

**ORDINANCE NO. 522**

**AN ORDINANCE AMENDING ORDINANCE NO. 406,  
PROVIDING FOR BOATING REGULATION IN TIDAL WATERS ADJACENT TO THE  
BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY.**

WHEREAS, the Borough of Mantoloking adopted Ordinance No. 406, establishing a marine patrol of tidal waters adjacent to the Borough of Mantoloking, for the purpose of enforcing New Jersey statutes and regulations governing boating; and

WHEREAS, Title 12, Chapter 7 of the New Jersey Statutes, governing regulation and registration of power vessels, has been amended since the adoption of Ordinance No. 406; and

WHEREAS, the Borough of Mantoloking intends that its ordinance be consistent with current State regulations governing boating;

Now, therefore, BE IT ORDAINED by the Borough Council of the Borough of Mantoloking, in the County of Ocean, State of New Jersey, as follows:

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## ARTICLE I

### Section 71. Definitions

As used in this Ordinance, unless the context clearly requires a different meaning:

"Commission" means the Boat Regulation Commission established pursuant to section 14 of P.L.1962, c. 73 (N.J.S.A. 12:7-34.49);

"Department" means the Department of Law and Public Safety;

"Director" means the Director of the Division of Motor Vehicles in the Department of Transportation;

"Division" means the Division of Motor Vehicles in the Department of Transportation;

"Documented vessel" means a vessel which has a valid Marine Document issued by the United States Coast Guard or any Federal agency successor thereto;

"Length" means measurement from end to end over the deck parallel to the centerline excluding sheer, bowsprits, bumpkins, rudders, outboard motors, brackets or other equipment or appendages;

"Motor" means a temporarily or permanently installed fuel consuming mechanism by which the vessel is or may be propelled, including an electrical motor;

"Operate" means to navigate, use, control or command a vessel;

"Operator" means every person having charge, control, operation or direction of any vessel and the owner of the vessel if the owner is on the vessel at the time it is operated in violation of the law;

"Owner" means a person, other than a lienholder, having the property in or title to a vessel. The term includes a person entitled to the use or possession of the vessel subject to an interest of another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

"Personal watercraft" means a power vessel defined as a Class AA@ vessel by the United States Coast Guard, and which:

- a. Is designed to be operated from a sitting, standing or kneeling position;
- b. Is equipped with an internal combustion engine which powers a water jet pump; and
- c. Cannot be operated in a manner so as to disengage the pump so as to prevent the vessel from making headway.

"Power vessel" means a vessel temporarily or permanently equipped with machinery for propulsion, including a personal watercraft, and shall not include a vessel propelled wholly by sails or by muscular power;

"Sailboat" means any boat whose sole source of propulsion is the wind;

"Vessel" means a boat or watercraft, other than a sea plane on the water, used or capable of being used as a means of transportation on water; and

"Waters of this State" means all waters within the jurisdiction of this State, both tidal and nontidal, and the marginal sea adjacent to this State to a distance of three nautical miles from the shoreline.

## **ARTICLE II OPERATION, DOCKING, MOORING AND ANCHORING OF POWER VESSELS**

### **Section 45. Speed of power vessels**

The speed of power vessels shall at all times be regulated so as to avoid danger or injury to all manner of craft whether floating, moored, anchored or underway, or to piers, wharfs, bulkheads, draw spans or other water-front construction, either directly or by the effect of the wash or wave raised by such power vessel through its speed or otherwise.

### **Section 61. Operation of power vessel by persons 16 years or younger; completion of approved boat safety course and possession of certificate required; failure to exhibit or exhibiting certificate of another; penalties**

(a) A person who is under 16 years of age shall not operate a power vessel on the waters of this State, except that:

(1) a person who is under 16 years of age but at least 13 years of age and possesses a certificate certifying that person's successful completion of a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety may operate:

(a) a power vessel powered solely by an electric motor; or

(b) a power vessel which is 12 feet or greater in length and powered by a motor, or combination of motors, of less than 10 horsepower;

(2) a person who is under 16 years of age and has successfully completed an approved boat safety course prior to July 1, 1996 may operate a power vessel on the tidal waters of this State, provided that the person complies with all other requirements of law, rule and regulation; and

(3) A person who is under 16 years of age and was issued an operator's license pursuant to section 7 of P.L. 1954, c. 236 (N.J.S.A. 12:7-34.7) before July 1, 1996 may operate a power vessel equipped with an outboard motor until the expiration date of that license.

(b) As provided in Section 61.1 of this Ordinance, a person who is 16 years of age or older shall not operate a power vessel, including a personal watercraft, on the waters of this State without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety , except that:

(1) an out-of-State resident, or a resident of a foreign country, who is 16 years of age or older and who will be in this State for less than 90 days may operate a power vessel on the waters of this State, without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety, if the person presents:

(a) written proof of successful completion of a boat safety course endorsed or approved by another state, the National Association of State Boating Law Administration or its successor organization, or the United States Coast Guard;

(b) written proof of successful completion of a boat safety course substantially similar to the boat safety course required pursuant to this section as determined by the Superintendent of State Police; or

(c) a boat safety certificate issued by the state or country in which the person resides;

(2) a person who is 18 years of age or older may operate on the waters of this State, without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety, a rented power vessel that is not a personal watercraft, under the following conditions:

(a) the person rents the power vessel from a business engaged in renting power vessels for use on the waters of the State;

(b) the person has successfully completed a State-approved pre-rental instruction course provided by the owner or lessor of the power vessel prior to operating the power vessel on the waters of the State; and

(c) the owner of the power vessel rental business is experienced in the operation of power vessels and has successfully completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety.

(3) A person required to take the boat safety course pursuant to this section and Section 7 of P.L. 2005, c. 292 who purchases a power vessel that is not a personal watercraft at a boat dealership may operate that power vessel for 30 days without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety provided that the person successfully completes a State-approved pre-purchase instruction course provided by the owner or operator of the boat dealership prior to operating the power vessel, and the owner or operator of the boat dealership is experienced in the operation of power vessels and has successfully completed a boat safety course approved by the Superintendent of State Police. The State-approved pre-purchase instruction course required by this paragraph shall be a uniform, standardized course developed by the Superintendent of State Police. The State-approved pre-purchase instruction course shall not replace the requirement that a person shall successfully complete an approved boat safety course pursuant to the other provisions of P.L. 2005, c.292 (N.J.S.A. 12:7-61.1 et seq.) The provisions of this paragraph shall not apply to a person purchasing a power vessel from another private party.

(4) A person holding a United States Coast Guard operator's license may operate a power vessel on the waters of this State without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety.

The Superintendent of State Police shall establish appropriate guidelines to implement the provisions of this subsection.

(c) Except as provided pursuant to section 18 of P.L.1995, c. 401 (N.J.S.A. 12:7-86), a person shall not operate a personal watercraft on the waters of this State without having successfully completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety or a written test pursuant to section 8 of P.L. 2005, c. 292.

(d) Whenever a person who is required by this section or by section 7 of P.L. 1995, c. 401 (N.J.S.A. 12:7-76), section 3 or 4 of P.L.1952, c. 157 (N.J.S.A. 12:7-46 or N.J.S.A. 12:7-47), or section 9 of P.L.1986, c. 39 (N.J.S.A. 12:7-57) to have completed a boat safety course operates a power vessel or personal watercraft, as appropriate, on the waters of this State, that person shall have in possession a certificate certifying that person's successful completion of a boat safety course approved by the superintendent and shall, when requested to do so, exhibit the certificate to a law enforcement or peace officer of this State. Failure of the person to exhibit the certificate is presumptive evidence that the person has not completed an approved boat safety course.

(e) A person who violates subsection a., b., c. or d. of this section or who exhibits to a law enforcement or peace officer a certificate of completion of an approved boat safety course of another person is subject to a fine of not less than \$100 nor more than \$500.

(f) A person who owns or has control or custody of a power vessel and allows the power vessel to be operated on the waters of this State by a person who is required pursuant to the provisions of this section to possess a certificate certifying successful completion of a boat safety course but who does not possess such certificate is subject to a fine of not more than \$100.

(g) A person making application to the Chief Administrator of the New Jersey Motor Vehicle Commission for a power vessel operator's license issued pursuant to section 3 of P.L.1995, c. 401 (N.J.S.A. 12:7-72) who is required pursuant to the provisions of this section to possess a certificate certifying successful completion of a boat safety course shall submit proof of successful completion of the course or the written examination for experienced boaters with the application. The chief administrator shall not issue a power vessel operator's license to such person who fails to submit this proof. A permanent State of New Jersey boating safety certificate or a temporary boating safety certificate issued on a Division of State Police application for boating safety certificate form shall satisfy this requirement.

#### **Section 61.1 Schedule for completion of mandatory boat safety course**

Before operating a power vessel, including a personal watercraft, on the waterways of this State, the mandatory boat safety course required by N.J.S.A. 12:7-61 shall be successfully completed as follows:

- (a) by persons born after December 31, 1978;
- (b) before June 1, 2006, by persons born after December 31, 1968 and on or before December 31, 1978;
- (c) before June 1, 2007, by persons born after December 31, 1958 and on or before December 31, 1968;
- (d) before June 1, 2008, by persons born after December 31, 1948 and on or before December 31, 1958; and
- (e) before June 1, 2009 by all other persons.

This section shall take effect upon the final adoption and publication of this Ordinance according to law and shall expire on June 1, 2008.

#### **Section 74. Unauthorized use of power vessel or of power vessel operator's license**

(a) A person who lends any operator's license required pursuant to section 3 of P.L.1995, c. 401 (N.J.S.A. 12:7-72) to another person shall be subject to a fine of not less than \$25 nor more than \$100.

(b) A person owning or having control or custody of a power vessel who allows the power vessel to be operated by a non-licensed operator shall be subject to a fine of not more than \$100.

(c) A person operating a power vessel who exhibits the operator's license of another shall be subject to a fine of not less than \$200 or to a term of imprisonment not to exceed 60 days, or both.

(d) A person who exhibits the operator's license of another for purposes of identification in any situation other than as described in subsection c. of this section shall be subject to a fine of not less than \$25 nor more than \$100.

### **Section 75. Possession of motor with altered or mutilated motor number**

A person who possesses a motor, whether inboard or outboard, the motor number of which has been altered or mutilated, or who comes into possession of such a motor, shall at once file in writing with the Division of State Police a statement setting forth all circumstances in connection with that person's possession of the motor.

### **Section 76. Careless operation of vessel; persons convicted to complete boat safety course**

(a) A person who operates a vessel on the waters of this State, without due caution and circumspection, in a manner that endangers, or is likely to endanger, a person or property shall be guilty of careless operation. Careless operation shall include, but need not be limited to, the loading of a vessel beyond the maximum capacity stated on the United States Coast Guard capacity label or the capacity label of the manufacturer affixed to the vessel.

(b) In addition to any other requirements provided by law, a person convicted under subsection a. of this section shall be required after conviction to complete a boat safety course from the list approved by the Superintendent of State Police pursuant to section 1 of P.L.1987, c. 453 (N.J.S.A. 12:7-60), which shall be completed prior to the restoration of the privilege to operate a vessel which may have been revoked or suspended for a violation of the provisions of this section. Failure to satisfy this requirement shall result in the immediate revocation of the privilege to operate a vessel on the waters of this State, or the continuation of revocation until the requirements of this subsection are satisfied.

### **Section 77. Vessels to have personal flotation devices for each person on board**

A person shall not operate or allow another person to operate a vessel on the waters of this State unless the vessel has a serviceable United States Coast Guard approved personal flotation device for each person on board. Such devices shall be of a type and in sufficient number as required by the United States Coast Guard for a vessel of that class

operating on navigable waters. Such devices shall be readily accessible when the vessel is under way or worn as required by regulation.

For the purpose of this section, the term "vessel" does not include surfboards, windsurfers, racing shells, rowing sculls and racing kayaks.

### **Section 78. Discarding debris prohibited; fine; presumption**

(a) A person shall not discard debris from a vessel that is on the waters of this State. A person who violates this section shall be subject to a fine of not less than \$200 nor more than \$1,000 for each offense.

(b) There shall be a rebuttable presumption that the owner of the vessel, if present on the vessel, or, in the owner's absence, the operator of the vessel, is responsible for any violation of this section, if:

(1) Debris of any nature is discarded from the vessel by an occupant of the vessel;

(2) There are two or more occupants in the vessel; and

(3) It cannot be determined which occupant of the vessel is the violator.

### **Section 79. Duty to obey law enforcement officer**

A person operating a vessel on the waters of this State shall stop or lay to when so ordered by any law enforcement officer.

### **Section 1.3 Equipment**

(a) No person shall operate or allow any person to operate any vessel in or on the waters of this State unless the vessel is carrying on board the minimum equipment required by Title 33 and Title 46 of the Code of Federal Regulations, amendments thereto and as may be amended, for the size and type of vessel.

(b) Whenever the vessel is in operation, this equipment shall be produced by the owner or operator upon the request of a law enforcement officer of this State.

(c) Failure to produce such equipment will be a violation of this section.

### **Section 1.5 Rotating lights**

(a) No vessel shall display a rotating or sequential flashing light except as provided in this section.

(b) Any law enforcement or emergency vessel may display a rotating blue light beacon.

(c) Any vessel engaged in activity recognized by the Coast Guard as being eligible for its use may display a rotating red and yellow light.

### **Section 1.6 Siren**

No vessel shall be equipped with, nor shall any person use upon a vessel, any siren except as otherwise permitted in this section. It is permissible that any vessel be equipped with a theft alarm signal device which is so arranged that it cannot be used by the operator as an ordinary warning signal. This section shall not apply to any vessel operated by or for the Department, a first aid squad, or a police or fire department.

### **Section 1.8 Navigation Rules**

All vessels navigating the waters of this State shall comply with the Inland Navigation Rules Act of 1980, 33 U.S.C. §§ 2001-2038, except where the International Navigation Rules Act of 1977, 33 U.S.C. §§ 1601-1608 are applicable. Both acts, as may be amended or supplemented, are incorporated by reference.

### **Section 1.9 Anchoring near aid to navigation**

No person shall anchor or cause to be anchored, tie or cause to be tied any power vessel, rowboat, sailboat, canoe, or any other vessel to or within a radius of 50 feet of any light, beacon, buoy, or any other aid to navigation, except in an emergency. This section shall not apply to vessels operated by the State or Federal Government for the maintenance, replacement or survey of navigation aids.

### **Section 1.10 Anchoring in channels**

(a) No person shall operate any vessel in a manner which shall unreasonably interfere with other vessels or with free and proper navigation of the waterways.

(b) Anchoring in heavily traveled channels or main thoroughfares shall constitute such interference if unreasonable in the prevailing circumstances.

(c) No person shall tie up or anchor vessels or other craft in navigable channels in such a manner as to prevent or obstruct the passage of other vessels or craft, or carelessly sink or permit or cause to be sunk, or except in an emergency, voluntarily sink or permit or cause to be sunk a vessel or other craft in a navigable channel.

### **Section 1.11 Transversing race course**

No vessel shall move across the course or around the course of any race or regatta so as to create a water condition which shall unnecessarily endanger the life, limb or craft of those competing in the race or regatta.

### **Section 1.13 Riders**

(a) The operator of a vessel shall not allow any person to ride in any position that would unduly endanger life or limb nor allow passengers or cargo in excess of the maximum capacity stated on the manufacturer=s or U.S. Coast Guard information label.

(1) This prohibition includes, but is not limited to, any position where the person may be in grave danger of falling overboard.

(2) This prohibition excludes all positions which may be necessary for the operation or safety of the vessel.

### **Section 1.15 Lanyard cut-off switch**

The operator of a vessel equipped with a lanyard cut-off switch shall wear the safety switch lanyard at all times when the vessel is in operation.

### **Section 1.17 Finding**

(a) Any person finding, recovering or coming into possession of any vessel other than through normal purchase, loan, rental, charter, or gift shall notify the State Police within 24 hours.

(b) The notification shall include a description of the vessel and the specific location where it was found or recovered.

### **Section 1.18 Floats and swim platforms**

No person shall place, anchor, or construct or cause to be placed, anchored or constructed, any float or diving platform more than 25 feet from shore on any non-tidal waters where power vessels are permitted without the written approval of the State Police. Permitted floats or platforms that remain in the water between sunset and sunrise shall be marked by warning lights as required by the United States Coast Guard Navigation Rules International - Inland Annex V Rule 88.13 A copy of the Rule may be obtained from the State Police.

**ARTICLE III  
PERSONAL WATERCRAFT**

**Section 63. Limitations on the operation of personal watercraft**

A person shall not operate a personal watercraft:

(a) On the waters of this State between sunset and sunrise, or during any time of restricted visibility as determined by an agent or officer of the Marine Law Enforcement Bureau, Division of State Police;

(b) Within the confines of the Point Pleasant Canal in the County of Ocean, or the Cape May Canal in the County of Cape May;

(c) Above idle speed within 50 feet of:

(1) A bathing beach that has its boundaries marked by buoys or signs;

(2) The shoreline; or

(3) Any person in the water; or

(d) In such a manner as to make the vessel completely leave the water or otherwise become airborne, while crossing within 100 feet of the wake of another vessel.

**Section 64. Responsibilities of person operating personal watercraft**

A person operating a personal watercraft shall at all times:

(a) Wear the safety switch lanyard while the personal watercraft is underway, provided that the personal watercraft is equipped with such a lanyard cut-off device; and

(b) Proceed at a safe speed that shall allow the person operating the personal watercraft to take proper and effective action to avoid collision and to stop the personal watercraft within a safe distance, as may be appropriate under prevailing circumstances and conditions.

**Section 65. Personal flotation device required**

A person operating a personal watercraft or any passenger on a personal watercraft shall at all times when the personal watercraft is underway, wear a United States Coast Guard Approved Type I, II, III, or Type V Hybrid Personal Flotation Device.

## **Section 68. Water skiers**

The operator of a personal watercraft designed to accommodate three or more persons shall be permitted to tow a water skier, provided that the personal watercraft has the capacity to allow one of the persons to face the stern of the personal watercraft for the purpose of tending to a ski rider; and that the person tending to the ski rider shall be present during the towing of the ski rider.

## **Section 86 Conditions for operation of personal watercraft without completion of boat safety course; violations, penalties; rules, regulations**

A person who is 16 years of age or older may operate a personal watercraft without having completed a boat safety course required pursuant to N.J.S.A. 12:7-61, under the following conditions:

- (a)
  - (1) the person operates the personal watercraft within the boundaries of an area designated solely for the operation of personal watercraft by a business engaged in renting personal watercraft for use on the waters of the State;
  - (2) the area designated for such operation is supervised by a person who is experienced in the operation of personal watercraft and who has successfully completed a boat safety course approved pursuant to N.J.S.A. 12:7-60; and
  - (3) the person has successfully completed an instruction course provided by the owner or lessee of the personal watercraft prior to operating the personal watercraft within the designated area.
- (b) the person has written proof, while operating the personal watercraft, of successful completion of a boat safety course substantially similar to an approved boat safety course as established pursuant to N.J.S.A. 12:7-60.

## **Section 3.1 Waterskiing**

- (a) Waterskiing means anything with a rider being towed by a power vessel by means of a tow rope, tow line, or training boom, except another vessel being towed.
- (b) All power vessels (including vessel, towline and skier) conducting waterskiing operations shall, while underway, keep at least 200 feet distant from any wharf, marine, dock, pier, bridge structure, abutment, or persons in the water, and 100 feet from other vessels, any shore, approved aid to navigation or mooring except specifically provided otherwise in these regulations.

(c) All power vessels conducting waterskiing operations shall have a crew of at least two persons, one of whom shall be a competent observer, and shall have adequate space on the vessel for the waterskiing participant.

(d) Tow lines shall be not less than 35 feet nor more than 75 feet in length, except as specifically provided otherwise in these regulations.

(e) Waterskiing is permitted only between sunrise and sunset, except as specifically provided otherwise in these regulations.

(f) Waterskiers shall wear a United States Coast Guard approved Type 1, II, III or Type V Hybrid personal flotation device, except that a barefoot wetsuit may be worn during sanctioned competitions or shows and while training for such events, as long as there is a United States Coast Guard approved wearable personal flotation device on board the vessel for each skier.

(g) All ski boats shall display a signal pennant, which shall be orange in color and triangular in shape and not less than 12 inches on any dimension.,

(1) Said pennant shall be displayed at least four feet above the highest structure on the boat during each of the following activities:

- i. While pulling or retrieving a skier;
- ii. While a skier is in the water; or
- iii. While a tow line is in the water.

(2) A person shall not display the pennant at any time other than while conducting any of the activities described in this subsection.

(h) The commission shall, upon application, waive any one or more of the above requirements for events of public entertainment on any wholly-owned private lake, provided that it finds the event to be consistent with the interests of boating safety.

#### **ARTICLE IV PENALTIES**

**Section 51.** Any person who shall violate any provision of this Ordinance, where the penalty therefor is not specifically prescribed, shall be subject upon conviction to a fine of \$25 for a first offense, \$50 for a second offense, and \$100 for a third and each subsequent offense of the same violation.

#### **ARTICLE V MISCELLANEOUS**

**Section 1.** This Ordinance hereby incorporates and adopts by reference any amendments to chapter 7 of Title 12 of the New Jersey Statutes and to any regulations issued thereunder, which amendments are adopted subsequent to the date of adoption of this Ordinance.

**Section 2.** If any section, paragraph, subdivision, clause or provision of this Ordinance is adjudged invalid, the adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

**Section 3.** All Ordinances or parts of Ordinances in conflict with or inconsistent with this Ordinance are repealed, but only to the extent that such repeal is necessary to effectuate the intent and enforcement of this Ordinance. Such repeal shall not prevent the prosecution or punishment of any person for any act done or committed in violation of any Ordinance hereby repealed prior to the effective date of this Ordinance. If any portion of this Ordinance, which causes the repeal of any other Ordinance in accordance with this sub-article is found to be invalid, then, in such event, the repealed Ordinance shall be deemed revived for the purpose of prospective enforcement of said Ordinance. Ordinance No. 406 and any amendments thereto are specifically repealed as of July 1, 2006.

**Section 4.** Unless otherwise specifically provided herein, the provisions of this Ordinance shall take effect on July 1, 2006.

## NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed upon first reading at a regular meeting of the Mayor and Council for the Borough of Mantoloking, in the County of Ocean and State of New Jersey, held on April 17, 2006, and said Ordinance will be considered for final passage at the Borough Hall, Downer Avenue, Mantoloking, New Jersey at 8:00 p.m. on May 15, 2006, or as soon thereafter as said matter may be reached, at which time and place all persons interested will be given an opportunity to be heard.

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Irene H. Ryan, R. M. C.