



City of Homer

www.cityofhomer-ak.gov

Homer City Council

491 East Pioneer Avenue
Homer, Alaska 99603

(p) 907-235-3130

(f) 907-235-3143

Memorandum 21-070

TO: MAYOR CASTNER AND HOMER CITY COUNCIL
FROM: COUNCILMEMBER LORD
DATE: APRIL 21, 2021
SUBJECT: ORDINANCE 21-26

With new State of Alaska regulations allowing personal watercraft (PWC) in the Kachemak Bay Critical Habitat Area, there are concerns from the community regarding nearshore habitat and nonmotorized recreation protections. Currently, motorized vessels are not commonly operating within City tidelands. These areas may be more attractive to shallow draft PWCs. This ordinance is intended to set boundaries that prioritize and protect habitat and nonmotorized uses of City-owned tidelands.

There are several considerations to consider when discussing this proposal:

- Clarity of boundaries for public education and enforcement. The City tidelands boundary is not readily obvious. We need to be able to communicate the new regulation in a meaningful way. Maintaining buoy markers presents substantial logistical challenges and is likely not the most pragmatic option. This marking system could be reassessed depending on the level of need as we experience PWC use patterns and outreach effort success.
- Restricted/no access areas. Currently these are drafted as Louie's Lagoon and the entrance to Beluga Slough. In consideration of the above concern, consider amending the proposal to have two larger restricted/no access areas and forego the No Wake speeds.
- Beluga Slough itself is owned by a mixture of the U.S. Fish and Wildlife Service and private entities. The City owns tidelands at (or near) the entrance to the slough, and in the far back corner by the sewer treatment plant.
- Is a distance seaward too unclear? i.e. No wake 1,000 feet seaward of the shoreline within all City tidelands where motorized vessels are allowed.
- While the lifting of the PWC prohibition has catalyzed this conversation, this proposal would apply equally to all motorized vessels. Per the AK Dept. of Natural Resources: "PWCs are considered powerboats under state and federal law, and operators must meet the same boat registration and equipment requirements (see Resources) as other powerboats." (Alaska Boater's Handbook, Prince William Sound Supplement)
- Ultimately, public outreach and education will be required to ensure that whatever regulation the City adopts is communicated effectively to the impacted user groups. This should include not only the areas under speed limit/restriction, but also who to call in case of questions or concerns. It could also be used as a great opportunity for some positive information about tidelands, possibly in partnership with KBNERR? There are funds appropriated in the ordinance for introduction, but this should be discussed in terms of an appropriate amount.
- While the City must make substantive efforts towards educating the impacted user groups on regulation changes, it is ultimately the responsibility of the users to know and comply with all applicable local, state, and federal laws. We must make that good faith effort for outreach, but after that "I didn't know" is not a defensible claim in most aspects of adult life.

- Current Homer City Code Chapter 10.08 is titled 'Protection of the Harbor and Waterways'. The proposed code changes would come under this chapter, and within the section there already exists a penalty structure. See HCC 10.08.220

I have talked with Port & Harbor Commission Chair Steve Zimmerman, and he has agreed to have this Ordinance on the April 28th agenda for their review and recommendations. If Council would like to also refer to Planning, it would be great to get on their May 5th agenda. My hope is that Council can introduce this at our April 26th meeting, then receive comments back from Port & Harbor (and Planning if applicable), make amendments and pass a final version of the ordinance at our May 10th regular Council meeting.

Below are several examples of how state regulations define speed limits and and restricted use areas for motorized boats and PWC.

From Alaska Administrative Code (AAC, state regulation), 200' is used as a boundary for No Wake zones around state managed docks, boat launches, or swimming beaches:

11 AAC 20.115. Motorized boats (a) The use of a boat with a motor, other than a personal watercraft, is allowed in Kachemak Bay State Park only on saltwater, China Poot Lake, Hazelle Lake, or Petrof Lake. (b) A person may not launch or operate a personal watercraft in Kachemak Bay State Park. (c) A person may not operate a motorized boat in excess of "Slow No-wake" speed, five miles per hour maximum, within two hundred feet of a state managed dock, swimming beach, or boat launch, or within an area designated and marked as a "Slow No-wake" zone.

From AAC for the Kenai River Special Management Area. Although there is a 300' of shore no wake designation, most of these regulations reference physical landmarks and/or river mile markers.

11 AAC 20.865. Non-motorized areas (a) The operation of a boat by the use of a motor is prohibited (1) on the Kenai River between river mile 80.7 and Skilak Lake; and (2) on the Kenai River between Skilak Lake and river mile 47.0 from March 15 through June 14. (b) Repealed 3/1/2008. (c) On the waters of the Kenai River Special Management Area, a person may not launch or operate (1) an airboat, hovercraft, or hydroplane; or (2) a personal watercraft, except as provided in [11 AAC 20.867](#).

11 AAC 20.867. Personal watercraft (a) A person may operate a personal watercraft within the Kenai River Special Management Area only on Kenai Lake on the portion of the lake that is north of a line running from the Primrose Campground boat launch to a prominent marker on the east shore of Kenai Lake, and east of a line running from the Chugach Electric Association powerhouse to a marker on the south side of Porcupine Island, and thence north to the United States Forest Service campground on the north side of Porcupine Island. (b) Within the area on Kenai Lake described in (a) of this section in which a personal watercraft may be operated, a person may not operate a personal watercraft (1) within 300 feet of shore (A) greater than five miles per hour; or (B) in a manner that creates a wake; or (2) between the hours of 10:00 p.m. and 10:00 a.m.

11 AAC 20.870. Boating and aircraft speed limits (a) A person may not operate a boat at a speed greater than five miles per hour in the no wake area between the Kenai Lake Bridge and river mile 80.7 on the Kenai River. (b) No person may operate a boat or aircraft at a speed greater than five miles per hour in the no wake area of the Moose River between the Sterling Highway Bridge and the confluence with the Kenai River. (c) No person may operate a boat or aircraft at a speed greater than five miles per hour in the no wake area of the side (north) channel of the Kenai River from river mile 11 downstream through lower Beaver Creek to its confluence with the main channel of the Kenai River at approximately river mile 10. (d) A person may not operate a boat or aircraft at a speed greater than five miles per hour in the no wake area within the channel north of the island located between river mile 15.2 and river mile 14.7, which includes the upstream and downstream entrances to Castaway Cove.