



CITY OF ADAK, ALASKA

ORDINANCE NO. 2024-132

AN ORDINANCE OF THE COUNCIL OF THE CITY OF ADAK AMENDING CHAPTER 2.19 OF THE ADAK MUNICIPAL CODE, SMALL BOAT HARBOR AND AMENDING CHAPTER 1.01.030 TO INCLUDE PROVISIONS OF VIOLATION.

WHEREAS, Ordinance 01-2001-17 established Chapter 2.19 as Department of the Port of Adak in 2002, was repealed by Ordinance 05-2005-05 in 2005 and amended by Ordinance 08-2008-01 in 2008; and

WHEREAS, Ordinance 08-2008-01 was incomplete therefore not included in updates to the Municipal Code; and

WHEREAS, the City operates a Small Boat Harbor but lacks regulations regarding the management of its use and authority to manage said asset;

NOW THEREFORE BE IT ORDAINED BY THE CITY OF ADAK:

Section 1. Chapter 2.19 of the Adak Code of Ordinances amended as follows:

CHAPTER 2.19 SMALL BOAT HARBOR

Sections:

- 2.19.010 – Purpose
- 2.19.020 – Definitions
- 2.19.030 – Harbormaster; Powers and Duties and Interference therewith
- 2.19.040 – Registration
- 2.19.110 – Harbormaster Approval Required
- 2.19.120 – Open Mooring Spaces
- 2.19.125 – Reserved Mooring Spaces
- 2.19.130 – Temporary Use of Reserved Mooring Spaces
- 2.19.140 – Liability and Responsibility
- 2.19.145 – Marine Insurance Required
- 2.19.150 – Penalties
- 2.19.210 – Small Boat Harbor Rules
- 2.19.215 – Housekeeping and Safety
- 2.19.220 – Oil, Fuel, and Hazardous Wastes
- 2.19.225 – Securing Vessels
- 2.19.230 – Sanitation and Safeguarding
- 2.19.235 – Reckless Operations
- 2.19.240 – Negligent Operations
- 2.19.245 – Unlawful Acts
- 2.19.250 – Reporting Violations

CITY OF ADAK, ALASKA

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- 2.19.255 – Nuisances
- 2.19.260 – Authority to Move Boats and Property
- 2.19.310 – Fees, Charges and Payments
- 2.19.320 – Negotiable Rates
- 2.19.325 – Reserved Mooring Fees
- 2.19.330 – Transient Mooring Fees
- 2.19.335 – Launch Ramp Fees
- 2.19.340 – Penalties, Interest and Liens
- 2.19.410 – Impoundment and Sale
- 2.19.420 – Boats and Property Which May Be Impounded
- 2.19.425 – Impoundment Notice
- 2.19.430 – Impoundment Hearing
- 2.19.435 – Impoundment
- 2.19.440 – Notice of Sale
- 2.19.445 – Sale

2.19.010 – Purpose

This chapter applies to all the Small Boat Harbor Facilities owned by the City of Adak, including but not limited to any float, grid, dock, launching ramp, approach, piling, dolphin, buoy, breakwater, dredged basin or dredged channel, navigational aid, and any uplands areas used to support these facilities or that are used in conjunction with these facilities, including but not limited to upland areas designated for storage of boats or for the storage of gear, equipment, or cargo.

2.19.020 – Definitions

As used in this chapter, the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. **“Boat Harbor Facilities”**: All city-owned property inside the protected area of the boat harbor.
- B. **“Boat Owners”**: The actual or registered owner, master, managing agent, person in navigational control of, or any person responsible for operation of a boat.
- C. **“Boats”**: Watercraft of every kind of description, seaworthy or not, including but not limited to barges, vessels, ships, sailboats, and skiffs. Aircraft, while on the water or in air, shall not be covered by this Title and are not permitted in the area commonly known as City of Adak Small Boat Harbor.
- D. **“Derelict”**: Any boat or other personal property anywhere within the boundaries of the boat harbor facilities which is forsaken, abandoned, deserted, or cast away, or by which appearance gives evidence of being forsaken, abandoned, deserted or cast away, or which is unsound, unseaworthy, and/or unfit for its trade or occupation, and which by any substantial evidence of neglect may be considered abandoned.
- E. **“Harbormaster”**: The person or persons who serve as the Harbormaster.
- F. **“Resident”**:
- G. **“Real Property Owner”**:
- H. **“Non-Commercial Launch”**:
- I. **“Commercial Launch”**:

2.19.030 – Harbormaster; Powers and Duties and Interference therewith

- A. The Harbormaster shall be appointed by the City Manager. If the municipality contracts with a private person or entity to perform the functions of the Harbormaster, the City Manager shall be the head of the department charged with administration of the contract.
- B. The Harbormaster shall manage the boat harbor facilities and enforce all of the provisions of this Title and any rules and regulations duly adopted hereunder. In the performance of

such duties, the Harbormaster shall be vested with all powers of a peace officer of the city necessary to such enforcement duties.

- C. In the absence of a Harbormaster, the Director of Public Works shall be acting Harbormaster until one has been appointed.
- D. It is unlawful to interfere with, hinder, resist, molest, or provide false information, either written or oral, to the Harbormaster in the lawful enforcement or performance of a duty under this title.

2.19.040 – Registration

- A. Every boat using the boat harbor facilities (including boats that do not need to be registered with the United States Coast Guard per federal regulations) shall be registered with the Harbormaster within 24 hours after such boat enters or utilizes the boat harbor facilities, or before leaving the boat harbor facilities if departure occurs in less than 24 hours.
- B. Registration shall include providing the boat owner's name (or names), at least one telephone number, an address where the boat's owners will receive notices and bills, the physical address where the boat's owners can be found if different from the boat owner's mailing address, the name and U.S. Coast Guard registration number (if any) for the boat being registered, and information about the boat including its length measured in a straight line from stem to stem, width measured at the boat's beam, and tonnage (if applicable).
- C. Registration is good for one 12-month period unless any of the information provided to the Harbormaster in the registration changes, in which case the registration shall be updated no later than 24 hours after the registered boat returns to the boat harbor facilities.

2.19.110 – Harbormaster Approval Required

- A. Approval from the Harbormaster shall be obtained before using any boat harbor facilities.
- B. Boats unable to get underway on their own power or that are derelict are not allowed to use boat harbor facilities unless it is shown to the harbormaster's satisfaction that another vessel capable of tending to the stricken vessel is chartered to standby and render assistance if necessary or, if when on land, that such boat will not be abandoned in the boat harbor facility or on property situated elsewhere that is owned by the city.
- C. Aircraft, boathouses, floats, scows, rafts, pile drivers, and other cumbersome equipment or structures, whether on land, floating, or otherwise, and any boat, vessel or structure which is or may become or create a fire hazard or otherwise become a menace or nuisance to safety or the public welfare may be denied use of boat harbor facilities.

2.19.120 – Open Mooring Spaces

- A. Open mooring spaces are made available for use on a "first-come-first-served" basis by transient vessels upon the Harbormaster's approval. No boat or boat owner shall have any exclusive right to open mooring space. Use of the open mooring spaces on a "first-come-first-served" basis shall be subject to priorities given by the Harbormaster to boats arriving to load or unload.
- B. All boats mooring in open mooring spaces shall always and continuously, without fail, maintain on board crew members as are necessary to care for the boat and to move the boat immediately on order of the Harbormaster, provided however that exceptions from this requirement may be made by the Harbormaster upon approval of an alternative method of ensuring capability to relocate the boat without delay.

2.19.125 – Reserved Mooring Spaces

- A. A limited number of mooring spaces shall be available for reservation on an annual basis beginning July 1 of each year and ending on June 30 of the following year. Any boat owner desiring to guarantee the availability of a mooring space may apply to the Harbormaster for assignment of a reserved mooring space. Reserved mooring spaces are only available to residents of Adak, Alaska or person(s) whom own property within the City of Adak.
- B. Should there be more boat owners requesting annually reserved mooring spaces than there are reserved mooring spaces, then boat owners applying to renew mooring reservations shall be given priority over boat owners who did not have reserved mooring the previous year. Remaining unassigned mooring spaces will be assigned by lottery.
- C. Before any reserved mooring space may be assigned, the annual fee, therefore, as set forth in **Chapter 4 of this Title**, shall be paid. Failure to make the required payment in the time required forfeits assignment of the reserved mooring space.
- D. The assignment of a reserved mooring space does not imply nor guarantee the exclusive right to use such space or any other property right therein. Assignment of a reserved mooring space to a boat is a guarantee that the reserved space will be made available for the use of the Boat assigned thereto during those periods when the boat is within the boat harbor facilities. Assigned mooring spaces may not be sublet or transferred except in the event that the Boat owner disposes of the boat assigned to the reserved mooring space and replaces the boat with another boat of similar size. The Harbormaster may reassign a boat to a different reserved mooring space.
- E. Assignment to a reserved mooring space may be canceled by the boat owner of the boat assigned to the mooring space by giving written notice to the Harbormaster at least 30 days before the intended cancellation date. Upon effective cancellation, any prepaid mooring will be refunded 50% of the designated rate based on the number of full months remaining for which the mooring space was reserved.

2.19.130 – Temporary Use of Reserved Mooring Spaces

- A. The Harbormaster may temporarily assign any boat to a reserved mooring space when the boat assigned to the reserved mooring space is away from the harbor area.
- B. All boats temporarily mooring in reserved mooring spaces shall always and continuously, without fail, maintain on board such crew members as are necessary to care for the boat and to move the boat immediately on order of the Harbormaster. In the event that a boat temporarily moored in a reserved mooring space cannot be moved by its crew in time to open the space for the boat assigned thereto the Harbormaster is authorized to do so at the risk and expense of the owner of the temporarily assigned boat.

2.19.140 – Liability and Responsibility

- A. The city is not responsible for any loss, damage, or delay to any boat harbor facility user which may arise from any cause beyond the city's direct authority and control, nor from any cause except for the city's sole negligence. Further, the city shall not be liable for any loss, damage or delay to merchandise, cargo or any other injury that results: from animals, insects, rodents or vermin; from decay, deterioration, evaporation, shrinkage or loss of quantity, quality or value from inherent vice of product; from fire, frost, leakage or discharge from fire protective sprinklers, oxidation or rusting; from civil disorder, insurrection, riot, strike or labor stoppage whether or not agents or the employees of the

city be involved; from delay caused by adverse weather; or from delay caused by shortage of qualified labor, except to the extent that any of the aforesaid loss of damage results from negligent acts or omissions of the city, its employees or agents.

- B. If and when persons other than the city are permitted to perform services anywhere in the boat harbor facilities, they shall be liable for the injury of persons in their employ and shall be also held accountable for malicious acts or thefts by themselves or persons in their employ. The provisions of this subsection are applicable to all persons, corporations, associations and the like who in any manner come upon or use the terminal facilities, except to agents or employees of the city. All such persons, corporations, associations and the like shall be strictly liable and responsible for damage to property or for damage or injury to, or for the death of, any person or persons, which may be caused or occasioned by any acts or omission of such persons or the acts or omissions of their agents or employees. All such persons who come upon or use the boat harbor facilities shall be deemed to have irrevocably agreed to indemnify the city for any such loss or damage to persons or property for which a claim is or may be made against the city, and all such persons shall save and hold the city harmless from any or all such liability, together with all costs and expenses incurred by the city in investigating or defending claims therefore, including but not limited to, court costs, expert's fees and attorney's fees.

2.19.145 – Marine Insurance Required

Prior to obtaining a reserved moorage assignment, the owner of a vessel must:

- A. Provide the Harbormaster with proof of current marine insurance showing, at a minimum, the owner's name, information identifying the vessel, and the dates of insurance coverage; or
- B. Pay a non-refundable moorage surcharge of \$5.00 per vessel foot per month. The funds collected from the moorage surcharge under this regulation will be used to pay for the unrecoverable costs attributable to vessel salvage and disposal activities in the City harbor facilities. This surcharge does not constitute marine insurance.

2.19.150 – Penalties

- A. In addition to any other penalties provided by law, a person who violates any of the following provisions shall be subject to the applicable civil penalties stated below:

<u>Code Provision</u>	<u>Civil Penalty</u>
Violations of all other provisions of Chapter 2.19	\$25 first violation, \$50 second violation, \$100 each subsequent violation.

- B. A person who fails to resolve a notice of violation issued for a violation of any provision of his title within the time stated on the notice of violation shall be subject to a civil penalty in the amount of \$25.00, in addition to any other penalty provided by law.
- C. Persons violating this chapter may lose the privilege of using the small boat harbor facilities for up to one year.

2.19.210 – Small Boat Harbor Facility Rules

All persons using the Small Boat Harbor Facility must follow the rules outlined in Chapter 2.19.210-2.19.299 of and shall be posted.

2.19.215 – Housekeeping and Safety

- A. All persons entering or using the boat harbor facilities shall maintain the facilities in an

orderly manner as directed by the Harbormaster. If any user of the boat harbor facilities fails to leave the facilities in good condition, the Harbormaster shall order return the facilities to good condition and the user shall be charged for the work.

- B. Smoking is not allowed anywhere in the boat harbor facilities where “No Smoking” signs are posted.
- C. Safety and warning signs shall be observed and adhered to at all times by all persons.

2.19.220 – Oil, Fuel, and Hazardous Wastes

- A. Disposal or abandoning of oil, fuel, or hazardous wastes anywhere in the boat harbor is strictly prohibited except in areas designated by the Harbormaster. A person violating this provision shall be reported to the Alaska Department of Environmental Conservation and/or the United States Environmental Protection Agency. In addition, the boat from which the oil, fuel or hazardous waste originated, and the boat owner of the boat from which the oil, fuel or hazardous waste originated, are subject to the fine established by this Chapter.
- B. The term HAZARDOUS WASTES used above includes all substances the release, storage, disposal or clean-up of which is regulated or controlled by the provisions of Title 46 of the Alaska Statutes, the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), and/or the Resource Conservation Recovery Act (RCRA) and all implementing regulations, as amended and any similar or successor statutes and regulations.

2.19.225 – Securing Vessels

- A. All boats or other property in the boat harbor facilities shall be secured in a safe manner. All methods of securing boats or property anywhere in the boat harbor facilities shall be subject to inspection and approval by the Harbormaster at any time. Users shall immediately improve the method of securing a Boat or property upon being instructed to do so by the Harbormaster.
- B. The Harbormaster is granted the power and authority to, from time to time, but without any obligation or duty to do so and without any obligation or liability on his or her part or that of the city for failure to do so, replace defective mooring lines, pump boats which are in dangerous condition for lack of pumping and move any boat occupying any mooring space for the purpose of protecting such boat from fire or other hazard for the protection of other boats therefrom. The boat owner shall be billed by the city in accordance with the service fees listed in **Section X** of this Chapter.

2.19.230 – Sanitation and Safeguarding

- A. Every user of the boat harbor facilities shall:
 - 1. Use all reasonable precautions in keeping their property, including but not limited to boats, in a reasonable clean and sanitary condition with special attention to pure water and sanitary toilets;
 - 2. Use all reasonable precautions in keeping their property, including but not limited to boats, in the user’s charge free from fire hazards of any type or nature;
 - 3. Use adequate precautions to lock up and stow and otherwise safeguard all moveable gear and tackle; and
 - 4. Supply and use adequate fenders to safeguard floats and vessels from chafing and other damages.

2.19.235 – Reckless Operations

No boat harbor facilities user shall operate in a reckless manner anywhere in the boat harbor facilities. For the purpose of this section “to operate in a reckless manner” means to operate a boat, vehicle or equipment in willful or wanton disregard of the rights or safety of others, or without due caution and circumspection, or at a speed or in a manner as to endanger or to be likely to endanger a person or property, or that which creates a substantial and unjustifiable risk of harm to person or property. A substantial and unjustifiable risk is a risk of such nature and degree that the conscious disregard of it or a failure to perceive it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in a situation.

2.19.240 – Negligent Operations

- A. No boat harbor facilities user shall operate in a negligent manner anywhere in the boat harbor facilities. For the purpose of this section “to operate in a negligent manner” means the operation of a boat, vehicle or equipment in such a manner as to create an unjustifiable risk of harm to a person or to property and who, as a result of the creation of the risk, actually endangers a person or property. An unjustifiable risk is a risk of such a nature and degree that a failure to avoid it constitutes a deviation from the standard of care that a reasonable person would observe in the situation.
- B. Proof that a defendant actually endangered a person or property is established by showing that, as a result of the defendant’s operation:
 - 1. An accident occurred;
 - 2. A person, including the defendant, took evasive action to avoid an accident;
 - 3. A person, including the defendant, stopped or slowed down suddenly to avoid an accident; or
 - 4. A person or property, including the defendant or his property, was otherwise endangered.
- C. The offense of negligent operation is a lesser offense than, and included in, the offense of reckless operation, and a person charged with reckless operation may be convicted of the lesser charge of negligent operations.

2.19.245 – Unlawful Acts

In addition to the other acts prohibited in this Chapter it shall be unlawful for a person using the boat harbor facilities to:

- A. Operate or cause to be operated any boat within the boat harbor facilities that causes a wake or wave action which will damage, endanger or be likely to endanger any other boat or any of the boat harbor facilities including but not limited to floats, finger floats, any other boat or occupant thereof;
- B. Throw or otherwise cause to be deposited litter, trash, garbage or refuse on any float or into the waters of the boat harbor facilities;
- C. Allow or permit dogs or animals to run at large on any boat harbor facilities or to become a nuisance therein;
- D. Create or maintain any nuisance within the boat harbor facilities, or to conduct or carry on any unlawful business or occupation therein;
- E. Erect, place, post, or maintain any advertising matter, a 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 Harbormaster. All unauthorized advertising and signs shall be removed by the Harbormaster;

- F. Write or post any written or printed matter or sign upon any bulletin board constructed or maintained by the city in the boat harbor facilities without first having obtained the permission of the Harbormaster;
- G. Deposit, place or leave any cargo, merchandise, supplies, freight, articles, or thing upon any float, ramp, decline, walk, or other public place in the boat harbor facilities, excepting at such place or places as may be designated as loading areas by the Harbormaster;
- H. Fail to register with the Harbormaster any boat using any of the boat harbor facilities;
- I. Tap, connect, disconnect, interfere with, or tamper with any electrical wiring, electrical outlet, or electrical device of any kind installed or maintained in the boat harbor facilities by the city without first having obtained the permission of the Harbormaster; or to interfere with or tamper with any wharf float, gang-plank, ramp, associated water system or any other of the boat harbor facilities;
- J. Tie up at, enter or otherwise use an open or reserved mooring space or to use other boat harbor facilities except as provided for in this Title;
- K. Disregard, deface, remove, tamper with or damage any sign or notice posted or erected by the Harbormaster or any other city department;
- L. Refuse to comply with any lawful order of the Harbormaster;
- M. Knowingly falsify statements or supply false information to the Harbormaster;
- N. Operate a vessel in a reckless manner under XXXXX (Title code);
- O. Operate a vessel in a negligent manner under XXXXX (Title Code)

2.19.250 – Reporting Violations

Complaints of any violations of the foregoing prohibited acts shall be made to the Harbormaster, or in the Harbormaster's absence, to the City Manager or Mayor.

2.19.255 – Nuisances

Boats or any other personal property anywhere in the boat harbor facilities which are derelicts, unfit or unseaworthy 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 a manner so as to constitute a fire hazard to the boat harbor facilities or to other boats for any period of 30 or more days, and sunken boats and boats in imminence of sinking, are declared to be nuisances and subject to abatement by the city, or its agents, without liability on the city for any damage done by virtue of the removal. The city shall bill the boat owner for any expense occurred for abatement of a nuisance vessel.

2.19.260 – Authority to Move Boats and Property

- A. Boats posing an imminent danger to other boats or that are adrift in the boat harbor facilities or that are mooring or tied up anywhere in the boat harbor facilities without authorization from the Harbormaster may be moved by the Harbormaster at the boat owner's expense.
- B. Property left unattended anywhere in the boat harbor facilities without Harbormaster approval may be moved by the Harbormaster to a location out of the way of other boat harbor facility users. Property shall be deemed unattended if it is on float, grid, dock, launching ramp, approach, piling, dolphin, buoy, or breakwater, for 24 hours, or if the property is unreasonably blocking access to or use of any boat harbor facilities then it shall be deemed as unattended in less than 24 hours. The expense of moving unattended property shall be borne by its owner.

2.19.310 – Fees, Charges and Payments

- A. All mooring, storage, and other fees collected by the city from users of the boat harbor facilities shall be deposited in the Small Boat Harbor Enterprise Fund. Monies in this fund shall be applied first to the costs of operation, maintenance, and supervision of the boat harbor facilities as authorized in the Municipal Operating Budget. Any unassigned surplus funds in the Fund Balance shall be deemed Committed per GASB Statement No. 54 unless provided by a duly authorized appropriation. Advances made to the Fund shall be reimbursed by the Fund upon by action of the Council.
- B. All mooring and other charges assessed under this Title shall be paid to the City of Adak at the time of use or at the time services are rendered.

2.19.320 – Negotiable Rates

The fees set forth in this chapter shall be paid by all boat harbor facility users unless the user has entered into a negotiated agreement for the use of specific boat harbor facilities at rates different from those set forth herein and approved by the City Council.

2.19.325 – Reserved Mooring Fees

- A. The owner of a boat assigned to a reserved mooring space shall pay the following annual mooring space reservation fee:
1. Eight-one cents (\$0.81) per square foot per year of overall boat length, or stall length, whichever is longer, times boat width. Reserved mooring spaces shall be pre-paid and made available only to **Adak Residents or real property owners**.
- B. Boat owners may deposit one year's annual reserved mooring reservation fee with the City of Adak's Finance Department and thereafter may prorate the annual fee by month. Otherwise, the Annual mooring space reservation fee is due when the boat is assigned to the reserved mooring space.

2.19.330 – Transient Mooring Fees

- A. Transient boat owners using a mooring space (or spaces) on a daily or seasonable basis shall pay moorage facilities use fees as follows:

Transient Moorage Fees		
Vessel Length or Mooring Space Length (whichever is greater)	Daily Rate (24 hours or any fraction thereof)	Seasonal Rate (3 Consecutive Months)
Under 20 feet	\$13.20	\$315.60
21 feet to 31 feet	\$18.00	\$450.00
32 feet to 46 feet	\$27.60	\$675.60
47 to 60 feet	\$36.00	\$900.00
61 feet to 75 feet	\$45.60	\$1125.60
76 feet to 90 feet	\$54.00	\$1325.00

- B. Any boat temporarily moored in a reserved mooring space shall pay the daily transient moorage fee.
- C. SERVICES

Replacing or securing with additional mooring lines	\$31.25 plus the cost of any material used
Emergency Pumping	\$125 per hour, plus the cost of any materials

	used
Moving Boats while in the water	\$2.50 per foot length of the boat; minimum fee shall be \$50, plus the cost of any materials used
All other services – At the rate posted by the city or otherwise agreed upon. If there is no posted rate and no agreement is reached before the city provides services, then the city shall be compensated for the reasonable value of the services provided as determined by the City Manager.	

2.19.335 – Launch Ramp Fees

- A. Non-commercial launch ramp fees will be charged at ten dollars (\$10.00) per day or fifty dollars (\$50.00) per calendar year for use of the launch ramp.
- B. Commercial launch ramp fees will be charged at twenty-five dollars (\$25.00) per day or two hundred fifty dollars (\$250.00) per calendar year for use of the launch ramp.
- C. These fees exclude vessels propelled solely by human power, which shall pay five dollars (\$5.00) per day or twenty-five dollars (\$25.00) per calendar year for use of the launch ramp.
- D. Vessel owners failing to provide proof of launch ramp payment by receipt or annual launch sticker displayed on or in their vehicle shall be fined double the daily launch fee respective to their vessel.
- E. Vessels or vehicles left unattended or blocking the launch ramp will be charged a fee of twenty dollars (\$20.00) per hour.

2.19.340 – Penalties, Interest and Liens

- A. There shall be added to every bill not paid on or before the due date as set forth on the bill a late penalty equal to 10% of the current charges. The total outstanding balance shall be collected in the same manner as outlined in Chapter 4.10.
- B. To the extent allowed by federal and state law, the city shall hold and retain and/or may create a lien, maritime or otherwise, against any boat or property for any unpaid fees or charges the boat, property and/or its owner or operator owe the city. If any such fees and charges remain unpaid and delinquent, the city may, at its option, enforce and foreclose its lien by suit in rem pursuant to applicable federal and state law. Such suit shall not preclude the city from pursuing any other remedy at law or in equity.
- C. The Harbormaster may impound any boat or other personal property for failure of the owners to pay any fees or charges as set in this Chapter when the fees remain unpaid for a period of 30 days.
- D. All payments shall be applied first to pay any collection costs incurred by the city, then to pay penalties and interest, and then to pay the principal amount owing and due.

2.19.410 – Impoundment and Sale

- A. The impoundment and sale of any boat which comes to rest anywhere in the boat harbor facilities unless there is a state or federal impoundment and/or sale procedure applicable to the boat, in which case the state or federal procedures will be followed; and
- B. The impoundment and sale of personal property under this Chapter.

2.19.420 – Boats and Property Which May Be Impounded

- A. The Harbormaster is authorized to impound any boat under any of the following circumstances:
1. The boat or property within the harbor and is a derelict or a nuisance as defined in this Chapter;
 2. The fees for which the city has a lien on the boat or property are delinquent;
 3. The boat or property is located in the harbor and has failed to comply with the registration provisions of this Chapter or is in violation of other provisions of this Chapter, a regulation of the harbor, or a state or federal law;
 4. The owner, operator, master or managing agent is not aboard the boat and the boat is not properly identified by a name and/or number;
 5. If left unattended upon a waterway in or about the boat harbor facilities in such a manner as to constitute an obstruction to harbor traffic;
 6. If so disabled as to constitute an obstruction to the harbor traffic and the boat owner is by reason of physical injury or other incapacity unable to provide for its custody and removal;
 7. If moored in a reserved mooring space to which it is not assigned on a temporary or annual basis and after an attempt to contact the boat owner and the owner of the boat assigned to the reserved mooring space has been made; or
 8. If moored in a loading area for a period of longer than the posted period or the period otherwise permitted by the Harbormaster.
- B. Property may be impounded when it is left unattended anywhere in the boat harbor facilities without authorization from the Harbormaster, when fees for storing the property are delinquent and/or when the property has been or appears to be abandoned.

2.19.425 – Impoundment Notice

- A. Contents. Prior to impounding any boat or other property, the Harbormaster shall prepare a written notice of intent to impound. The notice shall contain:
1. A description of the boat or property. In the case of a boat, this shall include the name and any official registration number of the boat;
 2. The name and address, if known, of the owner, operator, master or managing agent;
 3. The location of the boat or property at the time the notice is sent;
 4. The basis or reason for impoundment; and
 5. The reserved moorage space, if any, will be forfeited if a boat is impounded.
- B. Distribution. At least 20 days before impoundment the notice of intent to impound shall be:
1. Mailed by certified mail, return receipt requested, to the last known address of the last known owner, master, and/or managing agent of the boat or property;
 2. Mailed by certified mail, return receipt requested, to any creditor with a recorded security interest or lien in the boat or property; and
 3. Posted on the boat or on the property, in the Harbormaster's office, and in the United States Post Office.

2.19.430 – Impoundment Hearing

- A. Demand for hearing. The owner, master or managing agent or any other person in lawful possession of a boat or property proposed for impoundment has the right to a pre-impoundment administrative hearing to determine whether there is cause to impound.

Any such person desiring a hearing shall file a written demand with the City Clerk within ten days after mailing and posting of the notice of intent to impound.

- B. Hearing Procedure. The hearing shall be conducted within 72 hours of receipt of a written demand therefore from the person seeking the hearing, unless such person waives the right to a speedy hearing. Saturdays, Sundays and city holidays are to be excluded from the calculation of the 72 hour period. The hearing officer shall be the City Manager or his or her designee except that the Harbormaster is disqualified from service as the hearing officer. The sole issue before the hearing officer shall be whether there is cause to impound the boat or property in question. CAUSE TO IMPOUND shall mean such a state of facts as would lead a reasonable person exercising ordinary prudence to believe there are grounds for impounding the boat or property. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The person demanding the hearing shall have the burden of establishing that cause to impound the boat or property does not exist. The Harbormaster may rebut the boat owner's case by presenting evidence to establish there is cause to impound the boat or property. Failure of the owner, operator, master or management agent to request or attend a scheduled pre-impoundment hearing shall be deemed a waiver of the right to such a
- C. Hearing Decision. At the conclusion of the hearing, the hearing officer shall prepare a short written decision. The hearing officer shall only determine that as to the boat or property in question, either that there is cause to impound or that there is no such cause. A copy of the decision shall be provided to all persons to which the notice of impoundment was sent to. The hearing officer's decision shall in no way affect any criminal proceedings in connection with the impoundment in question, and any criminal charges involved in such proceedings may only be challenged in the appropriate court. The decision of the hearing officer is final.

2.19.435 - Impoundment

In the event the hearing officer determines there is cause to impound, the Harbormaster may proceed immediately with impoundment. The Harbormaster may impound a boat by chaining it to a work float or other suitable object or otherwise immobilizing it, removing it or having it removed from the water and placing it in public or commercial storage, with all expenses of haul out and storage and an impound fee to be borne by the boat owner. Property may be impounded in a similar manner as may be appropriate for the type of property involved. At any time prior to the sale of an impounded boat or property, the owner, operator, master or managing agent, creditor, security party may redeem the boat or property by a cash payment of all fees against the boat or property including interest and costs.

2.19.440 – Notice of Sale

- A. Contents. Prior to the sale of any impounded boat or property, the Harbormaster shall prepare a written notice of sale of the boat or property. The notice shall contain:
1. A description of the boat or property. In the case of a boat, this shall include the name and any official registration number of the boat;
 2. The name and address, if known, of the owner, operator, master or managing agent;
 3. The location of the boat or property at the time the notice is sent; and
 4. The basis or reason for impoundment.
- B. Distribution. At least 20 days before the sale the notice of intent to sell shall be:

1. Mailed by certified mail, return receipt requested, to the last known address of the last known owner, master, and/or managing agent of the boat or property;
2. Mailed by certified mail, return receipt requested, to any creditor with a recorded security interest or lien in the boat or property; and
3. Posted on the boat or on the property, in the Harbormaster's office, and in a United States Post Office.

2.19.445 – Notice of Sale

- A. Bids. The minimum acceptable bid shall be a sum equal to the fees against the boat or property, including interest and costs to be paid in cash at the time of sale or within 24 hours thereafter. The proceeds of such sale shall be first applied to the cost of sale, then to interest, then to fees accrued, and the balance, if any, shall be held in trust by the city for the former owner of the boat or property to claim. If such balance is not claimed within two years, the balance shall be paid to the State of Alaska if required by Alaska Statute; otherwise the balance shall be forfeited to the city. Upon sale being made, the city shall make and deliver its bill of sale, without warranty of any kind, conveying the boat or property to the buyer.
- B. No Bids. If at the public sale there are no acceptable bids, the city may destroy, sell at a private sale, or otherwise dispose of the boat or property. Such disposition shall be without liability to the owner, master or managing agent, person in position of the boat or property, or lien holder or creditor.

Section 2. This ordinance is of a permanent and general character and shall be included in the Adak Code of Ordinances.

Section 3. This ordinance shall become effective upon adoption.

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE ADAK CITY COUNCIL THIS ____ DAY OF _____, 2024.

Terri L. Douglas, Mayor

ATTEST:

Jana Lekanoff, City Clerk

Date of Introduction:
Date of First Reading:
Date of Public Hearing:
Date of Second Reading:
Introduced By: