

## CHAPTER 9 BOAT OPERATIONS AND USE OF WATERWAYS

### Section 9.01: Purpose

The purpose and intent of this bylaw is to protect the health, safety and well being of the citizens and visitors using Sandwich's waterways and to protect the quality and viability of the Town's natural resources by the reasonable regulation of the operation of watercraft.

### Section 9.02: Definitions

- 1) "Great Pond" shall mean a natural pond the area which is twenty (20) acres or more.
- 2) "Headway Speed" shall mean the minimum speed at which a vessel may be operated and maintain steerage way, but not to exceed six (6) miles per hour.
- 3) "Horsepower" shall mean the aggregate rated horsepower of all propellant machinery at maximum operating revolutions per minute.
- 4) "Licensed Docks and Piers" shall mean docks and piers that have a valid Order of Conditions from the Sandwich Conservation Commission and a valid license from the Massachusetts Department of Environmental Protection, to install and maintain the dock or pier.
- 5) "Limited Operation Zone" shall mean the area of the waterbody, as measured three hundred (300) feet from the shoreline being used as a public or private swimming beach, towards the center of the particular waterbody.
- 6) "Motorboat" shall mean any vessel propelled by machinery whether or not such machinery is the principal source of propulsion.
- 7) "Nighttime" shall mean the period from sunset to sunrise as determined by the chart attached in Appendix 1.
- 8) "Overloaded" shall mean the number of persons aboard or cargo being carried, exceeds the manufacturer's recommended limit for such vessel or is excessive given wind, water and weather conditions.
- 9) "Owner" shall mean the person to whom the vessel is registered, or to whom the vessel mooring is registered. In the case of an unregistered vessel, the last registered owner/purchaser shall be considered the owner.
- 10) "Personal Watercraft" shall mean a vessel, by whatever name, propelled by a water jet pump or other machinery as its principal source of motor propulsion which is designed to travel over water and to be operated by a person sitting, standing or kneeling on the vessel rather than being operated in the conventional manner by a person sitting or standing inside the vessel, including but not limited to, jet skis, surf jets, and wet bikes.
- 11) "Shoreline Safety Zone" shall mean the area of the waterbody, as measured, one hundred fifty (150) feet from a shoreline, which is being used as a public or private swimming area or the area of the waterbody, as measured, seventy-five (75) feet from the waterside boundary of a public or private swimming area, if designated by markers, floats, or otherwise, towards the center of the particular waterbody.
- 12) "Similar Device" when used in connection with the words "water skis" and "surfboard" shall mean any object used in the towing of a person or persons by a motorboat whether the person or persons ride on the device or hold onto it.

- 13) "Sunrise – Sunset" shall be determined by the chart set forth in the current issue of Eldridge's Tide and Pilot Book.
- 14) "Town" shall mean the Town of Sandwich, Massachusetts.
- 15) "Town Hall Annex" shall mean the building at 145 Main Street, Sandwich, Massachusetts.
- 16) "Town Office Building" shall mean the building at 16 Jan Sebastian Drive, Sandwich, Massachusetts
- 17) "Vessel" is a watercraft of every description used or capable of being used as a means of transportation on water, except a seaplane on the water.
- 18) "Wake – Wash" shall mean the discharge from the stern portion of a motorboat or personal watercraft or other vessel which causes excessive rocking to other vessels, rafts, or floats.
- 19) "Water Skiing" shall mean the towing of a person or person(s) on water skis, or manipulation of a person or person(s) on water skis, or on a surf board or other similar device behind a vessel.

**Section 9.03: Vessel Speed**

- 1) Vessel speed shall not exceed headway speed and no wake - wash shall be created on any pond not a Great Pond.
- 2) Vessel speed shall not exceed headway speed and no wake – wash shall be created on the following Great Ponds: Lower Shawme Pond and Upper Shawme Pond, or other Great Pond of less than seventy-five (75) acres in size.
- 3) Vessel speed shall not exceed headway speed and no wake - wash shall be created in areas posted by the Town, within marked channels, nor within one hundred fifty (150) feet of individual bathers, divers, small vessels propelled by means other than machinery (e.g. rowboats, sailboats), mooring areas, public and private boat launch areas, floats, marinas, licensed docks and piers, vessels not underway, nor within a limited operation zone.
- 4) No vessel shall be operated at any time on any pond at a speed greater than is reasonable and proper having regard for the lives and safety of the public; the state of visibility; the traffic density; the maneuverability of the vessel; the state of wind, water and current; and the proximity of navigational hazards.
- 5) Vessels operating on Peters Pond shall not exceed thirty-five (35) miles per hour.

**Section 9.04: Horsepower**

- 1) Horsepower of internal combustion engines shall not exceed six (6) horsepower on any pond not Great Pond; however, no internal combustion engines shall be operated on the Upper and Lower Shawme Ponds except for emergency watercraft or town-authorized maintenance vessels. An electric motor, commonly known as an electric trolling motor, may be used for propulsion on the Upper and Lower Shawme Ponds.
- 2) Horsepower of internal combustion engines shall not exceed ten (10) horsepower on Pimlico Pond.
- 3) Horsepower of internal combustion engines shall not exceed fifteen (15) horsepower on the following Great Ponds: Lawrence Pond; Triangle Pond; Spectacle Pond; Snake Pond.

- 4) There shall be no horsepower limitation on Peters Pond.
  - a.) The use of Personal Watercrafts, including jet-ski watercraft, surf jet watercrafts, and wet bike watercrafts is prohibited on Peters Pond.
- 5) Notwithstanding the other provisions of Chapter 9, the Board of Selectmen or their designee shall permit persons operating larger horsepower engines on Town waterways, prior to January 2001, to continue to operate larger horsepower engines on Lawrence Pond, Spectacle Pond, and Snake Pond, for a period of seven (7) years from the date of the approval of the Director of the Division of Law Enforcement and the Attorney General of Chapter 9, but no later than December 31, 2008, provided such persons shall provide proof of such use to the Conservation Officer, and provided that such persons meet the guidelines promulgated by the Board of Selectmen concerning the requirements for continuation of the use of larger horsepower engines. These guidelines shall be promulgated by the Board of Selectmen within one hundred twenty (120) days of the receipt of the approval of the Director of the Division of Law Enforcement and the Attorney General of Chapter 9.
- 6) Notwithstanding the other provisions of Chapter 9 and recognizing that some long standing non-profit organizations have utilized various waterbodies for instructional purposes, the Board of Selectmen may permit these non-profit organizations continued use of larger horsepower engines for transport or safety vessels, not to exceed fifty (50) horsepower, within set guidelines. These guidelines shall be promulgated by the Board of Selectmen within one hundred twenty (120) days of the receipt of the approval of the Director of the Division of Law Enforcement and the Attorney General of Chapter 9. The non-profit organization shall submit an application which is available at the Conservation Department. Following a public hearing on the application, the Board of Selectmen may issue a permit to allow the continued use of larger horsepower engines. Any permit issued shall expire five (5) years from the date of issue. Violations of the permit conditions may be cause for revocation.
- 7) Sections 9.04 (3), (5) & (6) shall not be enforced until the guidelines referenced in 9.04 (5) & (6) are promulgated by the Board of Selectmen.

Amended November 15, 2021 (Article 4)

#### **Section 9.05: Operation**

- 1) Vessels shall not be operated on any pond at greater than headway speed and create no wake -wash, between the hours of sunset to sunrise.
- 2) No vessel shall be operated at any time on any pond in an overloaded condition.
- 3) Motorboats shall not be operated within a shoreline safety zone except for the purpose of launching or retrieving such vessel provided they remain outside of the designated swimming area(s), and operate at headway speed, only within the shoreline safety zone.

Amended November 15, 2021 (Article 4)

#### **Section 9.06: Scuba Diving**

Any person SCUBA diving or group of SCUBA divers while swimming on or under the surface of the waters of Sandwich shall display for each diver or group of divers as a warning device to boat operators, a diver's flag, so called, constructed of rigidly supported material, at least twelve (12) inches by fifteen (15) inches in area of red background with a white diagonal stripe. Such diver's flag shall be displayed on a boat or surface float and shall extend a minimum distance of three (3) feet from the surface of the water. Divers shall remain in an area within one hundred (100) feet of such displayed diver's flag while at or near the surface of the water. A boat operator within sight of a diver's

flag shall proceed with caution and within a radius of one hundred (100) feet of such flag shall proceed at a speed not to exceed headway speed.

**Section 9.07: Pollution**

The discharge or disposal of oil, sewage, dead fish, fish parts, garbage, waste, rubbish or debris from vessels on or into the waters or onto the shores of Sandwich, is prohibited.

**Section 9.08: Enforcement**

- 1) The provisions of this bylaw shall be enforced by the Conservation Officer, Harbormaster, Assistant Harbormasters, or by a Police Officer of the Town assigned to patrol Town waterways.
- 2) All persons shall stop when directed to do so by an officer empowered to enforce this bylaw.

**Section 9.09: Penalties**

- 1) Whoever violates any of the provisions of this bylaw and refuses or neglects to obey the lawful and reasonable order of those empowered to enforce the same, or resists them in the discharge of their duties, shall be fined not more than three hundred (\$300) dollars or in the case of non-criminal enforcement, fifty (\$50) dollars for the first offense and two hundred (\$200) dollars for every violation, thereafter. Each day or portion thereof during which a violation continues shall constitute a separate offense and each provision of the bylaw violated shall constitute a separate offense.
- 2) As an alternative to criminal prosecution, the enforcing agent may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Chapter 40, Section 21D as adopted by the Town of Sandwich.

**Section 9.10: Jurisdiction**

Nothing contained herein shall be held or construed to supersede or conflict with or interfere with or limit jurisdiction of the United States Government with respect to the enforcement of the navigation, shipping, anchorage and associated laws of the United States, or any lawful regulation of the Massachusetts Division of Waterways, or the Division of Law Enforcement, or to conflict with any laws or regulations of the Commonwealth of Massachusetts. Vessels operated by public safety agencies of the Town, State or the United States Government are exempt from complying with the provisions of this bylaw.

**Section 9.11: Severability**

The invalidity of any provision of this bylaw shall not invalidate any other provision thereof.

Adopted March 19, 2001 (Article 3)