

Pend Oreille County

Boating Safety Ordinance No. 2001-01

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.101 DEFINITIONS:

Boating Accident: Means a collision, sinking, fire, explosion, injury, or loss of life that involves a vessel, its equipment or its appendages.

Boat Livery: Means any business, which holds any vessel for renting or leasing.

Buoy: Means a floating device or marker anchored in the water.

Buoy Line: Means a straight line that would exist if drawn between the closest safety buoys.

D.B.A.: Means the sound level measured in decibels using the "A" weighted network.

Commercial Vessel: Means any watercraft used primarily for profit.

"Darkness" means that period between sunset and sunrise.

Dock: Means any man-made platform extending from the shoreline into the water.

Recreational Flotation Device: Means any device used or capable of being used on the water and shall include, but not be limited to, inflatable beach toys, rubber inner tubes, rafts and air mattresses.

"Reckless" or "recklessly" means acting carelessly and/or heedlessly in a willful and wanton disregard of the rights, safety or property of another.

Mooring Buoy: Means a buoy placed for the mooring of vessels. Such buoys will be white with a blue stripe on top.

Motorboat: Means any vessel propelled in whole or part by machinery, including those temporarily equipped with detachable motors, to include Personal Watercraft.

Moving Water: Means a waterway, which has a flow of water, which can be measured in cubic feet per second.

Navigation Lights: Means a red port light and a green starboard light and a white stern light visible at a distance as set forth in .110 herein.

Non Motorized Vessel: Means a vessel that is not equipped with any motorized means of propulsion

Observer: Means the individual riding in a vessel whom is responsible for observing a water skier at all times. The "observer" shall be considered competent to accomplish this task.

Operator: Means an individual who steers, directs or otherwise has physical control of a vessel that is underway or exercises actual authority to control the person at the helm.

Owner: Means a person who has a lawful right to the possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

Personal Flotation Device (PFD): Means a buoyancy device, life preserver, buoyant vest, ring buoy, or buoy cushion, that is designed to float a person in the water and that is approved by the United States Coast Guard.

Personal Watercraft: Means a vessel of less than sixteen feet that uses a motor powering a water jet pump, as its primary source of motive power and that is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel, rather than in a conventional manner of sitting or standing inside the vessel.

Port: Means the left side of vessel

Registration: All vessels operating in Pend Oreille County shall be registered/licensed so as to comply with Federal, U.S. Coast Guard, and Washington State law. (RCW 88.02)

Restricted Area: Means those areas on the waters of Pend Oreille County that have restricted access, are marked with speed restrictions, and /or are marked with safety buoys/ signs.

Safety Buoy: Means a buoy placed to regulate or control vessel speed of operations as required for the safety of the public.

Sailboat: Means any vessel propelled primarily by the wind.

Sheriff: Means the Pend Oreille County Sheriff or his designated Deputy Sheriff.

Shoreline: Means the existing intersection of water with the ground surface or any permanent shore connected facility.

Ski or Swimming Dock: Means a man-made platform anchored to the bottom of a body of water and surrounded on all sides by water, and adequately marked for safety and visibility.

Sound Level: Means the weighted sound pressure level measured by the use of a metering characteristic and weighted as specified in American Standards Institute Specifications, Section 1.04, 1971.

Starboard: Means the right side of vessel.

Use: Means to operate, navigate, or employ.

Vessel: Includes every description of watercraft on the water, used or capable of being used as a means of transportation on the water. However, it does not include those items listed in .09 Recreational Flotation Device.

Wake Speed: Means a slow speed producing no wake and further does not exceed five miles per hour (5mph)

Waterway: Means any waters, waterway, lake, river tributary canal, lagoon, or connected waters within the unincorporated boundaries of Pend Oreille County, Washington.

.020 Accident Reporting:

(01) In the case of a boating accident, it shall be the duty of the operator, if he/she can do so without serious danger to him/herself or other persons on board, to render any assistance that may be necessary to other persons affected by such boating accident.

(02) Any person who complies with this chapter or who gratuitously and in good faith renders assistance at the scene of a boating accident, without objection of any person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act or omission in providing of arranging salvage, towage, medical treatment, or other assistance where the assisted person acts in an ordinary and reasonably prudent manner as most any person would act in the same or similar circumstance.

(03) Every accident involving a vessel on the waters of Pend Oreille County in which there is personal injury or death or damage to property in excess of two hundred dollars shall be reported to the Pend Oreille County Sheriff's Department by the vessel operator unless deceased. In which instance a passenger in the vessel, if any, shall have such duty. The Pend Oreille County Sheriff shall provide forms upon which the report shall be rendered.

(04) When, as a result of an occurrence (that involves a vessel or its equipment) a person dies or disappears from the vessel, the operator, unless deceased (in which case a passenger, if any) shall without delay notify the Pend Oreille County Sheriff with the following information:

- (a) The date, time and exact location of the occurrence;
- (b) The name of each person who dies, disappears
- (c) The number and/or the names of the vessels involved; and
- (d) The names and addresses of the owner and operator of each vessel or vessels involved. And the names and addresses of all persons involved in the incident.

(05) Boating accident reports, shall be rendered within twenty-four (24) hours of the occurrence.

.030 Authority to board:

The Sheriff is hereby given the authority to stop and board any vessel found underway on the waters of Pend Oreille County and direct it to a suitable dock, pier or anchorage for the purpose of inspection and to enforce this chapter.

.040 Burdened Vessel Duty:

(01) Every Vessel which is directed by this chapter or Washington State law to keep out of the way of another vessel shall, if the circumstances permit, avoid crossing ahead of the other.

(02) Every vessel which is directed by this chapter or Washington State law to keep out of the way of another vessel shall, on approaching it, if necessary, slacken it's speed or stop or reverse.

.050 Divers, Snorkelers:

Scuba Divers and Snorkelers when outside no-wake zones shall use a floating diver's flag, which is red with a white diagonal stripe. Boats accompanying divers, or snorkelers must display a diver's flag. Moving vessels shall allow 200 feet distance from a diver's flag pursuant to the U.S. Coast Guard Rules and Regulation. Measurements for a diver's flag (pursuant to Federal Law) shall be 14" X 16" in size.

.060 Emergency Vessels:

(01) All vessels operating on the waterways of Pend Oreille County shall yield the right-of-way to law enforcement vessels displaying a bright blue flashing light and/or siren.

(02) Any person operating a vessel on the water of the Pend Oreille county shall bring his/her vessel to a stop when directed to do so by a law enforcement vessel displaying a bright flashing light and/or siren.

.070 Especially Hazardous conditions:

(01) If the Sheriff observes a vessel being used without sufficient life-saving or fire-fighting devices or in an overloaded or other unsafe conditions as defined in this chapter, and in his/her judgement such use creates an especially hazardous condition, he/she shall direct the operator to take whatever immediate and reasonable action as may be necessary for the safety of those aboard the vessel, including directing the operator to return to mooring and remaining there until the situation creating the especially hazardous condition is corrected or ended.

(2) For the purpose of this chapter, " other unsafe conditions" means a vessel which:

- (a) Does not display navigation lights when required (sunset to sunrise); or as set forth in .110
- (b) Has fuel leakage from the engine or fuel system; or
- (c) Has an accumulation of fuel in the bilge's or a compartment other than a fuel tank; or
- (d) Does not have a serviceable flame arrester when required; or
- (e) Does not meet the ventilation requirements for fuel tanks and engine spaces; or
- (f) Does not have a PFD for each person on the vessel. Each PFD shall be in a serviceable condition, of an appropriate size and readily available.

(3) If the vessel is a for-hire vessel from a boat livery, it shall be the obligation of the lessee to insure proper vessel loading and that all safety equipment required by this chapter is present.

.080 Fire Extinguisher required:

(1) Every vessel with a motor, except vessels with an outboard motor, less than twenty-six feet in length and of open construction, shall carry on board, fully charged and in serviceable condition the following hand portable United States Coast Guard approved fire extinguishers:

(a) Motorboats with no fixed fire extinguishing system in the machinery space and which are:

- (i) Less than twenty-six feet in length - one extinguisher.
- (ii) Twenty-six feet but less than forty feet in length - two extinguishers.
- (iii) Forty feet or longer in length - three extinguishers.

(b) Motor boats with a fixed extinguishing system in the machinery space and which are;

- (i) Less than twenty-six feet, no hand portable extinguisher required.
- (ii) Twenty-six feet or longer in length, but less than forty feet in length, one extinguisher.
- (iii) Forty feet or longer in length, two extinguishers.

(2) The fire extinguishers required by this section are class B-1 as described in Title 46, Code of Federal Regulations, 25.30, however, one Class B- described in that regulation may be substituted for two Class B-1 extinguishers.

090 Flame Arrester

(01) Every vessel equipped with an inboard engine installed after April 25, 1940 shall be equipped with a back-fire flame arrester except:

(b) Where the location of the engine will disperse backfire flame to the open atmosphere clear of the vessel, persons on board, nearby vessels, and structures.

(02) Flame arrester's must be in serviceable conditions, securely mounted with flame tight connections and have no separation of the grid elements.

. 100 Garbage and Sewage:

(01) No person shall discharge sewage into the waterways of Pend Oreille County directly or indirectly from any vessel. The operator of the vessel shall be held liable.

(02) It shall be a violation of this section for any person, while on the waterways of Pend Oreille County to throw or discard into the water any waste, debris, refuse, oil, garbage, or other fluid or solid material which may pollute the water, or which may create or aggravate any conditions deleterious to the public health.

.110 Lighting:

(01) Every non-motorized vessel that is underway after sunset and before sunrise shall be capable of producing a white light that emanates 360 degrees and is visible from up to two miles when optimum weather conditions exists. The light shall be temporarily displayed as needed in sufficient time to prevent a collision.

(02) Every motorized vessel powered by less than 25 horse power and less than sixteen (16) feet that is underway after sunset and before sunrise shall be capable of producing a white light that emanates 360 degrees and is visible from up to two miles when optimum weather conditions exists. The light shall be temporarily displayed as needed in sufficient time to prevent a collision.

(03) When any vessels are underway on any waterway of Pend Oreille County between the hours of sunset and sunrise the required lighting systems shall be serviceable and operating.

(04) Every motorized vessel powered by greater than 25 horse power and/or greater than sixteen (16) feet in length but less than twenty-six (26) feet in length that is underway after sunset and before sunrise shall be equipped with the following lights:

(a) A bright white light aft to show all around the horizon (32 points of the compass) and be visible for two miles; and

(b) A combination light in the forepart of the vessel that is lower than the white light aft. The combination light (which shows green to starboard and red to port) is fixed to throw the light from dead ahead to two (2) points abaft the beam on respective sides and shall be visible for a distance of one mile.

(05) Every motorized vessel that is greater than twenty-six (26) feet but less than sixty-five (65) feet in length that is underway after sunset and before sunrise shall be equipped with the following lights:

- (a) A bright white light in the forepart of the vessel as near the stern as practicable. This light shall show an unbroken light over twenty-point (20) arc of the horizon and shall be so located so as to show dead ahead and two (2) points abaft the beam on either side, visible for two miles; and;
- (b) A second bright white light aft, fixed higher than the white light forward and visible all around the horizon, and visible for two miles; and
- (c) Separate lights showing from dead ahead to two (2) points abaft the beam on either side, these lights showing green on the starboard and red on the port side, visible for one mile. These sidelights shall be fitted with inboard screens that are high enough to keep the lights from being seen across the bow.

(06) Vessels greater than sixteen (16) feet and less than twenty-six (26) feet in length, when propelled by sail alone, underway between sunset and sunrise shall be equipped with the following lights:

- (a) A combination light in the forepart of the vessel visible for one mile which shows green to the starboard and red to the port, showing from deadhead to two (2) points abaft the beam on either side of the vessel and
- (b) A combination white twelve-point (12) stern light visible for at least two miles is optional. If there is no 12-point light there shall be a white light source available that emanates 360 degrees and is visible for two miles and ready to be exhibited in time to prevent a collision.

(07) Vessels greater than twenty-six (26) feet in length but not more than sixty-five (65) feet, when propelled by sail alone, underway between sunset and sunrise shall be equipped with the following:

- (a) Separate side lights visible for one mile showing green on the starboard side and red on the port side;
- (b) A white twelve-point (12) stern light visible for at least two miles is optional. If there is no twelve (12) point light, there shall be a white light source available that emanates 360 degrees and is visible for two miles and ready to be exhibited in time to prevent a

collision.

.120 Milfoil Control Requirements:

It shall be the responsibility of every vessel operator to remove all aquatic plant fragments from his/her vessel, trailer and vehicle prior to leaving or launching at a launch area. Failure to remove all aquatic fragments is a violation of this section.

.130 Mooring at private docks without permission:

No person shall moor a vessel to a private seawall, dock or pier unless licensed, invited or otherwise privileged to do so; or beach a vessel upon private property if notice against trespass is personally communicated to the owner or operator of the vessel by the owner of the private beach or some other authorized person, or if notice is given by posting in a conspicuous manner. In any prosecution under this section, it is an affirmative defense that the actor reasonably believed that the owner of the premises of other person authorized to license access thereto, would have licensed him or her to enter or remain.

.140 Motorboats Crossing:

When two motorboats are crossing, so as to involve the risk of collision, the vessel, which has the other vessel on her starboard side shall keep out of the way of the other. The vessel being yielded to shall maintain her course and heading.

.150 Negligent Operation:

A person shall not operate a vessel in a negligent manner on the waterways of Pend Oreille County. For the purpose of this section "operate in a negligent manner" means operating a vessel in a disregard of careful and prudent operation, or disregard of careful and prudent rates of speed that are no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, size of the lake or body of water, freedom from obstructions to view ahead, effects of vessel wake, and so as not to unduly or unreasonably endanger life, limb, property or other rights of any person entitled to the use of such waters. Except as provided in section 370 of this ordinance a violation of this section is an infraction. (\$300)

.160 Operator Age Requirements:

(01) No person under the age of ten (10) years shall be allowed to operate a motorboat.

(02) Persons ten through fifteen (10 – 15) years of age may operate a motorboat of ten (10) horsepower or less, or a motorboat of greater than ten (10) horsepower if under the direct supervision and control of a person at least eighteen (18) years of age, who is also in the vessel and is capable of safely operating such vessel, except that persons under sixteen (16) years of age, who are under the direct supervision of a person at least eighteen (18) years of age, may operate a motorboat if such vessel is operated as part of an authorized race or competition or has been granted a watercraft test permit.

.170 Operating a vessel in a reckless manner – under the influence of intoxicants.

(01) It shall be unlawful for any person to operate a vessel in a reckless manner on the waterways of Pend Oreille County.

(02) It shall be a violation for a person to operate a vessel while under the influence of intoxicating liquor or any drug. A person is considered to be under the influence of intoxicating liquor or any drug if:

(a) The person has 0.08 grams or more of alcohol per two hundred ten liters of breath, as shown by analysis of the person's breath made under RCW 46.61.506; or

(b) The person has 0.08 percent or more by weight of alcohol in the person's blood, as shown by analysis of the persons blood made under RCW 46.61.506; or

(c) The person is under the influence of or affected by intoxicating liquor or any drug; or

(d) The person is under the combined influence of or affected by intoxicating liquor and any drug.

The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of the state shall not constitute a defense against any charge of violating this section. A person cited under this subsection may upon request be given a breath test for blood alcohol or may request to have a blood sample taken for blood alcohol analysis. An arresting officer shall administer field sobriety tests when circumstances permit.

(03) A violation of this section is a misdemeanor, punishable as provided under RCW 9.92.030. In addition, the court may order the defendant to pay

restitution for any damages or injuries resulting from the offense, or costs incurred by law enforcement to include booking fees and mileage.

.180 Overtaking Vessels:

(01) Notwithstanding anything contained in this chapter, every vessel overtaking any other shall keep out of the way of the overtaken vessel.

(02) Every vessel coming up on another vessel from any direction more than two point aft her beam, that is, in such a position, with reference to the vessel which she is overtaking that at night she would be unable to see the other vessels sidelights, shall be deemed to be the overtaking vessel, and no subsequent alteration of the bearing between the two vessels shall make the overtaking vessel a crossing vessel within the meaning of this chapter or relieve her of the duty of keeping clear of the overtaken vessel until she is finally passed and clear.

(03) If the overtaking vessel is uncertain whether she is forward or abaft from his direction from the other vessel, she should assume that she is the overtaking vessel and keep out of the way.

.190 Personal Flotation Devices Required:

(01) No person may operate or permit the operation of a vessel on the waterway of Pend Oreille County without a personal flotation device which is designed to be worn on board for each person on the vessel. Each personal flotation device shall be in serviceable condition, of appropriate size and readily accessible.

(02) No person shall operate a vessel under nineteen (19) feet in length on the waters of Pend Oreille County with a child of twelve (12) years old and under, unless the child is wearing a personal flotation device that meets or exceeds the United States Coast guard approval standards of the appropriate size, while the vessel is underway. For the purpose of this section, a personal flotation device is not considered readily accessible for children twelve years old and under unless the device is worn by the child while the vessel is underway and the child is on an open deck or open cockpit of the vessel. The following circumstances are excepted:

(a) While the child is below deck or in the cabin of a boat with an enclosed cabin:

(b) While on board a vessel at a time and place where no person would reasonably expect a danger of drowning to occur.

(03) Every vessel shall have at least one United States Coast Guard approved type IV (4) personal flotation device aboard and accessible, designed to

be thrown to a person in the water.

(04) Enforcement of subsection (4) of this section by law enforcement may be accomplished as a primary action, and need not be accompanied by the suspected violation of some other offense.

.200 Mufflers or underwater exhaust systems required:

(01) All motor-propelled vessels shall be equipped and maintained with an effective muffler that is in good working order and in constant use.

(02) A vessel that does not meet the requirements of subsection (1) of this section shall not be operated on the waters of Pend Oreille County.

(03) Any officer authorized to enforce this section who has reason to believe that a vessel is not in compliance with this section may direct the operator of the vessel to submit the vessel to an on site test.

.210 Privileged Vessel Duty:

(01) Whenever, under this chapter, one of the two vessels is to yield the right-of-way, the vessel yielded to is to maintain her course and speed.

.220 Regattas, Races, Marine Events, Tournaments & Exhibitions – Permits Required:

(01) Whenever a regatta, race, or marine competition is proposed to be held, the person in charge shall, at least thirty (30) days prior thereto, file an application for a permit to hold the event with the Pend Oreille County Sheriff's Office Marine Enforcement Unit.

(02) The application shall set forth the date, time, and location where the event is proposed to be held, together with the following information:

- (a) The name and address of the sponsoring organization;
- (b) The name, address and telephone number of the person or persons in charge of the event;
- (c) The nature and purpose of the event;
- (d) Information as to general public interest;
- (e) Estimated number and type of vessels participating in the event;
- (f) Estimated number and type of spectator vessels;
- (g) Number of vessels being furnished by sponsoring organization to patrol the event;
- (h) A time schedule and description of events;
- (i) A section of a chart of scale drawing showing the boundaries of the event, various watercourses or areas to be used by the participants,

officials and spectator vessels.

(03) There shall be no charge for the permit, it can be picked up at the Pend Oreille Sheriffs Department located at 331 South Garden Ave, Newport WA.

(04) Competitors in any race, regatta or trial or other marine event authorized by the Sheriff shall be exempt from the provisions of this chapter with regard to speed while on an authorized racing course and from the provisions of this chapter concerning equipment, and noise. These exemptions shall apply only while the competitor and or operator of a vessel is engaged in the authorized race, regatta or trial. Further, upon completion of the event, all slalom courses, special buoys, etc, shall be removed by the applicant.

(05) It shall be a violation of this section for any person to conduct any regatta, marine event, race, tournament or exhibition on the waters of Pend Oreille County unless he/she shall have had a marine event permit issued to him/her as provided by this section.

.230 Rules & Whistle signals For Vessels Meeting, Nearing Bends, Leaving Berths, and Overtaking Another:

(01) When vessels under power and approaching each other head and head; shall pass on the starboard side of the other.

.240 Safety Buoys:

(01) The Pend Oreille County Sheriff is authorized and directed to designate the follow colors and size of appropriate safety buoys for the safety of the public.

(a) Each public swimming area shall be marked by at least two or more floating buoys painted red and white and placed not more than fifty (50) feet apart and placed at each end of said public swimming area not more than fifty feet (50) from the shoreline of said waters or permanent structure. No person shall operate any vessel within any public swimming area.

(b) Orange and black buoys shall mark each restricted area, except public swimming areas.

(c) Two or more yellow buoys shall mark ski areas not less than one hundred (100) feet or more than three hundred (300) feet from the shoreline.

(d) Buoys must be visible and are to be no smaller than the size of a five (5) gallon container.

(02) The Pend Oreille County Sheriff is authorized and directed to designate location and install, or cause or permit to be installed in the water appropriately marked safety buoys that are required for the safety of the public.

(03) It shall be a violation of this section for any person to relocate, damage, or alter any safety buoy, which has been permitted by the Pend Oreille County Sheriff.

(04) Any vessel operating within the area between the safety buoy line and the shoreline shall do so at NO WAKE SPEED, not exceed five (5) miles per hour.

(05) It shall be a violation of this section to place any kind of buoys or slalom course in or on the waters of Pend Oreille County except when authorized by the County Sheriff.

(06) It shall be a violation of this section for any vessel to use a safety buoy for the purpose of mooring or otherwise anchoring such vessel. Mooring buoys shall be placed inside the safety buoy line except that mooring buoys are appropriately marked and illuminated with a bright flashing white light between the hours of sunset and sunrise. It is the responsibility of the owner of the mooring buoy to maintain the light.

.250 Sailing Vessel Right-of-way:

When a motorboat and a sailboat are proceeding in such a direction as to involve risk of collision, the motorboat shall keep out of the way of the sailboat, except when the sailing vessel is overtaking the motorboat from behind.

.260 Scuba Diving:

(01) Persons who are engaging in scuba diving shall mark the area in which such operations are being conducted by the use of a diver's flag, which is red with a diagonal stripe, at least fourteen by sixteen inches. At no time shall scuba divers place buoys so as to restrict access to private property.

(02) If such scuba diving operations are not accompanied by a vessel displaying a diver's flag, a diver's flag must be affixed to a float or similar device so as to be visible for a distance of three hundred (300) feet.

(03) If scuba diving operations are to be conducted between the hours of sunset and sunrise, artificially lighted marker buoys shall be provided and shall be visible for at least three hundred (300) feet.

.270 Severability:

If any section, subsection, sentence or clause of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining provisions of this chapter.

.280 Sound devices :

(1) Motorboats shall carry a sound producing device which may be a whistle, air horn, bell, gong or other similar device.

.290 Speed Restrictions:

(01) No person shall operate a vessel, except for vessels exempted by watercraft testing or racing permit, at a speed greater than:

(a) 55 MPH on the Pend Oreille River

1. Whenever the elevation, at the Cusick gaging station, is at or exceeds 2041 there shall be in effect a No Wake Speed Limit.

(b) 45 MPH on any lake over 200 water acres in P.O. County, unless otherwise posted at a lesser speed.

(c) 35 MPH on Sacheen Lake, unless otherwise posted at a greater/lesser speed.

(d) NO WAKE on any lake of 200 acres or less

(e) Under certain conditions the above-posted speed limits may not be safe/ practical and may be considered unsafe/negligent.

(02) A vessel shall not exceed "wake speed" as defined in .101 (03) when within 100 feet of any, dock, ski dock, pier, stationary vessel, trolling vessel, shoreline, swimmer, float, piling or scuba dive flag.

(03) Between one-half hour after sunset and one-half hour prior to sunrise, ALL vessels will operate at a speed, not to exceed 15 MPH.

(04) Every vessel shall, when operating in the dark, fog, mist, falling snow, or a heavy rainstorm, operate at a moderate speed, having careful regard to the existing circumstances and conditions and shall be able to stop on – half the distance of available visibility.

. 300 Steering and Sailing Rules:

(01) Look out--Every vessel shall at all times maintain a proper look out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

(02) Safe Speed--Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions. In determining a safe speed the following factors shall be among those taken into account by:

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(a) All Vessels:

(b) The state of visibility

(ii) The traffic density including concentrations of fishing vessels or any other vessels;

(iii) Risk of collision – Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist.

(03) Any action to avoid collision shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.

(04) Any alteration of course or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar; a succession of small alterations of course and/ or speed should be avoided.

(05) Notwithstanding anything contained in this section, any vessel overtaking any other shall keep out of the way of the vessel being overtaken.

(06) A vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam, that is, in such a position with reference to the vessel she is overtaking, that at night she would be able to see only the stern light of that vessel but neither of her sidelights.

(07) When a vessel is in any doubt as to whether she is overtaking another,

she shall assume that this is the case and act accordingly.

(08) Unless otherwise agreed, when two power – driven vessels are meeting on reciprocal or nearly reciprocal courses so as to involve risk of collision each shall alter her course to starboard so that each shall pass on the port side of the other.

(9) When two power – driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her starboard side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel.

(10) Action by give-way vessel – The requirements in this subsection apply to vessels in sight of one another. Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear.

. 310 Ventilation

(1) No person shall operate or permit to be operated any vessel having on board a gasoline engine used for any purpose, unless it shall be provided with proper ventilation.

(2) Compartments with gasoline engines. Each compartment in a vessel that has a permanently installed gasoline engine with a cranking motor must be open to the atmosphere, or be ventilated by a natural ventilation system and/or a mechanical exhaust blower system as required by the Federal Boat Safety Act of 1971, as amended, and applicable federal regulations.

(3) Exhaust Blowers: Each vessel that is required to have an exhaust blower must have an exhaust blower.

. 320 Vessel Loading :

(1) A person shall not load or permit to be loaded a vessel with passengers or cargo beyond its safe carrying ability or carry passengers or cargo in an unsafe manner taking into consideration weather and other existing operating conditions.

(2) A person shall not operate or permit to be operated a vessel equipped with a motor or other propulsion machinery of a power beyond the vessel's ability to operate safely, taking into consideration the vessel's type, use, and construction, the weather conditions, and other existing operating conditions.

- (3) No operator of any vessel shall allow any person to ride or sit on either the starboard or port gunwale, or on the decking over the bow while underway or on a cabin top, except while in the act or mooring or casting off, unless the vessel is provided with guard rails.

. 330 Water Skiing:

- (1) Any person who shall operate a vessel which has in tow another person (or persons on water skis, aquaplane, or other similar device) and any person who shall operate such water skis, aquaplane, or similar device in tow behind a vessel, shall be deemed engaged in water skiing and shall be conducted in a general counter clockwise direction. An observer (spotter/flag person) is required to be in the vessel, in addition to the operator when a person is in tow. An observer (spotter/flag person) shall be considered competent to accomplish the task.
- (2) It shall be a violation of this section to tow another person (or persons on water skis, aquaplane, or other similar device) during the period from one half hour after sunset until one half hour prior to sunrise.
- (3) No person or persons shall (or persons on water skis, aquaplane, or other similar device) within one hundred (100) feet of any boat launching ramp, any vessel, swimmer or swim area, safety buoy, shoreline, or man-made structure or object.
- (4) No person or persons shall engage in water skiing operations between the safety buoy line and the shoreline.
- (5) Skiers may take-off from docks or shorelines as long as the take-off is at a 90 degree angle from shoreline. At no time can such take-off cause risk or hazard to other vessels, or persons in or on the water.
- (6) No vessel shall follow behind a person being towed on water skis, aquaplane or other similar device, closer than three hundred (300) feet, nor shall any vessel cross a towing vessel's bow by less than two hundred (200) feet, nor shall any vessel come within one hundred (100) feet of a person being towed.
- (7) A safety buoy line shall not be used as a slalom course.
- (8) No person shall operate any vessel, tow rope, or other device by which the direction or location of a person on water skis, aquaplane or similar device, may be affected or controlled in such a negligent manner as to endanger or be likely to endanger any person or property.

- (9) No person shall engage in water skiing while under the influence of any liquor, narcotic drug, or controlled substance as defined under RCW 69.50.
- (10) No person shall operate or permit to be operated, any vessel used for towing water skiers or similar devices in which persons or objects are being towed above , on any waterway unless it shall have on board and display A WARNING FLAG (RCW 88.12)
- (A) A warning flag shall be a brilliant orange in color, measuring 12 inch x 12 inch, mounted on a handle not less than twenty-four inches long.
- (B) When anyone being towed by a vessel becomes disengaged from the towline and is down in the water, an observer (spotter/ flag person) in the vessel shall immediately hold the warning flag aloft, visible from all sides, as an indicator to other vessels in the area that a person is down in the water and the flag shall remain displayed to prevent danger to that person and hazards to passing vessels.
- (C) Such warning flag shall be displayed only under the conditions set forth in this section or when other eminent dangers exist.

. 340 Operation of a Personal Watercraft :

- (1) A person shall not operate a personal watercraft unless each person aboard the personal watercraft is wearing an approved personal flotation device
- (2) A person operating a personal watercraft equipped by the manufacturer with a lanyard to his or her person, clothing, or personal flotation device as appropriate for the specific vessel. It is unlawful for any person to remove or disable a cutoff switch that was installed by the manufacturer.
- (3) A person shall not operate a personal watercraft during the hours of darkness. (Sunset to sunrise.)
- (4) A person under the age of fourteen (14) shall not operate a personal watercraft on the waters of Pend Oreille County. A person between the ages of 10 and 14 may operate a personal watercraft as long as they are accompanied by a person over age eighteen (18).
- (5) A person shall not operate a personal watercraft in a reckless manner, including recklessly weaving through congested vessel traffic, recklessly jumping the wake of another vessel unreasonably or unnecessarily close to the vessel or when visibility around the vessel is obstructed, or recklessly swerving at the last possible moment to avoid collision.

- (6) Personal watercraft, while engaged in towing (i.e. tubing, skiing) shall be capable of safely transporting the operator and observer, as well as the person being towed.
- (7) A person shall not lease, hire or rent a personal watercraft to a person under the age of eighteen.
- (8) All Personal Watercraft are required to have an operable fire extinguisher and an accessible sound device, on board the PWC at all times during operation.
- (9) Subsections (1) through (6) of this section shall not apply to a performer engaged in a professional exhibition or a person participating in a regatta, race, marine parade, tournament, or exhibition authorized or otherwise permitted by the appropriate agency having jurisdiction and authority to authorize such events.

. 360 Yearly Reporting :

The Pend Oreille County Sheriff shall on or before April 1st of every year, submit in writing to the Board of County Commissioners a written report reviewing the Sheriff's Office performance with respect to the administration and enforcement of this chapter. Such report shall also include any suggested modifications to the chapter.

. 370 Violations of chapter punishable as misdemeanor – Circumstances – Violations designated as civil infractions.

- (1) A violation of this chapter designated as an infraction is a misdemeanor, punishable under RCW 9.92.030, if the current violation is the person's third violation of the same provision of this chapter during the past three hundred sixty-five days.
- (2) A violation designated in this ordinance as a civil infraction shall constitute a civil infraction pursuant to Pend Oreille County Ordinance Number _____.

Adopted and effective this _____ day of August, 2001, by the

PEND OREILLE COUNTY BOARD OF COMMISSIONERS

Mike Hanson, Chairman

Joel Jacobsen, Vice-Chairman

Sam Nicholas, Member

Chris Mylar, Clerk of the Board

Proposed Boating Ordinance Penalty Schedule

.040 Burdened Vessel Duty		I \$ 66.00
.050 Divers, Snorkels		I \$ 66.00
.060 Emergency Vessel		I \$500.00
.080 Fire Extinguisher Required		I \$ 66.00
.090 Flame Arrester		I \$ 66.00
.100 Garbage and Sewage		I \$500.00
.110 Lighting		I \$ 66.00
.120 Milfoil		I \$250.00
.130 Mooring at private docks		I \$114.00
.140 Motorboat crossing		I \$ 66.00
.150 Negligent Operation		I \$300.00
.160 Operator Age Requirements		I \$250.00
.170 Operating in a reckless manner/under the influence		I \$500.00
.180 Overtaking Vessels		I \$ 66.00
.190 Personal flotation device required	Subsection (1)(4)	I \$ 66.00
	Subsection (2)(5)	I \$250.00
	Subsection (3)	I \$114.00
.200 Mufflers or underwater exhaust systems		I \$ 66.00
.220 Regattas, Races, Marine Events, Tournaments and Exhibitions		I \$100.00
.230 Rules and Whistle signals		I \$ 66.00
.240 Safety buoys		I \$ 66.00
.250 Sailing vessel right -of- way		I \$ 66.00
.260 Scuba Diving		I \$ 66.00
.280 Sound Devices		I \$ 66.00

.290 Speed Restrictions		I \$ 66.00
.300 Steering and sailing Rules		I \$ 66.00
.310 Ventilation		I \$ 66.00
.320 Vessel loading		I \$250.00
.330 Water Skiing	Subsection (1)	I \$114.00
	Subsection (2)	I \$250.00
	Subsection (3)(4)(6)(7)	I \$114.00
	Subsection(8)(9)	I \$250.00
	Subsection (10)	I \$ 66.00
.340 Personal Watercraft	Subsection (1)	I \$114.00
	Subsections (2-9)	I \$250.00

Paul provided a petition to bring Lenora Drive into the County Road System. The Road department will check the road to if it meets County Road standards.

(18)

Ron Curren reviewed the dust abatement program. He plans for the chip seal process to begin tomorrow, weather permitting. The crews will begin in the south end of the County and move north. He also provided an update on the Coyote Trail Road Project.

(19)

Recess for lunch.

(20)

The Board approved purchasing a literature display for \$199.99 plus shipping for the Commissioners' Office.

(21)

Washington State Department of Fish and Wildlife staff, Kevin Robinette, John Whalen, Curt Vail and Sandy Lembcke met with the Board with regards to the Bull Trout recovery program. They discussed the removal of Brook Trout with the use of antimycin and re-stocking with West Slope Cut Throat which can live with Bull Trout. They showed a video pertaining to re-establishing the Bull Trout in Oregon. It was noted that this Program is mandated by the federal government.

(22)

Motion was made by M. Hanson to approve the resolution amending the Declaration of Emergency changing the date from December 1 to November, 30, 2001. Motion was seconded by S. Nicholas and so ordered by J. Jacobsen.

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(23)

2:30pm-HEARING-Amend Boating Ordinance-JoAnn Boggs was present and spoke about the property damage along the Perreille River and the need for this amendment to the Boating Ordinance. Motion was made by M. Hanson to amend the Boating Ordinance, adding that when the elevation at the Cusick gaging station is at or exceeds 2041 there shall be a No Wake Speed Limit. Motion was seconded by S. Nicholas and so ordered by J. Jacobsen.

(24)

JoAnn discussed two pieces of legislation. House Bill 2595, that adds a 20cent Cell Phone Tax that will be used for the ability to identify the location of the cell phone that calls 911. The Board directed JoAnn to create an ordinance that can be approved this summer. She also mentioned House Bill 1477, that use 1/10 of one percent of the County's sales tax for 911. JoAnn will look into this further.

(25)

1:00pm-HEARING-Completion of Block Grant Project-Paul Wilson was present and explained the necessity of the hearing to show closure of the grant after expending \$522,962.00 by PUD for repairs to electrical power lines damaged by the November, 2001 snow storm.