

# Title 15

## Harbors and Boat Moorage

### Chapters:

- 15.04 General provisions
- 15.08 Definitions
- 15.12 Boat operation
- 15.14 Set nets and gill nets
- 15.16 Small boat harbor
- 15.18 Jakolof Bay Dock
- 15.20 Enforcement
- 15.30 Harbor advisory commission

### Chapter 15.04 General Provisions

### Sections:

- 15.04.010 Purpose.
- 15.04.011 Access to Harbor or Port Facilities
- 15.04.020 City facilities use--Responsibility.
- 15.04.030 Registration with Harbormaster.
- 15.04.031 Establishing a Stall Waiting List
- 15.04.040 Moorage charges.
- 15.04.050 Electrical charges.

**15.04.010 Purpose.** This title shall be deemed in exercise of the powers of the City Council for the protection, safeguarding and orderly moorage and control of boats, and for the protection and general welfare of the public, and all of its provisions shall be liberally construed for the accomplishment of that purpose. (Prior code Sec. 8.005(a))

**15.04.011 Access to Harbor or Port Facilities.** The City shall at all times have the right to refuse the use of any city dock or terminal or harbor facility by any person, equipment, materials, or vessel or to remove any vessel, or person or cargo at any time from any city dock or terminal, or harbor facility. This right shall

be reserved at all times to the City without responsibility for demurrage<sup>1</sup>, loss or damage when:

- (1) Previous arrangements for berthing, space, receiving or unloading have not been made with the Harbormaster, or
- (2) The vessel is unsafe or hazardous and may pose risk to life or property; or
- (3) The value of the vessel, in the opinion of the Harbormaster is less than the probable service charges and other charges to its use of the city dock or terminal, or harbor facility; or
- (4) during periods of congestion, or in cases of emergency, when, in the judgment of the Harbormaster, the circumstances prevailing or likely to occur will prevent the city docks or terminal, or harbor facilities, or any portion of them from providing customary services to the public. For vessels that may be hazardous or become a menace to other vessels, their occupants, or city facilities, the Harbormaster or City Manager may require an operator or owner of a vessel to furnish evidence that there is currently in effect liability insurance in an amount satisfactory to the City by filing a certificate of insurance or other satisfactory evidence signed by an agent or officer of the insurance company and stating the effectiveness and expiration date thereof. (Ord. 13-07)

**15.04.020 City facilities use--Responsibility.** The use of any city-owned or operated mooring facilities automatically gives permission to officers of the City to board boats for the purpose of enforcing this title and other city ordinances, and to move said boats as necessity or emergencies require. The City assumes no liability for loss or damage to boats moored at any such facility or for the movement thereof. (Prior code Sec. 8.005(b))

**15.04.030 Registration with Harbormaster.** Every act or statement required to be made by a vessel owner or agent of such owner shall be made, by the owner of the boat and person, or if by an agent, the necessity thereof shall be stated and shown; provided, that the operator of any vessel shall, for the purposes of this act, be considered the legal agent or the owner. It shall be the duty of the operators of all boats tying up to facilities in the small boat harbor to register with the Harbormaster, giving the name and ownership, overall length, beam and draft of said boats. (Prior code Sec. 8.005(c))

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<sup>1</sup> Holding of cargo carrier: detention or delay of a cargo carrier during its loading or unloading process, beyond its scheduled time of departure; Compensation for loading or unloading delay: compensation paid when there is a delay in loading or unloading a carrier causing a delay in the carrier's departure.

**15.04.031 (a) Establishing a Harbor Stall Waiting List.** A. The Harbormaster shall establish and maintain a reserved stall waiting list or lists. The list(s) shall include the sign up date, the name, address, and telephone number of the applicant, the stall size requested, and any other information requested by the Harbormaster and payment of a fifteen-dollar fee. An applicant shall notify the Harbormaster in writing of any change of address or telephone number immediately. (Ord. 89-1)

B. Any individual, partnership, corporation or governmental agency may apply for use of a reserved stall. All applicants, except government agencies, shall designate a single individual whose name shall appear on the waiting list and who shall be responsible for payment of all fees. Any changes in the individual designated may result in the applicant's loss of priority on the waiting list, except as specifically provided in subsection 15.04.031(f).

C. Separate lists may be maintained by the Harbormaster for different stall sizes available in the boat harbor. An applicant or reserved stall licensee may be placed on one or more of these lists.

D. The Harbormaster shall place applicants on the waiting list on a first come/first-served basis and only upon receipt of all requested information and payment of the annual waiting list fee of fifteen dollars. The annual waiting list fee will be accepted only from the individual whose name appears on the waiting list. The fee is neither refundable nor creditable to the berth lessee.

E. An applicant need not own or operate a vessel to be placed on the waiting list.

F. Upon the death of an applicant, the applicant's rank on the waiting list shall be transferred to the surviving spouse upon written request to the Harbormaster.(Ord. 89-1)

**15.04.040 Moorage charges.** A schedule of mooring charges and service fees shall be established by non-code ordinance of the Council and shall be subject to review and revision as occasion demands. (Ord. 80-21 Sec. 2, 1980: Ord. 80-4 Sec. 2, 1980)

**15.04.050 Electrical charges.** A schedule of electrical charges shall be established by resolution of Council and shall be subject to review and revision as occasion demands. (Ord. 81-12)

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\*For statutory provisions regarding general city powers see AS Secs. 29.35.010 and 29.35.250.

## Chapter 15.08 Definitions

### Sections:

- 15.08.010 Boat.
- 15.08.020 Length.
- 15.08.030 Operator.
- 15.08.035 Reserved Mooring.
- 15.08.040 Small boat harbor.
- 15.08.045 Jakolof Bay Dock.
- 15.08.050 Transients.
- 15.08.060 Waterway.
- 15.08.070 Abandoned.

**15.08.010 Boat.** "Boat" means any watercraft, used for navigating any waterways, in or upon or docked or moored at any place in any waterway within the boundaries of the City. Boats do not exceed one hundred fifty feet. (Ord. 80-4 Sec. 3, 1980)

**15.08.020 Length.** "Length," as used herein, means the overall length. (Prior code Sec. 8.010(b))

**15.08.030 Operator.** "Operator" means any person who is in actual physical control of a boat, vessel, ship or any other means of waterborne transportation. (Prior code Sec. 8.010(c))

**15.08.035 Reserved mooring.** "Reserved mooring" means having a specific assigned stall, the use of which, after payment of reserved mooring fees, takes precedence over the use of the stall by any other vessel. (Ord. 80-4 Sec. 5, 1980)

**15.08.040 Small boat harbor.** "Small boat harbor" means that area of water bounded by the rock break waters constructed by the federal government and by the line of mean higher high water on the shore line within these breakwaters, including the dock, floats, berths and gridiron. (Prior code Sec. 8.010(e))

**15.08.045 Jakolof Bay Dock.** "Jakolof Bay Dock" means the "L" shaped floating dock that extends 225 feet seaward of the high tideline, 150 feet north from the end of the previously mentioned portion, and is 10 feet wide. Located within Section 20, T. 8 S., R. 13 W., Seward Meridian; USGS Quad Map Seldovia B-5; Latitude 59.4657 N., Longitude 151.5365 W.; Kenai Peninsula Borough; in Jakolof Bay near Seldovia, Alaska. (Ord. 18-01)

**15.08.050 Transients.** "Transient" means any boat using the mooring space on a temporary basis or which does not have a specific reserved mooring space. (Ord. 80-4 Sec. 4, 1980)

**15.08.060 Waterway.** "Waterway" means any waters, lake river, tributary, slough or lagoon within the corporate boundaries of the City. (Prior code Sec. 8.010(d))

**15.08.070 Abandoned.** "Abandoned" means any undocumented vessel moored or otherwise located within the boundaries of the Seldovia Harbor or while moored at the Jakolof Bay Dock which is forsaken, abandoned, deserted, or cast away, which by appearances give evidence of being forsaken, abandoned, deserted, or cast away, or which in the opinion of any recognized marine surveyor is unsound, unseaworthy and unfit for its trade or occupation and which by any substantial evidence of neglect may be considered abandoned. (Ord. 86-8 Sec. 1, 1986, (Ord. 18-01))

## Chapter 15.12 Boat Operation

### Sections:

15.12.010 Speed limit.

15.12.020 Under intoxicating influence.

15.12.030 Equipment requirements.

15.12.040 Muffled exhaust.

15.12.050 Emitting noises.

**15.12.010 Speed limit.** It is unlawful for any person to operate a boat at such speed within any waterway that its wake, wash or wave action will damage, endanger or cause undue distress to any other boat or occupant thereof, and it shall be unlawful for any person to operate a boat in a reckless or negligent manner or at a speed which would endanger persons, property or other boats, all regardless of established or posed speed limits. (Prior code Sec. 8.020(a))

**15.12.020 Under intoxicating influence.** No person shall operate a boat in any waterway while under the influence of intoxicating liquors, narcotic drugs or opiates. (Prior code Sec. 8.020(b))

**15.12.030 Equipment requirements.** No person shall operate a boat which does not meet all applicable equipment requirements of the United States Coast Guard. (Prior code Sec. 8.020(c))

**15.12.040 Muffled exhaust.** No person shall operate a boat with outboard motor or with inboard motor unless it is equipped with adequately muffled exhaust. (Prior code Sec. 8.020(d))

**15.12.050 Emitting noises.** No person shall use any siren or other noise producing or noise amplifying instrument on a boat in such a manner that the peace is disturbed; provided, however, that nothing in this section shall be construed to prohibit the use of whistles, bells or horns as signals as required by the United States Motor Boat Act or other law for the safe navigation of motor boats or vessels. (Prior code Sec. 8.020(e))

## Chapter 15.14 Set Nets and Gill Nets

### Sections:

15.14.010 Prohibition of set nets and gill nets within the stated waters of the city limits.

15.14.020 **Penalty.**

**15.14.010 Prohibition of set nets and gill nets within the stated waters of the city limits.** Prohibition of set nets or gill nets within the Seldovia Slough, within an area of one hundred feet on either side of the Seldovia City boat haul out and the Seldovia Small Boat Harbor and within a two hundred fifty foot area on the northwest side of the main entrance of the Small Boat Harbor of Seldovia and to the northern-most point of land of the Seldovia East Addition next to the southeast side of the breakwater: No person shall and it is unlawful to place subsistence or commercial set nets or gill nets in water within the said areas of the city limits of the City of Seldovia. (Ord. 96-12A)

**15.14.020 Penalty.** Violation of this chapter is an infraction and punishable by a fine established in section 1.08.040 of this code. (Ord. 16-06)

## Chapter 15.16 Small Boat Harbor

### Sections:

15.16.010 Loading dock.

15.16.020 Gridiron.

- 15.16.030 Floats--Kept free of objects.
- 15.16.040 Emergency services.
- 15.16.050 Raising sunken boats.
- 15.16.060 Dumping debris prohibited.
- 15.16.070 Occupant to keep area neat.
- 15.16.080 Skiffs attached to boat.
- 15.16.090 Welding prohibited on float.
- 15.16.100 Float assignment.
- 15.16.110 Services of Harbormaster.
- 15.16.120 Mooring without payment prohibited.
- 15.16.130 Float bumpers.
- 15.16.140 Wheeled vehicles on float facilities.
- 15.16.150 Anchoring prohibited where.
- 15.16.160 Children under twelve on or near floats.
- 15.16.165 Dogs on float facilities.
- 15.16.170 Combustible liquids.
- 15.16.180 Mooring fees--Collections.
- 15.16.190 Mooring agreement.
- 15.16.200 Fees--Miscellaneous Services.
- 15.16.210 Live-aboard Policy.

**15.16.010 Loading dock.** The loading dock in the small boat harbor is open to the public without charge, but moorage at said dock is limited to the period of actual loading and unloading operations only. (Prior code Sec. 8.025(a))

**15.16.020 Gridiron.** The gridiron in the small boat harbor is open to the public on a reserved basis, according to scheduled fees. (Ord. 80-4 Sec. 6, 1980)

**15.16.030 Floats--Kept free of objects.** All floats shall be kept clear of any objects or items that are not appurtenances to the floats. Any such items found on the floats are subject to impoundment. Impounded items will be released after proof of ownership and payment of an impoundment fee. Items not claimed within ninety days may be sold by the City. (Ord. 80-4 Sec. 7, 1980)

**15.16.040 Emergency services.** Boats requiring emergency service by city employees will be charged for such service by the City at cost. (Prior code Sec. 8.025(d))

**15.16.050 Raising sunken boats.** The actual cost of raising and moving sunken boats will be charged to the owner. In all instances, attempts shall be made to notify the owner or operator of the boat before such action is taken by the City. Abandoned boats will be impounded and after ninety days, if not reclaimed, sold at public auction otherwise disposed of as authorized by law for the disposition of such personal property. (Ord. 74-34 Sec. 1(part), 1974; prior code Sec. 8.025(e))

**15.16.060 Dumping debris prohibited.** No person in charge or occupying any boat shall dump or throw garbage, paper, bottles, cans, or debris into the waters or onto the floats at the small boat harbor. The Harbormaster shall provide garbage cans of sufficient size and number, to be mounted on racks on the loading dock, for collection by the garbage collector. No person shall pump bilges containing oil or gasoline or transferred gasoline or any other highly inflammable liquid or substance within the confine on the small boat harbor. Violation of this section is an infraction punishable by a fine established in section 1.08.040. (Prior code Sec. 8.025(f); Ord. 16-06)

**15.16.070 Occupant to keep area neat.** Persons in charge of or occupying boats shall at all times keep the floats and premises adjacent to such watercraft in a neat and orderly condition, free from trash, rubbish, repair parts, machinery equipment and debris of all kinds. (Prior code Sec. 8.025(g))

**15.16.080 Skiffs attached to boat.** No boat moored within the small boat harbor shall have skiff tied along the side or stern except when actually in use. (Prior code Sec. 8.025(h))

**15.16.090 Welding prohibited on float.** For the safety of the general public and protection of the boat float, there shall be no welding on the boat float unless authorized by the Harbormaster. Violators of this section shall be subject to fine established in Section 1.08.040 of this code. (Ord. 89-12, Ord. 74-34 Sec. 1 (part), 1974: prior code Sec. 8.025(i); Ord. 16-06)

**15.16.100 Float assignment.** Float assignments and other mooring spaces shall be designated by the Harbormaster and his decision shall be final. (Ord. 75-10 Sec. 2, 1975)

**15.16.110 Services of Harbormaster.** The Harbormaster is granted the power and authority to, from time to time as circumstances require but without any obligation or duty to do so, and without any obligation or liability on his part or that of the City for his failure to do so, replace defective mooring lines, attach additional mooring lines, pump vessels which are in a dangerous condition for lack of pumping, and to move any boat for the purpose of protecting such boat from fire or other hazard or for the protection of other vessels or property therefrom. (Ord. 75-10 Sec. 3, 1975)

**15.16.120 Mooring without payment prohibited.** It is unlawful for any person to moor, berth, tie, attach or connect to any harbor improvement or facility, any vessel, or other waterborne structure for an overnight period without paying rental charges. Violators of this section shall be subject to the fine established in Section 1.08.040. (Ord. 80-4 Sec. 8, 1980; Ord. 16-06)

**15.16.130 Float bumpers.** Float bumpers made from used tires, rope, old fire hose, etc., shall not be secured either permanently or temporarily to the float system under any circumstance. The lessee may install standardized premolded rubber, vinyl bumpers of commercial manufacture if so desired. (Ord. 75-10 Sec. 5, 1975)

**15.16.140 Wheeled vehicle on float facilities.** There shall be no driving of any wheeled bicycle or wheeled or tracked motorized piece of equipment upon the float facilities, except equipment authorized by the Harbormaster. (Ord. 75-10 Sec. 6, 1975)

**15.16.150 Anchoring prohibited where.** Anchoring in open areas in the small boat harbor is prohibited. Violators of this section shall be subject to the fine established in Section 1.08.040. (Ord. 75-10, Sec. 7, 1975; Ord. 16-06)

**15.16.160 Children under twelve on or near floats.** It is unlawful for any children under the age of twelve years to be on or near any float or dock within the city harbor, unless accompanied by an adult. (Ord. 75-10 Sec. 8, 1975)

**15.16.165 Dogs on float facilities.** Only dogs at heel or on a leash shall be allowed on floats to and from boats. Owners are responsible for messes and damage caused by their dog. (Ord. 90-06, Ord. 84-3 Sec. 2, 1984)

**15.16.170 Combustible liquids.** It is unlawful for any person to store upon any of the floats, docks or gangways owned, constructed or maintained by the City, any gasoline, lubricating oil or other combustible liquids or oils of any nature or description. (Ord. 75-10 Sec. 9, 1975)

**15.16.180 Mooring Fees--Collections.** Mooring fees shall be paid in accordance with the published schedule. Delinquent accounts for stall rentals are cause to have the stall cancelled and are subject to the collection in accordance with the credit policy adopted by the Council City Council and in effect. All mooring, grid, energy 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. (Ord. 87-17 Sec. 4, 1987)

**15.16.190 Mooring agreement.** As a condition precedent to securing of moorage space each owner or authorized agent shall, in writing, agree to the removal of his boat by the Harbormaster in the event of delinquent fees. All cost of removal of any boat shall be at the owner's expense and risk. (Ord. 80-4 Sec. 10, 1980)

**15.16.200 Fees for miscellaneous harbor services.** A fee of \$10.00 a day will be paid by any vessel not paying moorage in Seldovia for any use of these harbor facilities: fresh water, cleaning station, fish weighing scales and carcass

pens. Said payment shall be made for day rate before usage, to Harbormaster's office. (Ord 8918)

**15.16.210 Live-aboard Policy.** A. A person living aboard a boat in the Seldovia Boat Harbor for fifteen days within any thirty-day period is considered a liveaboard for purposes of this section.

B. Pets may be kept on a live-aboard vessel at the discretion of the Harbormaster.

C. Vessels being used for live-aboard purposes must meet all sanitary requirements as established by the United States Coast Guard.

D. Oil, gas, electric or wood heating units must be installed and utilized in conformance with manufacturer's specifications.

E. Live-aboards shall be current on all moorage and other boat harbor charges to be able to occupy a vessel for this purpose.

F. Owner shall maintain in effect during the term of this agreement liability covering Owner's employees, invitees, and passengers, and covering damage to Harbor property and other vessels and facilities by the operation of the Vessel. If the Vessel carries passenger for hire, the liability insurance shall cover bodily injury, including death, in an amount not less than \$100,000.00 per person, \$300,000.00 combined single limit per occurrence, (including property damage). All required policies of liability insurance shall name City as an additional insured with waiver of subrogation.

G. Vessel must be capable of getting underway at all times.

H. Vessel meets all U.S. Coast Guard requirements for safe navigation on the water.

I. The vessel occupants (s) are owners, and/or signers, of the moorage agreement. The agreement is a license, not a rental agreement. Therefore, no rental rights can be presumed. Transient vessels which use the harbor facilities for two week or less are exempted from this subsection.

J. Occupants of live-aboard vessels shall not park more than one vehicle within the harbor areas at any time. During periods of snow accumulation, the owners of such vehicles shall park vehicles as directed by the harbormaster to facilitate snow removal. Failure to follow direction of the harbormaster may result in removal of the vehicle at the owner's expense.

K. Live-aboard fees shall be established by a non-code ordinance of the City Council. (Ord. 94-01; Ord. 14-09)

## Chapter 15.18 Jakolof Bay Dock

### Sections:

- 15.18.010 Registration Required.
- 15.18.020 Transient Moorage.
- 15.18.030 No Preferential Right-- Rafting.
- 15.18.040 Services of Harbormaster.
- 15.18.050 Mooring without payment prohibited.
- 15.18.060 Moorage fees.
- 15.18.070 Transient Moorage—Collection Action.
- 15.18.080 Maximum vessel length.
- 15.18.090 Floats--Kept free of objects.
- 15.18.100 Emergency services.
- 15.18.110 Dumping debris prohibited.
- 15.18.120 Occupant to keep area neat.
- 15.18.130 Welding prohibited on float.
- 15.18.140 Float bumpers.
- 15.18.150 Wheeled vehicles on float facilities.
- 15.18.160 Children under twelve on float.
- 15.18.170 Dogs on float facilities.
- 15.18.180 Combustible liquids.
- 15.18.190 Live-aboard Policy.

**15.18.010 Registration Required.** Every owner, master or authorized agent of a vessel using Jakolof Bay Dock for longer than four hours, shall register an application and mooring agreement that includes, the person's name, address, and telephone number, and the vessel's name, home port, official number or state registration number, color, length, breadth and draft, and such other information as the harbormaster may require. As a condition precedent to securing of moorage space each owner or authorized agent shall, in writing, agree to the removal of his boat by the Harbormaster in the event of delinquent fees. All cost of removal of any boat shall be at the owner's expense and risk.

**15.18.020 Transient Moorage.** Mooring spaces are first come first serve unless otherwise designated by the Harbormaster and their decision shall be final. A written and signed application for such space on a form provided by the harbormaster shall be provided to the harbormaster within the time allowed for registration. Prepayment of fees for moorage is required. Approval of such application by the harbormaster confers no rights in the land or water constituting the space. The applicant shall promptly notify the harbormaster of any changes in the information set forth on the application.

Title 15-11

8/28/90; 3/25/05; 9/22/11; 4/10/13; 9/21/17

**15.18.030 No Preferential Right--Rafting.** Users have no preferential right to moor in any particular location in transient moorage, nor the right to return to the same space if another vessel is occupying that space. Rafting of vessels in transient moorage space shall be permitted. All moored vessels are subject to yet another vessel tethering aside.

**15.18.040 Services of Harbormaster.** The Harbormaster is granted the power and authority to, from time to time as circumstances require but without any obligation or duty to do so, and without any obligation or liability on his part or that of the City for his failure to do so, replace defective mooring lines, attach additional mooring lines, pump vessels which are in a dangerous condition for lack of pumping, and to move any boat for the purpose of protecting such boat from fire or other hazard or for the protection of other vessels or property therefrom. The harbormaster shall have authority to move a vessel in transient moorage space to another location to better maximize the use of available space.

**15.18.050 Mooring without payment prohibited.** It is unlawful for any person to moor, berth, tie, attach or connect to any harbor improvement or facility, any vessel, or other waterborne structure for an overnight period without paying rental charges.

**15.18.060 Moorage fees.** Day moorage constitutes any vessel mooring for a period longer than four consecutive hours. The monthly fee period is any calendar month beginning on the first day of the month and ending on the last day of the month. Annual transient moorage must be requested in advance. The annual fee period is February 28th to March 1st of each year.

**15.18.070 Transient Moorage—Collection Action.** Mooring fees shall be paid in accordance with the published schedule. Delinquent accounts are subject to collection in accordance with the credit policy adopted by the City Council and in effect.

**15.18.080 Maximum vessel length.** Maximum vessel length for mooring at Jakolof Bay Dock is thirty- five (35) feet.

**15.18.090 Floats--Kept free of objects.** All floats shall be kept clear of any objects or items that are not appurtenances to the floats. Any such items found on the floats are subject to impoundment. Impounded items will be released after proof of ownership and payment of an impoundment fee. Items not claimed within ninety days may be sold by the City.

**15.18.100 Emergency services.** Boats requiring emergency service by city employees will be charged for such service by the City at cost.

**15.18.110 Dumping debris prohibited.** No person in charge of or occupying any boat shall dump or throw garbage, paper, bottles, cans or debris into the waters or onto the floats of Jakolof Bay Dock. No person shall pump bilges

Title 15-12

8/28/90; 3/25/05; 9/22/11; 4/10/13; 9/21/17

containing oil or gasoline or transferred gasoline or any other highly inflammable liquid or substance while moored at Jakolof Bay Dock.

**15.18.120 Occupant to keep area neat.** Persons in charge of or occupying boats shall at all times keep the floats and premises adjacent to such watercraft in a neat and orderly condition, free from trash, rubbish, repair parts, machinery equipment and debris of all kinds.

**15.18.130 Welding prohibited on float.** For the safety of the general public and protection of the boat float, there shall be no welding on the boat float. Violators of this section shall be subject to the general penalty provision in Section 1.08.010 of this code.

**15.18.140 Float bumpers.** Float bumpers made from used tires, rope, old fire hose, etc., shall not be secured either permanently or temporarily to the float system under any circumstance. The lessee may install standardized premolded rubber, vinyl bumpers of commercial manufacture if so desired.

**15.18.150 Wheeled vehicle on float facilities.** There shall be no driving of any wheeled bicycle or wheeled or tracked motorized piece of equipment upon the float facilities, except equipment authorized by the Harbormaster.

**15.18.160 Children under twelve on float.** It is unlawful for any children under the age of twelve years to be on the float, unless accompanied by an adult.

**15.18.170 Dogs on float facilities.** Dogs on floats to and from boats shall remain on a leash at all times. Owners are responsible for messes and damage caused by their dog.

**15.18.180 Combustible liquids.** It is unlawful for any person to store upon any of the floats, docks or gangways owned, constructed or maintained by the City, any gasoline, lubricating oil or other combustible liquids or oils of any nature or description.

**15.18.190 Live-aboard Policy.** A person living aboard a boat moored at the Jakolof Bay Float for fifteen days within any thirty-day period is considered a live-aboard. Live-aboard's are strictly prohibited while moored at Jakolof Bay Dock. (Ord. 18-01)

## Chapter 15.20 Enforcement

### Sections:

- 15.20.010 Enforcing officer.
- 15.20.015 Unpaid fees and charges
- 15.20.016 Impound vessel procedure
- 15.20.017 Limitation of liability
- 15.20.018 Nuisances declared—Removal
- 15.20.019 Nuisances—Abatement procedure
- 15.20.020 Harbormaster duties.
- 15.20.030 Moorage refusal to violators.
- 15.20.040 Citations.
- 15.20.210 Live-aboard Policy.

**15.20.010 Enforcing officer.** The Chief of Police of the City shall have direct supervisory responsibility for all city moorage facilities and waterways and is authorized to enforce the provisions of this title. (Prior code Sec. 8.015(a))

**15.20.015 Unpaid fees and charges.** Any vessel upon which mooring fees, utility charges or any other City fees or charges have accrued may be impounded and sold by the City for the unpaid charges and fees under the provisions of 15.20.016. Interest on delinquent fees and charges shall accrue at the rate of ten and one-half (10.5%) percent. (Ord 09-05 Sec 2, 2008)

**15.20.016 Impounded vessel procedure.** A. At least ten days prior to impounding any vessel, the City shall cause to be posted on the vessel, in the harbormaster's office, the City Clerk's office and on the bulletin board at the entrance of the United States Post Office, notice of such action to be taken by the City. A copy of the notice may be mailed by certified mail return receipt requested, to the owner or operator of the vessel at his last known address, which address shall be the same as that furnished in accordance with the regulations of the moorage agreement. The notice is effective when mailed. The notice shall contain the name and/or number of the vessel, the name and address, if known, of the owner or operator and location of the vessel. If the address of the owner or operator of the vessel cannot be determined, notice shall also be published at least once in a newspaper of general circulation in the City.

B. As to any vessel proposed for impoundment with the exception of any vessel deemed to constitute a clear and present danger to the public health, safety and general welfare, an owner or operator of the vessel has the right to a preimpoundment administrative hearing to determine whether there is probable cause to impound the vessel if such person files a written demand, on forms so provided for such a hearing, with the City within ten days after such person has

learned such vessel will be impounded or within ten days after the return of mail receipt of the notice required by subsection a. of this section, whichever occurs first.

C. A hearing shall be conducted before a hearing officer designated by the City Manager within forty-eight hours of receipt of written demand therefor from the person seeking the hearing unless the person waives the right to a speedy hearing. Saturdays, Sundays and City holidays are to be excluded from the calculation of the forty-eight hour period. 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 breach of federal, local or municipal law or regulation, or any agreement entered into pursuant thereto, 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. The person demanding the hearing shall carry the burden of establishing that such person has the right to possession of the vessel. The harbormaster/city manager shall carry the burden of establishing that there is probable cause to impound the vessel in question. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision and reasons therefore shall be provided to the person demanding the hearing and the owner of the vessel if such owner is not the person requesting the hearing. The hearing officer's decision in no way affects any criminal proceeding connection with the impound in question and any criminal charges involved in such proceeding may only be challenged in the appropriate court. The decision of the hearing officer is final and may only be appealed to the Superior Court. Failure of the owner or operator to request or attend a scheduled preimpoundment hearing shall be deemed a waiver of the right of such hearing.

D. The hearing officer shall only determine that as to the vessel in question either that there is probable cause to impound the vessel or that there is no such probable cause. In the event that the hearing officer determines that there is no probable cause, the hearing officer shall prepare and date a Certificate of No Probable Cause, copies of which shall be given to the owner or operator and to the harbormaster. Upon receipt of such Certificate of Probably Cause, the harbormaster may proceed with impoundment and disposition of the vessel by removal, sale or destruction as authorized by this title.

E. Any vessel impounded shall be held by the City for a period not less than thirty days during which the City shall publish in a newspaper of general circulation in the City a notice describing the vessel in general terms, the name and/or number, if any, the name and address of the owner, or operator, if known, or if not known shall so state the location of the vessel and intention of the City to sell the same at public auction, on a day and at a place and time certain, not less than ten days prior to the sale, for cash to the highest and best bidder. At any time

prior to the auction, the owner or operator may redeem the vessel by cash payment of all City charges against the vessel.

F. If at the public sale 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 of the City, its employees or agent to the owner, master or any lien holder of the vessel. (Ord 09-05 Sec 2, 2008)

**15.20.017 Limitation of Liability.** A. The authority granted to the harbormaster pursuant to this chapter shall not create any obligation or duty requiring the harbormaster to take action to protect or preserve any vessel or property located within, or utilizing the small boat harbor.

B. The City does not accept control of vessels or other property moored or store in the small boat harbor. When the City assigns moorage space to a vessel or assigns storage space to a vessel or other property, the City is not accepting possession or control of the vessel or other property. Unless the vessel or other property is formally impounded by the City, the vessel or other property shall at all times remain in the exclusive possession and control of the owner or operator of said property and the City is not acting, and shall not be held liable in any manner, as a warehouseman or a bailee.

C. Even when the vessel is impounded by the City, the City shall not be liable for the safekeeping or condition of the vessel and shall not be held liable in any manner, as a warehouseman or a bailee.

D. The City shall not be liable for any loss or damage resulting from use of the small boat harbor or any small boat harbor facility from any cause whatsoever, except and to the extent solely caused by the City's own negligence or intentional misconduct. The City disclaims any and all other liability, whether for negligence or other tort, in contract or otherwise, and specifically disclaims any warranty or whatsoever kind of nature including, but not limited to any warranty of workmanlike service or performance. The liability of the City for damages caused solely by its own negligence or intentional misconduct shall be limited to the reasonable cost of repairing the vessel or other property that was moored or store in, or making use of, the small boat harbor or small boat harbor facilities. The owner of the vessel or other property assumes all responsibility for any and all other claims or damages otherwise resulting, including, but not limited to, claims by owners or third-parties for property damage, personal injury or death, pollution or discharge of a polluting or hazardous substance (together with clean-up, removal and remediation of same), as well as any direct, indirect, special, consequential or commercial damages, claims for loss of profits or earnings, or other claims or damages of whatever kind of nature.

E. Each owner of a vessel or other property moored or stored in, or making use of the small boat harbor or small boat facilities, releases and agrees to

defend, hold harmless, and indemnify the City and its officers, employees and agents from and against any and all losses, claims, demands, actions, damages, liabilities or expenses of every kind, character and nature whatsoever (including, but not limited to, personal injuries, death, environmental contamination, property damage or employee liability) arising out of, resulting from, or in any way related to use of the small boat harbor by the owner or owner's agent, employees, invitees, guests or passengers, except where liability for same is caused solely by the City's own negligence or intentional misconduct. Defense shall include payment of actual attorney's fees and costs. The owner waives any right of subrogation against the City which might otherwise arise upon payment of a loss by owner's insurers. (Ord 09-05 Sec 2, 2008)

**15.20.018 Nuisances declared—Removal.** A. For the purposes of this title and in the interest of the greatest use of the facilities of the Seldovia harbor and the municipal waters by the general public, vessels in the Seldovia harbor and elsewhere on the municipal waters that are illegally moored, cause an obstruction to navigation, or that are abandoned or derelicts or unfit or unseaworthy or which are maintained in such manner as to make them liable to sinking for lack of being pumped or other maintenance, or which are unsafe or which are maintained in a manner as to constitute a fire hazard, and sunken vessels and vessels in imminent danger of sinking, are declared to be nuisances and subject to abatement and removal from the Seldovia harbor or other municipal waters by the City or its agents, without liability of the City for any damage done by virtue of the removal or for any of its consequences.

B. Refuse of all kinds or any other obstructions or debris are declared to be public nuisances, and it shall be unlawful for any person to place, or cause to be placed, any public nuisance in the Seldovia harbor or in the municipal waters, or on the shores thereof. Nets, gear, and other materials left on any float or dock for more than twelve hours are hereby declared a public nuisance. Any person causing or permitting the nuisances to be placed as aforesaid shall remove the same and upon his failure to do so, the same may be removed or cause to be removed or stored commercially, all costs of such commercial removal or storage shall be paid by and recoverable from the person creating the nuisances and shall not excuse the person responsible therefore from prosecution hereunder. Any nuisance under this subsection may be impounded, disposed of by destruction, private or public sale, or by any other means deemed reasonable by the harbormaster. Such disposition is to be made without liability of the City, its employees or agents to the owner, master or any lien holder of the nuisance.

C. Vessels declared a nuisance under subsection a. of this section that do not constitute a clear and present danger to the public health, safety and general welfare may be moved, impounded, or disposed of according to the procedure provided in section Impound vessel procedures 15.20.016. (Ord 09-05 Sec 2, 2008)

**15. 20.019 Nuisances—Abatement procedure.** 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 subsection 15.20.016(a) or otherwise, and the preimpoundment administrative hearing procedures of section 15.20.016 were not followed.

B. An impoundment is effective when a written order of impoundment is placed on a vessel. An order of impoundment shall identify the vessel, state the reasons for impoundment, and be dated and signed by the harbormaster or his/her authorized designee. An impounded vessel may be immediately towed or otherwise removed upon the order of the harbormaster. Nothing in this subsection b. shall be construed to prevent the City from using alternatives to impoundment, including without limitation removal or other means to abate a nuisance.

C. When action is taken to impound, remove, or otherwise abate a nuisance vessel, notice of such action shall be placed on the vessel if possible, and within 6 hours a copy of the notice shall be personally delivered or placed in the U.S. mail addressed to the owner of the vessel. The notice is effective when mailed. The notice shall include the following substantive provisions:

ATTENTION: The vessel \_\_\_\_\_ has been impounded/removed/abated by the City of Seldovia harbormaster as a public nuisance for the following reasons:

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As the owner of the vessel you have the following options (those that apply are checked):

\_\_\_\_\_ The vessel has been impounded and you may recover possession of the vessel by paying to the person having custody of the vessel the towing, storage, and other charges that may have accrued. The vessel is at the following location:

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\_\_\_\_\_ The vessel has been removed and you may recover possession of the vessel at the following location:

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\_\_\_\_\_ The vessel has been destroyed. You may direct any inquiries to the City of Seldovia City Manager.

\_\_\_\_\_ The following action has been taken, and any option you may have is described below:

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If you believe the vessel was improperly impounded, removed, or otherwise abated, you may:

1. In the case of an impoundment, recover possession of the vessel by paying any towing, storage, or other charges that have accrued, and you may claim a refund or reimbursement by filing a demand ( on a form provided by the City) for an administrative hearing before a hearing officer as to whether the harbormaster had a sufficient factual and legal basis to impound the vessel; or

2. In the case of an impoundment , you may demand return of the vessel without paying the towing, storage, or other charges by filing a demand (on a form provided by the City) for an administrative hearing before a hearing officer as to whether the harbormaster had a sufficient factual and legal basis to impound the vessel; or

3. You may in any other case file a demand (on a form provided by the City) for an administrative hearing before a hearing officer as to whether the harbormaster had a sufficient factual and legal basis to impound, remove, or abate the vessel.

To be entitled to such a hearing, your written demand must be filed with the City Clerk (a) within 5 workdays after you learned that your vessel was impounded, removed, or otherwise abated or (b) within 15 workdays after the City mailed notice to the vessel owner of the action taken, whichever is earlier. If you fail to make a timely request for a hearing you will lose all right to challenge the sufficiency of the basis for the action taken.

If timely requested, the hearing must be held within 48 hours after the filing of your written demand, not including, Saturdays, Sundays, and City holidays, unless you waive your right to a speedy hearing. A determination that there was an insufficient factual or legal basis for the action taken will require the release of the vessel to the owner without payment of the towing, storage, or other accrued charges, or it will entitle the owner to a refund or reimbursement if the charges were already paid.

A hearing may be demanded by filing the appropriate form with the City Clerk at Seldovia City Hall between 8:00 a.m. and 5 p.m. on any day other than Saturday, Sunday and City holidays. (Ord 09-05 Sec 2, 2008)

**15.20.020 Harbormaster duties.** A Harbormaster, who shall have police power on the floats and loading zone, shall be appointed by the City Manager as an officer of the City. The Harbormaster shall be assigned to enforce the provisions of this title; shall establish adequate fire and security watch; maintain within working hours an adequate log of the registration data of all boats using small harbor facilities showing the dates of occupancy of berthing facilities; establish rule for the mooring of occupancy of berthing facilities; establish rule for the mooring of boats in specified areas so as to facilitate movement of traffic in the small boat harbor facilities showing the dates of occupancy of berthing facilities; establish rules for the mooring of boats in specified areas so as to facilitate movement of traffic in the small boat harbor, such regulations to be based upon the length and draft; collect fees established by the Council and pay over such fees to the City clerk-treasurer. It is the Harbormaster's duty to recommend or prepare budget input and to exercise full control within the budgetary limits established, with Council approval. (Ord. 80-12 Sec. 1, 1980; Ord. 80-4 Sec. 11, 1980)

**15.20.030 Moorage refusal to violators.** In addition to the penalties provided by this code, the City will refuse moorage facilities to violators of this title or persons in arrears of authorized fees and charges. (Ord. 80-4 Sec. 12, 1980)

**15.20.040 Citations.** Unless other designated above, if an offense in Title 15 of the city code is not listed on the fine schedule, the offense is punishable by the general penalty established in section 1.08.010. (Ord. 81-14, 1981; Ord. 16-06)

**15.20.210 Live-aboard Policy.** A. A person living aboard a boat in the Seldovia Boat Harbor for fifteen days within any thirty-day period is considered a liveaboard for purposes of this section.

B. Pets may be kept on a live-aboard vessel at the discretion of the Harbormaster.

C. Vessels being used for live-aboard purposes must meet all sanitary requirements as established by the United States Coast Guard.

D. Oil, gas, electric or wood heating units must be installed and utilized in conformance with manufacturer's specifications.

E. Live-aboards shall be current on all moorage and other boat harbor charges to be able to occupy a vessel for this purpose.

F. Live-aboard fees shall be established by a non-code ordinance of the City Council. (Ord. 92-04)

## Chapter 15.30 Harbor Advisory Commission

### Sections:

- 15.30.010 Commission--Creation and membership.
- 15.30.020 Commission--Terms of members.
- 15.30.030 Proceedings of the Commission.
- 15.30.040 Duties and responsibilities of the Commission.

**15.30.010 Commission--Creation and membership.** A. There is created the City of Seldovia Port and Harbor Advisory Commission, referred to in this chapter as the Commission. Such Commission will be made up of seven (7) members, of which a minimum of five members shall be Seldovia harbor users, who shall be nominated by the Mayor from a list of potential candidates provided by the Commission and others who may apply and confirmed by a majority of City Manager the City Council. The City Treasurer or a duly appointed representative of the City Treasurer shall be appointed to one seat on the Commission. (Ord. 93-1; Ord. 00-09)

B. A chairman and vice-chairman of the Commission shall be selected annually and shall be appointed from and by the appointive members.

C. The Mayor, the City Manager, and the Harbormaster shall serve as consulting members of the Commission in addition to the seven appointive members, and may attend all meetings as consultants, but shall have no vote. (Ord. 88-9, 1988)

**15.30.020 Commission--Terms of members.** A. Members of the first Commission shall be appointed for the following terms:

1. Three members shall be appointed for three-year terms.
2. Two members shall be appointed for two-year terms.
3. Two members shall be appointed for one-year terms.

B. At the end of the respective terms set forth in subparagraph (A) of this section, members shall be appointed for full three-year terms.

C. Any Commissioner who shall have two (2) successive unexcused absences shall be recommended to the City Council for removal by a majority vote of the Commission. (Ord. 88-9, 1988; Ord. 93-1)

**15.30.030 Proceedings of the Commission.** The Commission shall conduct a public meeting no less than once every three months, or at the call of the chairman. The chair may schedule a work session at any time. Permanent records

and recorded minutes shall be kept of Commission proceedings and such minutes shall record the vote of each member upon every question. All minutes, decisions and findings shall be filed in the office of the City Clerk, and shall be a public record open to inspection by any person. Every decision and finding shall be directed through the City Manager to the City Council at the earliest possible date. The City Manager shall respond in a timely manner to any requests for information from the Commission, and shall be available to attend any of the Commission meetings as requested. (Ord. 88-9, 1988; Ord. 93-1; Ord. 00-09)

**15.30.040 Duties and responsibilities of the Commission.** A. It shall be the duty of the Commission to act in an advisory capacity to the City Manager and the City Council on the problems and development of the city port and harbor facilities. Consideration shall include the physical facilities, budget suggestions, user fee structure, possible future development and recommendations on land use within the port and harbor areas, and other considerations the Commission deems important. (Ord. 00-09)

B. The daily operation and maintenance of the port and harbor are the direct responsibility of the City Manager and the Harbormaster at the direction of the City Manager. Any recommendation the Commission or a Commission member may have regarding the operation and maintenance of the facilities is to be directed to the City Manager, not a port or harbor employee. (Ord. 00-09)

C. The Commission shall consider any specific proposal, problem or project as directed by the City Council, and the City Manager. (Ord 00-09)

D. The Commission shall by May 1<sup>st</sup> of each year submit to the harbor department suggestions for a proposed harbor budget for the coming fiscal year identifying both the expenses and sources of revenue. Administrative costs shall total no more than 15% of the total harbor budget. (Ord. 00-09)

E. The City Council may at a future date expand or withdraw duties and responsibilities of the Commission. (Ord. 88-9, 1988; Ord. 00-09)