

Chapter 33
COLD BAY DOCK

Sections:

- 010. Department Established.
- 020. Purpose.
- 030. Powers.
- 040. Harbor Advisory Commission.
- 050. Registration Required.
- 060. Loading Areas.
- 070. Sanitation and Safeguarding.
- 080. Reckless Operations.
- 090. Negligent Operations.
- 100. Unlawful Acts.
- 110. Reporting Violations.
- 120. Fees.
- 130. Payments
- 140. Billing.
- 150. Nuisances.
- 160. Abatement of Nuisances.
- 170. Impoundment.
- 180. Impoundment Procedure and Disposition.
- 190. Penalties.

Section 5.33.010 Department Established.

There is established a Cold Bay City Dock. Executive and administrative duties are vested in the office of the Mayor, who shall hire, subject to approval by the Cold Bay City Council, a harbormaster and such other administrative and maintenance personnel necessary to properly and safely administer the operations of the Cold Bay dock.

Section 5.33.020 Purpose.

It is the desire of the City to protect and preserve the lives, health, safety, and well-being of the people of the city who have property on, or use or work upon boats using the cities dock facilities, or who use these facilities in the course of visits for commercial or pleasure purposes; to protect the property of boat owners by regulating the dock and its facilities to safeguard from nuisances, fire, and health hazards; to make reasonable charges for the use of certain facilities to enable the city to pay the cost of maintenance, operation, and supervision of the dock from the revenue derived thereof; to promote the general welfare; and to operate the dock facilities.

Section 5.33.030 Powers.

The City of Cold Bay shall assume all dock powers not specifically prohibited by State and Borough law.

Section 5.33.040 Position of Harbormaster Created.

- A. The Harbormaster, under the direction of the mayor, shall supervise and manage all Cold Bay dock facilities.
- B. The Harbormaster shall be hired, paid, removed and succeeded in office as are other hired positions of the city.
- C. The Harbormaster shall enforce all of the provisions of this title and any rules, the Harbormaster shall have the authority to board any vessel using the dock facilities.

Section 5.33.050 Registration Required.

Every vessel using the dock facilities is required to register the captain's name, telephone number, mailing and residence address; the name and number of the vessel; and its length, breadth, and registered tonnage with the Harbormaster on forms to be provided for that purpose.

Section 5.33.060 Loading Areas.

No vessel shall remain moored in designated loading areas longer than necessary for discharging or taking on cargo or equipment without the direct consent of the Harbormaster. Dockage charges are computed daily or any fraction of a day.

Section 5.33.070 Sanitation and Safeguarding.

Every boat owner using the dock and facilities is requested to use due diligence in performing the following requirements:

- A. Use all reasonable precautions in keeping the vessels in his charge in a clean and sanitary condition with special attention to pure water and sanitary toilets;
- B. Use all reasonable precautions in keeping the vessel in his charge free from fire hazards of any type or nature;
- C. Use all reasonable effort and precautions in keeping the vessel in his charge well-secured, securely moored with lines in reasonably fit condition, sufficiently pumped out at all times to keep the vessel afloat, and to other wise attend the needs of the vessel;
- D. Use adequate precautions to lock up and stow and otherwise safeguard all moveable gear and tackle;
- E. Supply and use adequate fenders to safeguard floats and vessels from chaffing and other damages.

Section 5.33.080 **Reckless Operations.**

It is unlawful for any vessel operator to operate or cause to be operated a vessel in a reckless manner. This means to operate a vessel in willful or wanton disregard of the right 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.

Section 5.33.090 **Negligent Operations.**

- A. It is unlawful for any vessel operator to operate or cause to operate a vessel in a negligent manner. This means the operation of a boat in such a manner as to create an unjustifiable risk of harm to a person or to a property and who, as a result of the creation of the risk actually endangers a person or property. 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.
- B. The offense of negligent operations is a lesser offense than, and included in, the offense of reckless operations. A person charged with reckless operations may be convicted of the lesser charge of negligent operations.

Section 5.33.100 **Unlawful Acts.**

It shall be unlawful for any person using the dock facilities to:

- A. Operate or be in actual physical control of any vessel or other equipment when under the influence of intoxicating liquor or drugs or operate when otherwise impaired;
- B. Operate or cause to be operated any vessel within the dock area that causes a wake or wave action which will damage or endanger or be likely to endanger any other vessel or any of the dock facilities;
- C. Throw or otherwise cause to be deposited gasoline, oil, litter, trash, garbage, or other refuse on any part of the dock or into the waters adjacent to the dock;
- D. Allow or permit dogs or other animals to run at large on the dock or to become a nuisance thereon;

- E. Create or maintain any nuisance on the dock, or conduct or carry on any unlawful business occupation thereon;
- F. Erect, place, post or maintain any advertising matter, sign, or other printed matter, other than legal notices, on any part of the dock without prior approval of the Harbormaster. All unauthorized advertising and signs shall be removed by the Harbormaster;
- G. Write or post any written or printed matter or sign upon any bulletin board constructed or maintained by the city on the dock without prior approval of the Harbormaster;
- H. Deposit, place, or leave any cargo, merchandise, supplies, freight, articles, or thing upon any float, ramp, decline, walk, or other public place on the dock, excepting at such place or places as may be designated as loading areas by the Harbormaster;
- I. Fail to register with the Harbormaster any vessel using any of the dock facilities;
- J. Tap, connect, disconnect, interfere with, or tamper with any electrical wiring, electrical outlet, or electrical device without prior approval of the Harbormaster, or to interfere with or tamper with any associated dock system;
- K. Tie up to or otherwise use the dock except as provided for in this chapter;
- L. Disregard, deface, remove, tamper with or damage any sign or notice posted or erected by the Harbormaster or by direction of the mayor relating to the use of the dock facilities;
- M. Or refuse to comply with any lawful order of the Harbormaster.

Section 5.33.110 Reporting Violations.

Complaints of any violations of the prohibited acts shall be made to the Harbormaster.

Sections 5.33.120 Fees.

Use of the dock facilities are subject to fees established by the city council, reviewed annually or more frequently as the city council may direct and approve by resolution.

Section 5.33.130 Payments.

All charges shall be paid as invoiced by the City of Cold Bay. Any vessel owner who fails to pay the required fees when such fees are due and payable, and for a period of 30 days thereafter, shall be subject to an action by the City for the recovery of such fees and costs of recovery.

Section 5.33.140 Billing.

- A. Responsibility for payment. All persons receiving dock service from the city or having such a service available shall be obligated to pay for such service as set

out in the appropriate rate schedule. Failure to receive a bill shall not release the customer of the responsibility of payment.

- B. Billing shall contain the final date on which payment is due. If a bill is not paid when due, the account shall be considered delinquent unless other arrangements have been made in writing with the Harbormaster before the due date. If any bill is not paid when due, the entire amount of the unpaid balance shall bear interest at 10% per annum from the due date until paid in full. Additionally each month late fee is charged at \$35.00 per month. All payments received shall be applied first to the payment of interest and late fees, then to the principal balance owed on account.
- C. Disputed billings. When a customer disputes the correctness of a bill, he shall deposit the amount of the disputed bill at the time the complaint is lodged pending final settlement of the bill. Failure to make such a deposit shall make that account delinquent.
- D. Non-payment of bills. A customer's dock service may be discontinued if charges are not paid as required by this chapter and any rules and regulations issued hereunder.

Section 5.33.150 Nuisances.

In the interest of the greatest use of the dock facilities by the general public, derelict, unfit or unseaworthy vessels, or vessels maintained in such 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 dock facilities or to other vessels; or sunken boats and boats in imminence of sinking are declared to be nuisances and subject to abatement and removal from the dock facilities by the City or its agents without liability on the city or any damage done by virtue of the removal.

Section 5.33.170 Abatement of Nuisances.

Any nuisance vessel may be impounded, removed, sold, or otherwise disposed of as provided herein:

- A. Immediately upon impounding or removing any vessel, the City shall cause to be posted in the Harbormaster's office, the city clerk's office, and in other regular notification locations, notice of such action taken by the City. A copy of the notice shall be mailed to the vessel owner at his last known address by registered or certified mail and, if the vessel is documented, to the collector of customs of the port of documentation, if such can reasonably be ascertained.
- B. The owner of any vessel impounded or removed by the City shall be subject to, and liable for, all costs incurred by the City by reason of such impounding or removal.

- C. Any vessel impounded or removed shall be held by the City for a period of not less than 30 days, during which time the City shall publish a notice describing the vessel in general terms the name and/or number if any; the name and address of the owner if known, or if not known, the location of the vessel; and the intention of the City to sell the same at public auction on a day and at a time certain, not less than 10 days prior to such sale, for cash to the highest bidder. The proceeds of such a sale shall be first applied to the cost of sale, then to moorage and service fees accrued, then to a storage fee in the amount of \$150.00 per day in addition to the dry land storage fee and the haul-out fee. The final balance, if any, shall be held in trust by the City for the owner of the vessel to claim; and if such balance is not claimed within one year from auction, said balance shall be deposited into the Cold Bay general fund.
- D. After the sale has been made, the City shall make and deliver a bill of sale, without warranty, conveying the vessel to the buyer.
- E. If at any public auction there are no bidders for the vessel, the City may destroy, sell at private sale, or otherwise dispose of the vessel. The disposition is to be made without liability to the owner, master, or lien holder of the vessel.

Section 5.33.180 Impoundment.

In addition to impoundment to abate nuisance, the Harbormaster may impound any vessel:

- A. For failure to comply with the registration provisions of this chapter;
- B. If left unattended upon any waterway in or about the dock facility in such a manner as to constitute an obstruction to traffic;
- C. If so disabled as to constitute an obstruction to traffic and the vessel owner or captain is by reason of physical injury or other suitable object or by removing it from the water and placing it in the City or commercial land storage;
- D. If moored in a loading area for a period longer than the period posted;
- E. If deemed to be an abandoned vessel.

Section 5.33.190 Impoundment Procedure and Disposition.

Any vessel impounded by the Harbormaster shall be secured by changing or otherwise mooring it to a float or other suitable object or by removing it from the water and placing it in the City or commercial land storage.

Section 5.33.190 Penalties.

In addition to the provisions for impoundment, any person who violates any of the provisions of this chapter is guilty of a misdemeanor and if convicted shall be fined not

more than \$500 together with the costs of prosecution, or imprisonment for not more than 30 days, in addition, thereto, his privilege of using the dock facilities may be suspended for not more than one year.