



CITY OF KIRKLAND

City Attorney's Office

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www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Oskar Rey, Assistant City Attorney
Bill Hamilton, KPD Captain

Date: February 27, 2012

Subject: Amendments to KMC Title 14 Relating to Watercraft

RECOMMENDATION:

That Council adopt the attached ordinance amending the City's watercraft regulations.

BACKGROUND DISCUSSION:

At the September 20, 2011 Council Meeting, during Items from the Audience, concerns were expressed by Robert Pantley about chronic problems with excessive noise and disorderly conduct by some boaters in Juanita Bay. In response to those concerns, staff met with King County Marine Patrol and conducted outreach with members of the boating community. As a result of those discussions, there was a consensus that Kirkland's watercraft regulations should be amended to restrict rafting (in which multiple boats tied together) and explicitly prohibit public disturbance noise.

At the January 3, 2012 Council Meeting, Nona Ganz also expressed concerns about boating activity in Juanita Bay. In addition, Ms. Ganz, Mr. Pantley and Tim McGruder submitted a letter proposing a variety of amendments to the City's watercraft regulations. In addition to prohibiting rafting and public disturbance noises, the letter proposed speed restrictions in Juanita Bay, regulation of "gray water" discharge, and the establishment of a permit system for anchoring in Juanita Bay. Although these proposals may warrant consideration, staff has not included them in the proposed ordinance since it has not been able to obtain feedback from the boating community on these additional proposals. Staff will further explore and report back on any or all of these additional proposals if directed to do so by the City Council. Alternatively, the City Council could opt to wait and see if the proposed regulations sufficiently alleviate the problems in Juanita Bay.

The Kirkland Police Department contracts with the King County Sheriff's Office for marine related services. This service area increased significantly with the annexation of the Juanita and Finn Hill waterfront neighborhoods. The City's current waterfront jurisdiction now extends from the City's Bellevue border, north to Kenmore. The marine related calls for service vary greatly, but a consistent and growing concern of our shoreline community is disruptive watercraft behavior, including amplified noise, usually from watercraft stereo systems.

The Kirkland Municipal Code addresses many types of noise issues, including unreasonable or excessive noise from buildings, construction, special events or vehicles. However there is no City of Kirkland ordinance specific to excessive or unreasonable noise emanating from watercraft. As a result, it has been difficult for King County Marine Patrol to effectively and proactively mitigate such behavior. The proposed ordinance creates a new Kirkland Municipal Code ("KMC") Section 14.24.150 that would prohibit public disturbance noises emanating from watercraft.

The proposed ordinance is similar to the City's vehicle stereo noise ordinance, KMC Section 9.84A.070 - Public disturbance noises. Adoption of this ordinance will provide law enforcement the ability to be more responsive to current community watercraft noise concerns.

The proposed ordinance also prohibits the tying together of multiple watercraft ("rafting"), which also contributes to disruptive behavior (see KMC 14.24.140). The proposed ordinance also addresses vessels that are anchored or drifting together in close proximity for the purpose of having a party or a rafting-like social exchange. The ordinance does create an exception that vessels or watercraft participating in City sponsored or permitted events in which boat participation is a planned element of the event shall not be in violation of the ordinance. Staff believes that this provision will allow enforcement against loud parties on Lake Washington without prohibiting innocuous activity such as watching fireworks, waiting for moorage at Marina Park, or waiting to use the boat launch. It should be noted while there was consensus in the boating community that rafting should be restricted, not everyone agreed on the scope of the proposed restrictions. City staff has attempted to find a reasonable balance, but the extent to which rafting should be restriction is ultimately a policy decision for the City Council.

The proposed ordinance would call for graduated fines for public disturbance noises or open water rafting beginning at \$150 for first time violations up to a maximum of \$450 for a third (or more) violation in a calendar year.

Finally the proposed ordinance contains two changes that are not directly related to the problems occurring in Juanita Bay. The proposed ordinance provides that unless otherwise specified, violations of Title 14 of the KMC are civil infractions punishable by a \$150 fine (see KMC 14.04.080). A similar provision (See KMC 14.36.070) applies to violations of the City's regulations relating to the Kirkland Marina. These are housekeeping changes to address the fact that some violations of Title 14 do not specify a penalty amount. It is not intended to address rafting or public disturbance noises, which are governed by the more specific graduated penalty provisions.

ORDINANCE O-4349

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE REGULATION OF WATERCRAFT IN CITY OF KIRKLAND WATERS.

The City Council of the City of Kirkland does ordain as follows:

Section 1. A new Section 14.24.140 of the Kirkland Municipal Code ("KMC") is hereby adopted to read as follows:

14.24.140 "Rafting" or tandem moorage of vessels or watercraft prohibited.

Tandem moorage, "rafting" or the tying together of vessels or watercraft in the waters of the City of Kirkland is prohibited, except to the extent necessary to render aid in the event of an emergency or to provide assistance to a vessel or watercraft experiencing mechanical difficulties. In addition, any three (or more) motorized watercraft drifting or anchored within 25 feet of each other for the purpose of having a party or rafting-like social exchange shall be deemed to be rafting; provided that vessels or watercraft participating in City sponsored or permitted events in which boat participation is a planned element of the event shall not be in violation of this Section. The provisions of this Section shall not apply to law enforcement or emergency responders acting in the line of duty. Violations of this Section shall be a civil infraction punishable by a fine of one hundred fifty dollars (\$150.00). A second violation in the same calendar year shall be punishable by a fine of three hundred dollars (\$300). A third (or more) violation in the same calendar year shall be punishable by a fine of four hundred fifty (\$450) dollars. Each watercraft or vessel involved shall be subject to issuance of a separate infraction.

Section 2. A new Section 14.24.150 of the KMC is hereby adopted to read as follows:

14.24.150 Public disturbance noises.

(1) It is unlawful for any person operating a vessel or watercraft upon any waters within the City of Kirkland to knowingly to cause or make, or knowingly to allow or permit to originate from the vessel or watercraft, a public disturbance noise in violation of KMC 11.84A.070, including the following:

(a) The frequent, repetitive or continuous sounding of any horn or siren, except as a warning of danger or as specifically permitted or required by law;

(b) The creation of frequent, repetitive or continuous sounds (including but not limited to operation of watercraft in violation of the muffler requirements in KMC 14.28.020) in connection with the starting, operation, repair, rebuilding, testing or revving of engines of any vessel or watercraft, so as to unreasonably disturb or interfere with the peace, comfort and repose of others, including owners or possessors of real property;

(c) Yelling, shouting, hooting, whistling or singing, particularly between sunset and sunrise or at any time and place so as to unreasonably disturb or interfere with the peace, comfort and repose of others, including owners or possessors of real property;

(d) Sound from any audio sound system operated at volumes so as to be audible greater than 50 feet from the watercraft itself; or

(e) Sound which unreasonably interferes with the peace, comfort and repose of others, including owners or possessors of real property.

Provided that the foregoing enumeration of acts and noises shall not be construed as excluding other acts and noises which offend the public peace.

(2) Violations of this Section shall be a civil infraction punishable by a fine of one hundred fifty dollars (\$150.00). A second violation in the same calendar year shall be punishable by a fine of three hundred dollars (\$300). A third (or more) violation in the same calendar year shall be punishable by a fine of four hundred fifty (\$450) dollars.

Section 3. Section 14.36.070 of the KMC is hereby amended to read as follows:

14.36.070 Compliance required.

(a) All persons using city moorage facilities shall abide by all applicable ordinances of the city and any rules and regulations adopted by the parks director.

(b) The following violations of this chapter shall be civil infractions:

(1) Moorage without registering or without paying the established fee; continuing to moor without paying the established fee as it becomes due. The civil penalty shall be sixty-six dollars. Each calendar day on which a failure to pay the moorage fees occurs shall constitute a separate civil infraction.

(2) Moorage in a restricted or prohibited area. The civil penalty shall be one hundred fifty dollars. Each calendar day on which a watercraft is moored in a restricted or prohibited area shall constitute a separate civil infraction.

(3) Tying together or rafting of watercraft. The civil penalty shall be one hundred fifty dollars. Each of the watercraft involved shall be subject to issuance of a separate civil infraction.

(c) Unless otherwise specified, any other violation of this chapter is a civil infraction, punishable by a fine of one hundred fifty dollars (\$150.00) per violation.

(ed) The parks director shall designate an employee or contractor who shall be responsible for issuing civil infractions pursuant to this chapter. The employee or contractor designated by the parks director shall receive any necessary authorization and training from the Kirkland police department with respect to issuance of civil infractions. Alternatively, the parks director may make arrangements with the Kirkland police department for police personnel to issue civil infractions under this chapter.

Section 4. A new KMC 14.04.080 is hereby adopted to read as follows:

14.04.080 Penalties for violations.

Unless otherwise specified, any violation of this Title 14 is a civil infraction, punishable by a fine of one hundred fifty dollars (\$150.00) per violation.

Section 5. If any provision 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 is not affected.

Section 6. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2012.

Signed in authentication thereof this ____ day of _____, 2012.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney