Ordinance No. 3342

["Beginning July 1, 1998"]

(Amending or Repealing Ordinances)

Amended by Ord. 3693
AN ORDINANCE of the City Council of the City of Kent, Washington, amending Chapter 4.06 of the Kent City Code entitled "Boating Regulations" relating to recreational vessel and related activities within the City of Kent adopting certain provisions of the Revised Code of Washington and the Washington Administrative Code as a substitute for and in addition to certain provisions of this Chapter and making other related amendments.

WHEREAS, the City Council adopted Chapter 4.06 of the Kent City Code (Ordinance No. 3248 as amended by Ordinance Nos. 3280 and 3291) establishing regulations for recreational vessels and related activities within the City; and

WHEREAS, the City Council finds it appropriate to amend Chapter 4.06 to adopt certain provisions of the Revised Code of Washington, attached to this Ordinance as currently enacted as Exhibit A, and the Washington Administrative Code, attached to this Ordinance as currently enacted as Exhibit B, relating to vessel regulations and by making other amendments; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 4.06 of the Kent City Code entitled "Boating Regulations" is hereby amended to read as follows:
CHAPTER 4.06. BOATING RECREATIONAL VESSEL REGULATIONS.

Sec. 4.06.010. Application of regulations.

The provisions of this chapter shall be applicable to all watercraft recreational vessels and related uses in and upon all lakes within the geographical boundaries of the City of Kent. The provisions of this chapter shall be construed to supplement United States laws and state laws and regulations when not expressly inconsistent therewith.

Sec. 4.06.020 Revised Code of Washington provisions adopted by reference.

A. The following provisions of Chapter 88.02 of the Revised Code of Washington, (RCW) entitled "Vessel Registration" as currently enacted and as hereinafter amended, are hereby adopted by reference and incorporated herein:

- RCW 88.02.020 Registration and display of registration number and decal prerequisite to ownership or operation of vessel - Exemptions.
- RCW 88.02.025 Registration of vessels numbered under the federal boat safety act.
- RCW 88.02.030 Exceptions from vessel registration.
- RCW 88.02.090 Inspection of registration - Violation of chapter.
- RCW 88.02.110 Penalties - Disposition of moneys collected - Enforcement authority.

B. The following provisions of Chapter 88.12 of the Revised Code of Washington, (RCW) entitled "Regulation of Recreational Vessels" as currently enacted and as hereinafter amended, are hereby adopted by reference and incorporated therein:

- RCW 88.12.015. Violations of chapter punishable as misdemeanor - Circumstances - Violations designated as civil infractions.
- RCW 88.12.025. Operation of vessel in a reckless manner - Operation of a vessel under the influence of intoxicating liquor - Penalty.
RCW 88.12.035.  Failure to stop for law enforcement officer.
RCW 88.12.055.  Enforcement - Chapter to supplement federal law.
RCW 88.12.075.  Tampering with vessel lights or signals - Exhibiting false lights or signals - Penalty.
RCW 88.12.085.  Muffler or underwater exhaust system required - Exemptions - Enforcement - penalty.
RCW 88.12.105.  Failure of vessel to contain required equipment - Liability of operator or owner - Penalty.
RCW 88.12.115.  Personal flotation devices required - Penalty.
RCW 88.12.135.  Loading or powering vessel beyond safe operating ability - Penalties.
RCW 88.12.145.  Operation of personal watercraft - Prohibited activities - Penalties.

Sec. 4.06.030  Washington Administrative Code provisions adopted by reference

The provisions of Chapter 352-60 of the Washington Administrative Code (WAC), as currently enacted and as hereinafter amended, are hereby adopted by reference and incorporated herein.

Sec. 4.06.02040.  Definitions.

For the purpose of this chapter, in addition to the definitions set forth in Section 88.12.010 of the Revised Code of Washington adopted above, the following terms shall have the meaning ascribed in this section:

A. "Authorized emergency watercraft vessel" means any authorized watercraft vessel of the City's police or fire departments, the United States government, and State of Washington authorized patrol boats or watercraft vessels.

B. "City" means the City of Kent.
C. "Obstruction" means any matter which may in any way blockade, interfere with or endanger any watercraft vessel or impede navigation including but not limited to rafts, log booms, trees, lumber, and other similar material or objects.

D. "Oil" means any oil or liquid, whether of animal, vegetable or mineral origin, or a mixture, compound or distillation thereof.

E. "Operator" means a person who is in control or in charge of a vessel or watercraft while it is in use.

F. "Owner" means the person who has lawful possession of a watercraft or obstruction by virtue of legal title or equitable interest therein which entitles him or her to such possession.

EG. "Person," when necessary, means and includes natural persons, associations, copartnerships and corporations, whether acting by themselves or by a servant, agent or employee; the singular number, when necessary, means the plural, and the masculine pronoun includes the feminine.

FH. "Pier" means any pier, wharf, dock, float, gridiron or other structure to promote the convenient loading or unloading or other discharge of watercraft vessel, or the moorage of watercraft vessel.

Gh. "Police" or "Police Department" means the Police Department of the City of Kent.

HJ. "Restricted area" means an area that has been marked in accordance with and as authorized by the law or regulations of the City, to be used for certain designated purposes such as swimming and aquatic events or otherwise closed to use by watercraft vessels, the method of marking and designation of which shall have been made by the City in accordance with the provisions of this chapter.

JK. "Skin diving" means any free swimming person and/or any person who uses an artificial or mechanical means to replace his or her air, including self-contained underwater breathing apparatus (SCUBA diving), snorkel tube equipment and free diving gear.
I. "Vessel" includes, but is not limited to, rowboat, sailboat, sailboard, canoe, kayak, powerboat, ski boat, personal watercraft and other similar watercraft.

II. "Watercraft" means every description of boat, vessel, personal watercraft or similar craft:

1) twelve feet or greater with a beam of four feet or more or
2) equipped with motor power meaning motor propulsion machinery or an internal combustion engine regardless of length or beam, used or capable of being used as a means of transportation on water, or required to be registered by the Boat Safety Act of 1971. PROVIDED THAT this definition shall not include authorized emergency watercraft or other authorized watercraft or craft used for public safety or emergency and rescue purposes.

M. "Water ski" or "water skiing" means all forms, manners or means of person or persons being towed behind a motor powered watercraft, including, but not limited to, skis, tubes, surfboards or similar contrivance.

Sec. 4.06.03050. Motor powered watercraft-vessels prohibited - Exception

Except on lakes otherwise specifically provided for in this chapter, no motor powered watercraft-vessels shall be operated on any lake within the City.

Sec. 4.06.040. Negligent operation.

No person shall negligently operate any watercraft in a manner so as to endanger or be likely to endanger any person or property or at any rate of speed greater than will permit him or her in the exercise of reasonable care to bring the watercraft to a stop within the assured clear distance ahead. A violation of this section shall constitute a misdemeanor as defined in this chapter.

Sec. 4.06.050. Reckless operation:

No person shall operate any watercraft in a reckless manner so as to endanger the life or limb, or damage the property of any person. A violation of this section shall constitute a gross misdemeanor as defined in this chapter.
Sec. 4.06.060. Required distance from power-craft motor powered vessels to swimmers and row boat other vessels.

Except as provided in Section 4.06.200(A)3, it is unlawful for any motor powered watercraft vessel to be operated while the propeller is engaged within fifty feet of any swimmer or any row boat, canoe or other water conveyance vessels.

Sec. 4.06.070. Dumping trash in lakes prohibited.

The dumping, depositing, placing or leaving of any garbage, ashes, debris, brush or other material into any lake, is prohibited.

Sec. 4.06.080. Floating objects adrift.

All watercraft vessels, or any other articles of value found adrift in any lake in the City, may be taken into possession and removed by the police or other authorized City official or agent and shall be subject to reclamation by the owner thereof, on payment by him or her to the City of any expenses incurred by the City and in case of failure to reclaim may be sold or disposed of according to law.

Sec. 4.06.090. Sunken watercraft vessels.

When any watercraft vessel or obstruction has been sunk or grounded, or has been delayed in such manner as to stop or seriously interfere with or endanger navigation, the police may order the same immediately removed and if the owner, or other person in charge thereof, after being so ordered, does not proceed immediately with such removal, the police or other authorized city official or agent may take immediate possession thereof and remove the same, using such methods as in his or her judgment will prevent unnecessary damage to such watercraft or obstruction, and the expense incurred by the City in such removal shall be paid by the owner or other person in charge of such watercraft vessel or obstruction; and in case of failure to pay the same, the City may maintain an action for the recovery thereof.

Sec. 4.06.100. Intoxication.

A. It is unlawful for any person who is under the influence of intoxicating liquor or drugs to operate or be in actual physical control of any watercraft.
**AB.** It is unlawful for the owner of any watercraft vessel or any person having charge or control of such to authorize or knowingly permit the same to be operated by any person who is under the influence of intoxicating liquor or drugs.

**BC.** Whenever it appears reasonably certain to any police officer that any person under the influence of, or affected by the use of, intoxicating liquor or of any drug is about to operate a watercraft vessel in violation of subsection A above, said officer may take reasonable measures to prevent any such person from so doing.

**CD.** A violation of this section shall constitute a gross misdemeanor as defined in this chapter.

**Sec. 4.06.110. Incapacity of operator.**

It is unlawful for the owner of any watercraft vessel or any person having charge or control of such to authorize or knowingly permit the same to be operated by any person who by reason of physical or mental disability is incapable of operating such watercraft vessel under the prevailing circumstances.

**Sec. 4.06.120. Accidents.**

The operator of any watercraft vessel involved in an accident resulting in injury or death to any person or in damage to property shall immediately stop such watercraft vessel at the scene of such accident and shall give his or her name, address, and the name and/or number of his or her watercraft vessel, and the name and address of the owner, to the person struck or the operator or occupants of the watercraft vessel collided with or property damaged, and shall render to any person injured in such accident reasonable assistance.

**Sec. 4.06.130. Accident reports.**

The owner or operator of any watercraft shall file a written report within forty-eight hours with the police department of any accident involving death or personal injury requiring medical treatment or property damage in excess of two hundred dollars in which such watercraft shall have been involved on any lake of the City.

**Sec. 4.06.140. Overloading.**

A. No watercraft shall be loaded with passengers or cargo beyond its
safe carrying capacity nor carry passengers in an unsafe manner taking into consideration weather and other existing operating conditions.

B. Whenever it appears reasonably certain to any police officer that any person is operating a watercraft loaded beyond its safe capacity, said officer may take reasonable measures to prevent any such person from so operating the craft.

Sec. 4.06.150.140. Watercraft Vessel operation within or bordering park property.

No person shall have, keep or operate any boat, float, raft, or watercraft vessel in or upon any lake, within the limits of any park property, or launch the same at any point upon the shores thereof bordering upon any park property, except at places set apart for such purposes by the parks and recreation department and so designated by signs.

Sec. 4.06.160.150. Restricted areas.

In the interests of safe navigation, life safety and the protection of property, the city may designate restricted areas and the purpose for which same shall be used on any lake authorized for watercraft vessel use. No person shall operate a watercraft within a restricted area; provided, that this section shall not apply to watercraft vessels engaged in or accompanying the activity to which the area is restricted, nor to patrol or rescue craft or in the case of an emergency.

Sec. 4.06.170.160. Swimming - Lake Meridian.

A. Swimming in Lake Meridian shall be confined to:

1. Restricted swimming areas, or
2. To within a distance of fifty feet from the shore, or a pier, or an occupied vessel accompanying the swimmer in the water, except when the swimmer is accompanied by a watercraft relative to water skiing or related watercraft activities.

B. Use of inflatable flotation or similar devices, not propelled by instruments such as oars and paddles, including, but not limited to tubes, boards and inflatable rafts, are only allowed within a distance of fifty feet from shore in non-designated swimming areas.

C. No person shall cause to be tied to any marker buoy, any watercraft, boat or similar craft or flotation device such as a tube, board or inflatable raft.
D. No person shall give or transmit a false signal or false alarm of drowning in any manner.

E. The Director of Parks and Recreation may establish the hours for lifeguard supervised swimming and may establish rules and regulations for use within or adjacent to designated swim areas.

Sec. 4.06.180170. Skin diving.

Skin diving shall be prohibited in all lakes in the City except as necessary for public employees and their agents or other authorized personnel to perform their duties or in the case of an emergency.

Sec. 4.06.190180. Water skiing.

Water skiing is prohibited on all lakes within the City except for Lake Meridian which shall be regulated as set forth in Section 4.06.240200.

Sec. 4.06.200190. Lake Fenwick - Motor-powered watercraft vessel prohibited - Exception.

It is unlawful to use or operate any watercraft vessel with motor power on Lake Fenwick, except electric fishing trolling motors, and except as necessary for public employees and their agents or construction company employees to perform their authorized duties or in case of an emergency.

Sec. 4.06.210200. Lake Meridian - Motor powered watercraft vessel restrictions - water skiing and personal watercraft operation.

A. Generally. The following rules and regulations are adopted for the use of motor-powered watercraft vessels on Lake Meridian:

A.1. It is unlawful to use or operate any watercraft vessel powered by motor power on Lake Meridian, except that watercraft vessels with the following engines will be permitted:

A.1.a. Water-cooled outboard engines of stock manufacture or stock manufactured inboard engines with outboard drive units (inboard-outboards inboard/outboards) which vent all exhaust gases through the lower drive unit in conjunction with cooling water and/or vent at a point on the drive unit which is under water at all times;
or watercooled direct drive inboard engines equipped with a muffler or silencer of sufficient size and capacity, to effectively muffle and reduce noise similar to that of outboards and inboard/outboards. This includes both propeller and jet propulsion watercraft.

2-b. Air-cooled outboard or inboard engines of stock manufacture rated by the manufacturer at ten horsepower or less.

3-c. Electric fishing trolling motors.

B. It is unlawful to operate any watercraft powered by engines which are worn, damaged or modified in such a manner as to permit the noise level of exhaust gases or air intake devices to be increased above seventy-four decibels on the dB(A) scale is prohibited.

C-2. No watercraft vessel shall operate in excess of eight miles per hour after 6:00 p.m. until the hour of 9:00 a.m. and not in excess of thirty-five miles per hour from 9:00 a.m. to 6:00 p.m.

D-3. Watercraft vessels exceeding speeds of eight miles per hour shall remain at least two hundred feet from the shoreline and one hundred feet from other watercraft vessels and swimmers and shall proceed around the lake in a counterclockwise direction.

E-4. All boats vessels operating on Lake Meridian shall carry United States Coast Guard approved personal flotation devices in good condition for each person in the watercraft vessel.

F-5. Motor-powered watercraft vessels operating after sundown shall be equipped with and have lit proper running lights.

G-6. The anchorage or moorage of unoccupied watercraft vessels is prohibited except when tied to a pier or dock with the permission of the owner of the pier or dock.

H-7. No remote controlled watercraft vessels powered by internal combustion engines shall operate before 9:00 a.m. or after 6:00 p.m.
Skin diving is prohibited except as necessary for public employees and their agents or other authorized personnel to perform their duties or in the case of an emergency.

Waterskiing. The following regulations apply to all water skiing activities as defined in RCW 88.12.010(22) including, but not limited to, being towed behind a vessel on skis, an aquaplane, kneeboard, tube, or similar device:

1. Water skiing on the lake at speeds up to and including eight miles per hour is permitted any time between dawn and dusk.

2. Water skiing on the lake at speeds over eight miles per hour shall be limited to the hours of 9:00 a.m. to 6:00 p.m.

3. Water skiing will be limited to the hours of 9:00 a.m. to 6:00 p.m.

4. It is unlawful to water ski within three hundred feet of shore except as follows: a) from privately owned shoreline, water skiers may start at and return to shore by means of the most expeditious route; b) from City owned shoreline, water skiers may start or return (deep water start) from a distance of 200 feet or greater from shore but are prohibited from starting or stopping within 200 feet of shore. For purposes of this provision, City owned shoreline includes the swimming beach and boat launching areas of the park. For purposes of starting at and returning to shore as authorized herein, water skiers may temporarily exceed the speed limit of eight miles per hour.

5. Watercraft towing persons on water skis, tubes, surfboards, or similar contrivance shall carry a competent observer in addition to the driver or operator.

6. All persons on water skis, tubes, surfboards or similar contrivance shall wear a United States Coast Guard approved personal flotation device.

7. All persons in watercraft vessels towing persons on water skis, tubes, surfboards, or similar contrivance shall remain seated at all times.

8. All operators of watercraft vessels having in tow or otherwise assisting a person on water skis, tubes, surfboards or similar contrivance shall comply with Sections 4.06.040, 4.06.050 and 4.06.060.
7.6. Regulations stated in this subsection shall not apply to watercraft vessels used in water ski tournaments, competitions, expositions, or trials therefore, which have been duly authorized by the City.

Sec. 4.06.220. Equipment and numbering.

All watercraft shall carry the equipment required by any applicable United States laws as now or hereafter amended, and shall be numbered or designated in accordance with any applicable United States laws as now or hereafter amended.

Sec. 4.06.230. Life preservers and running lights.

Federal regulations covering equipping of watercraft with life preservers for each passenger, and also use of running lights for night operation, shall be strictly complied with.

Sec. 4.06.210. Personal floatation devices, equipment, and navigation lights.

All vessels operating on navigable waters in the City of Kent shall be equipped as required pursuant to the following provisions:

WAC 352-60-030. Personal flotation devices required.
WAC 352-60-050. Ventilation.
WAC 352-60-080. Fire extinguisher required.
WAC 352-60-090. Backfire flame control.

Sec. 4.06.240. Oil.

No owner, operator or other person in charge of any watercraft vessel, and no person along or upon the shore of the waters of the City, shall spill, throw, pump or otherwise cause oil of any description to be or float upon the waters of the City. Any person causing oil to be upon the waters of the City as aforesaid shall remove the same and upon his or her failure to do so, the same may be removed by the City or other appropriate agency and the expense thereof shall be paid by and recoverable from the person causing said oil to be upon the water. The payment of such sum or the maintenance of an action
therefore, shall not be deemed to exempt such person from prosecution for causing such oil spillage. Any willful violation of this section shall constitute a misdemeanor as defined in this chapter.

Sec. 4.06.250230. Nuisances.

Sunken watercraft vessels, refuse of all kinds, structures or pieces of any structure, timber, logs, piles, boom sticks, lumber, boxes, empty containers and oil of any kind floating uncontrolled on the water, and all other substances or articles of a similar nature, are hereby declared to be public nuisances and it is unlawful for any person to throw or place in, or cause or permit to be thrown or placed, any of the above named articles or substances in any lake in the City, or upon the shores thereof or in such position that same may or can be washed into said lakes of the City, either by storms, floods, or otherwise. Any person causing or permitting said nuisances to be placed as aforesaid shall remove the same and upon his or her failure to do so, the same may be removed by the City or other appropriate agency and the expense thereof shall be paid by and recoverable from the person creating said nuisance. In all cases such nuisances may be abated in the manner provided by law. The abatement of any such public nuisances shall not excuse the person responsible therefore from prosecution hereunder. A violation of this section shall constitute a civil violation under Kent City Code chapter 1.04 for which a monetary penalty may be assessed and abatement may be required as provided therein. In addition to or as an alternative to enforcement under chapter 1.04, any person who violates this section shall be guilty of a misdemeanor as provided in this chapter.

Sec. 4.06.260240. Public health.

All watercraft vessels entering or in any lake in the City shall comply with the applicable public health laws and regulations of the United States, the state of Washington and its political subdivisions.

Sec. 4.06.270250. Liability for damages.

Nothing in this chapter shall be construed so as to release any person owning or controlling any watercraft vessel, pier, obstruction or other structure, from any liability for damages, and the safeguards to life and property required in this chapter shall not be
construed as relieving any person from installing and maintaining all other safeguards that may be required by law.

Sec. 4.06.280. Authorized emergency and patrol watercraft vessels.

The provisions of this chapter shall be applicable to the operation of any and all watercraft vessels on any lake in the City except that they shall not apply to any emergency and patrol watercraft performing the authorized duties for which such emergency and patrol watercraft vessels were established.

Sec. 4.06.290. Directing traffic, restricting watercraft vessel speed, suspending activities, emergency powers.

A. The police are hereby authorized to direct all watercraft vessel traffic on Lake Meridian either in person or by means of visible or audible signal in conformance with the provisions of this chapter; provided, that where necessary to expedite watercraft vessel traffic, or to prevent or eliminate congestion or to safeguard persons or property, such officers and other authorized officers of appropriate governmental agencies or authorities, may direct watercraft vessel traffic as conditions may require, notwithstanding the provisions of this chapter.

B. The Parks Director, or his or her designee, may restrict watercraft vessel speed or suspend any or all watercraft vessel activities on Lake Meridian due to natural disasters, conditions on the lake such as flooding, high water, or other events, conditions, or occurrences when, in the discretion of the Parks Director, such is deemed necessary to protect persons or property from injury or damage.

Sec. 4.06.300. Penalties.

The following penalties shall apply for violations of this chapter.

A. Civil Penalty Infraction. Except as provided in Subsections B and C below or as otherwise provided in this chapter, a violation of any of the provisions of this chapter shall constitute a civil violation an infraction for which a monetary penalty may be assessed in the amount of one hundred dollars ($100.00). Pursuant to Chapter 7.84 RCW, any violation of the provisions of Chapter 88.12 RCW adopted herein which constitutes an infraction shall be assessed a monetary penalty as established in the penalty schedule.
currently set forth and as hereinafter amended in Court Rule IRLJ 6.2 adopted herein by reference. Each separate day, or portion thereof, during which any violation occurs shall constitute a separate violation.

B. **Misdemeanor.** Any violation of any provision established in this chapter which constitutes a misdemeanor shall be punishable by a fine not to exceed one thousand dollars ($1,000.00) or by imprisonment not to exceed ninety (90) days or by both such fine and imprisonment. Each separate day or portion thereof during which such violation occurs shall constitute a separate violation.

C. **Gross Misdemeanor.** Any violation of any provision established in this chapter which constitutes a gross misdemeanor shall be punishable by a fine not to exceed five thousand dollars ($5,000.00) or by imprisonment not to exceed one year, or by both such fine and imprisonment. Each separate day or portion thereof during which such violation occurs shall constitute a separate violation.

**Sec. 4.06.310290. Authority of officers to board watercraft vessels.**

Commissioned officers of the City are hereby given the authority to board any watercraft vessel found underway on any lake of the City for the purpose of inspection and enforcement of this chapter.

**Sec. 4.06.320300. Interlocal cooperation.**

Nothing in this chapter shall preclude the City from entering into interlocal agreements with cities and towns for the administration and enforcement of this chapter.

**Sec. 4.06.330310. Enforcement.**

It shall be the duty of the police department or other city department or official as authorized by the mayor to enforce all sections of this chapter.

**SECTION 2. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.
SECTION 3. Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage, approval and publication as provided by law.

JIM WHITE, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED 1st day of April, 1997.

APPROVED 2nd day of April, 1997.

PUBLISHED 4th day of April, 1997.

I hereby certify that this is a true copy of Ordinance No. 3342, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER (SEAL)
BRENDA JACOBER, CITY CLERK