

**ORDINANCE NO. 2023-21**

**AN ORDINANCE BY THE TOWNSHIP COMMITTEE  
OF THE TOWNSHIP OF BARNEGAT, COUNTY OF  
OCEAN, STATE OF NEW JERSEY AMENDING  
AND SUPPLEMENTING CHAPTER 71 OF THE  
TOWNSHIP CODE ENTITLED “VEHICLES AND  
TRAFFIC” AND ESTABLISHING  
CHAPTER 71B OF THE TOWNSHIP CODE  
ENTITLED “BOATS AND BOATING”.**

**NOW THEREFORE BE IT ORDAINED** by the Mayor and Township Committee of the Township of Barnegat, County of Ocean and State of New Jersey as follows:

**SECTION 1.** Chapter 71 of the Township Code entitled “Vehicles and Traffic” more specifically Article XI therein entitled “Operation of Certain Motor Vehicles” is hereby amended as follows:

**§ 71-43. Definitions.**

**MOTORCYCLE**

[unchanged]

**MOTORIZED BICYCLE**

[unchanged]

**MOTORIZED SPORTBIKE**

[unchanged]

**PRIVATE PROPERTY**

All lands or freshwaters in the Township not defined as public property or constituting part of the road system.

**PUBLIC PROPERTY**

All lands or freshwaters owned or leased by the Township of Barnegat, the Board of Education of the Township of Barnegat, or any other equivalent public body, but specifically excluding therefrom any roadways being used for public transportation and being part of the accepted road system of the Township, the county or the State of New Jersey.

**UNLICENSED OPERATOR**

[unchanged]

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**WATERCRAFT**

[unchanged]

**§ 71-44. [unchanged]**

**§ 71-45. [unchanged]**

**SECTION 2.** Chapter 71B of the Township Code entitled “Boats and Boating”

is hereby established and shall read as follows:

**ARTICLE I PERSONAL WATERCRAFT**

**§ 71B-1. Definitions.**

**PERSONAL WATERCRAFT**

A power vessel as defined as a Class 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 as to disengage the pump so as to prevent the vessel from making headway.

**§ 71B-2. Operation restrictions.**

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 cutoff 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 the prevailing circumstances and conditions.

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**§ 71B-3. 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.

**§ 71B-4. Water-Skiers.**

The operator of 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 of ski rider; and that the person tending to the ski rider shall be present during the towing of the ski rider.

**§ 71B-5. Violations and Penalties.**

Any violation of this article or of any regulation promulgated thereunder shall be punishable by a fine not to exceed one hundred fifty dollars (\$150).

**ARTICLE II OPERATION OF VESSELS**

**§ 71B-6. Careless operation prohibited.**

A person who operates a vessel on the waters of this Township, 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.

**§ 71B-7. Reckless operation.**

A person who disregards the rights of safety of others and operates a vessel on the waters of this Township in a manner which unnecessarily interferes with the free and proper use of any waters, or which unnecessarily creates a risk of damage or injury to other craft therein, or to person or property, shall be guilty of reckless operation of a vessel.

**§ 71B-8. Personal flotation devices required.**

- A. A person shall not operate or allow another person to operate a vessel on the waters of this Township 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 numbers 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.

- B.** For the purpose of this section, the term “vessel” does not include surfboards, windsurfer, racing shells, rowing sculls and racing kayaks.

**§ 71B-9. Personal flotation devices on children.**

- A.** Every person who operates a vessel on the waters of this Township with a child 12 years of age or under on board shall have the child wear at all times a properly fitted United States Coast Guard approved personal flotation device (PFD) whenever the vessel is underway. The PFD shall be fully secured on the child by all means provided in accordance with the manufacturer's instructions.
- B.** The operator of a vessel shall not be guilty of a violation of this act if a United States Coast Guard flotation device of a size to properly fit the child is not commercially available.

**C. Exceptions.**

- a.** Subsection A above shall not apply when the child is inside a fully enclosed cabin that is a permanent, nonremovable part of the vessel that is intended by the vessel's manufacturer to carry passengers.
- b.** The following classes of vessels shall be exempt from the requirements of Subsection A above:
  - i.** Vessels owned and operated by the United States;
  - ii.** Vessels owned or operated by the State of New Jersey or an agency thereof, a county, a municipality, a volunteer first aid, rescue or emergency squad, a search and rescue unit established within a fire district, or volunteer fire company, when a child is on board as a direct result of being rescued from an emergency situation;

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iii. Commercial vessels; and

iv. Ferries.

- c. For the purpose of this section, “commercial vessel” means any vessel longer than 65 feet operated for a purpose that requires a United States Coast Guard operator's or master's license. “Ferry” means any vessel longer than 65 feet operating on a short run on a frequent schedule between two points offering a public service of a type normally attributed to a bridge or tunnel.

**§ 71B-10. Discarding debris.**

- A. A person shall not discard debris from a vessel that is on the waters of this Township.
- B. There shall be a rebuttable presumption that the owner of the vessel, present on the vessel, or in the owner's absence, the operator of the vessel, is responsible for any violation of this section if:
- a. Debris of any nature is discarded from the vessel by an occupant of the vessel;
  - b. There are two or more occupants in the vessel; and
  - c. It cannot be determined which occupant of the vessel is the violator.

**§ 71B-11. 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 crafts whether floating, moored anchored or underway, or to piers, wharfs, bulkheads, draw spans or other waterfront construction either directly or by the effect of the wash or wave raised by such power vessels through its speed or otherwise.

- A. No person shall operate a power vessel or allow a power vessel to be operated in a manner where the speed and/or wake of the power vessel may cause danger or injury to life or limb or damage to property.
- B. All power vessels shall reduce their speed to slow speed/no wake when passing:

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- a. Any marina, pier, dock, wharf or abutment at a distance of 200 feet;
  - b. Work barges or work floats while actually engaged in construction;
  - c. Through bridge spans;
  - d. Through lagoons, canals and confined areas of less than 200 feet in width;
  - e. Vessels not under command; or
  - f. Emergency vessels displaying sequential flashing or rotating blue lights.
- C. "Slow speed/no wake" as used in this section means the speed at which a power vessel moves through the water and is able to maintain minimum headway in relation to the vessel or structure being passed and producing the minimum wake possible.
- D. All power vessels, when moving through an area not specified in Subsection B above that has been designated as a "slow speed/no wake" area by the State Police or Township of Barnegat, either by buoys or by signs stating "Slow Speed" and/or "No Wake" shall reduce their speed to slow speed/no wake.
- E. A slow speed/no wake area is any area defined in Subsection B above and any area within 200 feet of a State Police authorized or Township of Barnegat slow speed/no wake sign or buoy.
- F. No person shall place, anchor, or construct any buoy that states or implies that an area is a slow speed/no wake area pursuant to Subsections A through E above. The State Police may remove or have removed any such unauthorized buoy.

**§ 71B-12. Anchoring near aid to navigation prohibited; exception.**

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.

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**§ 71B-13. Filing of application for vessel required to be numbered.**

- A.** The owner of a vessel required to be numbered in this state shall file an application with the New Jersey Motor Vehicle Commission on forms approved by it. The application shall be signed by the owner and shall be accompanied by the fee prescribed by for such vessel. Upon receipt of the application in the approved form and the prescribed fee, the New Jersey Motor Vehicle Commission shall enter the same upon the records of its office and issue to the applicant, a pocket-size laminated or otherwise water-resistant certificate of number, which shall state the name and address of the owner, a description of the vessel, its use, and the number assigned.
- B.** Except as proved herein, the certificate of number shall be available at all times for inspection on the vessel for which issued whenever such vessel is in operation. The certificate of number for vessels less than 26 feet in length and leased or rented to another for latter's noncommercial use of less than 24 hours may be retained on shore by the vessel's owner or his representative at the place from which the vessel departs or returns in the possession of the owner or his representative, provided that such substitute as the Director may prescribe by regulation is carried on board.

**§ 71B-14. Registration of documented vessel based in New Jersey.**

- A.** For the purposes of P.L. 1962, c. 73 (N.J.S.A. 12.:7-34.36 et seq.) a documented vessel is based within this state if the owner owns, maintains, leases or rents space in this state for its storage, mooring or servicing on other than a transient basis.
- B.** The owner of a documented vessel of 500 gross tons or less based in this state shall file an application for the registration of such vessel with the New Jersey Motor Vehicle Commission on forms approved by it. The application shall be signed by the owner and shall be accompanied by the fee prescribed herein for the vessel. Upon receipt of the application in the approved form and the prescribed fee, the New Jersey Motor Vehicle Commission shall enter the same upon the records of its

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office and issue to the applicant a pocket-size laminated or otherwise water-resistant certificate of registration which shall state the name and address of the owner, a description of the vessel, and its use.

- C. The certificate of registration shall be available at all times for inspection on the vessel for which issued whenever the vessel is in operation.
- D. The fees for the initial registration of a documented vessel and for each renewal thereof shall be based on the length of the vessel and shall be the same as provided for in Section 12 of P.L. 1962, c. 73 (N.J.S.A. 12:7-34.47) for other vessels of the same length.

**§ 71B-15. Mufflers on power vessels.**

- A. Every power vessel used on the waters of this Township shall at all times be equipped with a muffler or muffler system in good working order and in constant operation. A person shall not use a muffler or muffler system cutout, bypass or similar method or device to prevent or diminish the operational capacity of a muffler or a muffler system installed on a power vessel used on the waters of this Township. Decibel levels exceeding the limits established pursuant to rules and regulations as measured by a noise meter operated by a trained Marine Police Officer shall be evidence of a violation of this section. For the purpose of this section, "muffler" means a sound-dissipative device or system which abates the sound of gasses which are emitted from an internal combustion engine and which prevents excessive or unusual noise.
- B. The provisions of this section shall not apply to power vessels registered and actually participating in racing events, or tune-up periods for racing events, when authorized by the Division of State Police in the Department of Law and Public Safety or by any other public authority with the approval of the Division of State Police.

**§ 71B-16. Numbering of vessels required; exception.**

- A. Except as herein otherwise provided, every vessel which is upon the waters of this Township shall be numbered in accordance with the provisions of this article, and no person shall operate or give permission to operate any vessel on such waters unless it is so numbered.

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**B.** A vessel shall not be required to be numbered under this article if it is:

- a.** A documented vessel;
- b.** Being legally operated and meets all current requirements pursuant to applicable federal law or a federally approved numbering system of another state, provided that such vessel shall not have been within this Township for a period in excess of 180 consecutive days, unless it is in New Jersey for the purpose of wet or dry storage or for repairs, in which case the actual time for said storage or repair shall not be counted as included within 180 days aforesaid; provided, however, that a vessel; shall be considered to be based within this Township if its owner owns, maintains, leases, or rents space in this Township of its owner owns, maintains, leases or rents space in this Township for its storage, mooring, or servicing on other than a transient basis;
- c.** From a country other than the United States temporarily using the waters of this Township;
- d.** A public vessel of the United States, a state or subdivision or agency thereof;
- e.** A ship's lifeboat;
- f.** Any vessel used exclusively for racing while actually competing in or turning up for an authorized race held under the auspices of a duly incorporated yacht club or racing association in accordance with the rules and regulations prescribed by the Division of State Police and pursuant to a permit duly issued by the Division;
- g.** A sailboat or vessel, except for power vessels, used exclusively on small lakes and ponds wholly within private lands;
- h.** A nonmotorized, inflatable surfboard, racing shell, rowing scull, tender for direct transportation between a vessel and the shore and for no other purpose (dinghy), or vessel, except power vessels, of 12 feet or less in length;

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mooring except specifically provided otherwise in these regulations.

- B. 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.
- C. Tow line shall be not less than 35 feet nor more than 75 feet in length, except as specifically provided otherwise in these regulations.
- D. Water-skiers shall wear a United State Coast Guard approved Type I, II, III or Type V hybrid personal flotation device, except that a barefoot wet suit 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.
- E. All ski boats shall display a signal pennant, which shall be orange in color and triangular in shape and not less than 12 inches in any dimension.
  - a. 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.
  - b. A person shall not display the pennant at any time other than while conducting any of the activities described in this subsection.

**§ 71B-21. Violations and Penalties.**

Any violation of this article or of any regulation promulgated thereunder shall be punishable by a fine not to exceed one hundred fifty dollars (\$150).

**SECTION 3.** All ordinances or parts of ordinances inconsistent herewith are

hereby repealed.

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**SECTION 4.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 5.** This ordinance shall take effect after second reading and publication as required by law.

**NOTICE**

**NOTICE IS HEREBY GIVEN** that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Barnegat on the **8<sup>th</sup> day of June, 2023**, and will be considered for second and final passage at a meeting of the Township Committee to be held on the **6<sup>th</sup> day of July 2023, at 6:30 PM.** at the Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

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Donna M. Manno, RMC,  
Municipal Clerk

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**CERTIFICATION**

I, Donna M. Manno, Municipal Clerk of the Township of Barnegat, County of Ocean, State of New Jersey do hereby certify by my hand and seal that the foregoing Ordinance namely **Ordinance 2023-21** Amending and Supplementing Chapter 71 of the Township Code Entitled, "Vehicles and Traffic" and establishing Chapter 71B of the Township Code Entitled "Boats and Boating", was introduced and passed at a meeting of the Township Committee on the **8<sup>th</sup> day of June, 2023** and finally adopted after Public Hearing at a meeting held in the Municipal Complex, 900 West Bay Avenue, Barnegat, NJ on the **6<sup>th</sup> day of July, 2023 at 6:30 PM.**

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Donna M. Manno, RMC  
Municipal Clerk

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