

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2014-07

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING SITKA GENERAL CODE TITLE 13 ENTITLED "PORT AND HARBORS" BY REPEALING AND REENACTING CERTAIN SECTIONS TO SUBSTANTIALLY UPDATE THE LAWS GOVERNING CONDUCT AND USE OF SITKA MUNICIPAL HARBOR FACILITIES BY ADOPTING CLEAR REQUIREMENTS FOR VESSEL MAINTENANCE AND CARE AND PROCEDURES FOR IMPOUNDING NUISANCE VESSELS

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 modify SGC Title 13 to provide detailed and clear impoundment procedures for vessels declared as nuisances in the City and Borough of Sitka ("CBS") and to protect harbor facilities in CBS and the health, safety, and welfare of the CBS community. SGC currently provides cursory direction regarding impoundment and disposal of nuisance vessels and does not provide vessel owners with post-impoundment hearings when a vessel poses clear and present danger to CBS nor does it provide for notification to lien holders before a vessel is sold. In addition, SGC currently contains numerous outdated provisions and requires reorganization to reflect more detailed and expansive impoundment and disposition procedures as provided for in maritime regulations and laws and the laws and regulations of the State of Alaska.

The proposed changes will give CBS procedures and enforcement by making SGC consistent with maritime regulations and the laws of the State of Alaska for all vessels, registered and not registered, as well as cleaning up and/or removing old SGC provisions that are outdated or unenforceable. A copy of current SGC Chapter 13 is attached to this ordinance.

Adding –

- SGC 13.06.050 entitled "Delinquent accounts;"
- SGC 13.06.060 entitled "Lien created;"
- SGC 13.06.070 entitled "Other remedies;"
- SGC Chapter 13.07 entitled "Harbor Use Privileges and Prohibitions;"
- SGC 13.08.015 entitled "Safe condition of vessel"
- SGC Chapter 13.13 entitled "Nuisances;"
- SGC Chapter 13.14 entitled "Vessel Impoundment and Disposition;" And
- SGC Chapter 13.15 entitled "(Reserved – Float Houses)."

- Modify SGC 13.02.020 to clarify and expand harbormaster's authority to raise a sunken vessel and authority to board a vessel;
- Delete SGC 13.04.030 "Derelict" and SGC 13.04.200 entitled "Vessel seaworthiness" and adding SGC 13.04.070 entitled "Float houses;" Move SGC 13.08.010 entitled "Registration required" to SGC 13.08.005 and rename it "Duty to register;" and
- Modify SGC Chapters 13.09 and 13.10 to reflect other changes within Title 13.

This ordinance is recommended by the Port and Harbors Commission by unanimous vote on March 12, 2014.

4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that Title 13 of the Code entitled "Ports and Harbors" is repealed and reenacted as follows:

**Title 13
PORT AND HARBORS**

Chapters:

- 13.02 General Provisions**
- 13.04 Definitions**
- 13.06 Charges/Fees**
- 13.07 Harbor Use Privileges and Prohibitions**
- 13.08 Reserved Mooring Staffs**
- 13.09 Anchoring**
- 13.10 Float Regulations**
- 13.11 Enforcement**
- 13.12 Nuisances**
- 13.14 Vessel Impoundment and Disposition**
- 13.15 (Reserved – Float Houses)**

**Chapter 13.02
GENERAL PROVISIONS**

Sections:

- 13.02.010 Purpose.**
- 13.02.020 Harbormaster.**
- 13.02.030 Port and harbors commission.**
- 13.02.040 Jurisdiction limits.**

13.02.010 Purpose.

The purpose of these regulations is to provide for orderly development, management, protection, safety and efficient use of all harbor spaces and port facilities within the municipal harbor system by commercial vessels, government vessels, pleasure vessels and the boating public. By the mooring of any vessel within the harbor system, the owner, operator, or master of any vessel agrees to follow the rules and requirements of all the provisions within this title.

13.02.020 Harbormaster.

There is created a port and harbors department which will be operated under a harbormaster and staff. The harbormaster will have supervision responsibility and authority to administer all city and borough owned or operated floats, harbor spaces and port facilities, subject to supervision by the municipal administrator. The harbormaster will have the powers to assign to all vessels, aircraft and other waterborne structures; places for docking, berthing, mooring and anchoring within the floats and docks and within all water area in the designated harbor system and to reassign any such stall or space should conditions warrant the same. It is illegal to moor, dock or anchor in any area within harbor jurisdiction unless specifically authorized by the harbormaster. The harbormaster will have the authority to impound or seize any vessel within the system for improper moorage activities or dead storage. Without any obligation or liability on the harbormaster's part or that of the municipality for his failure to do so, or duty to do so, the harbormaster may replace defective mooring lines, pump boats which are found in a dangerous condition, move any boat found endangering other vessels or raise any sunken vessel. The harbormaster will have the authority to board, inspect for infractions of the law and require compliance prior to the vessel owner continuing the activity that resulted in the infraction. (The responsible boat owner will be billed actual costs associated with any emergency services.)

13.02.030 Port and harbors commission.

There exists a port and harbors commission consisting of seven members who act as an advisory body to the assembly on matters concerning the harbor system. Their duties will include: working with the harbormaster and administrator planning for new harbors; evaluating needs for harbor services; examining and updating harbor ordinances; review of current harbor operations and annual budgets; recommending priorities, moorage rates and other charges; receiving and evaluating formal and informal advice on harbor operations from citizens and preparing a yearly report to the assembly on the status of the municipal harbor system. The commission will meet nine times per year with additional meetings as needed at the discretion of the chairperson.

13.02.040 Jurisdiction limits of the Sitka Harbor System.

The geographic boundaries of jurisdiction for the harbormaster will be: that area seaward of the western shore of Baranof Island from the south end of Crescent Harbor to the southern point of the Sitka Airport runway, then continuing north and east along the southerly and easterly shores of Charcoal and Alice Island and continuing northerly and westerly along the easterly shore of Japonski Island to the northwesterly side of the breakwater established in Western Anchorage. Then continuing north and easterly along said breakwater to the westerly shore of Baranof Island, thence continuing southerly and easterly along the shores of Sitka Channel through Crescent Harbor and back to the point of beginning, including Sitka Channel and the Western Anchorage area to the breakwater. Within these geographic confines are contained the municipally owned or operated Crescent Harbor, Sealing Cove Harbor, ANB Harbor, Seaplane Float, Thomsen Harbor, Eliason Harbor, Japonski work float, as well as any and all other public spaces, parking lots, ramps, restrooms, docks or port facilities. (See jurisdiction map, Exhibit A, set out at the end of this title.) The entire area described in this section shall be referred to as the Sitka Harbor system in this Title. The harbormaster shall

have the authority to post such signs as are necessary to facilitate the safe and orderly movement of vessels, vehicles and pedestrians.

**Chapter 13.04
DEFINITIONS**

Sections:

- 13.04.010 Anchor.**
- 13.04.020 Charter/vessel for hire.**
- 13.04.040 Dinghy/lighter.**
- 13.04.050 Distress.**
- 13.04.060 Emergency.**
- 13.04.070 Float Houses.**
- 13.04.080 Harbor.**
- 13.04.090 Harbormaster.**
- 13.04.100 Hot berth.**
- 13.04.110 Liveaboard.**
- 13.04.120 Moor.**
- 13.04.130 Permanent transient.**
- 13.04.140 Person.**
- 13.04.150 Qualifying interest.**
- 13.04.160 Stall.**
- 13.04.170 Transient vessel.**
- 13.04.180 Transfer of cargo.**
- 13.04.190 Traffic lanes.**
- 13.04.200 Vessel.**
- 13.04.210 Vessel length.**
- 13.04.220 Waterborne structures.**

13.04.010 Anchor.

“Anchor” means to secure a vessel to a bed or body of water by dropping a weighted ground line or tackle or by use of a buoy or other means to prevent more than a measurable movement of the vessel.

13.04.020 Charter/vessel for hire.

“Charter/vessel for hire” means any vessel licensed to carry passengers for hire; “bare boat” is a boat rented with or without crew or operator.

13.04.040 Dinghy/lighter.

“Dinghy/lighter” means a small vessel normally carried aboard a larger vessel or towed as a life boat or tender.

13.04.050 Distress.

“Distress” means a state of disability or a present or obvious imminent danger which if unduly prolonged could endanger life or property.

13.04.060 Emergency.

“Emergency” means a state of immediate danger to life or property in which time is of the essence.

13.04.070 Float Houses.

“Float houses” means a floating structure used wholly as a dwelling unit, which is not designed to travel on water and which is otherwise not a vessel, as defined herein.

13.04.080 Harbor.

“Harbor” means the Sitka Harbor system or all waters, tidal areas and adjacent uplands areas, together with all facilities of a port or maritime nature publicly owned that are primarily used by or for the service of vessels, including docks, pilings, ramps, hoists, parking areas, leased water areas, concessions and/or service facilities located within.

13.04.090 Harbormaster.

“Harbormaster” means the individual described in Section 13.02.020 and any assistant harbormaster or other person designated to act in the harbormaster’s place.

13.04.100 Hot berth.

“Hot berth” means the practice of allowing a vessel to temporarily occupy a stall or space not reserved to said vessel.

13.04.110 Liveaboard.

“Liveaboard” means any vessel used by one or more persons as a primary residence while moored in the Sitka harbor system, which meets the following requirements. A liveaboard vessel must comply with all requirements imposed on any vessel moored in the harbor system including the requirement that the vessel be powered by an engine of sufficient size to propel the vessel at a speed allowing normal steering and to maneuver out of and into the harbor. A liveaboard vessel must be registered as such with the harbor department. A liveaboard vessel must have a safe heating system, and food preparation system, and berthing accommodations for all occupants.

13.04.120 Moor.

“Moor” means to secure a vessel by the use of lines to a dock, pier or other object providing a more secure fastening to a particular location than by anchoring.

13.04.130 Permanent transient.

“Permanent transient” means a vessel which is on the wait list (Section 13.08.040). The vessel will not have a permanent stall assignment but will be provided moorage and be billed for permanent moorage under Section 13.06.010.

13.04.140 Person.

“Person” means any natural person, individual, partnership, corporation or governmental agency. A corporation and natural person or individual will be considered the same if the natural person has control over the former.

13.04.150 Qualifying interest.

“Qualifying interest” in a vessel means the interest of a person who owns the vessel, or under provisions of written charter or lease, has exclusive control over the operation and navigation of the vessel. A person who transfers title to a vessel or enters into a charter or lease of the vessel to another, seasonally or permanently, thereby relinquishes exclusive control over the use and operation of said vessel and ceases to have a qualifying interest in said vessel.

13.04.160 Stall.

“Stall” means a place to moor individual vessels in the harbor.

13.04.170 Transient vessel.

“Transient vessel” means any vessel occupying space in the Sitka Harbor system for which a regular reserved stall has not been assigned.

13.04.180 Transfer of cargo.

“Transfer of cargo” means all types of loading, unloading, transfer and/or containerization of any type of cargo including, but not limited to, fish, shellfish and other seafood products thereof.

13.04.190 Traffic lanes.

“Traffic lanes” (navigation lanes) means those areas specifically set aside for movement to and from other locations and which will be kept open, free of obstructions and not for use for anchoring or mooring.

13.04.200 Vessel.

“Vessel” means any ship, boat, skiff, barge, dredge and craft of every kind or description, whether used for commercial or pleasure purposes, which is on the water and is capable of being used as a means of transportation on or through the water, excluding seaplanes.

13.04.210 Vessel length.

The method of determining vessel length within the harbor system: Vessel length will be computed as the actual overall length of any vessel, including bow sprits, outboards (in down position) or other extensions.

13.04.220 Waterborne structures.

“Waterborne structures” means other than a vessel. Examples include but are not limited to barges, float houses, or other, usually unpowered, structures.

**Chapter 13.06
CHARGES/FEES**

Sections:

- 13.06.010 Moorage charges and fees.**
- 13.06.030 Nonpayment.**
- 13.06.040 Unpaid stalls.**
- 13.06.050 Delinquent accounts.**

13.06.060 Lien Created.

13.06.070 Other remedies.

13.06.010 Moorage charges and fees.

There is established, determined, and levied upon all vessels and waterborne structures moored, tied to, or in any other way attached by rope, cable, gangplank or other means to any float, piling, dock, mooring buoy or other harbor improvement which is owned, constructed, maintained or operated by the city and borough of Sitka a rental charge and/or fee for the privilege and use of such facilities. The charges and fees shall be reviewed annually by the port and harbors commission in the month of January.

A. Moorage fees and charges shall be established by resolution and approved by the Assembly.

B. Rates, fees, charges and a description of other available services, such as electricity, recreational vehicles and boat trailer parking, launch ramp fees and grid fees shall be published and available at the harbormaster's office and city hall.

13.06.030 Nonpayment.

It is unlawful for any person to moor, berth, tie, attach or in any other manner connect to any harbor improvement or facility with any vessel or airplane, for a period not to exceed one day, without paying the prescribed rental charges previously listed. Any delinquent personal property tax or sales tax on a vessel will be paid prior to any mooring or being placed on a municipal waiting list. A late or penalty fee will be assessed after thirty days, if in arrears, as prescribed by the municipal code.

13.06.040 Unpaid stalls.

If the applicable moorage fees have not been paid by the date due, following delinquent notification within thirty days, the harbormaster may declare the stall released and it may be reassigned to the next person on the waiting list for that appropriate sized boat.

13.06.050 - Delinquent accounts.

Delinquent accounts shall be subject to collection procedures as followed by the city and borough and as allowed by federal and state laws. Delinquent accounts shall accrue interest at a rate of twelve percent per year on the unpaid delinquent balance.

13.06.060 - Lien created.

In addition to any other remedy provided for herein or at law, all mooring, grid and other miscellaneous harbor fees shall constitute a lien against the vessel, its tackle, gear, appurtenances and other similar property of the owner or operator, under federal and state law. Fees and charges delinquent ninety days or longer may be foreclosed on by impounding and selling the vessel against which the lien has vested under federal law and the provisions of this title.

13.06.070 –Other remedies.

All liens created shall not be exclusive remedies. A proceeding to foreclose any lien or suit thereon by the city and borough shall not preclude any other remedy, including impoundment as above, at law or in equity. The procedure for foreclosure or suit thereon of any lien shall be as set out in applicable state or federal law.

**Chapter 13.07
Harbor Use Privileges and Prohibitions**

Sections:

13.07.005 Penalties.

13.07.010 Prohibited Acts.

13.07.020 Vessel seaworthiness.

13.07.030 Safeguarding.

13.07.040 Speed limits.

13.07.050 Accident reports.

13.07.060 Responsibility for property damage.

13.07.070 Fire hazards prohibited.

13.07.005 Penalties.

All violations herein are subject to regulation and enforcement guidelines as set forth in Sections 13.12.010 and 13.12.040.

13.07.010 Prohibited acts.

In addition to other prohibited actions under this title, the following conduct is prohibited:

- A. Generating loud or boisterous noises, including that which occurs while working on vessels, 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.

13.07.020 Vessel seaworthiness.

All vessels moored or docked in the Sitka Harbor system must meet the following criteria:

- A. Be capable of getting underway under its own power at all times;

B. Be a watercraft constructed and maintained for the primary purpose of navigating the waterways of Alaska and not solely for the specific purposes of maintaining a stationary place of residence, floating storage, shop, office or other non-navigational purposes.

13.07.030 - Safeguarding.

Every vessel owner and operator shall use all reasonable effort and precautions in keeping the vessel in his charge well-secured with mooring lines in reasonable fit condition, sufficiently pumped at all times to keep afloat, free from fire hazards of any kind, and to otherwise attend to the needs of the vessel.

13.07.040 Speed limits.

It is unlawful for any person to operate any vessel or taxiing aircraft, except during takeoff and landing, in excess of the following speed limits:

A. No person shall operate a vessel within the area between the Crescent Harbor breakwater entrance to the south tip of Aleutski Island to the south tip of Love Island and the north end of the channel at the rubblemound breakwater at a speed which produces a wake, wash, or wave action which may or could reasonably be expected to damage any other vessels or harbor facilities or create discomfort to an occupant by causing such other boats to pitch or heave because of such wake, wash or wave.

B. Three miles per hour within the inner harbors of ANB Harbor, Sealing Cove Harbor, Crescent Harbor, Eliason Harbor and Thomsen Harbor.

13.07.050 Accident reports.

The operator of any vessel involved in an accident resulting in the death or injury of any person or damage to property in excess of five hundred dollars shall immediately give oral notice of the accident to the harbormaster, or if he is unavailable to receive the notice, to the Sitka police department. In addition, the operator shall, within twenty-four hours after the accident, file a written report with the harbormaster containing the name of the vessel, the name of the vessel owner and operator, a description of the accident, a description of the resulting injuries or damage, a description of possible causes or contributing factors, and such other information as the harbormaster may require.

13.07.060 Responsibility for property damage.

A person damaging city and borough docks, floats, ramps or other property of the city and borough shall be responsible for cost of repairs. A boat owner is strictly liable for the damages caused by a fire originating in his vessel to any municipal property.

13.07.070 Fire hazards prohibited.

A. No person may leave an unsafe fire or flame unattended aboard a vessel in the Sitka Harbor system, this includes oil, gas, wood stoves and other fuel burning appliances.

B. No person may store, deposit or leave on any float, dock or other harbor facility any gasoline, lubricating oil or other combustible liquid of any nature or description, except for temporary purposes in conjunction with the loading or unloading of a vessel.

C. A person using a grinder, torch or flame-producing device in or upon any vessel, dock, float or other boat harbor facility shall provide a fire extinguisher adequate for putting out any fire which may result. Any grinding or cutting must be done in such a way that sparks and other debris shall not come into contact with the property of another.

D. A person shall not ignite or detonate fireworks or flares within the boundaries of the Sitka Harbor system, except by permit from the fire chief.

Chapter 13.08 RESERVED MOORING STALLS

Sections:

13.08.005 Duty to register.

13.08.015 Safe condition of vessel.

13.08.020 Reserved moorage.

13.08.030 Moorage space assignments.

13.08.040 Waiting list.

13.08.050 Retention of a waiting list priority and stall transfer list fee.

13.08.060 Utilizing a reserved stall.

13.08.070 Stall—Sale of boat.

13.08.080 Transfer of reserved mooring.

13.08.090 Nonuse of a stall.

13.08.005 Duty to register.

A. Every owner, operator, agent of any vessel using the harbor for any period of time is required to register the name, address and telephone number of the registered owner and the operator of the vessel, if the vessel is operated by anyone other than the owner; the vessel's length, breadth, registered tonnage (if any) description and uses, the vessel's name and home port, and any other information required by the harbormaster on forms provided for that purpose, and pay the required fees immediately, but no later than 12 hours after first entering the harbor.

B. Every owner, operator, agent of any vessel using the facilities of the harbor shall execute a moorage agreement providing for payment of moorage fees and other charges.

C. In the event of a change of ownership or in operator, a new vessel mooring agreement shall be signed within thirty days after the change.

13.08.015 Safe Condition of Vessel

A. To qualify or remain qualified for moorage space a vessel must:

1. At all times meet United States Coast Guard standards which include those pertaining to navigational and safety equipment;

2. Have a fixed propulsion system and have sufficient mode of power to permit the vessel to be maneuvered and controlled safely while transiting, entering or leaving the small boat harbors under wind and water conditions which are not unusual;
3. Be completely seaworthy and ready for immediate cruising in local waters in compliance with Section 13.07.020; and
4. Shall not discharge sewage into the waters of the city and borough.

B. Whenever the harbormaster has probable cause to believe that a vessel is not qualified under this section, the harbormaster may require the owner or operator of a vessel to demonstrate that the vessel meets the qualifications in subsection A within seventy-two hours from receiving notification from the harbormaster.

C. The harbormaster may refuse mooring space to any vessel which does not meet the qualifications of this chapter and may terminate the moorage agreement for any mooring space occupied by an unqualified vessel under this section. The harbormaster may require, upon notice to the owner or operator of an unqualified vessel that the moorage agreement has been terminated, the vessel is illegally moored and such vessel must be removed from the harbor within seven days. Any vessel remaining in the harbor after the time specified in the notice shall be subject to impoundment or removal as a nuisance under this title.

D. Any person whose vessel's moorage agreement is terminated under this section, shall not be allowed to tie to any municipally owned harbor infrastructure, or anchor within the jurisdiction of the Sitka harbor system.

13.08.020 Reserved moorage.

Reserved moorage may be obtained, as available, at locations designated or assigned by the harbormaster. Reserved space will be assigned based on a waiting list which will be maintained in the harbor office and will be on a first-come, first-served basis determined upon the date the application was received, the type and size boat space required and the availability of such spaces.

13.08.030 Moorage space assignments.

Moorage spaces may be held in the names of individual persons, government agencies, educational institutions, and nonprofit organizations. Corporations may hold moorage spaces, however if a corporation is sold or taken over by another corporation, individual, or business entity the moorage space will be forfeit. Partners may hold a moorage space equally, but if the space holder wishes to add a partner's name to the space assignment, the new partner must go on the wait list and will be added to the space assignment when his/her name comes up for assignment. Partnerships must be true partnerships and both names must be on the vessel documentation or registration. Should a partnership dissolve, it will be up to the partner retaining the moorage space to submit a release from the other partner indicating their agreement to the retention. The stall will then transfer to the individual retaining the stall. The harbormaster retains the right to review and obtain a copy if necessary of U.S. Coast Guard documentation papers of ownership or state of Alaska vessel title or registration. Moorage spaces may only be assigned to vessel owners. Vessel owners may not lease their vessels and

hold a moorage space after six months without the approval of the harbormaster. Any holder of a reserved mooring stall shall not sublease, rent, or in any other manner permit or allow any other vessel to occupy said space, unless specifically permitted and approved by the harbormaster for sufficient reason given.

13.08.040 Waiting list.

There will be a moorage waiting list maintained by the harbormaster and displayed in the harbor office for public inspection. The list will be based on receipt of a nonrefundable administrative fee, equivalent to the first quarter's mooring fee based on the overall length of the listed vessel. The nonrefundable administrative fee will not be applied to the first quarter's moorage fee when a stall is assigned. All permanent moorage vacancies will be filled by the first applicant on the list who has a vessel of the required length, beam, electrical needs or other overall factors deemed by the harbormaster to be most suitable for the empty berth.

13.08.050 Retention of a waiting list priority and stall transfer list fee.

An applicant who does not respond to a written notice sent by the harbormaster, by certified mail, to the last address in the files of the harbor department, will be removed from the waiting list. Upon accepting a stall assignment and payment of a twenty-five-dollar nonrefundable stall transfer list fee, the applicant may be placed on a stall transfer list for the same vessel.

13.08.060 Utilizing a reserved stall.

The municipality reserves the right to provide temporary moorage or "hot berthing" of another vessel within a reserved mooring space when said space is unoccupied. A holder of a reserved stall or space within the Sitka Harbor system should provide a usage plan to the harbormaster, if he/she knows he/she will be absent for any reasonable extended length of time more than twenty-four hours, giving his/her estimated time of departure and return. The stall holder will not have the right to designate any specific vessel to use the stall. Should the reserved stall holder return earlier than expected, the holder will contact the harbormaster, as early as possible, to facilitate time to remove the temporary vessel from the reserved space. If the harbormaster is not available, the reserved stall holder will moor at the transient area until he/she can contact the harbor department. The harbormaster will inform temporary users of any absent holder's reserved mooring space that said use will continue only for the duration of the holder's boat's absence and that the harbormaster is authorized to move the temporary vessel to another location upon return of the holder's boat. Any temporary stall user will therefore be required to keep the harbormaster notified of his/her whereabouts. Any boat owner desiring to moor temporarily in a reserved but vacant stall will apply to the harbormaster. No such stall or space will be utilized unless authorized by the harbormaster. The boat owner temporarily assigned to a reserved mooring space will not utilize the utilities which may have been provided for the reserved stall holder unless authorized by the harbormaster. If electricity is used, the stall holder will be credited to his current usage for that month. Nothing in this section limits the harbormaster's authority to move any moored boat to another location in the event of a fire or other emergency requiring such action.

13.08.070 Stall – Sale of boat.

When a person sells his/her boat, he/she will notify the harbor master within one week of the sale and state whether the stall will be released. A change of ownership occurs when a name is changed, added, or dropped from a vessel's documentation. A stall is not transferable by the holder. Persons who sell their boat but intend to purchase another one which is of a proper size to fit into the existing stall may retain their stall for a period of up to six months. If, at the end of that time, they have not obtained ownership of another boat or furnished proof of intent to procure a boat within a reasonable extended period of time as determined by the harbor master, the reserved space will be forfeited. Any such person wishing to retain the stall will be responsible for the continued mooring rate fee as established by Section 13.06.010. The fee will be based on the length of the stall.

13.08.080 Transfer of reserved mooring.

Any person holding a reserved mooring space or a position on the approved waiting list may not transfer such space or list position to any other person except that a preferential annual slip assigned to a vessel may be retained if the transfer is between husband and wife, to a natural or legally adopted son or daughter or grandson or granddaughter or is legally inherited by a member of the owner's family and documented as such to the satisfaction of the harbor master.

13.08.090 Nonuse of a stall.

If the owner of a vessel, to which a reserved mooring space is assigned, does not use that space or slip for at least three months of each calendar year, the reserved mooring space will be forfeited and the harbor master will notify said owner, in writing, subject to written appeal for an extension to the Ports and Harbor Commission. The harbor master may waive this requirement, on a case-by-case basis, under exceptional circumstances such as extended ocean voyages or major vessel repair.

**Chapter 13.09
ANCHORING**

Sections:

13.09.010 Anchored vessels and waterborne structures.

13.09.010 Anchored vessels and waterborne structures.

Anchoring within western anchorage will be permitted from March 1 to September 30. Unless it is a float house, authorized under SGC 13.15, any anchored vessel or waterborne structure must meet vessel seaworthiness requirements under Section 13.07.020, if applicable, and shall not be a nuisance as defined in this title. Any anchored vessel or waterborne structure that does not meet the applicable requirements or is declared a nuisance:

A. may be subject to impoundment under chapter 13.14 of this code and any other applicable enforcement actions under law;

**Chapter 13.10
FLOAT REGULATIONS**

Sections:

- 13.10.010 Notice to owners.**
- 13.10.020 Dead storage.**
- 13.10.030 Minimum-maximum length.**
- 13.10.040 Vehicles and parking.**
- 13.10.045 Vehicles prohibited.**
- 13.10.046 Boat launch ramp and trailer parking.**
- 13.10.047 Recreational vehicle park rules and regulations.**
- 13.10.048 Recreational vehicle/boat trailer winter storage rules and regulations.**
- 13.10.050 General requirements.**
- 13.10.060 Harbor electrical system.**
- 13.10.070 Notices – Bulletin Boards.**
- 13.10.080 Distribution of commercial or political handbill and leaflets – Permit required.**
- 13.10.090 Skiffs or secondary vessel mooring.**
- 13.10.100 Pets within the Sitka Harbor system.**
- 13.10.110 Unlawful disposal in Sitka Harbor system.**
- 13.10.140 Cleaning fish.**
- 13.10.150 Storage prohibited.**
- 13.10.160 Grid.**
- 13.10.170 Gear/cargo loading float.**
- 13.10.180 Work float.**
- 13.10.185 Sealing Cove boat trailer area.**
- 13.10.190 Airplane float.**
- 13.10.195 Regulations for airplanes operating within the Sitka Harbor system.**
- 13.10.200 Garbage facilities.**
- 13.10.210 Children.**
- 13.10.220 Swimming.**
- 13.10.230 Restriction on offloading more than five hundred pounds of commercially caught raw fish in the harbor system.**

13.10.010 Notice to owners.

By the mooring of any vessel within the Sitka harbor system, the owner, operator, or master of any vessel agrees to all of the provisions contained within this title.

13.10.020 Dead storage.

It is declared that city and borough owned or operated floats, mooring spaces or other facilities have been installed and are operated for the convenience and use of fishermen and pleasure boat owners and are not for the purposes of providing dead storage. Moorage of any type of waterborne structure, houseboat, flatboat or barge is specifically prohibited except float houses as authorized under SGC 13.15. This prohibition extends to the entire area of jurisdiction of the harbor system but will exclude those fishing scows specifically owned or operated by on-shore cold storage plants which are brought into the city and borough for maintenance or off-season storage only.

13.10.030 Minimum-maximum length.

The minimum-maximum length of any boat or ship or any other vessel which moors at any city and borough harbor float, will be based on the length of the stall, and will be subject to the harbormaster's discretion based on safety.

13.10.040 Vehicles and parking.

No vehicle will be allowed or permitted to park on the approach to any float so as to obstruct said approach except as a necessary purpose of discharging passengers or freight.

13.10.045 Vehicles prohibited.

It is unlawful for any person to ride a bicycle, motor scooter, motorcycle, skateboard, roller skates, roller blades, or other similar device on any municipal float.

13.10.046 Boat launch ramp and trailer parking.

A. The city and borough boat launch facility shall be open to the public. It is unlawful to block access to either of the launch ramps at Sealing Cove or Crescent Harbor.

B. Short-term parking is available for trailers. There is also a three-day and a ten-day area.

The harbor department will issue citations and impound trailers that exceed the time limit.

13.10.047 Recreational vehicle park rules and regulations.

The facility is intended to service short-term visitors to Sitka. It is not intended to become a location for permanent occupants.

A. The RV park is open annually from April 1st through September 30th. Occupancy is limited to a maximum of thirty consecutive days.

B. The registration and fee shall be collected by harbor department personnel or park host and shall be paid in advance.

C. Each occupant shall be responsible for keeping their assigned space neat and clean.

D. No tents, wannigans, sheds, additions, or extensions to the RV, camper or trailer occupying the space are allowed.

E. Recreational vehicles with holding tanks may dump free of charge at the municipal wastewater treatment disposal facility.

13.10.048 Recreational vehicle/boat trailer winter storage rules and regulations.

A. The recreational vehicle/boat trailer park at Sealing Cove will be open for winter storage of recreational vehicles, boat trailers, boats on boat trailers, and motor vehicles from October 1st through March 31st of each year, after paying appropriate fees at harbormaster's office.

- B. No recreational vehicle, boat trailer, or motor vehicle may be stored or remain at the recreational vehicle trailer park unless:
 - 1. The recreational vehicle, boat trailer, boat on boat trailer, or motor vehicle has required license plate(s), current vehicle registration, and current license tags; and
 - 2. The recreational vehicle, boat trailer, or motor vehicle is operational.

- C. Any recreation vehicle, boat trailer, boat on boat trailer, or motor vehicle not removed by March 31st will be impounded at the owner's expense.

13.10.050 General requirements.

The following rules are intended to minimize adverse effects on neighboring shore side properties adjacent to the harbors within the Sitka Harbor system:

- A. To the extent allowed by safety considerations, harbor lights, all bright lights, including vessel deck lights will be directed away from the shoreline.

- B. The use of crab lights (sodium, mercury, crab, flood, etc.) is prohibited within the harbors within the Sitka Harbor system and between the breakwaters and O'Connell Bridge between the hours of eight p.m. and seven a.m.

- C. The use of any sound system, public address and/or paging systems of any sort will be limited to the hours of seven a.m. and eight p.m. The performance of any vessel repairs requiring noisy activities, including the revving of vessel engines will be limited to the same hours. In case of emergencies contact the harbormaster.

13.10.060 Harbor electrical system.

The following regulations govern the use of electricity within the Sitka Harbor system:

- A. Connections to any vessel moored within the Sitka Harbor system are under the direction of the harbormaster and are subject to the following:
 - 1. Use of nonmarine battery chargers is strictly prohibited. All chargers used within the system must contain an isolator circuit or be run through an isolator so that no current is discharged into the municipal system.
 - 2. Use of extension cords, plugs, caps and other components between the vessel's private system and the municipal shore side system will comply with the electrical code of the city and borough and be of a specific marine design recognized and approved by the city and borough.
 - 3. Only heating lamps with porcelain type sockets may be used.
 - 4. Any onboard heater capable of causing a fire if overturned, must be equipped with a safety switch which will automatically disconnect the electrical power, if so overturned.

- B. The harbormaster will, by permission of vessel owner or agent, have the authority to enter any vessel connected to the municipal electrical system to inspect electrical equipment to assure compliance with this and other applicable codes. If permission is not granted, the harbormaster may disconnect said shore power from the offending vessel.

C. It is unlawful for any person to interfere, tamper with, or connect any wires, plugs or other devices to any of the electrical wiring or electrical outlets upon any of the docks, floats or gangways maintained, constructed or owned by the city and borough without the permission of the harbormaster.

D. Violation of any of the provisions of this section is punishable up to the maximum of five hundred dollars.

13.10.070 Notices – Bulletin Boards.

Except in those areas designated by the harbormaster, it is unlawful for any person, firm or corporation to post any matter upon any bulletin board or to create any writing or printed material and post it to any float, piling, dock or any other portion of the Sitka Harbor system, except in those areas designated by the harbormaster. Any unauthorized material will be immediately removed by the harbormaster and destroyed. All material will be dated and is limited to thirty days.

13.10.080 Distribution of handbill and leaflets – Permit required.

Distribution of handbills and leaflets is forbidden within the Sitka Harbor system and in the adjacent public parking areas. Persons intending to distribute handbills and leaflets within the Sitka Harbor system will be required to obtain a permit from the municipality. A condition for the issuance of such permits shall be that the permittee agree to clean up any discarded handbills and leaflets in the harbor area and adjacent parking lot areas at the end of each day. Failure to properly clean up the area shall result in revocation of such permits by the city and borough of Sitka.

13.10.090 Skiffs or secondary vessel mooring.

No skiff or other secondary vessel will be separately moored to the Sitka Harbor system except at a berth specifically assigned for moorage to the owner of that skiff and with appropriate fees paid. No floating skiff will be tied or otherwise moored to any other vessel moored to that berth in any way as to protrude into the passage lane to another berth or in such a way as to block passage from any other vessel.

13.10.100 Pets within the Sitka Harbor system.

Any dog, cat or other pet living aboard any boat in the Sitka harbor system, or crossing the floats to a vessel shall be subject to the entirety of Title 8 as enforcement guidelines.

13.10.110 Unlawful disposal in Sitka Harbor system.

It is unlawful to:

- A. Dump garbage or trash into any boat harbor, harbor uplands or associated tidelands;
- B. Abandon or leave old boats, hulks or wrecks within the Sitka Harbor system;

C. Spill, dump, discharge or in any other manner dispose of flammable waste such as gasoline, lubricating oil, or other combustible liquids into any boat harbor, uplands, or associated tidelands; and

D. Leave or dispose of spoiled fish, bait, or gear on the city and borough floats. Vessel owners will tend to their gear promptly after each commercial opening. Any failure to provide necessary cleanup action will be considered a nuisance.

13.10.140 Cleaning fish.

It is unlawful to:

A. Dispose of any fish, shellfish or other animal, or waste parts of fish, shellfish or other animal, into the Sitka Harbor system waters, so as to not attract birds which could create a hazard with aircraft near the Rocky Gutierrez Airport.

B. To clean fish on any portion of a city and borough dock or float, except at designated fish cleaning stations. Waste bins are available at the harbor from June through September. Any waste outside of those dates shall be disposed of in a way not to attract vermin, birds, sea lions, bears, etc. in accordance with both SGC 9.24.050 and SGC 13.12.

13.10.150 Storage prohibited.

It is unlawful for any person to use any harbor for storage, on any floats, docks or gangways or any other portion of the municipal harbor system, of any pipes, nets, wares, merchandise, or gear of any sort or type without the permission of the harbormaster. Even when permission is given, it is for a specific, short length of time to facilitate gear changing, loading or other necessary activity and not as a convenient place of storage of personal items. Should a skiff or other item having value be found stored on the docks or floats in violation of this section, the harbormaster will impound said items and dispose of them as follows:

A. They will be stored for thirty days.

B. The owner will be notified, if known, by certified mail, that the items have been impounded and must be reclaimed within the thirty days, after paying reasonable storage and associated costs, or they will be subject to sale at the end of thirty days with the owner responsible for any unrecovered costs. Public and owner notification shall run concurrently.

13.10.160 Grid.

No boat more than thirty-five tons per bent will be allowed on the south grid. No boat more than six tons per bent will be allowed on the north end grid. If persons wishing to exceed the above limits wish to use the grid, they must contact the harbormaster for special consideration. Maximum time on grid is ninety-six hours.

13.10.170 Gear/cargo loading float.

Unless other arrangements have been made with the harbormaster, for activity other than loading or unloading, the following rules apply to the gear/cargo loading float:

- A. The time limit on the loading float is two hours;
- B. Vehicle access shall be for vessels tied to the gear/cargo loading float only, when there is actual loading between vessel and vehicle; and
- C. Parking is not for casual access to vessels tied in the harbor. Improper use of the gear/cargo loading float is unlawful and subject to penalties in SGC 13.12.

13.10.180 Work float.

A year round work float is available for use and located on Sitka Channel across from ANB Harbor. The intent for this work float is gear work only and is subject to 72 hour consecutive use unless prior permission is given by harbormaster. Vessel must be removed for 24 hours before another 72 hours can be used. This float is equipped with water and electricity. No overnight moorage is permitted without the harbormaster's permission. No storage of any gear, nets or materials is permitted without the harbormaster's permission and only in case of an emergency. The Crescent Harbor, Float 4 work float is available for temporary winter moorage from September 15th until April 15th. Penalties for violating this section are specified in SGC 13.12.

13.10.185 Sealing Cove boat trailer area.

Parking of boat trailers in the Sealing Cove boat trailer area is limited to ten days. Changing parking stalls in the parking area shall not initiate a new ten-day period. A trailer must be removed from the parking lot for forty-eight hours before another ten days of parking may be allowed. Penalties for violation of this section are specified in SGC 11.40.170D.4 for overtime parking.

13.10.190 Airplane float.

The municipal airplane float shall be administered and enforced by the harbormaster but subject to:

- A. Commercial operations shall be allowed at the municipal airplane float with the harbormaster's approval and proper permitting. Such operations shall be charged an appropriate user fee.
- B. The municipal plane floats are for the use of active planes.
- C. Only repair and maintenance work of a minor nature shall be allowed on the float, which is defined as that work which would ordinarily be completed in one twenty-four-hour period. The harbormaster shall have discretion in enforcing this provision.
- D. No person may moor a vessel at any municipal plane float.

13.10.195 Regulations for airplanes operating within the Sitka Harbor system.

Airplanes operating within the Sitka Harbor system shall:

- A. Follow international navigation rules while operating on the water;
- B. Not taxi on step in the channel except during take-off and landing. There is to be a no wake zone in effect in Sitka Channel from O'Connell Bridge to the rubble mound breakwater north of Eliason Harbor;
- C. Use the take-off and landing corridor located on the southwest side of Western Anchorage, paralleling Japonski Island, from the government pier, out to the breakwater. Pilots have the option to use other areas when wind and weather conditions require, but must maintain adequate separation from vessel traffic. Approximately eighty percent of seaplane operations will be conducted in the designated area;
- D. Do not fly within five hundred feet of any structures, except as necessary for take-off and landing. This includes the O'Connell Bridge.

13.10.200 Garbage facilities.

Objects too large to fit into the litter container shall be disposed of at the municipal landfill by the owner at his/her expense.

13.10.210 Children.

Children under the age of twelve are prohibited on the docks unless in the immediate presence of a parent, guardian or responsible adult.

13.10.220 Swimming.

Swimming and diving (with the exception of authorized commercial scuba diving or snorkeling and special events approved by the harbormaster) from any city and borough owned or managed float, dock, or wharf is prohibited.

13.10.230 Restriction on offloading more than five hundred pounds of commercially caught raw fish in the harbor system.

A. The city and borough-owned hoist is the only place more than five hundred pounds of commercially caught raw fish, taken by one vessel, on one fishing trip, may be offloaded in the harbor system. Anyone committing a violation of this section is liable for up to a five hundred dollar fine. See, fines, SGC 13.12.050B.

B. If the hoist is unavailable, commercially caught raw fish may be taken to another area after consultation with the harbormaster.

**Chapter 13.12
ENFORCEMENT**

Sections:

- 13.12.010 General.**
- 13.12.040 Written warning.**
- 13.12.050 Fines.**

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. The harbormaster is granted the authority to 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 the 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 this title.

13.12.040 Written warning.

If, at the discretion of the harbormaster, an infraction of the rules of the harbor system may be resolved with a written warning to the offending vessel owner, he/she may do so, retaining a copy for the harbor files. Said written warning will specify the infraction and notify the owner that further action will be taken if the offense is repeated or does not cease immediately. Any such written warning will be hand delivered in person or mailed by certified mail.

13.12.050 Fines.

The maximum penalty will be five hundred dollars, minimum will be \$50 and a standard penalty for violations will be as follows:

A. Cleaning fish – waste (SGC 13.10.140):

First offense -	\$100.00
Second or subsequent offense -	\$250.00

B. Excessive wake (SGC 13.07.040):

First offense -	\$ 50.00
Second or subsequent offense-	\$100.00

C. Offloading more than 500 pounds – commercially caught raw fish (SGC 13.10.230) within a 5-year period:

First offense –	\$250.00
Second or subsequent offense -	\$500.00

D. Nuisance violations (SGC 13.13.025 – soot) within one year:

First offense –	\$50.00
Second offense -	\$100.00
Third or subsequent offense -	\$300.00

E. Harbor electrical violations (SGC 13.10.060.A) within one year:

First offense -	Written warning
Second offense -	\$100.00 and shut off power to vessel
Third or subsequent offenses -	\$300.00 and shut off power to vessel

F. Harbor electrical violations (SGC 13.10.060.C) within one year:

First offense -	\$250.00
Second or subsequent offenses -	\$500.00 and subject to removal from Sitka harbor system

G. Violations of vehicle loading and unloading area regulations (SGC 13.10.170) shall be \$25.00 per offense.

H. Violations of work float usage (SGC 13.10.180) shall be up to \$500.00 per offense.

Chapter 13.13 NUISANCES

Sections:

- 13.13.010 Nuisances declared.**
- 13.13.020 Other nuisances.**
- 13.13.025 Emission of soot from an oil stove in a vessel.**
- 13.13.030 Abatement or disposal.**
- 13.13.040 Abandoned property.**
- 13.13.050 Sunken or obstructive vessels.**
- 13.13.060 Floating objects.**
- 13.13.070 No custody of derelicts.**

13.13.010 Nuisances declared.

A. For the purposes of this title, a vessel is a nuisance if:

1. The vessel is in violation of the mooring or traffic regulations of the Sitka Harbor system;
2. The stall rent or any other fee or charge due the city and borough for the vessel has not been paid thirty days after the due date of the rent, fee or charge owed;
3. The vessel causes an obstruction to navigation;
4. The vessel is unfit, unseaworthy or maintained in such a manner as to make it liable to sink;
5. The vessel is unqualified under the provisions of Section 13.08.015;
6. The vessel constitutes a fire hazard; or
7. The vessel is sunken or is in imminent danger of sinking

B. A vessel declared to be a nuisance is subject to abatement and removal from the Sitka Harbor system or other municipal waters by the city and borough or its agents, without

liability to the city and borough or its agents for any damage done by virtue of the removal or for any of its consequences.

C. Any vessel declared to be a nuisance under this section shall be considered a derelict vessel for purposes of Alaska Statute 30.30.

13.13.020 Other nuisances.

Refuse of all kinds, structures or pieces of any structure, dock sweepings, dead animals or parts thereof, timber, logs, piles, boomsticks, lumber, boxes, paint, plastic bags, empty containers and oil of any kind floating uncontrolled on the water, and all other substances or articles of a similar nature are declared to be public nuisances, and it shall be unlawful for any person to throw or place in or permit to be thrown, or placed any of the above-named articles or substances within in the Sitka Harbor system or the municipal waters, either by high tides, storms, floods or otherwise. Nets, gear and other material left on any float or dock for more than twenty-four hours are declared a nuisance, and shall be tagged with a warning tag by the harbormaster. Any person causing or permitting the nuisances placed shall remove the same and upon his failure to do so within twenty-four hours of tagging may be removed by the harbormaster. When the harbormaster has authorized such nuisances to be removed, all costs of such removal or storage shall be paid by and recoverable from the person creating the nuisance.

13.13.025 Emission of soot from an oil stove in a vessel.

Each owner and operator of a vessel in the harbor system shall take all reasonable measures to prevent the emission of soot from oil stoves. If a vessel's oil stove emits soot that settles onto or touches another vessel, the owner or operator of the vessel from which the soot came shall face a correctional citation, and if not corrected shall pay the fine imposed in SGC 13.12.050C. The first and second offenses shall be bailable. A person cited for a third offense of emission of soot from an oil stove shall be declared a nuisance.

13.13.030 Abatement or disposal.

A. Nuisances described under this chapter constituting a clear and present danger to the public health, safety or general welfare may be summarily abated without notice prior to impoundment subject to Section 13.14.050.

B. Vessels declared nuisances which do not constitute a clear and present danger to the public health, safety or general welfare may be removed, impounded and disposed of as provided in Section 13.14.040.

C. Other nuisances under Section 13.13.010-.025 may be impounded, disposed of by destruction, private sale, or any other means deemed reasonable by the harbormaster. Such disposition is to be made without liability of the city to the owner of the nuisance.

13.13.040 Abandoned property.

Any vessel in the Sitka Harbor system which is abandoned but has not been declared a nuisance may be impounded, sold or otherwise disposed of as provided in Alaska Statute 30.30.

13.13.060 Floating objects.

All vessels, watercraft, logs, piling, building material, scows, houseboats or any other article of value found adrift within the Sitka Harbor system may be taken in charge by the harbormaster and may be subject to the reclamation by the owner thereof on payment by him to the city and borough of any expenses incurred by the city and borough, and in case of a failure to reclaim may be sold or disposed of as abandoned property.

13.13.070 No custody of nuisances.

The Sitka Harbor system shall not accept ownership or custody of nuisance or abandoned vessels or any nuisance as declared under Section 13.13.010-.025 unless expressly accepted by the harbormaster in writing.

Chapter 13.14

VESSEL IMPOUNDMENT AND DISPOSITION

Sections:

13.14.010 Impoundment of boats or vessels for violations.

13.14.020 Storage charge.

13.14.030 Notice to owner.

13.14.040 Right to Pre-impoundment hearing.

13.14.050 Post-impoundment notice and hearing.

13.14.060 Appeals.

13.14.070 Notice of disposition.

13.14.080 Form of disposition.

13.14.010 Impoundment of boats or vessels for violations.

The harbormaster may, pursuant to this section, impound a vessel by immobilizing it or removing or having it towed from the water and placed in city and borough or commercial storage with all expenses and risks of haul-out and storage to be borne by the owner of the vessel.

13.14.020 Storage charge.

The owner or person entitled to possession of a vessel impounded by the city and borough shall be subject to and liable for actual storage charge and shall be subject to and liable for all costs incurred by the city and borough by reason of the impounding or removal.

13.14.030 Notice to owner.

Except as provided in Section 13.13.030(A), at least thirty days prior to impounding any vessel, the city and borough shall cause to be posted on the vessel, in the harbormaster's office, in the City Hall and on the bulletin board at the United States Post Office, notice of such action to be taken by the city and borough. A copy of the notice shall be mailed to the owner, operator or agent of the vessel at his last known address, which address shall be the same as that furnished in accordance with the provisions of Section 13.08.010. The notice shall contain the name and/or number of the vessel, the name and address, if known, of the owner and the location of vessel.

13.14.040 Right to Pre-impoundment hearing.

A. Except as provided in Section 13.13.030(A), the owner of a vessel or person entitled to possession of the vessel has the right to a pre-impoundment administrative hearing to determine whether there is probable cause to impound the vessel if the owner or person entitled to possession of the vessel files a written demand for such a hearing with the municipal clerk within fifteen days after the mailing of the notice required by Section 13.14.030.

B. A hearing shall be conducted before a hearing officer designated by the municipal administrator within forty-eight hours of receipt of a written demand for a pre-impoundment hearing from the person seeking the hearing unless such person waives the right to a speedy hearing. Saturdays, Sundays and city and borough holidays are excluded from the calculation of the forty-eight-hour period. Pre-impoundment hearing request forms are available at the harbormaster's office.

C. The hearing officer shall be someone other than the persons who will direct the impounding and storage of the vessel. The sole issue before the hearing officer shall be whether there is probable cause to impound the vessel in question. "Probable cause to impound" shall mean such a state of facts as would lead a person of ordinary care and prudence to believe that there was a breach of law rendering the vessel subject to impoundment. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence.

D. The person demanding the hearing shall carry the burden of establishing his right to possession of the vessel in question. The harbormaster shall carry the burden of establishing that there is probable cause to impound the vessel.

E. After the pre-impoundment hearing, the hearing officer shall prepare a written decision and certificate of probable cause if probable cause exists. A copy of the decision and the certificate shall be provided to the harbormaster, the vessel owner, and the person demanding the hearing. The decision of the hearing officer is final.

F. Failure of the owner or person entitled to possession of the vessel to request or attend a scheduled pre-impoundment hearing shall be deemed a waiver of the right to such hearing.

G. Upon receipt of a Certificate of probable cause, the harbormaster may proceed with impoundment and disposition of the vessel by removal, sale or destruction as authorized by this chapter.

13.14.050 Post-impoundment Notice and Hearing.

A. Unless otherwise provided, the procedure set forth in this section shall apply whenever a vessel has been impounded or removed or a nuisance vessel abated pursuant to Section 13.13.030(A) or the pre-impoundment hearing procedures under Section 13.14.040 were not followed.

B. When action is taken to impound, remove, or otherwise abate a nuisance vessel that poses clear and present danger to the public health, safety or general welfare, notice shall be personally delivered or mailed to the owner of the vessel, if the name and location of the owner is known, within twenty-four hours after the impoundment, removal or abatement.

C. The owner of the vessel or person entitled to possession of the vessel has a right to a post-impoundment hearing if that person submits a written demand for a post-impoundment hearing to the municipal clerk within fifteen days after the city and borough mailed the notice of impoundment.

D. A post-impoundment hearing shall be conducted before a hearing officer designated by the municipal administrator within forty-eight hours of receipt of a written demand for a post-impoundment hearing from the person seeking the hearing unless such person waives the right to a speedy hearing. Saturdays, Sundays and city and borough holidays are excluded from the calculation of the forty-eight-hour period. Post-impoundment hearing request forms are available at the harbormaster's office.

E. A post-impoundment hearing officer shall determine whether there was probable cause to impound the vessel. If the hearing officer determines that there was not probable cause to impound the vessel, the vessel shall be released to the owner without payment of the towing, storage or other accrued storage, impoundment, and abatement charges or the owner shall be entitled to a refund or reimbursement of the charges if they were paid. If the hearing officer determines that there was probable cause for the impoundment of the vessel, the harbormaster may proceed to dispose of the vessel as provided in this Chapter.

F. Failure of the owner or person entitled to possession of the vessel to request or attend a scheduled post-impoundment hearing shall be deemed a waiver of the right to such hearing.

13.14.060 Appeals.

Any appeal from the decision by the hearing officer in a pre-impoundment or post-impoundment hearing must be filed within thirty days of the decision to the Alaska Superior Court at Sitka in accordance with Alaska Rules of Appellate Procedure.

13.14.070 - Notice of Disposition.

A. After impounding a nuisance vessel, the city and borough shall publish a notice of disposition once in a newspaper of general circulation and, if possible, post a notice of disposition on the vessel at least thirty days before disposing of the vessel.

B. A duplicate of the notice must be served by certified mail, with return receipt, on:

1. the registered owner of the vessel, if known, at the address on record with the United States Coast Guard; and

2. all lienholders who have filed a financing statement indexed in the name of the registered owner, or who are shown on the records of a state agency or the United States Coast Guard.

C. The notice of disposition must include a description of the vessel, the name and/or number of the vessel, if any, the name and address of the owner, if known, the location of the vessel, and the means of disposition. If a public auction will be held, the location, date, and time of the auction shall be included in the notice of disposition.

13.14.080 Form of Disposition.

A. If the vessel is not repossessed within thirty days after the publication or mailing of the notice required under Section 13.14.070, the vessel may be disposed of by negotiated sale except that when two or more prospective purchasers indicate an interest in purchasing the vessel, the vessel will be sold at public auction to the highest bidder. The city and borough may conduct the public auction under this chapter or execute the city and borough's lien against the vessel in federal court and subject the vessel to a public auction conducted by the U.S. Marshall's service.

B. The proceeds of any sale of the vessel at a public auction under this chapter shall be first applied to the costs of conducting the sale, then to impoundment fees and storage charges, and the balance, if any, shall be forwarded to the registered owner of the vessel, if the owner can be found. If the owner cannot be found, the balance shall be deposited with the commissioner of the state of Alaska department of administration and shall be paid out in accordance with state law. The proceeds of any sale of the vessel at a public auction sanctioned by federal law shall be dispersed in accordance with federal law. A lienholder shall receive priority of payment from the balance of the proceeds to the extent of the lien. A registered owner has one year to make a claim for the remaining proceeds from the sale.

C. If no prospective purchaser indicates a desire to purchase the vessel within thirty days after the publication or mailing of the notice required under Section 13.14.070, the vessel may be disposed of as junk, donated to a government agency, or destroyed.

D. Any disposition of the vessel is to be made without liability of the city and borough, its employees or agents to the owner, operator or lienholder of the vessel.

13.15 (Reserved – float houses).

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 8th day of April, 2014.



Mim McConnell, Mayor

ATTEST:



Colleen Ingman, MMC
Municipal Clerk