

MEMORANDUM

To: Mayor McConnell and Members of the Assembly

Jim Dinley, Municipal Administrator

From: Stan Eliason, Harbormaster

Date: April 18th 2013

Subject: Trespass ordinance

October of 2012, I and Chief Schmitt attended a meeting with numerous harbor users; they had serious concerns about certain individuals. One in particular, smashed all of his boat windows in a rage, but no one came forward as a witness, so no charges were filed. I suspect the witnesses feared for their own safety. Shortly after this, he assaulted a fellow harbor user. This incident was witnessed by a staff member of mine. Charges were filed and the individual was put on conditions of release, pending his trial. Just a week or so after this incident, he was charged with assault upon one of my staff members. The individual is currently in Lemon Creek, we are scheduled for trial in June.

The problem persons have always existed, since I have been employed by the Harbor Department. These individuals have repeatedly caused concerns with my users as well as my staff. Most incidents have been fueled by alcohol and or dangerous drugs.

I have taken preventative actions, to protect my own personnel, because there is no other remedy in place to deal with these persons. Therefore, the ordinance is needed to allow some of these problems to be removed from the harbor, before they escalate into more serious criminal issues.

Ultimately, my customers and staff members should be able to work and live in a safe environment.

P O L I C E

DEPARTMENT

MEMO

City and Borough of Sitka

To:	Harbor Master Stan Eliason
From:	Lt. Barry C. Allen
Subject:	<i>Harbor Ordinance Support</i>
Date:	Tuesday, April 16, 2013

Currently, the Sitka Harbor Dept. has very few options for removing problematic and dangerous persons from the City's harbors. The Sitka Police Department is limited in its ability to assist because of the Harbor Master's limitations as the recognized authority for the harbor system.

The Harbor Dept. and the Police Dept. currently answer a consistently high number of calls into the harbors regarding drunken persons, disorderly persons, people fighting, assaults, and thefts. These calls almost always involve the same repeat offenders.

The current codes under Title 13, Harbors, in the Sitka General Code do not allow these persons to be removed from the harbors or allow the Harbor Dept. to keep them from returning to the harbor system. With the adoption of 13.12.015 Prohibited Acts, the Harbor Master, or Assistant Harbor Masters, would be given the authority to identify then order disruptive or dangerous persons from a given harbor. With this authority in place, the Police Department would then have better legal standing to help remove or arrest persons under the State Criminal Trespass law. Currently, without this authority, SPD officers must wait until we can establish a case for Disorderly Conduct, Assault, or some other statutory violation which means the person is left in place and can continue to threaten, harass, or create disturbances affecting the quality of life of other harbor patrons. Using the trespass statute to back the ordinance would allow for a more prompt removal of problem persons.

From 2011 to present, SPD has answered a significant number of complaints from the Harbor Master and harbor patrons for disruptive or dangerous persons. Calls related to persons being disruptive or drunk, fighting, or misuse of facilities breakdown as follows:

ANB Harbor: 62

Crescent Harbor: 52

Eliason Harbor: 107

Thomsen Harbor: 26

Sealing Cove: 19

Total: 266

This includes those calls for problems in the bathrooms and around the Mariner's Wall .

This ordinance is needed to allow the Harbor Master to create a safer environment for all harbor patrons. It would help improve the quality of life for residents who live in the harbor and feel intimidated or threatened by the behavior of a few bad patrons. It would further help in reducing potential liability for the City by allowing for removal of those persons and chronic inebriates most likely to cause harm to themselves on borough property, or harm someone else due to their disruptive and abusive behavior.

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2013-21

**AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING SITKA
GENERAL CODE TITLE 13 ENTITLED "PORT AND HARBORS" TO ALLOW
PROVISIONS FOR REMOVAL OF PERSONS VIOLATING CITY AND BOROUGH
OF SITKA HARBOR FACILITIES REGULATIONS**

1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code ("SGC").

2. **SEVERABILITY.** If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstance shall not be affected.

3. **PURPOSE.** The purpose of this ordinance is to revise SGC Title 13 entitled "Ports and Harbors" to modify SGC 13.12.010 entitled "General" by adding subsections A and B for additional authority to the harbormaster and staff and additional violation provisions for persons utilizing harbor facilities and adding SGC 13.12.15 entitled "Prohibited acts."

This ordinance is recommended by the Port and Harbors Commission by a vote of 7-0.

4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that SGC 13.12.010 entitled "General" is amended and SGC 13.12.015 entitled "Prohibited acts" is added as follows (new language underlined; deleted language stricken):

**Chapter 13.12
ENFORCEMENT**

Sections:

13.12.010 General.

13.12.015 Prohibited acts.

13.12.020 Negligent operation.

13.12.030 Reckless operation.

13.12.035 Speed limits.

13.12.040 Written warning.

13.12.050 Fines.

13.12.060 Impoundment.

13.12.065 Penalties for emission of soot from an oil stove in a vessel.

13.12.070 Notice to owner.

13.12.080 Right to hearing.

13.12.090 Hearing procedure.

13.12.100 Assembly oversight.

13.12.010 General.

A. The harbormaster has the authority to order vessels, occupants or visitors to leave the harbor for violations of any portion of this title. Moorage and berthing is a privilege which may be revoked for violations of this title. ~~will be subject to punishment as provided in this chapter.~~ The harbormaster is granted the authority to issue citations, impound vessels and remove vessels from the harbor system either temporarily or permanently under the provisions of this title. The owner of record and/or the person in charge of the vessel will be responsible for any and all infractions charged against his/her vessel.

B. Persons utilizing the harbor facilities shall obey all municipal, state and federal laws and regulations, as well as those generally accepted safety standards, as well as refrain from engaging in prohibited acts under SGC 13.12.15.

13.12.015 Prohibited acts.

In addition to certain other actions noted within other chapters, the following actions are also prohibited:

A. Generating loud or boisterous noises that disturb the reasonable peace and privacy of others;

B. Obstructing or interfering with the harbormaster and/or harbor staff in the performance of their duties or refusing to comply with a lawful order of the harbormaster;

C. Challenging or intending to provoke another to fight, or engaging in fighting;

D. Consuming alcohol, except on licensed premises or private vessels, or engaging in the use of, or being an instrument in the exchange of, illicit drugs or narcotics; and

E. Anyone violating this section may be ordered verbally by the harbormaster, or designee, to leave the harbor immediately.

5. **EFFECTIVE DATE.** This ordinance shall become effective 30 days after the date of its passage.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska this 14th day of May, 2013.

Mim McConnell, Mayor

ATTEST:

Colleen Ingman, MMC
Municipal Clerk