

**KOOTENAI COUNTY CODE**  
**TITLE 6**  
**PUBLIC PROPERTIES AND WATERWAYS**  
**CHAPTER 2**  
**COUNTY PARKS AND WATERWAYS**

**6-2-1: TITLE AND AUTHORITY:**

This chapter shall be known as the *KOOTENAI COUNTY PARKS AND WATERWAYS ORDINANCE*, and by authority of Idaho Code sections 31-806, 31-807 and 67-7031 in addition to the general authorities set out in section 1-1-2 of this code, the board of county commissioners hereby enacts this chapter. (Ord. 379, 8-30-2006)

**6-2-2: PURPOSE:**

It is necessary for the protection of health, safety and welfare of the general public, and for the protection of public and private property, to regulate the operation of vessels and swimming on the public waters of the state of Idaho situated in Kootenai County but outside the municipal boundaries of the various incorporated cities within the county. The board of county commissioners specifically finds that it is necessary for the protection of the health, safety and welfare of the general public to adopt and enforce rules and regulations governing all county parks and waterways facilities, including, without limitation, all facilities directly owned by Kootenai County or under its sole control as a public easement, or under a cooperative agreement on public lands with other public agencies such as the Idaho department of lands, Idaho department of fish and game, United States bureau of land management, United States forest service, city of Coeur d'Alene, city of Post Falls, city of Harrison, city of Hauser, city of Fernan, city of Hayden or the city of Spirit Lake. (Ord. 379, 8-30-2006)

**6-2-3: DEFINITIONS:**

For the purposes of this chapter, the following definitions shall be applicable:

**ADULT SUPERVISION:** The presence of a responsible person age eighteen (18) years or over on or in a vessel.

**BOARD:** The board of county commissioners of Kootenai County, Idaho.

**BOAT CAMPING:** The act of sleeping overnight in or on a vessel attached or moored to a public dock, pier, mooring buoy or other designated structure.

**CAMP OR CAMPING:** The act of physically placing any type of personal belonging on or above the ground, or on or above a concrete slab, pier, dock, picnic table, bench or other structure, in order for one or more persons to rest, nap or sleep overnight.

**COMMERCIAL USE:** Use of any county facility in connection with any activity or enterprise conducted for profit.

**COMMERCIAL WATER SPORTS ACTIVITIES:** Any organized recreational activity or enterprise conducted for profit which is conducted in entirety or in part on public waters and utilizes county facilities in furtherance of such activities, including, without limitation, fishing or hunting guide services, kayaking, operation of personal watercraft, wakeboarding, knee boarding, waterskiing, parasailing, diving, fly casting, whitewater rafting, and pedal boating.

**DIRECTOR:** The director of the Kootenai County parks and waterways department, or his or her designee.

**FACILITY:** Any park, trail, boat launch facility, or other waterways facility owned, operated, managed or maintained by Kootenai County.

**FIREARM:** Any weapon from which a shot, projectile or other object which may be discharged by force or combustion, explosion, gas or mechanical means. This definition shall include, but not be limited to, pistols, rifles, shotguns, BB guns, pellet guns, paintball guns, slingshots, crossbows, bow and arrows or a spear gun.

**FIREPLACE AREA:** A portion of a facility which is constructed of concrete, rock or metal and which is officially designated by the county at the location for having fires at the facility.

**MOORING:** Parking a vessel in the water.

**MOTOR DRIVEN WATERCRAFT:** Any vessel which is propelled by any type of motor or machinery.

**NIGHT:** From one hour after sunset until one hour before sunrise.

**OVERNIGHT:** From one hour after sunset until one hour before sunrise.

**PARK OR PARKING:** When used as a verb, the act of leaving a vehicle, trailer or vessel in a certain place, whether on land or water. When used as a noun, the term "park" shall mean any land owned, managed or controlled by the county, whether improved or unimproved, which is provided for public recreation and is not primarily used for launching of vessels or for parking.

**PERSONAL WATERCRAFT:** A vessel less than twelve feet (12') in length which uses an outboard or inboard motor powering a water jet pump as its primary source of power and is designed to be operated by a person sitting, standing or kneeling on, rather than in the conventional manner of sitting or standing inside the vessel.

**PICNICKING:** The physical act of setting up and/or using personal belongings that provide seating, an eating surface, food preparation, cooking, shade or the dispensing or storage of food and beverages.

**POSTED AREA:** An area which is a portion of the waters of the county and which either the board or the director has caused to be marked with regulatory markers in compliance with Idaho Code section 67-7031 and IDAPA 26.66.21 to regulate the actions of vessels and persons in such marked portions of the waters.

**POWER LOADING:** The loading or unloading of a vessel from or to its trailer by use of the vessel's propulsion system to facilitate the movement of the vessel onto or off the trailer.

**PUBLIC WATERS:** Any river, lake or other body of water within Kootenai County other than those which are privately owned in their entirety, regardless of navigability.

**SHERIFF:** The sheriff of Kootenai County, Idaho, or his or her designee.

**SHORELINE:** The line of demarcation between water and land at the time in question without regard to property lines or high or low water lines or marks.

**VESSEL:** Every description of watercraft, including a seaplane on the water, used or capable of being used as a means of transportation on water, but does not include float houses, diver's aids operated and designed primarily to propel a diver below the surface of the water, and nonmotorized devices not designed or modified to be used as a means of transportation on the water, such as inflatable air mattresses, single inner tubes and beach and water toys.

**WAKE:** The visible track of turbulence created by the movement of a vessel through the water. (Ord. 379, 8-30-2006)

#### **6-2-4: VESSEL OPERATION:**

- A. **Basic Rule:** It shall be unlawful for any person to operate any type of vessel on any public waters within Kootenai County in a negligent manner without having due regard to the actual and potential hazards then existing, or at any rate of speed greater than stated herein, or at any rate of speed greater than that which will permit, in the exercise of reasonable care, the vessel to come to a stop within the assured clear distance ahead.

B. Speed Limits: Specific speed limits for all public waters within Kootenai County, except the Spokane River from the headwater to the Post Falls Dam, the Coeur d'Alene River from the mouth to the county boundary, and Lower Twin Lake, are as follows:

1. Within two hundred feet (200') of any shoreline or any dock, pier, other structure or any person in the water, will be designated as a no wake zone in which the speed limit shall be five (5) miles per hour. This section shall not apply to any vessel having in tow or otherwise assisting a person on waterskis, aquaplane or similar contrivance upon start.

2. Within one hundred feet (100') of any other vessel, the speed shall be reasonable and prudent, but not in excess of fifteen (15) miles per hour.

3. At night, where the speed is not otherwise restricted, the speed limit shall be twenty (20) miles per hour.

4. During the day, where the speed is not otherwise restricted, the speed limit shall be reasonable and prudent, but not in excess of fifty (50) miles per hour; provided, however, that this subsection shall not apply to any motor driven watercraft while the same is being operated while actively engaged in any regatta, race, tournament or exhibition authorized pursuant to a valid marine event permit issued by the sheriff, if the permit allows the motor driven watercraft participating in that regatta, race, tournament or exhibition to exceed the posted speed limits; provided further, that this subsection shall not apply to a seaplane on the water.

5. This subsection shall not apply to any motor driven watercraft being operated under emergency conditions or by any authorized agent of any law enforcement agency of the state of Idaho, a political subdivision or the United States while said agent is acting in the performance of his duties.

C. Speed Limits For Certain Waterways: Specific speed limits for the Spokane River from the headwater to the Post Falls Dam, the Coeur d'Alene River from the mouth to the county boundary, and Lower Twin Lake are as follows:

1. During the day, where the speed is not otherwise restricted, the speed limit shall be reasonable and prudent, but not in excess of thirty five (35) miles per hour.

2. At night, where the speed is not otherwise restricted, the speed limit shall be twenty (20) miles per hour.

3. During the day or night, no motor driven watercraft shall be operated at a speed or in a manner that creates an excessive, dangerous or damaging wake.

4. Within one hundred feet (100') of the shoreline, dock, pier, other structure or person in the water, the speed limit shall be five (5) miles per hour, and no wake shall be created by any vessel.

5. The speed limit shall be fifteen (15) miles per hour within fifty feet (50') of another vessel.

6. This subsection shall not apply to any motor driven watercraft being operated under emergency conditions or by any authorized agent of any law enforcement agency of the state of Idaho, the United States or any political subdivision, while said agent is acting in the performance of his duties.

D. Boater Right Of Way: All persons using docks primarily placed for vessel use shall not interfere with vessels approaching or departing dockage. (Ord. 379, 8-30-2006)

### **6-2-5: CONTROL OF NOISE FROM MOTOR DRIVEN WATERCRAFT:**

A. Muffler System Required: It shall be unlawful for any person to operate, or permit the operation of, any motor driven watercraft on any public waters within Kootenai County unless such motor driven watercraft is equipped at all times with a muffler or a muffler system in good working order and in constant operation and effectively installed to prevent any excessive or unusual noise.

B. Muffler, Muffler System Defined: For the purposes of this section, "muffler" or "muffler system" shall mean a sound suppression device or system, underwater exhaust system, or other device or system which is designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and which prevents excessive or unusual noise.

C. Noise Levels Generally: It shall be unlawful for any person to operate, or permit the operation of, any motor driven watercraft on any public waters within Kootenai County in such a manner as to exceed the following noise levels:

1. For motor driven watercraft manufactured before January 1, 1995, a noise level of ninety (90) dBA when subjected to a stationary sound level test as prescribed by SAE J2005;

2. For motor driven watercraft manufactured on or after January 1, 1995, a noise level of eighty eight (88) dBA when subjected to a stationary sound level test as prescribed by SAE J2005.

D. Noise Levels; Public Waters Greater Than Five Hundred Feet In Width: It shall be unlawful for any person to operate, or permit the operation of, any motor driven watercraft on any public waters within Kootenai County, which is more than five hundred feet (500') in width, in such a manner as to exceed a noise level of seventy five (75) dBA measured as specified in SAE J1970; provided, that such

measurement shall not preclude a stationary sound level test as prescribed by SAE J2005.

- E. Altered Mufflers Prohibited: No person shall operate, or give permission for the operation of, any motor driven watercraft on any public waters within Kootenai County that is equipped with an altered muffler or a muffler cutout, bypass or other device designed or so installed so that it can be used to continually or intermittently bypass or otherwise reduce or eliminate the effectiveness of any muffler or muffler system installed in accordance with the provisions of this section.
- F. Muffler Removal, Alteration, Modification Prohibited: No person shall remove, alter or otherwise modify in any way a muffler or muffler system in a manner which will prevent it from being operated in accordance with the provisions of this section.
- G. Amplification Device Prohibited: No engine or motor shall be equipped with any device designed to amplify the sound of the exhaust.
- H. Noise Level Compliance Required; Exemption: No person shall manufacture, sell or offer for sale any motor driven watercraft unless it is equipped with a muffler or muffler system which complies with subsection C of this section. This subsection shall not apply to motor driven watercraft designed, manufactured and sold for the sole purpose of competing in racing events and for no other purpose.
- I. Marine Event Exemption: The provisions of this section shall not apply to motor driven watercraft registered and actually participating in an authorized marine event pursuant to a valid marine event permit issued by the sheriff.
- J. Noise Level Test: Any peace officer who has reason to believe that a motor driven watercraft is not in compliance with the noise levels established in this section may direct the owner or operator of such motor driven watercraft to submit the motor driven watercraft to an on site test to measure noise levels, with the officer on board if such officer chooses, and the owner or operator shall comply with such request. The sheriff may, by order, set a fee for such test not to exceed the actual cost of administration of the test. If such motor driven watercraft exceeds the decibel levels established in this section, or if the owner or operator refuses to submit the motor driven watercraft to an on site test, the officer may direct the owner or operator to take immediate and reasonable measures to abate the violation, or to compel submission to an on site test, including, without limitation:
  - 1. Ordering the mooring of the motor driven watercraft, and requiring that it continue to be moored or removed from the water;
  - 2. Ordering the removal of the motor driven watercraft from the water; or
  - 3. Ordering the impoundment of the motor driven watercraft until such time as the owner or operator agrees to submit the motor driven watercraft to an on site test as

required in this subsection. The registered owner of any such motor driven watercraft shall be liable for all towing fees, storage fees and any other expenses reasonably incurred as a result of such impoundment, and the county shall have a lien against the motor driven watercraft for any unpaid fees.

No motor driven watercraft ordered moored, removed from the water or impounded pursuant to this subsection shall be operated on any public waters within Kootenai County until a test is conducted which confirms that the motor driven watercraft is in compliance with subsection C of this section. This test may be conducted by any tester capable of conducting the test according to the requirements set forth in the standards referenced in subsection C of this section.

K. Penalties:

1. The first violation of any provision of this section shall constitute an infraction.
2. A second violation of any provision of this section occurring within one year of the first violation shall also constitute an infraction.
3. A third violation, and any subsequent violations, of any provision of this section occurring within one year of the second violation shall constitute a misdemeanor.
4. The failure or refusal to comply with any order lawfully made by a peace officer pursuant to subsection J of this section shall constitute a misdemeanor. (Ord. 379, 8-30-2006)

**6-2-6: RESTRICTED ZONES:**

A. General Restrictions: The board, by resolution, may designate or repeal a designation of a specific area or areas on the public waterways of Kootenai County as restricted zones. These zones shall be defined as follows:

1. "No motor driven watercraft zone" is defined as an area in which no motor of any kind can be used to propel a vessel within the designated boundaries of the area.
2. "No swimming zone" is defined as an area in which swimming and the operation of float tubes and other nonmotorized devices not designed or modified to be used as a means of transportation on water, such as inflatable air mattresses, single inner tubes and beach and water toys, are prohibited within the designated boundaries of the area in order to protect and promote the health, safety and welfare of the general public.
3. "No wake zone" is defined as an area in which the operation of a vessel must be accomplished at not more than five (5) miles per hour and where no water shall produce a wake greater than four inches (4") in height within the designated boundaries of the area.

4. "No watercraft zone" is defined as an area in which the operation of any vessel is prohibited within the designated boundaries of the area in order to protect and promote the health, safety and welfare of the general public.

5. "No waterskiing zone" is defined as an area in which motor driven watercraft are prohibited from towing a waterskier, a tube, a wakeboard, a knee board, or any other type of appliance within the designated boundaries of the area. This is not intended to prohibit the towing of a vessel at no wake speed as defined in subsection A3 of this section.

6. "Restricted personal watercraft zone" is defined as a designated operational zone for personal watercraft on public waters within the county. A restricted personal watercraft zone may limit the operation of personal watercraft within the zone to: a) no wake or less than five (5) miles per hour; b) personal watercraft only; c) no personal watercraft allowed; or d) a specified distance from the shoreline.

7. "Restricted motor zone" is defined as an area in which the type of motor or the horsepower of a motor which may be used to power a vessel on the water is limited within the designated boundaries of the area.

8. "Spokane River restricted access zone" is defined as the specific area in which swimming and the operation of vessels are prohibited or restricted due to dangerous conditions resulting from the operation of Post Falls Dam, as set forth by resolution duly enacted by the board.

9. "Restricted length zone" is defined as an area in which the launching of any vessel in excess of a specified maximum length is prohibited at designated county facilities, or in which the parking of any motor vehicle, trailer or combination thereof in excess of a specified maximum length is prohibited at designated county facilities.

#### B. Flooding Or Threat Of Flooding:

1. No Wake Zones; Automatic Designation: The Coeur d'Alene River, Coeur d'Alene Lake, Fernan Lake, Spokane River and all navigable waters within the Coeur d'Alene River drainage (including the Chain Lakes) shall be automatically designated as no wake zones in their entirety whenever one or more of the following conditions exist:

a. The gauge on the Coeur d'Alene River at Cataldo reads forty three feet (43') or higher;

b. The gauge on the Coeur d'Alene River at Enaville, in Shoshone County, reads seventy two feet (72') or higher; or

c. The gauge on the Coeur d'Alene Lake at Tubbs Hill reads two thousand one hundred thirty three feet (2,133') or higher.



The designation of these waters as no wake zones shall automatically expire when none of the above conditions exist, except as otherwise provided in this chapter or any resolution authorized by this chapter that has been enacted by the board and is effective and in force.

2. Restricted Zone Designations; Resolution Required: The board, by resolution duly enacted, may impose any or all of the restricted zone designations listed in this subsection on any public waterway within the county upon a finding that actual flooding has occurred or that an imminent threat of flooding exists.

3. Lawful Uses Prohibited; Resolution Required: The board, by resolution duly enacted, may also prohibit any or all otherwise lawful uses of any public waterway within the county upon a finding that actual flooding has occurred or that an imminent threat of flooding exists.

4. Time Limits On Resolutions: Any resolution enacted pursuant to this subsection shall automatically expire thirty (30) days after enactment unless extended for another thirty (30) day period by subsequent resolution.

C. Violation: It shall be unlawful to operate a vessel or to swim in a manner contrary to the restrictions or prohibitions set forth in this section and/or any resolution enacted pursuant to this section while such resolution is effective and in force. A violation of any provisions of this section shall constitute a misdemeanor. (Ord. 379, 8-30-2006)

#### **6-2-7: AGE RESTRICTIONS; ADULT SUPERVISION:**

A. It shall be unlawful to allow the operation of a motor driven watercraft by a person under the age of ten (10) years except under direct adult supervision.

B. It shall be unlawful to operate, or to allow someone to operate, a vessel when the operator is under the age of fourteen (14) years without adult supervision if the vessel is powered by a motor rated at greater than fifteen (15) horsepower.

C. The age restrictions provided for in this section shall also apply to the operation of personal watercraft. (Ord. 379, 8-30-2006)

#### **6-2-8: ELUDING PEACE OFFICER; FAILURE TO YIELD:**

A. It shall be unlawful for any person operating a vessel to wilfully flee or attempt to elude a pursuing law enforcement vessel, when given a visual or audible signal to bring the vessel to a stop. The signal given by a peace officer may be by emergency lights or siren. The signal given by a peace officer by emergency lights or siren need not conform to the standards for decibel ratings or light visibility specified in Idaho Code section 49-623(3). It is sufficient proof that a reasonable person knew or should have known that the visual or audible signal given by a peace officer was intended to bring the pursued vessel to a stop.

- B. Upon the immediate approach of an authorized law enforcement or other emergency vessel making use of any audible or visible signal, the driver of every other vessel shall yield the right of way and stop, remaining in that position until the authorized law enforcement or other emergency vessel has passed, except when otherwise directed by a peace officer. The driver of the vessel shall yield to the authorized law enforcement or other emergency vessel by turning their vessel in a manner that is parallel to the direction of the law enforcement or other emergency vessel and stopping.
- C. A violation of any provision of this section shall constitute a misdemeanor. (Ord. 379, 8-30-2006)

### **6-2-9: USE OF COUNTY FACILITIES; GENERAL:**

- A. Parking Of Motor Vehicles And Trailers, And Mooring Of Vessels, At County Facilities:
  - 1. No person shall moor a vessel at a county facility for more than twenty four (24) hours within any forty eight (48) hour period, or such longer or shorter period as may be provided by posted regulations applicable to the facility.
  - 2. It shall be unlawful to move a vessel either onto a trailer or off a trailer by means of "power loading", as defined in section 6-2-3 of this chapter.
  - 3. No person shall park a motor vehicle, vessel, trailer, or any combination thereof, at any facility for more than forty eight (48) hours within any seven (7) day period or such longer or shorter period as may be provided by posted regulations applicable to the facility.
  - 4. Parking on boat ramp areas or blocking access to a boat ramp is prohibited except when in the actual process of loading or unloading a vessel. No vehicle, trailer, or combination thereof shall be left unattended while on a boat ramp.
  - 5. No person shall park a motor vehicle, trailer or combination thereof at any facility in a manner so as to impede the movement of other motor vehicles, trailers, or combinations thereof, or in a manner so as to impede the ability to park a motor vehicle, trailer, or combination thereof.
  - 6. No person shall park a motor vehicle, trailer or combination thereof at any facility in such a manner as to occupy a portion of two (2) or more marked parking spaces.
  - 7. No person shall launch or load a vessel, nor shall any person park a motor vehicle, trailer, or combination thereof, at any facility designated by resolution of the board as a "restricted length zone", as defined in section 6-2-6 of this chapter, which is in excess of the maximum length specified for that facility.

8. Enforcement of the provisions of this subsection A, including the provisions regarding issuance and service of Idaho uniform citations and the provisions regarding evidence and recovery of costs, shall be as set forth in title 5, chapter 2, article A of this code, which are incorporated in this subsection A8 by reference herein and are hereby made specifically applicable by such reference to vessels in the water which are parked by mooring to a county owned or regulated dock, pier or mooring buoy.

9. Any motor vehicle, vessel, trailer, or other personal property left at any facility in violation of this subsection A, except as permitted pursuant to a facility reservation, special use or commercial use permit issued by the director, may be impounded at the owner's expense in addition to any penalty described in this chapter.

B. Use Of County Facilities: It shall be unlawful:

1. For any person or business to engage in the repair of a vessel at any facility for a time period in excess of four (4) hours per day.

2. To moor a vessel at a facility for the purpose of pick up or delivery of persons to and from a vehicle and/or a vessel in connection with commercial water sports activities for a period of greater than thirty (30) consecutive minutes in any two (2) hour period.

3. To engage in the construction of a private dock at any facility.

4. To place any advertisement on any post, pole, sign, fence, dock, piling, or any other fixture located at any facility without a commercial advertising permit issued pursuant to section 6-2-10 of this chapter.

5. To sell or offer for sale any goods or services at any facility without a commercial concession permit issued pursuant to section 6-2-10 of this chapter.

6. For any person or entity, while engaged in the business of selling, leasing or renting vessels, to launch or load a vessel, or to allow the embarkation onto and debarkation from a vessel by customers or potential customers of such business, without a commercial vessel demonstration permit issued pursuant to section 6-2-10 of this chapter. It shall also be unlawful to violate any provisions of any resolution duly enacted by the board governing commercial vessel demonstrations.

7. For a commercial marine repair business to engage in the repair of a vessel at any facility without a commercial vessel repair permit issued pursuant to section 6-2-10 of this chapter.

8. To use any facility for the moorage of a vessel for the purpose of commercial transportation of persons without a permit for the commercial transportation of persons issued pursuant to section 6-2-10 of this chapter.

9. To moor a vessel at a facility for the purpose of pick up or delivery of persons to and from a vehicle and/or a vessel in connection with commercial water sports activities without a commercial water sports activities permit issued pursuant to section 6-2-10 of this chapter.

10. To engage in fueling of a vessel at any facility without a commercial vessel fueling permit issued pursuant to section 6-2-10 of this chapter; provided, however, that noncommercial fueling of a vessel using a container with a capacity no greater than six (6) gallons which has been approved for such purpose pursuant to applicable federal and/or state regulations shall be permitted.

11. To place, stage, or store any materials or equipment which is being used, or is to be used, in any construction, demolition, excavation or site disturbance activities at any facility except with a marine contractor permit issued pursuant to section 6-2-10 of this chapter, or with a onetime exemption from the requirements of such permit granted by the director pursuant to section 6-2-10 of this chapter.

#### C. Camping And Picnics:

1. Overnight Camping: No person shall camp overnight at any county facility, except at such locations in the county that are in joint management with either the Idaho department of lands, Idaho department of fish and game, Idaho department of parks and recreation, United States bureau of land management or the United States forest service, or other public agency, if camping is permitted under such agency's rules and regulations. In addition, the director may, at such locations as he or she deems proper, permit camping and/or boat camping by posting signs specifying thereon the amount of consecutive days camping and/or boat camping will be permitted. In no case shall camping or boat camping be allowed for more than ten (10) days within any thirty (30) day period or as permitted by other agencies. All personal property left on county property in violation of this subsection may be subject to impoundment at the owner's expense in addition to any penalty prescribed in this chapter.

2. Picnicking: No person shall engage in picnicking in any manner that restricts access (a minimum clear width of 36 inches) required under the Americans with disabilities act of 1990 (ADA), regulations promulgated thereunder (28 CFR parts 35-36), and the Americans with disabilities act accessibility guidelines for buildings and facilities (ADAAG) (28 CFR part 36, appendix A), on any easement, sidewalk, pathway, boat launch, ramp, pier or moorage dock located at any county facility.

D. Horses, Motor Vehicles Or Bicycles: No person shall ride or drive a motor vehicle or bicycle, operate a skateboard, roller skates or rollerblades, or ride or permit a horse under his control to be on any beach, boat ramp, trail, dock, or dock area located at any county facility, except that motor vehicles used in the process of launching a vessel shall be permitted on boat ramps for that purpose only. No person shall

operate a snowmobile or off road vehicle on any beach, boat ramp, park, trail, dock, or dock area located at any county facility.

E. Woodcutting And Removal: No person shall cut, injure, dig or remove any crops, trees, shrubs, grasses, indigenous plants, logs or fuel wood from any county facility unless written permission is first obtained from the director.

F. Littering, Dumping Trash, Glass Containers:

1. No person shall litter or dump garbage, refuse, yard waste, or any other waste material at any county facility, including county buildings and outhouses.

2. Glass containers shall be prohibited from all beach areas. The board may prohibit the use and possession of glass containers on or at any county facility or any portion thereof.

G. Classification Of Violations; Civil Penalties:

1. A violation of any provision of subsection A of this section shall constitute an infraction.

2. The first violation of any provision of subsections B through F of this section shall constitute an infraction. Any subsequent violation of the same provision within one year after the most recent violation shall constitute a misdemeanor.

3. In addition to or in lieu of any infraction penalty, the director or sheriff, or designee thereof, or a court of competent jurisdiction, may impose a civil penalty not to exceed fifty dollars (\$50.00) for each violation of subsections A through F of this section. Failure to pay any civil penalty imposed as authorized in this subsection G3 shall constitute an infraction. Upon a conviction for any violation of subsections A through F of this section, the court may also enter a civil judgment for any unpaid fees or civil penalties then due and owing.

H. Animals:

1. No person who is the owner, handler or harbinger of any animal shall permit the animal to run free, remain on or use any county facility in violation of any state or county law, ordinance or regulation.

2. Dogs must be physically confined by a leash or other similar item of restraint not more than ten feet (10') in length.

3. Violations of this subsection H shall be punishable as provided in title 5, chapter 1 of this code. All dogs found at large in violation of this subsection H shall be subject to impoundment at the owner's expense and may be destroyed or otherwise disposed of after impoundment pursuant to title 5, chapter 1, article B of this code.

- I. Fires: Fires will be allowed only in designated fireplace areas provided by the county, or in barbecue grills which stand off the ground. It is further prohibited to leave a fire unattended. Any violation of this subsection shall constitute a misdemeanor.
- J. Firearms: Any person who discharges any firearm within or into any county facility shall be guilty of a misdemeanor.
- K. Fireworks: Any person who possesses or uses any form of fireworks or explosives on or upon any county facility without obtaining prior written authorization from the board shall be guilty of a misdemeanor.
- L. Vandalism: Any person who causes intentional destruction or vandalism to any county facility shall be guilty of a misdemeanor. Further, any person who removes, destroys, mutilates, modifies or defaces any building or other structure, water control device fence, gate poster, notice, sign, survey or section marker, or any object of archeological, geological or historical value or interest shall be guilty of a misdemeanor. In addition to misdemeanor penalties, any person violating this subsection shall be liable for payment of the repair and replacement costs of property damaged or destroyed. (Ord. 406, 10-15-2007)

## **6-2-10: COMMERCIAL USE OF COUNTY FACILITIES:**

- A. Permit Required: Except as otherwise provided in this chapter, it shall be unlawful to engage in any commercial use of, or activity at, any county facility except with a commercial use permit issued pursuant to this section.
- B. Permitted Uses And Activities: The following commercial uses and activities shall be permitted at county facilities only upon issuance of a commercial use permit by the director, upon payment of such fees as may be established by resolution of the board, and upon such terms and conditions as may be specified by this chapter or by resolution of the board, or as promulgated in writing by the director:

Advertising.

Commercial water sports activities.

Concession businesses.

Fueling of vessels.

Loading, unloading and staging of construction materials and equipment in connection with transportation of such materials and equipment across a public waterway.

Transportation of persons for hire.

Vessel demonstrations by dealers.

Vessel repairs by a commercial marine repair business.

Any applicable fees, terms and conditions associated with a permit shall be specified in writing on the permit.

C. Exemptions:

1. Kootenai County shall be exempt from the requirements of this section.
2. All other federal, state, and local public entities shall be exempt from the payment of any fees which would otherwise be required under this section. Such entities shall be required to obtain any permit required under this section, and to comply with all other requirements of this section, any resolutions enacted by the board pursuant thereto, any policies, procedures or criteria promulgated in writing by the director, and any requirements specified on the permit.

D. General Requirements Of Permit Holders: All holders of commercial use permits issued pursuant to this section shall be responsible for the following:

1. All permit holders shall display their business name, street address, telephone number, and permit number(s) on all vehicles and vessels used in any commercial activity pursuant to a county commercial use permit.
2. All permit holders shall be responsible for any necessary cleanup of any facility, including, but not limited to, cleanup of any spill or discharge of hazardous materials which directly or indirectly resulted from the activities of the permit holder.
3. All permit holders shall be responsible for any necessary repairs to, or replacement of, property or fixtures at any facility which directly or indirectly resulted from the activities of the permit holder.
4. All permit holders shall be liable for the cost of any necessary cleanup of, repairs to, or replacement of property or fixtures at, any facility performed by employees of, or independent contractors acting on behalf of, Kootenai County, which directly or indirectly resulted from the activities of the permit holder. Any such costs shall constitute a lien against any ownership interest in any real or personal property held by the permit holder; provided, that Kootenai County shall perfect any such lien by filing a notice of lien in the office of the Kootenai County recorder and/or the office of the Idaho secretary of state, as appropriate.
5. Permits shall not be transferable.

## E. Regulation Of Permitted Commercial Uses:

### 1. Advertising:

- a. A commercial advertising permit may authorize the placement of signs or posters on information kiosks located at county facilities when space for such advertisement is available.
- b. Permit holders shall deliver advertisements authorized by the permit to the Kootenai County parks and waterways office at least five (5) working days prior to the starting date specified on the permit. Permit holders shall pick up advertisements from the Kootenai County parks and waterways office no later than ten (10) working days after the ending date specified on the permit.
- c. No advertisements pertaining to any political candidate or issue shall be posted, or permitted to be posted, at any facility.

### 2. Concession businesses:

- a. Authorization; Specific Products, Location: A commercial concession permit may authorize the sale of specific products or services at a facility from a location(s) specified on the permit.

#### b. Requirements:

- (1) Permit holders shall be responsible for ensuring the security of any trailers or equipment which are used in the course of the permit holder's operations, or which are stored at the facility by the permit holder.
- (2) Permit holders who intend to prepare, sell or distribute food shall be responsible for obtaining any necessary permits from Panhandle health district or other authority with jurisdiction.

#### c. Bids:

- (1) If the director receives more than one application for a commercial concession permit for the same facility for the same time period or for overlapping time periods, the director may require the applicants to submit bids for a permit. The director may set a minimum bid amount in an amount no less than the regular permit fee, and may set such other terms and conditions as he or she may deem to be in the best interests of the county.
- (2) Any bid failing to meet such minimum bid amount, or any other terms and conditions set forth in writing by the director, shall be deemed nonresponsive. Any bidder who has been disqualified by the director for violation of any terms and conditions of any previously issued permit, or any other contract with



Kootenai County, shall not be allowed to bid, and any bid received by such bidder shall be deemed nonresponsive.

(3) The director shall receive the bids submitted and forward them to the board, and may make a recommendation as to which bidder(s) should be awarded a permit. The board shall award the bid to the highest responsive bidder(s).

3. Vessel demonstrations by dealers: A commercial vessel demonstration permit may authorize the launching and loading of vessels, and the embarkation onto and debarkation from vessels by customers or potential customers, at specified facilities for the purpose of selling vessels or other goods or services. The permit may limit these activities to specified facilities on specified days and times. In addition, the board may set additional limits on these activities by resolution.

4. Vessel repairs by a commercial marine repair business:

a. A commercial vessel repair permit may authorize commercial vendors to perform repair work at designated facilities. Repair work shall not exceed four (4) hours per vessel per day. The director may also set forth additional restrictions on the time during which a permit holder may engage in vessel repair at any facility. Any such restrictions shall be specified in writing on the permit.

b. Permits issued pursuant to this subsection E4 shall extend to all vehicles, vessels and trailers owned or operated by the permit holder which are used in the course of the permit holder's operations.

c. Permit applicants shall provide the director with proof of liability insurance with a policy limit of no less than one million dollars (\$1,000,000.00) prior to issuance of the permit. Such insurance shall name Kootenai County as an additional insured.

5. Commercial transportation of persons:

a. Authorization; Specific Facilities, Time Periods: A permit for the commercial transportation of persons may authorize the temporary mooring of a vessel to be used for the commercial transportation of persons at specified facilities for a specified time period not to exceed ten (10) minutes.

b. Requirements:

(1) Permit applicants shall provide the director with proof of liability insurance with a policy limit of no less than one million dollars (\$1,000,000.00) prior to issuance of the permit. Such insurance shall name Kootenai County as an additional insured.

(2) All vessels owned or operated by the permit holder, and all captains and pilots working for the permit holder, whether as employees or independent

contractors, shall hold valid U.S. coast guard licenses at all times while the permit is in effect.

6. Commercial water sports activities:

a. Authorization; Time Period: A commercial water sports activities permit may authorize the mooring of a vessel at a facility for a time period not greater than thirty (30) minutes for pick up and delivery of persons to and from vehicles and/or vessels used in the course of the permit holder's business for the activities authorized by the permit.

b. Authorized Activities, Facilities, Dates, Times: The permit shall specify the activities authorized, and may further specify the facilities where such activities are permitted and the dates and times during which such activities may be conducted.

c. Requirements:

(1) Permit applicants shall obtain any necessary federal or state licenses and/or permits prior to issuance of the permit.

(2) Permit applicants shall provide the director with proof of liability insurance with a policy limit of no less than one million dollars (\$1,000,000.00) prior to issuance of the permit. Such insurance shall name Kootenai County as an additional insured.

7. Fueling of vessels:

a. Authorization; Designated Facilities: A commercial vessel fueling permit may authorize the commercial fueling of vessels at designated facilities.

b. Requirements:

(1) The permit holder shall be responsible for cleanup of any fuel spill into any waterway, and shall be responsible for notifying the director and all necessary state and/or federal agencies with jurisdiction, when necessary.

(2) Permit applicants shall provide the director with proof of liability insurance with a policy limit of no less than one million dollars (\$1,000,000.00) prior to issuance of the permit. Such insurance shall name Kootenai County as an additional insured.

(3) During all commercial fueling operations, permit holders shall ensure that a fuel spill containment kit which complies with all applicable federal and state requirements is on site, and that two (2) operators are present at all times. One operator shall be located at the fueling vehicle or vessel, and the other operator shall be located at the vessel receiving fuel.

8. Loading, unloading and staging of construction materials and equipment in connection with transportation of such materials and equipment across a public waterway:

a. Authorization; Specific Facilities, Days, Times: A marine contractor permit may authorize the loading, unloading and staging of materials and equipment by the permit holder in conformity with facility regulations and any other terms and conditions stated on the permit. The permit may limit these activities to specified facilities on specified days and times.

b. Exemption: The director may grant onetime exemptions from the requirement to obtain a marine contractor permit. Any such exemptions shall be based on criteria established by resolution of the board or, in the absence of such resolution, on criteria established and promulgated in writing by the director.

c. Requirements:

(1) Permit applicants shall be Idaho licensed public works contractors.

(2) Permit applicants shall provide the director with proof of liability insurance with a policy limit of no less than one million dollars (\$1,000,000.00) prior to issuance of the permit. Such insurance shall name Kootenai County as an additional insured.

(3) Applicants for exemption from permitting requirements shall provide the director with proof of liability insurance with a policy limit of no less than one million dollars (\$1,000,000.00), naming Kootenai County as an additional insured, prior to granting of the exemption, unless such requirement is waived or modified by the director.

F. Waterways User Fee Account: The county auditor shall cause all revenues from fees collected as authorized by this section to be placed into a dedicated account known as the "waterways user fee account". Such revenues shall be used solely for the operation, maintenance, and upkeep of county waterways facilities. The board may enter into agreements with federal, state, tribal or local entities further specifying the allocation and use of such fees.

G. Violation: The first violation of any provision of this section shall constitute an infraction. Any subsequent violation of the same provision within one year after the most recent violation shall constitute a misdemeanor. A violation of any provision of this section may also result in the denial or revocation of, or the refusal to reissue or renew, any permit required under this section.

H. Civil Penalty: In addition to any infraction or misdemeanor penalty imposed for engaging in any commercial use or activity permitted under this section without first having obtained the required commercial use permit(s), the director or sheriff, or

designee thereof, or a court of competent jurisdiction, may impose a civil penalty in the amount of three (3) times the amount of the applicable permit fee(s) for each such violation. Failure to pay any civil penalty imposed as authorized in this subsection shall constitute an infraction. Upon a conviction for any violation of this section, the court may also enter a civil judgment for any unpaid permit fees or civil penalties then due and owing.

- I. Revocation: The director or his or her designee may revoke any permit required under this section upon a report or observation of any violation of this chapter, or of any resolution, rule, regulation, term or condition promulgated in writing by the board or by the director pursuant to the provisions of this chapter, or posted at a facility pursuant to the provisions of this chapter. Such revocation shall have immediate effect, subject to the permit holder's right to request a hearing before the board as set forth in subsection J of this section.
- J. Appeal: Procedure for appeal of denial of a commercial use permit, or of the revocation, refusal to issue, refusal to reissue, or refusal to renew a commercial use permit shall be as follows:
  1. The director shall provide written notice of any decision to deny an application for a commercial use permit required under this section to the applicant within thirty (30) days of receipt of the application, and shall provide written notice of any decision to revoke, refuse to reissue, or refuse to renew any such permit to the permit holder as soon as practicable.
  2. Whenever an application for a commercial use permit required under this section has been denied or revoked by the director, or the director has refused to reissue or renew such permit, the permit holder or applicant may file a written request for a hearing before the board within fourteen (14) days after the date of the notice of such decision. The board shall hold a hearing within thirty (30) days after receipt of the written request from the permit holder or applicant.
  3. The scope of the hearing shall be limited to the issue of whether the director had a legitimate basis for the decision to deny, revoke, refuse to reissue, or refuse to renew the permit or application.
  4. The hearing shall be informal and strict rules of evidence shall not apply. The applicant and the director may be represented by counsel, present testimony and evidence, and examine witnesses.
  5. A decision shall be issued at the close of the hearing or within thirty (30) days thereafter. The board may refer the matter to the Kootenai County waterways advisory board, or any subcommittee thereof, for a recommendation at any time prior to the issuance of a decision. The board shall notify the applicant in writing of the decision within thirty (30) days after the close of the hearing.

6. The decision of the board shall be final. (Ord. 402, 9-11-2007)

### **6-2-11: MARINE EVENT PERMITS:**

- A. The provisions of this chapter shall not apply to motor driven watercraft operating with a permit issued pursuant to Idaho Code section 67-7030 after approval of a marine event permit application by the sheriff, as long as the motor driven watercraft is being operated within the conditions of the permit. The provisions of this chapter may be waived only after approval by the sheriff.
- B. It is a violation of this chapter to fail to operate a vessel pursuant to the terms and conditions imposed by a marine event permit.
- C. Fees for marine event permits shall be set by order of the sheriff. (Ord. 379, 8-30-2006)

### **6-2-12: RV AND BOAT SEWAGE DISPOSAL:**

- A. Dumping of recreational vehicle (RV) or boat sewage is prohibited except in designated approved RV sanitary dump stations or boat pump out stations.
- B. No person shall dump sewage from holding tanks into toilet facilities or on the ground or into the water.
- C. The board may adopt, by resolution, a fee schedule for use of county owned or operated boat pump out stations to offset maintenance costs.
- D. A violation of this section shall constitute a misdemeanor. (Ord. 379, 8-30-2006)

### **6-2-13: DERELICT DOCKS AND FLOAT HOUSES:**

- A. No person shall allow a personal dock or float house to be released on any public body of water under which the county has boater safety responsibility.
- B. Owners of floating devices such as docks and float houses who fail to properly secure them will be subject to payment of recovery and abatement costs.
- C. All docks and float houses shall be permanently marked and labeled with the owner's name, address and department of lands registration number on both ends of the dock. The marking or labeling shall be done in a permanent fashion in letters and numbers greater than two inches (2") in size. (Ord. 379, 8-30-2006)

## **6-2-14: REMOVAL OF PERSONS, VESSELS, EQUIPMENT, OR OTHER PROPERTY FROM FACILITIES:**

- A. Upon a report or observation of any violation of this chapter, or of any resolution, rule, regulation, term or condition promulgated in writing by the board or by the director pursuant to the provisions of this chapter, or posted at a facility pursuant to the provisions of this chapter, the director or sheriff, or designee thereof, may order any person who is committing, aiding, abetting, facilitating, or allowing, or who has committed, aided, abetted, facilitated, or allowed such violation to immediately vacate the facility, and/or to immediately remove any vessel, vehicle, trailer, equipment, or other property in his or her possession or control from the facility.
- B. Any person who refuses to leave, or remove a vessel, vehicle, trailer, equipment, or other property from any county facility after being ordered to vacate the facility pursuant to subsection A of this section shall be guilty of a misdemeanor.
- C. The director may prohibit any person who has been ordered to vacate a facility pursuant to subsection A of this section from using or being present on any or all county facilities for a period not to exceed one year. Any person who violates any such prohibition shall be deemed to be trespassing on county property, and shall be guilty of a misdemeanor. (Ord. 402, 9-11-2007)

## **6-2-15: IMPOUNDMENT:**

- A. The sheriff is hereby authorized to impound a vessel when the vessel has been abandoned, when it is adrift or under circumstances where the vessel is presenting a hazard to safe boating on the waterways of the county. The sheriff is further authorized to impound a vessel when the operator of the vessel has been arrested and the registered owner of the vessel is not immediately available to assume lawful possession and control of the vessel.
- B. Whenever an authorized officer impounds a vessel or a trailer pursuant to the provisions of this chapter or pursuant to state law, the sheriff shall substantially comply with the provisions of title 49, chapter 18, Idaho Code, that provide, among other procedures, that the registered owner of the property, if known, be given written notice of the impoundment and the opportunity for a poststorage hearing. (Ord. 379, 8-30-2006)

## **6-2-16: ADDITIONAL FACILITY RESTRICTIONS:**

- A. Authority To Adopt Regulations: The board shall have the authority to adopt by resolution all reasonable rules and regulations governing the conduct of persons utilizing county facilities. Such facility restrictions may include, but are not limited to, designating no swimming zones within a given distance of any public boat launch unless within a designated swim area, prohibiting diving and swimming from docks or pilings, prohibiting possession of alcoholic beverages, prohibiting glass containers

on beaches or in swim areas or parks, setting hours of use of the facility and designating trails as restricted access/nonmotorized vehicles allowed. Any resolution enacted by the board pursuant to this section shall indicate whether the violation of any of the rules and regulations enacted therein shall constitute a misdemeanor or an infraction.

B. Posting Regulations Required: The rules and regulations governing a county facility, and the penalties for violations thereof, shall be posted in such a manner to be visible to the general public utilizing the facility.

C. Authority To Restrict, Prohibit Use: The board shall have the authority to restrict or prohibit the use of any county facility, by resolution duly enacted, upon a finding that any of the conditions set forth in subsection 6-2-6B of this chapter exist. Such resolution shall automatically expire thirty (30) days after enactment unless extended for another thirty (30) day period by subsequent resolution. Any restriction or prohibition ordered by such resolution, and the expiration date thereof, shall be posted in such a manner as to be visible to the general public within the affected facility or facilities, or as close to such facility or facilities as safety considerations and road closures permit, as soon as practicable. A violation of any of the provisions of any resolution enacted pursuant to this subsection shall constitute a misdemeanor.

D. Fees For Noncommercial Use Of County Facilities:

1. The board shall have the authority, by resolution duly enacted, to implement fees for noncommercial use of county facilities. Fees, the uses for which a fee is required, and any other terms and conditions concerning such fees and uses, shall be as specified in the resolution. Any such fees shall comply with the requirements of sections 31-870 and 63-1311A, Idaho Code.

2. The county auditor shall cause all revenues from fees collected as authorized by this subsection D to be placed into a dedicated account known as the "waterways user fee account". Such revenues shall be used solely for the operation, maintenance, and upkeep of county facilities. The board may enter into agreements with federal, state, tribal or local entities further specifying the allocation and use of such fees.

3. In addition to or in lieu of any infraction penalty, the director or sheriff, or designee thereof, or a court of competent jurisdiction, may impose a civil penalty not to exceed fifty dollars (\$50.00) for each violation of this subsection D. Failure to pay any civil penalty imposed as authorized in this subsection D shall constitute an infraction. Upon a conviction for any violation of this subsection D, the court may also enter a civil judgment for any unpaid fees or civil penalties then due and owing. (Ord. 402, 9-11-2007)

## **6-2-17: PENALTIES:**

Any violation of this chapter not specifically defined as a misdemeanor shall constitute an infraction. Both misdemeanor offenses and infractions shall be punishable as provided in section 1-4-1 of this code. Each instance of any violation of this chapter shall constitute a separate offense. (Ord. 406, 10-15-2007)

**Note: Section 1-4-1 of the Kootenai County Code reads as follows:**

Any person convicted of a violation of any section or provision of this code, where no other penalty is set forth, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00), or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment for each offense; or by a fine not to exceed one hundred dollars (\$100.00) with no imprisonment, when the offense is designated as infraction by state law or by any section or provision of this code.

## **6-2-18: APPEAL OF CIVIL PENALTIES:**

Any civil penalty imposed as authorized under the provisions of this chapter may be appealed in the following manner:

- A. A person who has received a citation for a civil violation, or his agent or representative, may file a written request for a hearing within fourteen (14) days after the date of issuance of the citation.
- B. The director, if the citation was issued by a Kootenai County parks and waterways department staff member, or the sergeant in charge of the marine division of the Kootenai County sheriff's department, if the citation was issued by a Kootenai County deputy sheriff, may seek to informally resolve the matter if the circumstances surrounding the issuance of the citation indicate that such resolution would be desirable, and if the person who received the citation is amenable to such resolution.
- C. If the matter cannot be resolved through informal resolution, a hearing shall be held within seven (7) days after receipt of the written request from the appellant. If the citation was issued by a Kootenai County parks and waterways department staff member, the hearing officer shall be the director, or a designee thereof other than the person who issued the citation. If the citation was issued by a Kootenai County deputy sheriff, the hearing officer shall be the sergeant in charge of the marine division of the Kootenai County sheriff's department, or a designee thereof other than the person who issued the citation.

The scope of the hearing shall be limited to the following issues:

1. Whether a violation did in fact occur; and



2. Whether the person who received the citation had any responsibility for the conduct which gave rise to the issuance of the citation.
- D. The hearing shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present testimony and evidence, and examine witnesses.
- E. A decision shall be issued at the close of the hearing or within seven (7) days thereafter. The hearing officer shall notify the owner in writing of the decision within seven (7) days after the close of the hearing.
- F. The decision of the hearing officer may be appealed to the board pursuant to such rules as they may establish. The decision of the board shall be final. (Ord. 402, 9-11-2007)

### **6-2-19: JURISDICTION IN TRIBAL WATERS:**

Nothing in this chapter shall be construed as an assertion of jurisdiction over any waters within Kootenai County, where the submerged lands thereunder are owned by the government of the United States and held in trust for the Coeur d'Alene Tribe, in excess of such jurisdiction authorized under federal and state law. (Ord. 402, 9-11-2007)

### **6-2-20: SEVERABILITY:**

If any section, subsection, sentence, clause, phrase or portion of this chapter is, for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, independent provision and such holding shall not affect the validity of the remaining portions thereof. (Ord. 402, 9-11-2007)

### **6-2-21: CODIFICATION OF RESOLUTIONS:**

Any resolution enacted by the board pursuant to the provisions of this chapter, with the exception of temporary resolutions enacted pursuant to subsection 6-2-6B of this chapter, shall be codified as an appendix to this chapter for such time as such resolution is in force. (Ord. 406, 10-15-2007)