORDINANCE 2004-03

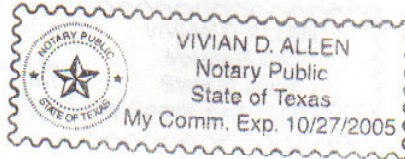
hereto annexed, was published in the regular issues of said Ingleside Index once

each week for ONE (1) successive weeks said publications

having been made on the APRIL 22, 2004

3. That a printed copy of said NOTICE as the same appeared in said issues is attached hereto.

Patsy Dicken



Sworn to and subscribed before me this 28th

day of APRIL

2004

Vivian D. Allen

PUBLICATION FEE: \$23.49

Notary Public, San Patricio County, Texas