

Ordinance No. 00380

ORDINANCE NO. 380- Substitute

AN ORDINANCE of the City Council of the City of Lakewood, Washington, regarding Lakewood Municipal Code chapter 8.60, specifically amending sections 8.60.020, 8.60.040, 8.60.150, 8.60.220, 8.60.090, 8.60.230 and 8.60.490, regarding boating and water safety.

WHEREAS, the City Council of the City of Lakewood, Washington, has adopted an ordinance specifically addressing the prevention of noise caused by motor-powered vessels operating on lakes, rivers or other waters within the corporate boundaries of the City; and

WHEREAS, the citizens of Lakewood have expressed concern about noise caused by motor-powered vessels that operate on lakes, rivers, or other bodies of water located within the corporate boundaries of the City; and

WHEREAS, the citizens of Lakewood have expressed concern about the speed at which motor powered vessels travel on Lakewood lakes; and

WHEREAS, to further the health, safety and welfare of the citizens of the City of Lakewood, to maintain its lakes, rivers, and other waters in a manner which allows full enjoyment by its citizens, it is necessary to modify the speed limits and level of noise allowed on the waters and restrict the application of instruments to mufflers or similar devices that increase the level of noise on the waters.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN as Follows:

Section 1. That Lakewood Municipal Code 8.60.020 related to applicability shall be modified as follows:

08.60.020 - Applicability

A. Except as noted, the provisions of this Chapter shall be applicable to all vessels which are operated within the geographical jurisdiction of the City.

B. Titles 33 and 46 CFR, Chapter 88.12 RCW, Chapter 352-60 WAC, Chapter 352-67 and any amendments thereto, are hereby adopted by reference as Section .8.60.020 B of the City Code.
(Ord. 86 § 1 (part), 1996.)

Section 2. That Lakewood Municipal Code 8.60.040 related to definitions shall be modified as follows:

08.60.040 - Definitions

As used in this Chapter, unless the context or subject matter clearly requires otherwise, the following words or phrases shall have the following meanings:

- A. "Aquatic event" means any organized water event of limited duration.
- B. "Authorized emergency vessel" means any designated and/or marked patrol vessel.
- C. "Department" means the Police Department or the law enforcement agency of the City.
- D. "~~Drivers~~ Divers flag" means a red flag, not less than ten inches on the hoist by twelve inches on the fly, with a white stripe of one inch crossing the red diagonally and a stiffener to make it stand out from the pole or mast, or a rigid replica of the International Code flag "A" (Alpha pennant) not less than one meter in height.
- E. "Obstruction" means any vessel or any matter which may in any way impede navigation or endanger any vessel.
- F. "Person" means an individual, firm, partnership, corporation, company, association or other legal entity.
- G. "Pier, dock or gangway" means any permanent wharf, dock, float, gridiron or other structure to promote the convenient

loading or unloading of a vessel.

H. "Restricted or designated areas" means an area that has been marked to be used for, or closed to, certain designated purposes.

I. "Restricted visibility" means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar causes.

J. "Scuba diver" means any free B swimming person who uses an artificial or mechanical means to replace air.

K. "Skin diver" means any free B swimming person who does not use an artificial or mechanical means to replace air.

L. "Sunrise" means the time when the sun appears above the sensible horizon as a result of the earth's rotation which may be shown by a sunrise chart for the general Tacoma area of Pierce County, Washington.

M. "Sunset" means the time when the sun disappears below the sensible horizon as a result of the earth's rotation which may be shown by a sunrise chart for the general Tacoma area of Pierce County, Washington.

N. "Towboat" means any vessel engaged in towing or pushing another vessel or anything other than a vessel.

O. "Vessel" includes every description of floating craft, including motorized and non-motorized watercraft, and includes nondisplacement craft and sea planes, used or capable of being used as a means of transportation on water.

P. "Waters of Lakewood" means all water within the corporate boundaries of the City of Lakewood.

Q. "SAE" means Society of Automotive Engineers as referenced in WAC 352-67.

(Ord. 86 § 1 (part), 1996.)

Section 3. That Lakewood Municipal Code 08.60.090 related to Exemptions for Racing Motor powered vessels shall remain as follows:

08.60.090 - Exemptions for Racing Motor-Powered Vessels

The provision of ~~this Chapter~~ sections 8.60.150 and 8.60.220 shall not apply to motor-powered vessels while competing in any race previously arranged, approved and announced, or while practicing for any race where the practice was previously arranged, approved and announced, or if such boats are designed and intended solely for racing, while engaged in such navigation as was previously arranged, approved and announced and as is incidental to the tuning up of the boats and engines for the race. Arrangements approval and announcement of any race shall be conducted as stated in 8.60.390. (Ord. 86 § 1 (part), 1996.)

Section 4. That Lakewood Municipal Code 08.60.150 - Speed Limits shall be modified as follows:

08.60.150 Speed Limits

A. It shall be unlawful to operate a vessel at a rate of speed greater than will permit the operator in the exercise of reasonable care, to bring the vessel to a stop within the assured clear distance ahead; provided, however, it shall be unlawful to operate vessels in excess of five miles per hour, or at a speed which produces a damaging wake, within two hundred feet of any shore, dock, bridge or public swimming area, or within one hundred feet of swimmers or of any vessel, provided further, that it shall be unlawful to operate vessels in excess of eight (8) miles per hour after legal sunset in waters not regulated by the five (5) miles per hour law. (Speeds of over eight (8) miles per hour display a wake behind the vessel.)

B. It shall be unlawful to operate a motor powered vessel or boat at a speed in excess of 60 MPH except during periods of lake congestion. These periods were assessed to be Saturdays, Sundays and holidays during the summer (Memorial Day to Labor Day). During periods of potential congestion, it shall be unlawful to operate any motor powered vessel or boat at a speed in excess of 45 MPH speed limit on the Lake from sunrise to sunset. This section only applies to American Lake.

A violation of this section constitutes a Class 2 Civil Infraction under Chapter 1.48 of the City Code. (Ord. 86 §. 1 (part), 1996.)

Section 5. That Lakewood Municipal Code 08.60.220 – Prevention of Noise shall be modified as follows:

8.60.220 – Prevention of Noise

A. Every motor powered vessel shall at all times be equipped with a functioning underwater exhaust or a properly installed and adequately maintained muffler or other similar device to reduce the sound of engine exhaust, and no person shall use a cut-out, bypass or similar device upon any motor powered vessel or install such equipment for use on a motor-powered vessel used upon any lakes, rivers and all other waters within the corporate boundaries of the City. Nor shall a person use a muffler or pipes with pinched outlets, holes or rusted-through areas, or similar condition or defect where the result of the condition or defect does or could increase the level of noise of the motor-powered vessel over the level that would reasonably result if the motor-powered vessel were equipped with standard and/or properly maintained equipment.

B. It is unlawful for any person to operate upon any lakes, rivers and all other waters within the corporate boundaries of the City, under any condition of speed, load, acceleration, or deceleration in such manner as to exceed noise level of 80 75decibels (dB), as measured from any point on the shoreline of the body of water on using the SAE shoreline testing

procedure on which the vessel is being operated and 70 dB as measured from the water or when moored. The 70 dB noise level measurement shall be done using the SAE stationary test procedure. In addition, except that it shall be is-unlawful for any person to operate upon any lakes, rivers and all other waters within the corporate boundaries of the City any motor-powered vessel between sunset and sunrise, where the noise level exceeds 60 dB as measured using the SAE shoreline test. The noise level measurements shall be taken by a sound level meter at a distance of not less than fifty feet from the motor-powered vessel being operated. All sound measurement will be performed to standards provided in WAC 352-67 Vessel Sound Measurement Procedures.

C. The following types of sounds shall be exempt from this section:

1. Sounds created by safety and protective devices where noise suppression could defeat the intent of the device;
2. Sounds created by a warning device not operating continuously for more than five minutes;
3. Sounds created by emergency equipment for emergency work necessary in the interest of public safety law enforcement for the health, safety, and welfare of the community;
4. Sounds created by ~~the~~ normal docking, undocking and water-skier pick-up and drop-off operations.

D. A violation of this section constitutes a Class 2 Civil Infraction under Chapter 1.48 of the City Code. (Ord. 86 § 1 (part), 1996.)

Section 6. That Lakewood Municipal Code 08.60.230 related to Testing shall be modified as follows:

08.60.230 - Testing

A. When testing, as authorized in this Chapter, the provisions of RCW ~~8-12-089(4)~~ 88.12.085 shall apply to vessels designed for racing that are properly registered with the American Power Boat Association or an affiliate group, and when their registration numbers are plainly visible on the vessel. A helmet and American Power Boat Association approved jacket must be worn by the driver and mechanic if the craft is designed to carry a mechanic. Testing must be approved by and scheduled in advance with the City Manager or his designee. Testing ~~it shall~~ may be done on specific waters at specific times only. (See Section 8.60.490 of this Chapter for areas open and times allowed.)

B. Vessels testing under the provisions specified in this Chapter shall maintain a distance of four hundred feet from the shore or another vessel while speed is in excess of five miles per hour. A vessel testing for a race must follow the rules of the road and the general rules herein. Vessel testing shall be exempt from the speed and noise limitations of Lakewood Municipal Codes 08.60.150 and 08.60.220.

C. No unauthorized person shall operate a vessel or swim, or skin dive, within a testing course during permitted testing operations while an authorized vessel is in the testing course.

D. While testing, there must be an accompanying safety vessel in the water, with rescue personnel on board, to warn unauthorized vessels of the test. The safety vessel shall have on board fire fighting and rescue equipment.

(Ord. 86 § 1 (part), 1996.)

Section 7. That Lakewood Municipal Code 08.60.390 related to regattas, races or aquatic events shall be modified as follows:

08.60.390 - Regattas, Races or Aquatic Events

A. "Regatta" or "race" or "aquatic event" means an organized water event of limited duration, which is conducted according to a prearranged schedule.

B. An individual or organization planning to hold a regatta, race or aquatic event which, by its nature, circumstances or location may introduce extra or unusual hazards to the safety of life on the waters of Lakewood, shall submit an application to the City Manager or designee, which shall be reviewed by the City's chief law enforcement officer, and the directors of other affected departments as determined by the City Manager or designee for approval of application, which shall be sent to the City Manager or designee for final approval.

C. Where such events are to be held regularly or repeatedly in a single area by an individual or organization, the City Manager or designee may, subject to conditions set from time to time by the City Manager or designee, grant a permit for such series of events for a fixed period of time, not to exceed one year.

D. The application shall be submitted no less than ninety days prior to the start of the event.

E. The application shall include the following details:

1. The name and address of sponsoring organization;
2. The name and address and telephone number of persons or persons in charge of the event;
3. Nature and purpose of event;
4. Information as to general interest;
5. Estimated number and types of vessels participating;
6. Estimated number of spectator vessels;

7. Estimated number of persons, participants and all others;
8. Minimum number of vessels and persons furnished by sponsoring organization to patrol event;
9. A time schedule and description of events;
10. A section of a chart or scale drawing showing the boundaries of the event, various water courses or areas to be utilized by participants, officials and spectators.

F. Upon receiving an application to hold a regatta, race or aquatic event, the City's law enforcement agency and such other departments as the City Manager or designee may designate shall take the following actions or make the following determinations:

1. That the proposed regatta, race or aquatic event may be held at the proposed location with safety to life;
2. That the interest of safety of life and property requires changes in the application before it can be approved;
3. That the event requires no regulation or patrol at the proposed location;
4. That the application be recommended for approval or rejection by the City Manager or designee for stated reasons;
5. The application shall be sent with recommendations to the City Manager or designee not less than thirty days prior to event.

G. The City Manager or designee shall require that the sponsoring group post notice in the local paper and/or at the proposed site of the event, prior to taking action on the application. The City Manager or designee may also, before taking action on the application, require the sponsoring organization to petition or poll the property owners on the lake which would be affected by the event.

H. The City Manager or designee may close for general use, any part or whole of a lake for the purpose of the event; provided, the approval of the application is on the condition that all terms specified in the application be met by the sponsoring group.

I. If the chief law enforcement officer of the City or designee deems safety requires, one or more vessels available to the City's law enforcement agency may be assigned to the event for the purpose of enforcing not only the event regulations, but also for assistance work and the enforcement of laws generally. Additionally, where law enforcement services are utilized in connection with a regatta, race or aquatic event, the approval of the application may include reimbursement of the costs of such law enforcement services.

J. Nothing in the provisions of this Article shall be construed to mean that the operator or a vessel competing in a race or regatta or trials ~~therefor~~ ~~therefore~~ which has been duly authorized by the City Manager or designee, or an operator engaged in industrial development and testing of experimental and product vessels, shall be prohibited from attempting to obtain high speed on racing and testing courses duly designated by the City Manager or designee nor while so engaged, shall such vessels or operators be required to comply with RCW 88.12.085.

K. The person sponsoring the race or event or testing vessel shall, prior to obtaining authorization from the City Manager or designee, provide a certificate of insurance showing that the person has obtained public liability and property damage insurance in amounts not less than the minimum set by the City Manager or designee. The City of Lakewood shall be named as an additional insured and shall be notified by the insurer at least twenty days prior to any cancellation of this insurance.

L. The City Manager or designee may charge a fee for services provided under Subsection I of this Section. Such fee shall be from a fee schedule approved by the City Council.

(Ord. 86 § 1 (part), 1996.)

Section 8. That Lakewood Municipal Code 08.60.490 related to Testing Areas and Times shall be modified as follows:

08.60.490 - Testing Areas and Times - Article V. Penalties

Testing areas and allowed times for registered race boats as mentioned in Section 8.60.230 or other approved aquatic events are as follows:

A. American Lake. ~~Saturday from ten a.m. to one p.m.; Wednesday~~ Tuesdays and Thursdays from ~~four~~ three p.m. to ~~seven six~~ p.m. The testing course shall be located at the location approved by the City Manager or designee for applicant organizations on a time and space available basis.

B. Closures. American Lake is closed for testing from December 1st to the last day in February.

(Ord. 86 § 1 (part), 1996.)

Section 9. That all other provisions of chapter 8.60 shall remain in effect.

Section 10. Severability. If any portion of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 11. That this Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary.

ADOPTED by the City Council this 18th day of April, 2005.

CITY OF LAKEWOOD

Douglas G. Richardson, Mayor

Attest:

Alice M. Bush, CMC, City Clerk

Approved as to Form:

Michael McKenzie, Acting City Attorney