

Title 16

HARBOR AND HARBOR FACILITIES

Chapters:

16.04 Docks, Floats, Gridirons and Other Moorage
Facilities

Chapter 16.04

DOCKS, FLOATS, GRIDIRONS AND OTHER MOORAGE FACILITIES

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16.04.010 Definitions. In construing the provisions of this Chapter, except as otherwise plainly declared or when another meaning is apparent from the context, the following definitions shall be applied:

A. Assembly. The duly elected, qualified and acting Borough Assembly of the City and Borough of Yakutat, Alaska;

B. Boats. All vessels, ships, boats, skiffs and water craft of every kind and description.

C. Boat harbor. That boat harbor located adjacent to Yakutat on Mallott Avenue, including the Borough moorage facilities and all parking and loading areas located adjacent thereto;

D. Borough moorage facilities. All docks, floats, grid irons, boat trailers, boat repair or storage facilities, and other moorage facilities and the approaches thereto, owned or

controlled by the City and Borough of Yakutat; this specifically includes the Multi-Purpose Dock located on Sandy Beach Road;

E. Derelict. Any boat moored or otherwise located at or adjacent to Borough moorage facilities, which is forsaken, abandoned, deserted or cast away, or which by appearance gives evidence of being forsaken, abandoned, deserted or cast away, or which, in the opinion of any recognized marine surveyor, is unsound, unseaworthy and unfit for its trade or occupation and which by any substantial evidence of neglect may be considered abandoned;

F. Harbormaster. A person hired by the Borough to execute the duties and responsibilities of this Chapter.

G. Large craft moorage space. Any portion of Borough moorage facilities, other than a gridiron, which has not been otherwise marked and designated as a small craft moorage space;

H. Large craft. Any boat that is not a "small craft" as defined below;

I. Reserved Mooring Space. A space which has been assigned by the Harbormaster for reserved use by a specific boat;

J. Seaplane Float. The float located at the boat harbor which is specifically marked and designated by the Borough as space for seaplane use only;

K. Small craft. Boats measuring, by any measure, twenty (20) feet in length and under;

L. Small craft moorage space. Any portion of the Borough moorage facilities, other than a gridiron, which has been plainly marked and designated by the Borough as a small craft moorage space;

M. Transient boat. Any boat not assigned to a reserved moorage space;

N. Transient mooring space. A space designated by the Harbormaster for use by transient boats and marked accordingly.

16.04.020 Purposes. The purposes of this Chapter are to protect and preserve the lives, health, safety and wellbeing of the people of the Borough who have property in, and use or work upon the boats using the Borough moorage facilities, or who make sales or deliveries of goods and merchandise to boats thereat, or who use said facilities in the course of visits for commercial or pleasure purposes; to protect the property of such boat owners by regulating these facilities to ensure the widest possible use thereof; and to prevent the maintenance of nuisances, fire and health hazards. All of the provisions of

this Chapter shall be liberally construed for the accomplishment of the purposes of promoting the general welfare.

16.04.030 Policy and Intent -- Use of Borough Moorage Facilities. It is hereby declared to be the intent of this Chapter to favor the use of Borough moorage facilities by commercial fishermen, government vessels, commercial vessels in trade and commerce, pleasure craft, and by the general public at large. It is further the intent of this Chapter to prevent and discourage the use of these facilities by boats which have been abandoned by their owners to the point of becoming derelicts or becoming a charge and nuisance to the Borough and to the general public.

16.04.040 Jurisdiction of Harbormaster.

A. The Harbormaster shall have general control and supervision of all Borough boat harbors and moorage facilities, shall preserve order at all times, and shall enforce all applicable ordinances and regulations governing use of the Borough facilities.

B. The Harbormaster may prohibit the use of any Borough moorage facility when closing the facility is required to protect and preserve the public welfare and safety.

C. The use of any Borough harbor, moorage facility or adjacent waterway is deemed a grant of authority by the owner, operator or managing agent to the Harbormaster, or the Harbormaster's designee, to board the boat for the purpose of enforcing this title and/or to move the boat if it is moored in violation of any provision of this title, or if moving the boat is required for an emergency or the safe and efficient operation of Borough facilities, as determined at the sole discretion of the Harbormaster. The authority granted hereunder to the Harbormaster shall not create an obligation or duty requiring the Harbormaster to take any action to protect or preserve any boat or property located within Borough facilities.

D. The Harbormaster shall have authority to adopt additional regulations governing use of the Borough boat harbor and moorage facilities, subject to Assembly approval. Such adopted regulations shall be prominently posted at the Boat Harbor, the Multi-Purpose Dock, and at the Borough Offices.

16.04.050 Classification and use of moorage facilities.

A. The Harbormaster shall classify areas within the Boat Harbor and on Borough moorage facilities for various uses, including marking mooring areas and loading zones, and post signs, markings, numbers or informational devices to notify and

inform interested parties of authorized and prohibited uses of the facilities.

B. The Harbormaster shall classify all borough moorage spaces as either transient mooring or reserved mooring. The Harbormaster is responsible for assigning all mooring spaces to boats, and such assignment is at the discretion of the Harbormaster, subject to the provisions of section .130 of this Chapter. Once assigned, the Harbormaster has the discretion of re-assigning spaces and moving vessels, if necessary for the safe and efficient operations of the facilities.

16.04.060 (repealed).

16.04.070 (repealed).

16.04.080 Prohibited Uses. The following uses of and activities are prohibited at the Borough boat harbor, and on or at any Borough moorage facility:

A. Butchering or cleaning of fish or game, or disposing of waste from same, except in areas designated for these purposes;

B. Storing of property, except that temporary placement of property in a stage of immediate transit shall be permitted;

C. Depositing of litter of any type except in designated litter receptacles;

D. Cutting or welding or use of open flame on any boat undergoing repairs, except in an area especially designated for such purpose;

E. Mooring of log rafts, scows, barges, non-powered vessels, floating boat shelters and floating storage buildings;

F. Mooring of seaplanes at any place other than the seaplane float; and

G. Driving or parking any type of vehicle, including a boat trailer, on any dock or float of the Borough.

H. Parking a motor vehicle in an area in which parking is prohibited;

I. Parking a motor vehicle in a permitted parking area for any period of time in excess of posted time limitations established by the Borough Manager, the Harbormaster, or their designee;

J. Unauthorized use of a transient float, moorage space or gridiron space; and

K. Mooring a vessel in any manner so as to obstruct a float, moorage space or harbor loading area.

16.04.090 Use of Gridirons. Boats shall be entitled to occupy gridiron space for such reasonable times as are required to accomplish bottom painting, repairs and other customary gridiron uses. No boat may occupy a gridiron space for a continuous period in excess of thirty-six (36) hours without the written consent of the Harbormaster first being had and obtained.

16.04.100 Duties of Boat Owners. Every owner, master or managing agent of any boat using the Borough moorage facilities shall be required to perform the following functions with regard to that boat, and exercise due diligence and reasonable care in the performance thereof:

A. Maintain the boat in a reasonably clean and sanitary condition, with special attention to pure water and sanitary toilets;

B. Maintain the boat free from fire hazards of any type or nature;

C. Maintain the boat 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 attention by the Harbormaster;

D. Safeguard movable gear and tackle by stowing it away and locking it up;

E. Pay, when due, all charges and taxes assessed or levied according to law upon, or against, the boat or its owner, and all rentals or charges for utilities requested and ordered by the boat or its owner; and

F. Supply and use adequate fenders to safeguard floats and vessels from chaffing and other damages.

16.04.110 Nuisances.

A. Boats moored to, or located adjacent to Borough moorage facilities, which are derelicts, or which are maintained in such a manner as to make them liable to sinking for lack of being pumped or other maintenance, or which are maintained in any manner as to constitute a fire hazard to Borough moorage facilities and to boats lawfully occupying the same, or sunken boats, or boats in imminence of sinking, or boats in violation of any section of this Chapter, are hereby declared to be nuisances and subject to abatement and removal from Borough moorage facilities by the Borough or its agents, without liability to the Borough for any damage done by virtue of said removal.

B. Nuisances described under this section constituting a clear and present danger to the public health and safety or

general welfare may be immediately abated without notice, and the hearing contemplated in section 16.04.120 may be requested post-impoundment. Boats declared a nuisance under subsection A which do not constitute a clear and present danger to the public health and safety or general welfare may be impounded and disposed of as provided in section 16.04.120.

16.04.120 Impoundment of Boats.

A. At least ten days prior to impounding any boat, the Borough shall cause to be posted on the boat, in the Harbormaster's office, at municipal hall, and on the bulletin board at the United States Post Office in Yakutat, notice of the impoundment action to be taken by the Borough. A copy of the notice shall be mailed to the owner, master or registered or managing agent of said boat at his last known address. Such notice shall contain the name and/or number of the boat, the name and address, if known, of the owner, master or managing agent and the location of the boat.

B. As to any boat proposed for impoundment, a person with an interest in the boat may request the holding of a pre-impoundment administrative hearing provided that such person files a written demand with the Borough within ten days after the mailing of the notice required by subsection A of this section.

C. A hearing shall be conducted before the Borough Manager or his designee within forty-eight hours of receipt of a written demand from the person seeking the hearing unless otherwise agreed to by both parties. Saturdays, Sundays and Borough holidays are to be excluded from the calculation of this time period. The hearing officer shall be someone other than the person who will direct the impounding and storage of the boat. The sole issue before the hearing officer shall be whether the Borough has proven, by a preponderance of the evidence, that there is or has been a breach of federal, state or local law, regulation or ordinance rendering the boat subject to impoundment and sale or other disposal. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision shall be provided to the person requesting the hearing and the owner of the boat, if such owner is not the person requesting the hearing. Failure of the owner or other interested person to request or attend a pre-impoundment hearing shall be deemed a waiver of the right to such hearing.

D. A boat may be impounded by immobilizing it or removing it, or having it removed, and placing it in a public or commercial storage. Any boat impounded shall be held by the Borough for a period of not less than thirty (30) days during which time the Borough shall post in three (3) public places within the Borough a notice describing the boat in general terms, the name and address of the owner, master or managing agent, if known, the location of the boat, and the intention of the Borough to sell the same at public auction on a day and at a time and place certain for cash to the highest and best bidder. The posting shall occur not less than ten days prior to the sale. The proceeds of such sale shall first be applied to the cost of impoundment and sale including storage costs under subsection F, and then to moorage and service fees accrued, and the balance, if any, shall be held in trust by the Borough for the owner of the boat to claim; and if such balance is not claimed within two (2) years, it shall be deposited into the general fund of the Borough. Upon the sale being made, the Borough shall make and deliver its bill of sale, without warranties, conveying all of the Borough's interest in the boat to the buyer.

E. If, at the public sale, there are no acceptable bidders for the boat, the Borough may destroy, sell at private sale or otherwise dispose of the boat.

F. Any boat impounded by the Borough, and the owner, master or managing agent thereof, shall be subject to and liable for a storage charge of ten dollars (\$10.00) per day or portion thereof and shall be subject to and liable for all costs incurred by the Borough by reason of such impounding or removal.

G. At any time prior to the start of the auction provided for herein, a person may redeem a boat from impound provided he meets the following conditions:

1. He pays in cash all Borough charges against the boat.
2. He provides satisfactory evidence of right to possession of the boat and the Harbormaster has no actual knowledge that ownership or possession of the boat is in dispute.
3. The Harbormaster determines that possession of the boat would not be unlawful or present an immediate hazard to public health or safety or the general welfare.

H. The hearing officer's decision provided for in subsection C in no way affects any criminal proceeding in connection with the impound in question and any criminal charges

involved in such proceeding may only be challenged in the appropriate court.

I. The remedy provided to the Borough herein is cumulative of all other remedies available to the Borough at law, in admiralty or otherwise.

16.04.130 Use of Mooring Space and facilities.

A. Every boat owner, operator or managing agent shall register the boat with the Harbormaster upon entry in or use of the Borough boat harbor or moorage facilities, and pay the required fees. Registration shall be on forms provided by the Borough, and shall be made immediately, but not later than 24 hours after first use of facilities. If a boat is owned, captained or managed by an individual under the age of 18, registration shall be made by both the owner, and the owner's parent or legal guardian, who shall be jointly and severally liable for any rental or other charges incurred.

B. The Harbormaster may assign reserved moorage space. The renter of the reserved space receives only the privilege of occupying an assigned space on a preferential basis, and the exclusiveness or reserved status of the space may continue only so long as the renter owns a vessel and timely pays all fees prescribed by this Chapter. The Harbormaster has the discretion of re-assigning spaces and moving vessels, if necessary for the safe and efficient operations of the facilities.

C. The Harbormaster may allow other craft to occupy an empty reserved moorage space at any time the assigned craft is absent from its assigned space for extended periods of time, without compensation or refund of prepaid moorage fees. Any such vessel temporarily assigned by the Harbormaster to a reserved moorage space shall be required to pay the appropriate transient moorage fee.

D. The Harbormaster shall determine the amount of space, if any, to be allotted to reserved mooring. In the event that total space available for such moorage is insufficient to permit allocation of slips to all persons desiring them, the allocation shall be determined by date of application. At least thirty (30) days prior to the initial allocation of slips for reserved moorage, the Harbormaster shall give public notice of the opportunity to apply for slips. Said public notice shall include public posting in at least three (3) conspicuous locations within the Borough, including the boat harbor.

E. Execution of a written agreement by the boat owner, operator or managing agent is required prior to usage of Borough moorage facilities, including moorage spaces, gridirons, boat trailers, and boat repair or storage facilities.

16.04.140 Speed in Harbor. No boat shall operate at a speed such as to leave a wake, while entering, leaving or inside the boat harbor.

16.04.150 Mooring Rentals. Mooring rentals shall be paid to and collected by the Borough Finance Department at the borough offices as follows:

A. All rates, fees, and charges for the use of facilities and services of the Borough Boat Harbor and Borough moorage facilities shall be established by resolution of the Borough Assembly. This includes the rates and required terms of payment for transient moorage, on a daily, weekly, monthly, or other basis, for reserved moorage, and for use of the Borough boat trailer, boat repair or storage facilities, and other available services.

B. In addition to any other remedy provided for in this Chapter or at law, all mooring and other fees and charges for use of Borough moorage facilities shall constitute a lien against the boat, and its tackle, gear, equipment, appurtenances and other similar property, under federal and state law.

C. For both small and large craft, no space assignment or other act of the Borough shall create or be deemed to create any property or ownership rights for the craft owner or possessor. Private loaning or subleasing of moorage space is prohibited.

D. Any fees delinquent for a period of thirty (30) days or more may cause cancellation of the moorage rights. The Borough may impound, remove, sell or otherwise dispose of a boat for delinquent moorage fees, pursuant to the process set forth in Section 16.04.120 of this Chapter, or as otherwise provided by federal or state law. If it appears to the Harbormaster that the removal of a boat from the harbor without payment of delinquent moorage fees is imminent, the boat may be immediately impounded without notice, and the hearing contemplated in section 16.04.120 may be requested post-impoundment. Any removal of a boat by the Borough because of delinquent moorage fees shall be at the sole expense and risk of the owner. All moorage fees collected by the Borough shall be held in a special fund or account and utilized exclusively for administration, operation and maintenance of moorage facilities.

16.04.160 Violations - Penalties.

A. It shall be unlawful for any owner, operator, master, managing agent or other person in charge of the operation of a

boat or motor vehicle using the Borough Boat Harbor or Borough moorage facilities to violate any provision of this Chapter.

B. Any person violating any provision of this Chapter, or failing to comply with any mandatory requirement of this Chapter or with any rule or regulation adopted or issued in pursuance thereof, is guilty of a violation and shall be punished by imposition of the fine established in the fine schedule set forth in Section 1.24.040 if the offense is listed in that fine schedule; if the offense is not listed in the fine schedule, the person must appear in court, and shall be punished by imposition of a fine in accordance with Section 1.24.010. Complaints of any violations of this Chapter shall be made to the Borough Manager, to any police officer of the Borough, or to the Harbormaster.

C. In addition to any police officer of the Borough, the Harbormaster or the Harbormaster's designee may issue citations for violations of this Chapter.

16.04.170 Effect of Invalidity -- Severability. If any provision of this Chapter, or application thereof to any person or circumstance, is held invalid, the remainder of this Chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.

16.04.180 Conflict -- Repeal. Any existing ordinance or parts thereof, in conflict with any of the provisions of this Chapter are hereby repealed.

16.04.190 Canine waste.

A. It shall be unlawful for any person to allow or permit a dog within that person's custody, control or possession to deposit feces on Borough moorage facilities, or any parking or loading area located adjacent thereto, without immediately removing and depositing same into a designated waste receptacle. "Immediately" shall mean that the feces is removed, at once, without delay.

B. This section shall not apply to a licensed assistance or service dog accompanying a disabled person who, by reason of his or her disability, is physically unable to comply with the requirements of this section.

C. Any person found to be in violation of this section shall be liable for a fine of not more than Five Hundred Dollars (\$500). Each act or violation shall constitute a separate offense.

16.04.200 Property Left on Borough Moorage Facilities for more than Eight Hours.

A. Any item of property, including but not limited to crab pots, left on Borough moorage facilities or other Borough property for more than eight hours without advance arrangements for storing it is considered to not be temporarily placed in a stage of immediate transit, and is subject to a storage charge and removal by the Borough to a storage area deemed suitable by the Borough in its sole judgment.

1. The owner of any such item shall be subject to and liable for a storage charge of \$5.00 per item per day until the item is removed by the owner from Borough property or formal arrangements for storage are made with the Borough.

2. The owner of any item removed by the Borough to a storage area shall be subject to and liable for a moving charge of \$5.00 per item or actual cost of moving, whichever is greater.