

Proposed by:	Civic Affairs Committee
Attorney Review:	08/11/2011
Ports & Harbors Review:	07/25/2011
Port Commission Review:	08/05/2011
First Reading:	08/18/2011
Second Reading:	09/01/2011
Vote:	5 Aye 0 Nay 1 Absent

MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 11-19

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 12 HARBORS AND PORTS BY AMENDING CHAPTER 12.01 THROUGH CHAPTER 12.16.

WHEREAS, Amendments are required to address change in status from city to borough government; and

WHEREAS, the Civic Affairs Committee is conducting a review of the Municipal Code in conjunction with the code re-write to update the Municipal Code;

NOW THEREFORE BE IT ORDAINED AND ENACTED BY THE MUNICIPALITY OF SKAGWAY, ALASKA AS FOLLOWS:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Skagway Municipal Code.

Section 2. Purpose. To amend Title 12, Harbors and Ports by amending Chapter 12.01 Skagway Port Commission, Chapter 12.04 Harbormaster, Chapter 12.06 Port and Harbors Advisory Board, Chapter 12.08 Small Boat Harbor, Chapter 12.12 Ferry and Barge Facility and Chapter 12.16 General Provisions.

Section 3. Amendment. The Skagway Municipal Code is hereby amended (~~strike through~~) indicates text to be deleted from and (**bold underscore**) indicates text added to the current code. Chapter 12.01 Skagway Port Commission, Chapter 12.04 Harbormaster, Chapter 12.06 Port and Harbors Advisory Board, Chapter 12.08 Small Boat Harbor, Chapter 12.12 Ferry and Barge Facility and Chapter 12.16 General Provisions are hereby amended as follows.

Chapter 12.01
SKAGWAY PORT COMMISSION

Sections:

- 12.01.010 Establishment.
- 12.01.020 Membership
- 12.01.030 Qualifications.
- 12.01.040 Appointment.
- 12.01.050 Terms.
- 12.01.060 Vacancies.
- 12.01.070 Officers.
- 12.01.080 Meetings.
- 12.01.090 Subject to Alaska Public Records and Open Meetings Laws
- 12.01.100 Rules and procedures.
- 12.01.110 Function and duties.

12.04.010 Establishment.

There is established a Skagway Port Commission (the Port Commission), **as an Advisory Commission**, which shall advise the assembly and the borough manager on matters relating to planning, maintaining, expanding, developing, financing, administering or operating local and regional transportation or transportation-related systems, facilities and services, including marine, road and highway, rail, air or other transportation systems, facilities and services.

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12.01.020 Membership.

The Port Commission shall be comprised of five (5) Commissioners.

12.01.030 Qualifications.

A Commissioner shall be a registered voter of the municipality.

12.01.040 Appointment.

A. Commissioners

1. The mayor shall appoint Commissioners from among persons who either apply or are recommended for the positions, subject to confirmation of the assembly.
2. Commissioners serve at the pleasure of the borough assembly and without compensation. The Mayor may recommend the removal of a commissioner, ~~but the~~ **which** removal of a commissioner shall only occur by vote of the assembly in accordance with SMC 3.01.040(C).

B. Liaisons

1. Yukon Territory Liaison. The mayor shall appoint one (1) representative of the Yukon Territory, nominated by the Yukon Territory Government, to serve as a liaison between the Yukon Territory and the Commission. The Yukon Territory Liaison shall serve a three (3) year term. The Yukon Territory Liaison may serve more than one (1) term.
2. Assembly Liaison. The mayor shall appoint annually one (1) assembly member to serve as liaison between the assembly and the Commission. The Assembly Liaison may serve more than one (1) term.
3. Liaison representatives may attend all meetings of the Commission. Liaison representatives shall have the privilege of the floor, but shall not have the right to vote on matters before the Commission.

12.01.050 Terms.

- A. Commissioners serve three (3) year terms; however, a Commissioner serves until a successor takes office. The term of office begins in October.
- B. The terms shall be staggered so that Commissioners are appointed each year. Terms shall be first established by randomly drawing two (2) for one (1) year terms, two (2) for two (2) year terms and one (1) for a three (3) year term.
- C. A Commissioner may serve no more than two (2) consecutive three (3) year terms. However, after not less than one (1) year following the end of a Commissioner's second consecutive term, that former Commissioner may be appointed to serve additional terms, subject to this two (2) consecutive term limit.
- D. A Commissioner appointed to fill a vacancy shall serve the unexpired portion of the term.

12.01.060 Vacancies.

A. A vacancy on the Port Commission shall be declared and filled as above provided when a Commissioner

1. Resigns and the mayor accepts that resignation;
2. No longer meets the qualifications for being a Commissioner;
3. Is physically or mentally unable to attend Port Commission meetings for a period of more than ninety (90) days unless excused by vote of the Port Commission;
4. Misses three (3) consecutive regular Commission meetings and is not excused by the Chair; or
5. Is convicted of a felony.
6. ~~Upon removal of any commissioner by vote of the assembly in accordance with SMC 3.01.040(C).~~ **Any commission member may be removed with written notice by the mayor after a majority vote of the assembly at any time regardless of whether that person's term on the board has expired.**

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- B. The secretary of the Port Commission shall keep attendance records and notify the mayor when vacancies occur.

12.01.070 Officers.

- A. The Port Commission shall elect annually a chair, vice-chair and secretary at its first meeting following the mayor's appointment and the assembly's confirmation of Commissioners.
- B. The term of office for the chair, vice-chair and secretary shall be one (1) year; however, officers may serve more than one term.
- C. The chair shall preside over the Port Commission and shall have the right to vote.
- D. The vice-chair shall perform the duties of the chair in the absence or disability of the chair.

12.01.080 Meetings.

- A. The Port Commission shall meet at least quarterly at a regularly established time and location determined by the Port Commission. The chair or at least three (3) Commissioners may call additional meetings.
- B. The Port Commission will provide at least five (5) days of public notice of all its meetings, except that it may call an emergency meeting upon not less than twenty four (24) hours prior oral or written notice to all Commissioners. Public notice shall go through the borough clerk's office.
- C. The Port Commission shall provide an opportunity for the public to be heard at all meetings.
- D. A majority of all Commissioners constitutes a quorum. A Commissioner disqualified by law from voting on a question may be considered present for purposes of constituting a quorum. In the absence of a quorum any Commissioner may recess or adjourn the meeting to a later date.
- E. Actions of the Port Commission are adopted by a majority of the total membership of the Port Commission. Each Commissioner shall vote on every question, unless required to abstain from voting on a question by law. The final vote of each Commissioner on each motion shall be recorded "yes" or "no", except that if the vote is unanimous it may be recorded "unanimous".
- F. The Port Commission shall maintain a journal of its official proceedings. The journal shall be filed with the borough clerk and shall be retained as a public record.

12.01.090 Subject to Alaska Public Records and Open Meetings Laws

The Port Commission is subject to AS 40.25.110—40.25.220 and AS 44.62.310—44.62.312, as amended.

12.01.100 Rules and procedures.

The Port Commission may adopt such rules and procedures as may be necessary to carry out its duties subject to approval thereof by the assembly. Roberts Rules of Order will govern unless other procedures are approved.

12.01.110 Function and duties.

- A. The Port Commission shall have the following functions and duties:
 - 1. Recommend to the borough manager and the assembly, ~~as appropriate,~~ policies, plans and actions to promote and support commercial and industrial development throughout the Skagway area by meeting local and regional needs for transportation systems, facilities and services.
 - 2. As often as the Commission deems necessary, but not less than annually during January, recommend to the borough manager and the assembly allocations of borough resources through the borough's annual budget process for studying, planning, developing, administering, financing and operating local and regional transportation systems, facilities and services.
 - 3. Solicit input from individuals, groups, agencies, businesses and industries on matters relating to local and regional transportation systems, facilities and services.

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4. Develop or review plans, studies, programs, policies, ordinances, state and federal legislation, regulations, grant applications, and other documents concerning development, financing, administration and operation of local and regional transportation systems, facilities and services; and advise the borough manager and the assembly, as appropriate.
5. Prepare or review proposals to acquire, sell, exchange or develop interests in real or personal property that may relate to development and operation of local and regional transportation systems, facilities and services; and make recommendations regarding such proposals to the borough manager, planning commission, or the assembly, as appropriate.
6. Within sixty (60) days following the end of each fiscal year, submit a written report to the assembly outlining the Port Commission's activities and recommendations during the preceding fiscal year, and outlining the Port Commission's recommendations for future assembly and borough manager action.
7. Perform such other functions and duties as the assembly may require.

Chapter 12.04
HARBORMASTER

Sections:

~~12.04.010~~ Establishment.

~~12.04.020~~010 Powers and duties.

~~12.04.010~~ Establishment.

~~There is hereby established the position of harbormaster. The city manager shall appoint the harbormaster, subject to confirmation by the council. The harbormaster shall serve for an indefinite term with compensation to be determined from time to time by the council, and shall work under the supervision of the city manager.~~

~~12.04.020~~010 Powers and duties.

The position of harbormaster established in SMC Chapter 3.02 under the Skagway Port Department is responsible for the management and control, operation and maintenance of the Small Boat Harbor and the municipality's side of the ferry/barge facility.

- A. Scope of Responsibility. The harbormaster shall be responsible, subject to the control of the city **borough** manager and the policies established by the city council **borough assembly**, for the management and control, operation and maintenance of all of the city's port facilities. ~~These facilities include the Small Boat Harbor and the city's~~ **municipality's** side of the ferry/barge facility.
- B. Powers and Duties.
 1. Enforcement. The harbormaster is charged with the duty of enforcing all of the provisions of this title and any rules and regulations lawfully adopted hereunder, and is ~~hereby~~ empowered to do so.
 2. Aid. In order to render aid to distressed persons and vessels in the harbor, the harbormaster, any of his authorized assistants, and any police officer of the city **municipality** shall have the authority to:
 - a. Perform any and all acts to rescue and aid persons and to protect and save property;
 - b. Take charge of and protect all property saved from marine disaster until such property is claimed by persons legally authorized to receive it or until otherwise disposed of in accordance with this title or other pertinent laws or regulations.
 3. Rules and Regulations. The harbormaster shall prepare and submit reports required by the city **borough** manager, and shall submit recommendations concerning new rules

- and regulations, as appropriate necessary, to ensure safe and effective operation of the city's municipality's harbor facilities.
4. Assignment of Moorage Facilities. The harbormaster shall supervise and manage the assignment of all mooring spaces in the city municipally-operated harbor facilities; and he may from time to time in his discretion in the interests of safety, order, convenience and health require the owner or operator of any boat, vessel or floating structure to change from one (1) mooring space to another, and may himself move any boat which is unoccupied and in violation of this title.
 5. Refusal of Moorage Facilities. The harbormaster may, in his discretion, refuse mooring facilities to any boat, vessel or floating structure which is or may become or create a fire hazard, or otherwise become a menace to the safety and welfare of other boats and their occupants. When the moorage facilities are crowded he may refuse mooring facilities to floats, scows, rafts, pile drivers, boat shelters and other cumbersome floating structures. Upon refusal of mooring facilities, the boat owner, operator, master or managing agent shall be entitled to a pro rata refund of moorage fees paid in advance, less any other fees or charges the city municipality may have against the boat, its owner, operator, master or managing agent. Houseboats and floating storage buildings not self-propelled are prohibited.
 6. Posting. The harbormaster shall have the duty and the exclusive power to post signs and ~~thereby~~ to designate the limit of harbor speeds, the classification and use of harbor areas, and the numbers designating exclusive mooring spaces within the mooring areas where such is allowed, and such other signs and notices as would inform the public at large and all boat owners and operators of authorized and prohibited uses of the boat harbor facilities, as established by the harbormaster or the city council borough assembly. The harbormaster shall have the power to order the making of appropriate signs to make effective all orders and decisions of the city council borough assembly, and rules and regulations relating to the use of the facilities.
 7. Traffic Direction. The harbormaster and his assistants are ~~hereby~~ authorized to direct all waterborne traffic, either in person or by means of visible or audible signal, in conformance with the provisions of this title; provided, that where necessary to expedite waterborne traffic, or to prevent or eliminate congestion or to safeguard persons or property, the harbormaster or his designee (or in the event of a fire or other emergency, such officers and other authorized officers of appropriate governmental agencies or authorities) may direct waterborne traffic as conditions may require, notwithstanding provisions of this title.
 8. Moving Boats. The harbormaster may move any boat on which no person is aboard which is in violation of this title, or from which moorage or other fees are delinquent, or which is a derelict, a nuisance or is abandoned.
- C. Services of Harbormaster -- Fees. The harbormaster is granted the power and authority, from time to time, but without any obligation or duty to do so, and without any obligation or liability on his part or that of the city municipality of his failure to do so, to replace defective mooring lines, pump boats which are in dangerous condition for lack thereof, and move any boat for any purpose of protecting the boat from fire or other hazard, or for the protection of other boats ~~therefrom~~ within the harbor. Whenever the harbormaster performs any of the acts ~~hereinbefore~~ authorized, after having given notice to the boat owner or operator at the registered address of the immediate need ~~therefor~~ or having attempted to give such notice, the boat and owner ~~thereof~~ shall be required to pay to the city municipality such fees as are set forth by the city council borough assembly by resolution.
- D. Ferry/Barge Facility. In addition to the foregoing powers and duties, the harbormaster shall have the following powers and duties with respect to the ferry/barge facility:
1. Coordinate use of the facility with Alaska Marine Highway representatives;
 2. Schedule and assign moorage at the city's municipality's side of the dock;

3. Monitor facilities operations for safety and noninterference with ferry operations;
4. Assign rentals of storage and parking space in the storage area;
5. Supervise provision of utility services;
6. Provide customer service as required;
7. Regularly inspect facilities, monitor maintenance, and make recommendations for repairs as required;
8. Maintain records of use of transfer bridge and storage area for customer billings and assist in collection of billings;
9. Prepare periodic reports of facility operations for review by the city borough manager and the city council borough assembly.

Chapter 12.06

PORT AND HARBORS ADVISORY BOARD

Sections:

- 12.06.010 Advisory Board Established.
- 12.06.020 Appointment.
- 12.06.030 Term of Office.
- 12.06.040 Officers.
- 12.06.050 Vacancies.
- 12.06.060 Quorum
- 12.06.070 Meetings
- 12.06.080 Record of meetings

12.06.010 Advisory board established

There is established a seven (7) member ~~Port and Harbors Advisory Board~~ for the city municipality, which shall serve in an advisory role to the city council borough assembly and the port commission on matters of port and harbor policy, including port and harbor development, planning, tariffs, port and harbor policy and waterfront planning.

12.06.020 Appointment

Members of the ~~SPHAB~~ harbors advisory board shall be appointed by the mayor, subject to confirmation of the city council borough assembly. The mayor shall consider, but is not limited to, candidates representing commercial fishing/charters, dock owners/operators, maritime service industries, recreational boaters, and one representative of Canadian interests in the small boat harbor in particular, and overall port development in general. ~~Appointments to fill vacancies shall be for the unexpired term only. In addition, the mayor shall appoint one (1) council member to serve in an ex officio role.~~ A borough assembly member shall serve as the ex officio member of the board, may attend all meetings and have the privilege of the floor, but shall have no vote.

12.06.030 Term of office

~~Members shall be appointed for a term of three (3) years. The terms shall be staggered so that some members shall be appointed each year. Terms shall be first established by drawing, 2 for one (1) year terms, 2 for two (2) year terms, and 3 for three (3) year terms.~~

- A. Members shall be appointed for a term of three (3) years however, a board member serves until a successor takes office. The term of office begins in October.
- B. The terms shall be staggered so that members shall be appointed each year. Terms shall be first established by drawing, 2 for one (1) year terms, 2 for two (2) year terms and 3 for three (3) year terms.
- C. Appointments to fill vacancies shall be for the unexpired term only.

12.06.040 Officers

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The SPHAB shall elect from its membership a chair, vice-chair, and secretary. The chair shall be the presiding officer, and the secretary shall be responsible for the recording of SPHAB actions.

- A. The harbors advisory board shall elect annually a chair, vice-chair and secretary at its first meeting following the mayor's appointment and the assembly's confirmation of board members.
- B. The term of office for the chair, vice-chair and secretary shall be one (1) year; however, officers may serve more than one term.
- C. The chair shall preside over the harbors advisory board and shall have the right to vote.
- D. The vice-chair shall perform the duties of the chair in the absence or disability of the chair.
- E. The secretary shall record the minutes of board meetings and shall keep attendance records and notify the mayor when vacancies occur.

12.06.050 Vacancies

- A. A vacancy shall be declared and filled as above provided, when a member:
 - 1. Submits his/her resignation and the resignation is accepted by the mayor;
 - 2. Is physically or mentally unable to attend board meetings for a period of more than ninety (90) days unless excused by the board; or
 - 3. Is convicted of a felony; or
 - 4. Any board member may be removed with written notice by the mayor after a majority vote of the assembly at any time regardless of whether that person's term on the board has expired.
- B. ~~The secretary of the SPHAB shall keep attendance records and notify the mayor when vacancies occur.~~

12.06.060 Quorum

~~A majority of voting membership (4) constitutes a quorum. Any act of the board requires an affirmative vote of a majority of those voting members present.~~ Four (4) members constitute a quorum. Actions of the board are adopted by four (4) affirmative votes. The final vote on each action must be by a recorded roll call vote. Each member present shall vote on every question, unless required by law to abstain from voting on a question.

12.06.070 Meetings

The SPHAB harbors advisory board shall meet monthly, at a regularly established time, determined by the board. Additional meetings may be called at the discretion of the chair, or shall be called at the request of three (3) members.

12.06.080 Record of meetings

Meetings shall be public and minutes shall be kept. Minutes and records shall be filed with the city borough clerk and retained as public records.

Chapter 12.08
SMALL BOAT HARBOR

Sections:

- 12.08.010 ~~Lease terms incorporated~~ Small Boat Harbor Enterprise Fund.
- 12.08.0210 Use.
- 12.08.0320 Classification of harbor areas.
- 12.08.0430 Qualifications for use.
- 12.08.0540 Allocation of stalls.
- 12.08.0650 Duties of boat owners.
- 12.08.0760 Rents, fees and penalties.
- 12.08.0870 Prohibited acts.

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- 12.08.0980 Nuisances.
- 12.08.400090 Abandoned property.
- 12.08.1400 Nonliability of city municipality.

12.08.010 ~~Lease terms incorporated~~ **Small Boat Harbor Enterprise Fund.**

~~All terms and conditions set forth in the lease of the Small Boat Harbor from the state of Alaska to the city of Skagway, dated July 1, 1981, which govern the management, operation or use of the Small Boat Harbor, are incorporated herein by reference, and have the same force and effect as if fully set forth herein.~~

- A. The Small Boat Harbor shall be operated in a businesslike manner such as other public utilities and enterprises and shall be operated from a fund separate from the general fund. An accounting system for this fund shall be established within the general accounting system of the municipality, and shall be set up and maintained so as to reflect the financial condition of the enterprise and its income and expense. All balance sheets and statements of income and expense (profit and loss) shall be made for this enterprise annually and as often as the assembly may require, and published annually in a condensed form.**
- B. None of the income, money, resources or property of the small boat harbor shall be placed in the general fund or be used for the benefit of anything outside of the fund to which it belongs without due compensation or due value received in return; provided, that this shall not prohibit payment into the general fund by the small boat harbor enterprise fund of an amount in lieu of taxes reasonably estimated to be the amount which the enterprise would pay in taxes if it were privately owned.**

12.08.0210 Use.

- A. Access. The Small Boat Harbor shall be open to all on an equal basis. No special preference shall be granted to accommodate one (1) type of user over another. The extensions of the city municipal streets and sidewalks and public access to the harbor shall be maintained at all times. Commercial enterprises or businesses shall not be permitted to conduct business of a permanent or continuing nature within the Small Boat Harbor, or from a vessel using the facilities. This shall not be construed as an absolute prohibition of any type of commercial transaction in the boat harbor on an occasional basis. A commercial fishing vessel or charter boat operator would not be considered a commercial business enterprise in this case since the business is essentially conducted elsewhere and the Small Boat Harbor is merely a point for embarking and disembarking.
- B. Use of Harbor -- Implied Agreement. The mooring or use or presence of any boat within the Small Boat Harbor shall constitute an agreement by the owner, operator, master or managing agent to conform to the provisions of this title.

12.08.0320 Classification of harbor areas.

- A. Stalls. Numbered areas shall be set apart and designated for use of privately owned boats, both commercial and pleasure, upon the owners thereof having first made arrangements with the harbormaster and having paid the rent as hereinafter provided. Each stall shall be numbered in such a manner that its location can be readily determined. No property rights or rights to exclusive use are created by the renting of a mooring space; rather, the renter of a stall is granted only preferential berthing privileges for the use of the assigned moorage for so long as he has a vessel and pays his moorage fees.
- B. General Public Open Mooring. All float spaces and stalls except those reserved are designated general public open-mooring areas. The harbormaster may designate and mark stalls and spaces at other facilities as general public open-mooring areas. All such general public open-mooring areas shall be open to all members of the public for transient and other temporary use for mooring boats. No boat or boat owner shall have exclusive right to a general public open-

mooring space or stall. Should any boat moored at such space or stall leave it for any purpose, it shall have no exclusive right to return to the same space or stall if upon return it is found that the space is occupied by another boat. To constitute a break in mooring, a boat must be absent from the boat harbor for not less than twenty-four (24) consecutive hours. The harbormaster may, at his discretion, deny to any boat the use of general public open mooring.

- C. Gridiron. The harbormaster may make uniform rules determining what types of vessels may use the gridiron, as well as allowable weight of any such vessels. No owner or operator shall occupy gridiron space except for such reasonable times as are required to accomplish bottom painting, repairs, and other customary gridiron uses. The use of the gridiron and the length of time during which it may be used shall be in the discretion of the harbormaster. The ~~city council~~ **borough assembly**, by resolution, may set fees for the use of the gridiron.

12.08.0430 Qualifications for use.

- A. Safe Condition of Vessel. To qualify or remain qualified for space, a boat, except an approved boat shelter, must be seaworthy, must be equipped and maintained in accordance with subsection E of this section, and must have sufficient motive power to permit the boat to be maneuvered and controlled safely in and out of the boat harbor under wind and water conditions which are not unusual and do not constitute a hazard to small craft.
- B. Demonstration. Whenever the harbormaster has probable cause to believe that a boat is not qualified under the conditions of this section, he may require, upon seventy-two (72) hours' notice to the owner, operator, master or managing agent of any such boat, that such boat demonstrate that it is or remains qualified. An exception shall be made where repairs are being diligently pursued or where other extenuating circumstances prevent demonstration of qualification, but such exception shall be only for a reasonable time, considering the circumstances.
- C. Refusal of Mooring. The harbormaster may refuse mooring space to any boat which does not qualify; it shall be a condition of every rental agreement that any boat authorized to moor at a rental space in the boat harbor shall remain qualified so long as it remains in the boat harbor. The harbormaster may cancel the rental agreement for any mooring space which is occupied by a boat which is authorized to occupy such space, but which boat is not qualified in accordance with this section. Upon failure of a boat to qualify, the harbormaster may require, upon notice to the owner, operator, master or managing agent of such boat, that the rental agreement has been canceled, that such boat be removed from the boat harbor within not less than one (1) week. Any such boat remaining after the time specified in the notice shall be subject to impoundment or removal as a nuisance.
- D. Self-propelling Capability. Every boat must clear the boat harbor under its own power on at least three (3) occasions each year. Two (2) such occasions must not be less than three (3) months nor more than six (6) months apart. Failure to comply with this subsection shall raise a presumption that the boat is not qualified.
- E. Required Equipment. All watercraft or vessels shall carry the equipment required by any applicable United States laws or regulations, as now or hereafter amended, and shall be numbered or designated in accordance with any applicable United States laws or regulations as now or hereafter amended. In the absence of extenuating circumstances, failure of any boat or vessel within the boat harbor to comply with applicable United States laws or regulations shall be a violation of this title. Violations shall be reported to the U.S. Coast Guard.
- F. Commercial Use.
1. Commercial Operations. No moorage space shall be sublet or rented to any firm or individual for the purpose of conducting any commercially oriented business enterprises at the facilities ~~unless specifically authorized by the state and by the terms of the lease of the facilities from the state to the city~~; except that charter vessels, including aircraft, may pick up and discharge passengers at any space rented to such vessel or aircraft,

but may not pick up or discharge cargo at any space or any other part of the facilities of the boat harbor except at spaces designated for such use.

2. Temporary Permit. The harbormaster may, at his/her discretion, grant a temporary permit to the owner, operator, master or managing agent of a vessel moored in the boat harbor to conduct short-term and occasional commercially oriented activities at the vessel of such owner, operator, master or managing agent, provided that such activities may not in any way interfere with the normal use of the boat harbor by other users of the facility. The ~~city council~~ borough assembly may, by resolution, set additional terms and conditions for the issuance of such permits. The issuance of a permit under this section shall not in any manner reduce or replace any other requirement for permits or licenses, but shall be in addition to such other permits or licenses.

- G. Size and Types of Vessels. No vessel with a length in excess of one hundred fifty (150) feet shall be allowed to enter the Small Boat Harbor except in an emergency. Under no circumstances shall excessively large vessels be allowed to secure to the float systems. Barges, boathouses, boat shelters, log rafts, scows, pile drivers and other cumbersome floating structures shall not be permitted to secure to the floats unless specific provisions for accommodations are made and the harbormaster grants approval.

- H. Live-Aboards.

1. Watercraft used as a combination domicile and pleasure or commercial vessel shall not necessarily be prohibited from using the harbor, but owners shall be required to pay for garbage, water and other harbor service commensurate with their increased usage of the facilities. All live-aboard water craft shall meet the following criteria:
 - a. Be powered by an inboard motor or an inboard motor or an inboard outdrive, but not powered by an outboard motor alone;
 - b. Be capable of "getting underway" at all times;
 - c. Meet all U.S. Coast Guard requirements for safe navigation on the open roadstead;
 - d. Contain adequate toilet facilities capable of meeting all U.S. Coast Guard and EPA standards for direct water discharge;
 - e. Be a "watercraft," constructed and maintained for the primary purpose of navigating the waterways of Alaska, and not for the specific purpose of maintaining a permanent place of residence.
2. The harbormaster shall discourage use of the harbor by live-aboards where it is known that the watercraft will be or is being utilized as a permanent place of residence only.

- I. Aircraft. Aircraft normally shall be moored only at the float specifically provided and designated for use by floatplanes. Under no circumstances shall aircraft be permitted to secure to the float system as long as there is a shortage of space for the mooring of boats.

12.08.0540 Allocation of stalls.

- A. Stalls -- Vessel Registration. All stalls and moorage shall be rented in the name of the renter or occupants on a preferential-usage basis, by a vessel owned by the renter and specifically designated on the rental agreement by name and/or Coast Guard registration number. No other vessel may occupy a stall or moorage so rented except on a temporary basis upon agreement of the renter and approval of the harbormaster.

- B. Preference Rights.

1. The renter of a stall or moorage shall have a preference for renewal of the rental so long as he owns a vessel, pays the prescribed fees, and complies with the provisions of this title. The sale by the renter of the vessel named in the moorage agreement constitutes termination of the moorage agreement unless the renter replaces the vessel with a boat of similar size, or demonstrates to the satisfaction of the harbormaster that he intends to replace the vessel within a reasonable period of time. The renter who sells the vessel designated in the moorage agreement may retain the moorage only if he acquires

another vessel, and he shall not subrent or otherwise assign his interest in the berth to another person. The practice of selling the stall with the vessel is strictly prohibited. A berth so vacated shall be assigned by the harbormaster to the next person on the approved waiting list.

2. Preference in renting of stalls or alongside moorage on an annual basis shall be given to U.S. citizens or organizations owning the boat to be moored, or persons having permanent resident status from the U.S. Immigration and Naturalization Service. Foreign citizens may rent annual reserved moorage on an as-available basis, but shall not be entitled to automatic renewal; on the termination of the rental period, U.S. citizens and permanent residents on the waiting list shall have priority to rent the space.
- C. Maximum Utilization of Stalls. Stall assignments shall be made to insure maximum usage of stall space. The harbormaster shall establish minimum and maximum boat lengths and maximum beams permitted for each type and size stall available. Stall assignments or uses not in compliance with established maximums and minimums shall not be made except in unusual or temporary situations, and only with the express approval of the harbormaster or his designee. No vessel may be assigned or use more than one (1) stall which is under the control or ownership of the city municipality.
- D. Seniority of Leases. A seniority list of stall renters shall be maintained by the harbormaster as a basis for reassignment of stalls to those wishing to improve their stall locations.

12.08.0650 Duties of boat owners.

- A. Application for Space. Every owner, master, operator or managing agent desiring to moor at a stall or numbered mooring space shall apply ~~therefor~~ to the harbormaster. No stall space shall be used until so assigned and the rental is paid as herein provided.
- B. Registration. Every owner, master or managing agent of any boat using the mooring facilities of the boat harbor is hereby required to register his name, telephone number, post office and street address, and the name and number of the boat, its length, its breadth and registered tonnage, if any, with the harbormaster on forms to be provided by him for that purpose within four (4) hours after the boat enters and moors at any float in the boat harbor.
- C. Identification. If federal law, rule or regulation does not compel the numbering or other identification of any boat or vessel, the ~~city council~~ borough assembly shall determine by resolution how such boats shall be identified, and thereafter no such boat or vessel nor any other boat or vessel shall be allowed in the boat harbor unless it is properly identified. Failure by any owner, operator or master to so identify any boat or vessel using the boat harbor shall be a violation of this title.
- D. Duties. In addition to the duties of registration and identification as herein provided, every owner, master, operator or managing agent of any boat using the mooring or other facilities of the boat harbor shall be obliged to use due diligence in performing the following requirements:
 1. Use all reasonable precautions in keeping the boat in his charge in a reasonably clean and sanitary condition, with special attention to pure water and sanitary toilets;
 2. Use all reasonable precautions in keeping the boat in his charge free from fire hazards of any type or nature;
 3. Use all reasonable effort and precautions in keeping the boat in his charge well-secured, securely moored with lines in reasonably fit condition, sufficiently pumped out at all times to keep the boat afloat, and to otherwise attend the needs of the boat to avoid need for attention by the harbormaster;
 4. Use adequate precautions to lock up and stow and otherwise safeguard all movable gear and tackle;
 5. Promptly pay all charges and taxes assessed or levied according to law either against the boat or its owner, and all rental and charges for utilities requested and ordered for the boat;

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6. Supply and use adequate fenders to safeguard floats and vessels from chafing and other damage.

12.08.0760 Rents, fees and penalties.

A. Basis.

1. As ~~lessee~~ **owner** and operator of the ~~state-owned~~ Small Boat Harbor, the ~~city~~ **municipality** is responsible for the funding of all costs of operation and maintenance of the facility. Accordingly, the ~~city council~~ **borough assembly** shall set the moorage fees at levels sufficient to:
 - a. Provide adequate moorage rent of the Small Boat Harbor;
 - b. Satisfy all maintenance requirements, current and future (~~except for major renovation or expansion for which state funding may be provided as available~~);
 - c. Retire any existing debt obligations;
 - d. Provide for contingencies and emergencies;
 - e. Provide adequate capital for replacement of facilities at the end of their useful life;
 - f. Provide and operate electrical utilities, potable water, fire protection, harbormaster office and services, vehicle parking areas and sanitary facilities.
2. The schedule of fees for rental of annual moorage space and for monthly and daily transient moorage shall be reviewed annually by the ~~city council~~ **borough assembly** and adjusted by resolution as deemed appropriate. The moorage fee/stall rental fee shall be based upon length of the boat.

B. Terms. All mooring and stall rentals, fees, and other charges for use of boat harbor facilities, terms of rental agreements, and procedures for applying for space and making rental payments shall be established by the ~~city council~~ **borough assembly** by resolution. Failure of any boat owner, master, operator or managing agent to register or pay mooring or service fees provided by this title shall be presumed to be an abandonment.

C. Rental Periods. The leasing or rental of space in the boat harbor shall be based on a fiscal year running from April 1st through March 31st. Rents are not refundable, and are payable in advance for the full year. A new annual renter or lessee may be charged on a pro rata basis from the date of entry into the boat harbor to the next due date, and on a yearly basis thereafter. No other pro rata rates, fees or charges are implied in this section. Transient moorage space shall be rented only on a daily basis or for one (1) month periods based upon calendar months. If the moorage/stall rental fees or other charges are not paid by the due date, the harbormaster may impound and/or confine the vessel or boat.

D. Billing Period. Billing for annual rentals shall be mailed the first week of March, and payment is due and payable to the ~~city~~ **borough** clerk on or before April 10th.

E. Collection of Transient Moorage Fees. Transient moorage fees for daily or monthly moorage space shall be paid to the harbormaster, in advance whenever feasible.

12.08.0870 Prohibited acts.

A. It is unlawful for any owner, master, operator or managing agent or other person to commit any of the following acts:

1. To operate or cause to be operated any boat within the limit of the boat harbor in excess of five (5) miles per hour, but in no case shall the speed be in excess of that which causes a disturbing wake;
2. To operate or cause to be operated any boat in a reckless manner and in willful or wanton disregard for the safety of persons or property within the limits of the boat harbor;
3. To operate or cause to be operated any boat in a negligent manner likely to endanger the safety of persons or property within the limits of the boat harbor;

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4. To operate or to be in actual physical control of any boat when under the influence of intoxicating liquor or narcotic drugs;
5. To authorize or knowingly permit any boat to be operated by any person who is under the influence of intoxicating liquor or narcotic drugs;
6. To operate any boat in a manner which unreasonably or unnecessarily interferes with other watercraft or vessels, or with the free and proper navigation of the waterways of the boat harbor;
7. To authorize or knowingly permit any boat to be operated by any person who, by reason of physical or mental disability, is incapable of operating such boat under the prevailing circumstances;
8. To do or omit to do in or upon the boat harbor any act, if the doing or omission thereof unreasonably endangers or is likely to unreasonably endanger persons or property;
9. To violate any provision of this title, or any rule, regulation, order or posted sign made pursuant hereto;
10. To leave any boat, vessel or floating structure moored at any of the harbor facilities unattended while any fire is burning thereon, unless such fire is in a range, stove, space heater or furnace. The fuel flow to such range, stove, space heater or furnace shall not be controlled by a drip valve carburetor, but rather a safe control of a type approved by the harbormaster. Any fire shall be deemed unattended unless the owner or operator is within one hundred feet (100') feet of the boat, or some person over the age of eighteen (18) years and capable of moving the boat or vessel is aboard or within one hundred feet (100') of the same;
11. To create or maintain any nuisance within the boat harbor or to conduct or carry on any unlawful business or occupation therein; and all of the provisions of this code defining offenses and prescribing penalties for the violation thereof are hereby expressly extended to the boat harbor;
12. For any owner or person in charge of any dog or animal to allow or permit the dog or animal to run at large upon or to be tethered or restrained to any part of a float or dock, or to permit any dog to become or create a nuisance thereon. Only the dogs of owners of boats legally moored in the harbor, or the dogs of the guests of such boat owners, shall be permitted on the floats, but then only when on a leash and for such minimum time as is necessary to go between the boat and shore;
13. To deposit, place or leave any cargo, merchandise, supplies, freight, articles or things upon any float, ramp, decline, walk or other public place in the boat harbor excepting at such places as may be designated as loading and unloading spaces by the harbormaster. Materials used in repairing or rebuilding boats shall not be stored on any float or dock;
14. To tap, connect, disconnect, interfere with or tamper with any water outlet, water pipe, water connection or any electrical wiring, electrical outlet or electrical device of any kind, installed or maintained in the boat harbor, without first having obtained the permission of the harbormaster; or to interfere with or tamper with any wharf, float, gangplank, ramp, or any other facility of the boat harbor;
15. To write or post any written or printed matter or sign upon any bulletin board constructed or maintained by the city municipality in the boat harbor without first having obtained permission of the harbormaster;
16. To erect, place, post or maintain any advertising matter, sign or other printed matter other than legal notices on any part of the boat harbor facilities, without approval thereof first being obtained from the city borough manager. All unauthorized advertising and signs shall be removed by the harbormaster;
17. To disregard, deface, remove, tamper with or damage any sign or notice posted or erected by the harbormaster or by direction of the ~~city council~~ borough assembly relating to the use of the mooring areas or other uses of the boat harbor;

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18. To moor or anchor any boat, vessel or other floating structure within two hundred feet (200') of any of the float, dock facilities or entrances or exits of the boat harbor in such a manner as to obstruct access to the boat harbor or its float and dock facilities;
19. To install or secure to any float, dock or stall, either permanently or temporarily any bumper other than standardized, premolded rubber or vinyl bumpers of a commercial manufacture;
20. To conduct any commercially oriented business enterprise at the boat harbor facilities unless specifically authorized as provided under this title. Preparation and repair of a commercial fishing boat or its gear and the pickup and discharge of charter passengers by boats or aircraft renting space in the boat harbor is not conduct of a commercially oriented business within the meaning of this subsection;
21. To engage in the practice of private subleasing or "hot bunking" of an assigned mooring space. Any subleasing or "hot bunking" assignments shall be made only by the harbormaster, who shall collect the normal transient use fee therefor.

B. No person under the age of sixteen (16) years shall be allowed on the dock and floats, or in the boat harbor, unless in the company and under the control of such person's parent or guardian or some other person over the age of eighteen (18) years, and for the time and place exercising the responsibilities of such person's parent or guardian. A person under the age of sixteen (16) years may apply to the harbormaster and for good cause shown may be granted a permit to go on the dock and floats or in the boat harbor ~~by himself~~ **without accompaniment**. Such permit may be restricted and conditioned as, in the judgment of the harbormaster, is warranted by the circumstances. Such permit shall be revocable by the harbormaster if the permittee abuses the privilege of access to the boat harbor. Good cause for the purposes of this section shall consist of:

1. Care of boats;
2. Entering or exiting the harbor by boat;
3. Residence aboard a vessel legally in the boat harbor;
4. Employment requiring access to the boat harbor; or
5. Other legitimate and compelling reasons where denial of access would create an undue hardship on the person.

12.08.09~~80~~ Nuisances.

A. Derelicts. For the purpose of this policy and in the interest of the greatest use of the facilities of the boat harbor and the municipal waters by the general public, boats in the boat harbor and elsewhere on the municipal waters which are derelicts and unfit and unseaworthy, or which are maintained in such manner as to make them liable to sinking for lack of being pumped or other maintenance, or which have been declared unqualified by the harbormaster, or which are maintained in a manner as to constitute a fire hazard, and sunken boats and boats in imminent danger of sinking, are hereby declared to be nuisances and subject to abatement and removal from the boat harbor, or other municipal waters, by the ~~city~~ **municipality** without liability of the ~~city~~ **municipality** for any damage done by virtue of the removal or for any of its consequences.

B. Sunken or Obstructive Boats. When any vessel or watercraft or obstruction has been sunk or grounded, or has been delayed in such a manner as to stop or seriously interfere with or endanger navigation, moored boats or any harbor vessels, the harbormaster may order the same immediately removed; and if the owner or other person in charge thereof after being so ordered does not proceed immediately with such removal the harbormaster may take immediate possession thereof and remove the same, using such methods as in his judgment will prevent unnecessary damage to such vessel or watercraft or obstruction. The expense incurred by the ~~city~~ **municipality** in such removal shall be paid by the owner, and in case of failure to pay the same the ~~city~~ **municipality** may maintain an action for the recovery thereof.

C. Floating Objects. All vessels, watercraft, logs, piling, building material, scows, houseboats or other articles of value found adrift in the municipal waters of the ~~city~~ **municipality** may be taken

in charge by the harbormaster and may be subject to reclamation by the owner thereof on payment by him to the ~~city~~ municipality of any expenses incurred by the ~~city~~ municipality; and in case of failure to reclaim, may be sold or disposed of as abandoned property.

D. Other Nuisances.

1. Refuse of all kinds, structures or pieces of any structure, dock sweepings, dead animals or parts thereof, timber, logs, piles, broomsticks, lumber, boxes, paint, empty containers, and oil of any kind floating uncontrolled on the water, and all other substances or articles of a similar nature are hereby declared to be public nuisances, and it is unlawful for any person to throw or place, or cause or permit to be thrown or placed, any of the above-named articles or substances in the boat harbor or municipal water, or upon the shores thereof, or in such position that the same may or can be washed into the boat harbor or municipal waters, either by high tides, storms, floods or otherwise. Nets, gear, and other material left on any float or dock for more than ninety-six (96) hours are hereby declared a nuisance.
2. Any person causing or permitting such nuisances shall remove the same; and upon his failure to do so, the same may be removed or caused to be removed by the harbormaster. When the harbormaster has authorized such nuisances to be removed or stored commercially, all costs of such commercial removal or storage shall be paid by and recoverable from the person creating the nuisance. The abatement of any such public nuisances shall not excuse the person responsible ~~therefor~~ from any other applicable penalties provided by this title.

E. Abatement or Disposal. Nuisances described under this section constituting a clear and present danger to the public health and welfare may be removed, impounded and disposed of by the ~~city~~ municipality. Other nuisances under subsection D of this section may be impounded, disposed of by destruction, private sale, or any other means deemed reasonable by the manager and, in the case of boats or other valuable property, procedures providing due process to the property owner. Such disposition is to be made without liability to the owner of the nuisance.

12.08.400090 Abandoned property.

A. Any boat in the boat harbor or in any of the municipal waters which is abandoned may be impounded, removed, sold or otherwise disposed of as provided herein. Failure of any boat owner, master, operator or managing agent to register or pay moorage fees or service fees provided by this title shall be presumed to constitute an abandonment.

B. Procedure for Impounded Boats.

1. Storage Charge. When the ~~city~~ municipality has impounded or removed any boat, the owner, master, operator or managing agent thereof shall be subject to and liable for a storage charge set by the ~~city council~~ borough assembly by resolution, and shall be subject to and liable for all costs incurred by the ~~city~~ municipality by reason of the impounding or removal.
2. Notice to Owner. Immediately upon impounding or removing any boat, the ~~city~~ municipality shall cause to be posted in the harbormaster's office or bulletin board, the clerk's office, and on the bulletin board at the entrance of the United States Post Office, notice of such action taken by the ~~city~~ municipality. A copy of the notice shall be mailed by certified mail, return receipt requested, to the owner, master or registered agent of the boat at his last known address, which address shall be the same as that furnished to the harbormaster. The notice shall contain the name and/or number of boat; the name and address, if known, of the owner, master, operator or managing agent; the location of the boat; the reason for the boat's impoundment; and the opportunity for a hearing before the harbormaster no later than twenty (20) days following the postmark date of the mailed notice. For documented vessels, the same notice shall be mailed to any mortgage holder whose name and address are recorded with the U.S. Coast Guard.

3. Notice of Sale. Any boat impounded or removed shall be held by the city municipality for a period of not less than thirty (30) days, during which the city municipality shall publish in a newspaper of general circulation in the city municipality a notice describing the boat in general terms, its name and/or number, if any; the name and address of the owner, master, operator or managing agent, if known; or if not known, shall state the location of the boat; and the intention of the city municipality to sell the same at public auction, on a day and at a place and time certain, for cash to the highest bidder unless the boat is sooner redeemed. At any time prior to the start of the auction, the owner, master, operator or managing agent may redeem the boat by a cash payment of all city municipal charges against the boat.
4. Sale. The minimum acceptable bid shall be a sum equal to the city's municipality's charges against the boat. The proceeds of the sale shall be first applied to the costs of sale, then to moorage and service fees accrued, and the balance, if any, shall be held in trust by the city municipality for the owner of the boat to claim; and if not claimed within one (1) year, the balance shall be deposited into the boat harbor facilities fund. Upon the sale being made, the city municipality shall make and deliver its bill of sale, without warranty, conveying the boat to the buyer.
5. Other Disposition. If at the public sale there are no bidders for the boat, the city municipality may destroy, sell at private sale, or otherwise dispose of the boat. The disposition is to be made without liability to the owner, master or lienholder of the boat.

12.08.1400 Nonliability of city municipality.

Any transient, or any lessee or any renter using the boat harbor or appurtenant facilities agrees ~~thereby~~ that the relationship between the city municipality and such transient, lessee or renter is simply that of landlord and tenant. A transient, lessee or renter using the boat harbor or any appurtenant facilities further agrees ~~thereby~~ that the city municipality:

1. Does not accept any boat or aircraft for storage;
2. Shall not be held liable in any manner for the safekeeping or condition of the boat or aircraft;
3. Is not responsible ~~therefor~~ as warehouseman;
4. Shall not be held responsible or liable for any damage or loss to or of the boat or aircraft, its tackle, gear, equipment or property, either upon the boat or aircraft, or upon the premises of the boat harbor, and from any cause whatever; or for injury to the lessees or renters occasioned by any cause upon the premises of the boat harbor or adjacent thereto.

Chapter 12.12
FERRY AND BARGE FACILITY

Sections:

- 12.12.010 Terms of city-municipal/state agreement incorporated.
- 12.12.020 Permits and licenses.
- 12.12.030 Manifests.
- 12.12.040 Fees and charges.
- 12.12.050 Other services.
- 12.12.060 Liability and indemnification.

12.12.010 Terms of city-municipal/state agreement incorporated.

All terms and conditions of the "Agreement for Construction and Maintenance of a Dock and Ferry Terminal for the City Municipality of Skagway," dated August 2, 1978, as amended January 6, 1981, which govern the management, operation or use of the ferry and barge facility, are incorporated herein by reference, and have the same force and effect as if fully set forth herein.

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- 12.12.020 Permits and licenses.
- A. The city municipality may grant permits for the nonexclusive use of the dock for mooring, for loading and discharging cargo, and for the loading and discharging of passengers and vehicles.
 - B. Reservations. Requests for reservations for mooring assignments or for use of storage space at city municipal facilities shall be submitted to the harbormaster as far in advance as practicable, normally not less than five (5) working days, and shall be subject to confirmation forty-eight (48) hours in advance of expected arrival time.
 - C. Moorage Not Exclusive. Assignment to moorage is not exclusive, and shall include only the right to dock the vessel, to embark and disembark passengers and their luggage, and to assemble and distribute cargo over the dock and transfer bridge, subject to the provision that such use shall not interfere with ferry operations. Moorage assignments are not transferable except with written consent of the city borough manager or the harbormaster. Moorage assignments shall be revocable by the city borough manager or harbormaster without compensation for costs incurred thereby to the vessel, upon written notice to the vessel except when otherwise provided in the assignment.
 - D. Use of the City's Municipality's Transfer Bridge. All non-ferry-related traffic to and from the dock shall use the city's municipality's transfer bridge. The city municipality grants to the state full use of the city municipally-owned loading and unloading facility transfer bridge for ferry-related business at no cost to either the state or passengers and vehicles loading and unloading from a state-owned vessel. The city municipality additionally grants to the state the use of the structure of the city's municipality's transfer bridge for carrying state-owned oil lines, water lines, and electric service lines at no cost.

12.12.030 Manifests.

All vessels granted permits to moor at the city's municipality's dock, and all persons permitted to use the city's municipality's transfer bridge or storage area shall furnish to the city municipality a complete manifest certifying the tonnage of cargo, including weight of vehicle crossing the transfer bridge onto or from the dock, and the dimensions of materials or vehicles stored in the storage area.

12.12.040 Fees and charges.

- A. Transfer Bridge. A toll shall be assessed against all cargo and vehicles crossing the city's municipality's transfer bridge onto or from the dock, as necessary to cover the city's municipality's costs of constructing, operating, maintaining and improving the transfer bridge, including retirement of any debt service and payment of the city's municipality's share of costs for maintenance of the dock. The schedule of tolls shall be reviewed annually by the city ~~council~~ borough assembly and adjusted by resolution as deemed appropriate.
- B. Storage. Open storage space may be reserved on a short-term, per square foot per month basis by payment to the city municipality of monthly charges in advance. The rate shall be reviewed annually by the city ~~council~~ borough assembly and adjusted by resolution as deemed appropriate.
- C. Fresh Water Service. The city municipality shall charge for fresh water supplied to vessels at the city's municipality's dock. The rate shall be reviewed annually by the city ~~council~~ borough assembly and adjusted by resolution as deemed appropriate.
- D. Payment. Rental charges for use of the storage area shall be paid monthly ~~in advance~~. All toll charges for use of the city's municipality's transfer bridge are due and payable upon receipt of invoice. Invoices become delinquent if not paid within thirty (30) days following the date on which the invoice was prepared. By using these facilities, the user enters into a contractual agreement with the city municipality to pay the city municipality a penalty of one percent (1%) per month on delinquent payments.
- E. Responsibility for Payment. Owners, shippers and consignees of any cargo or vehicles using the city's municipality's transfer bridge or storage area shall be responsible to the city municipality for payment of the city's municipality's user charges. In the event of

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transshipments from one (1) carrier to another through Skagway, payment of user charges shall be guaranteed by the vessel, its owners or agents, using the dock facilities to discharge or take aboard the cargo or vehicle in question. Use of the dock by such vessel shall be deemed acceptance and acknowledgement of this responsibility by the vessel's owner and agents.

- F. Obligations. The setting forth of rates and charges in this chapter shall not imply an obligation on the part of the city municipality to provide use of its facilities. The payment or promise to pay these charges does not give a permittee any vested interest in the use of the dock, transfer bridge or storage area at any time.

12.12.050 Other services.

- A. Stevedoring. Vessels, overland carriers or other persons granted permits to moor or to move cargo across the dock shall enter into their own contract arrangements for longshoring and stevedoring services. Insofar as is practicable, it is expected that locally based longshoring and stevedoring activities will be employed.
- B. Electricity, Telephone and Fuel Services. Vessels using the dock shall enter into their own contract arrangements with commercial companies for the provision of electrical power, telephone and fuel services.

12.12.060 Liability and indemnification.

- A. Liability for Loss or Damage to Dock and City Municipal Port Facilities. Any person or vessel using the dock, transfer bridge and storage area shall be strictly liable, without regard to negligence, for any loss of, or damage to, city municipal or state property incurred as a result of such use, and shall make such restoration or repair, or monetary compensation, as may be directed by the city municipality or state.
- B. Indemnification. The use of the city's municipality's ferry/barge facility (the dock, transfer bridge and storage area) by any person or vessel for any purpose constitutes an agreement between the city municipality and such user that the user agrees for itself, its successors and assigns, by operation of law or otherwise to defend and hold harmless the city Municipality of Skagway and ~~s~~State of Alaska and to assume full responsibility for, and to defend, and pay or otherwise settle any and all claims, demands, actions or causes of damage or injury to any and all persons or property arising out of such use by the user. Such user further agrees to release and discharge the city municipality and state, including any department or agency thereof, their agents and successors, executors, administrators or assigns, from any and all liability, claims, demands, actions or causes of action, of every nature whatsoever arising out of such use by the user, and to defend, indemnify and hold harmless the city municipality and state, including any department or agency thereof, their agents, successors or assigns, from any loss or damage suffered by reason of such use by the user.

Chapter 12.16
GENERAL PROVISIONS

Sections:

- 12.16.010 Accidents and reports.
- 12.16.020 Aiding and abetting violations.
- 12.16.030 Enforcement and penalties.
- 12.16.040 Posting of Harbors and Ports code.
- 12.16.050 Dedication of revenues.

12.16.010 Accidents and reports.

- A. The operator of any boat involved in an accident resulting in injury or death to a person or in damage to property shall immediately stop his boat at the scene of such accident and shall render such aid as he is capable of rendering; give his name, address and the name and/or

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number of his boat, and the name and address of the owner to the person struck or the operator or occupants of the boat collided with.

- B. The master, owner or operator of any boat shall file a report within one (1) hour, with the harbormaster or a city municipal police officer, of any accident involving death or personal injury requiring medical treatment or involving property damage in any amount, or upon striking any other boat, float or property, in which such boat has been involved in the boat harbor.

12.16.020 Aiding and abetting violations.

It is unlawful to counsel, aid or abet the violation of or failure to comply with any of the provisions of this title.

12.16.030 Enforcement and penalties.

The harbormaster shall have authority to enforce all provisions of this title, to issue directives to users of harbor facilities to comply with such provisions, and to abate any act of violation. The harbormaster, upon noncompliance with such directive, shall issue a citation for each act of violation. Violations shall be deemed infractions, and violators shall be subject to a fine not in excess of three hundred dollars (\$300.00) for each act of violation.

12.16.040 Posting of Harbors and Ports code.

A copy of this title shall be posted in a conspicuous place at the boat harbor (harbormaster's office or bulletin board). Such posting shall be deemed to have provided to all lessees and users of the boat harbor adequate notice of all legal duties contained in this title.

12.16.050 Dedication of revenues.

All revenues generated by city municipally-operated harbor facilities (moorage fees, grid fees, harbormaster service fees, etc.) shall be dedicated to the port fund, for use in paying costs of operation, maintenance and repair of the harbor facilities.

Section 4. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.


Section 5. Effective Date. This ordinance shall become effective immediately upon adoption.

PASSED AND APPROVED by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 1st day of September, 2011.



 Thomas D. Cochran, Mayor

ATTEST:



 Emily A. Deach, Borough Clerk

(SEAL)

