

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF BETHEL
ADDING CHAPTER 28 OF THE BETHEL CITY CODE ENTITLED SMALL BOAT
HARBOR.

Section 1: The Council for the City of Bethel hereby ordains
that Chapter _____ is added to the Bethel City Code as follows:

_____.010 APPLICATION

The regulations contained in this chapter may be known and cited
as the Bethel Small Boat Harbor Regulations. These regulations
apply to any public facility operated by the City of Bethel
within the confines of the small boat harbor boundaries.

_____.020 PURPOSE

The purpose of this chapter is to protect and preserve the lives,
health, safety and well being of the people who have property in,
or use or work upon boats using the City's boat harbor
facilities, or who make sales or deliveries of merchandise to
boats therein, or who use these facilities in the course of
visits for commercial or pleasure purposes; to protect the
property of such boat owners by regulating the harbor and it's
facilities free of nuisance, fire, and health hazards; to make
reasonable charges for the use of certain facilities to enable
the City, insofar as possible, to pay the cost of maintenance,
operation and supervision of the City's boat harbor facilities
from the revenue derived therefrom; to further all the provisions

of this chapter as being liberally construed for the accomplishment of the purpose of protecting the general welfare and to operate the boat harbor on a nonprofit basis.

_____.030 JURISDICTION

The Bethel small boat harbor facilities shall be under the jurisdiction of the council of the City of Bethel who shall have the authority to classify areas of the harbor, set fees for the use of facilities, make rules and regulations for the governance of the harbor, and appoint a harbormaster to implement this code or to delegate the same.

_____.040 DEFINITIONS

- (a) Beam means the greatest overall width of a vessel.
- (b) Boat refers to description of vessel.
- (c) Boat owner means the actual or registered owner, master, agent or the person in navigational control or person responsible for the operation of the boat.
- (d) Derelict means any boat moored or otherwise located in the boundaries of the boat harbor facilities which is forsaken, abandoned, deserted, cast away, or which by appearance gives evidence of being forsaken, abandoned, deserted, cast away for service in trade and which by any substantial evidence of neglect may be considered abandoned.

- (e) Harbormaster is the official hired by the City of Bethel, or a person designated by him, to manage and enforce the provisions of this section.
- (f) Harbor facilities shall mean all docks, floats, berths and other landing, launching, mooring or other facilities located within the harbor area operated by the City of Bethel.
- (g) Harbor jurisdiction means all navigable waters within the harbor facilities and the entrance thereto.
- (h) Local boats means boats operating out of the Port of Bethel and whose owners or operators are residents of Bethel.
- (i) Mooring means any weight, chain, rope, float, structure and/or appliance used for anchoring purposes by a vessel which is not carried aboard a vessel as part of her.
- (j) Transient vessel means a vessel whose home port is other than Bethel or any boat that is not registered by an exclusive or term moorage with the Bethel small boat harbor.
- (k) Vessel means a boat, motorboat, canoe, sailboat, scow, barge, waterborne aircraft, raft or other floating structures used for recreational, commercial or other purposes upon the waterway or moored at any place on the waterway.

The City Council of the City of Bethel shall establish and maintain a separate fund entitled "Bethel Small Boat Harbor Fund". All mooring and storage rentals, fees, fines, and other revenue arising out of the use, management or operation of the harbor shall be deposited to this fund to be expended exclusively for the operation, maintenance, supervision, and improvement of the Bethel small boat harbor.

_____.060 HARBORMASTER

- (a) The harbormaster of the City of Bethel and required assistants will supervise and manage the boat harbor facilities.
- (b) The harbormaster is hereby charged with the duty of enforcing all the provisions of this code and any rules and regulations duly adopted hereunder.
- (c) Assignment of moorage stalls shall be by the harbormaster on a first come, first serve basis, from a list maintained by the harbormaster. The harbormaster shall supervise and manage the assignment of dry land storage and the use of the boat lift, launching ramp, gridiron and all other facilities as available or made available by the City. He may, in the interest of safety and order, require the owner of a boat to change from one moorage space to another and may, in the absence of the owner, move the boat himself without any liability to the City of Bethel.

- (d) The harbormaster may, at his discretion, refuse moorage or storage to any boat which may become a menace to the safety or welfare of other boats or their occupants. He may refuse the use of any of the harbor facilities to boats that may cause damage to the facilities. He may, at his discretion, refuse berthing to boathouses, floats, scows, log rafts, barges, and other cumbersome floating structures. Use of floating boat shelters, floating storage buildings or houseboats is prohibited. The harbormaster may refuse moorage or use of any of the harbor facilities to any boat or boat owner violating any provision of this code.
- (e) The harbormaster shall have the duty and the exclusive power to post signs and to thereby designate the limit of harbor speeds, classification and use of harbor moorage and storage areas, and such other signs and notices necessary to inform the public of authorized or prohibited uses of the harbor facilities. The harbormaster is authorized to direct all waterborne and vehicular traffic within the limits of the harbor boundaries, including designated parking and storage areas.
- (f) The harbormaster shall have the right to board and inspect any vessel and leased area within the harbor facility at any time for cause. This regulation should not be construed to mean that failure to perform such inspection is the responsibility or the harbormaster of the harbor facility. Failure of the vessel owner, operator or occupant of the vessel to allow the harbormaster to board his vessel shall be deemed a violation of this chapter.

- (g) Any person present upon, within or using the harbor facility shall comply with all verbal or written communications of the harbormaster. These communications include administrative and operational policies and procedures as issued.
- (h) The harbormaster shall enforce the provisions of this ordinance and shall enlist the aid of the harbor patrol boat or any duly authorized police officer of the City to make arrests for violations of this ordinance. No person will intentionally fail or refuse to comply with the lawful orders of the harbormaster in any manner pertaining to regulations of this ordinance.

 .070 TRANSACTIONS TO BE CONDUCTED

All registration of boats, payments of moorage and other charges and other harbor facility business will be conducted at the harbor office.

 .080 REPORTING INJURY OR DAMAGE

Any person who is involved in an incident or accident which results in the injury or death of a person or any property damage shall immediately notify the harbormaster and file a written report. In the event that the harbor office is closed, notification shall be given to the police department. The notification shall include the name and address of the person, the type and extent of the injury or damage, the location where the incident or accident occurred, the date and time of the incident and names of witnesses.

_____.090 CITY OF BETHEL NOT TO BE HELD RESPONSIBLE

The City of Bethel or employees of the City shall not be responsible for loss or damage from fire or other casualty, theft or vandilism or any other cause to vessels or property moored or located within confines of boat harbor facilities. The City shall not be liable for loss or damage to items which have been impounded.

_____.100 REGISTRATION

Every vessel owner or operator using the boat harbor facilities is required to register his name, address, telephone number and name and/or number of the boat with the harbormaster on forms provided for that purpose.

_____.110 CLASSIFICATION AND USE OF MOORING FACILITIES

- (a) All of the mooring spaces in the boat harbor can be classified as either open mooring or reserved mooring. The use of either classification of mooring facilities is contingent upon payment of the appropriate fee as set forth in this chapter. The assignment of mooring spaces will be made by the harbormaster.
- (b) Use of open mooring facilities. Areas designated as open mooring shall be open to all members of the public. Such areas shall be used primarily for temporary mooring. Open mooring spaces shall be utilized on a first-come-first-served basis. No boat owner shall have exclusive rights to open mooring space. Should any boat leave, it shall have no exclusive right to return to the same space. The

harbormaster, in the interest of safety or convenience, may request the boat owner to change from one mooring space to another.

(c) Use of reserved mooring facilities.

- (1) Every boat owner desiring to guarantee the availability of a mooring space, or to moor temporarily at any vacant reserved stall, shall apply to the harbormaster. No such space shall be used until so reserved or assigned and the appropriate fee has been paid.
- (2) Possession of a reservation for a specific mooring space does not apply or guarantee to the holder any right to exclusive use of any such spot for the duration of reservation agreement. Possession of a reservation is a guarantee that the reserved space shall be available for the use of the holder of the reservation during those periods when the subject boat is within the harbor facilities. The harbormaster may temporarily assign another boat to a reserved mooring space as he determines it expedient and only when the boat assigned to a reserved space is away from the harbor.
- (3) In the event that the holder of a mooring space reservation returns to the boat harbor facility and finds his reserved space occupied, the holder shall contact the harbormaster. The harbormaster will cause the temporarily assigned boat to be moved to another location.
- (4) The boat owner who possesses a reservation for a mooring space shall not sublease or, in any other manner permit the use of such mooring space to another boat owner.

- (5) No property rights are created by this section. The holders shall have only a license to use the space reserved to him as provided for in this chapter.
- (6) A waiting list will be maintained by the harbormaster of names of persons requesting mooring spaces at times when no vacant spaces exist. As space becomes available it will be offered to the first name on the waiting list whose vessel's size fits the criteria for the mooring spaces available.
- (d) Loading areas. No boat shall be moored in any area designated by the harbormaster as a loading area any longer than it is necessary for loading the boat. No unattended boats shall be left at any loading area.
- (e) Moving of boats. When an occasion arises that a person must move another persons boat, the person moving the boat shall report such move to the harbormaster and indicate where the boat has been moved to.
- (f) Reporting petroleum spills. Any person having knowledge of a petroleum spill within the boat harbor shall immediately report such spill to the harbormaster, or if the harbor office is closed, to the Department of Public Safety.
- (g) Unseaworthy vessels. No person shall bring into, moor or berth within the harbor any vessel of any kind whatsoever which is unseaworthy, or is in such a badly deteriorated condition that it is liable to sink or damage boat harbor facilities or other vessels, or which may become a menace to navigation except in cases of extreme emergency, in which case the owner shall be liable for any damage caused by such

vessel. In the event a vessel or other craft is wrecked or sunk within the harbor, it shall be the owner's responsibility to mark its location and provide for the raising and disposition of such vessel or craft and assume all liabilities for damage to city property and other vessels in the harbor.

- (h) Aircraft. No aircraft or float plane shall land in or takeoff from the Small Boat Harbor or entrance thereto. Aircraft or float planes using the Small Boat Harbor shall not do so under their own power but shall be towed into and out of the Small Boat Harbor and shall utilize only that area of the Small Boat Harbor designated for aircraft or float plane use.

- (i) Vehicles and other wheeled conveyances. Vehicles and boat trailers must be removed from boat launching areas after boat has been launched, and parked only in areas designated and posted by the harbormaster as parking areas. Vehicles and boat trailers parked in other than parking areas during the absence of the owner or operator shall be removed and impounded.

- (j) Use of boat trailers for launching boats. Launching or hauling out of boats on skids is prohibited. Boat trailers or other wheeled conveyances must be used. Boats shall be launched at designated launching areas only.

- (k) Beach storage. Due to the limited beach space, beach storage of supplies, merchandise or other property of boat owners shall be limited to areas designated by the harbormaster. Boat owners must obtain a space assignment for storage of property from the harbormaster and pay storage fees in advance.

_____.120 UNLAWFUL ACTS

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

- (a) Operate or to be in the actual control of any boat when under the influence of intoxicating liquor, illicit narcotics or other dangerous drugs.
- (b) Operate or cause to be operated any boat within the boat harbor facilities that exceeds the posted speed limit or causes a wake or wave action which will damage or endanger, or be likely to endanger, any other boats or any of the boat harbor facilities, including but not limited to, floats, finger floats, other boats or occupants thereof.
- (c) Operate or cause any boat to be operated recklessly or otherwise engage in a course of conduct within the harbor facility that is dangerous or a nuisance to persons or property.
- (d) Throw or otherwise cause to be deposited any gasoline, oil, sewage, trash, garbage or debris of any type into the waters or into the entrance to the boat harbor facilities, nor upon grounds thereof.

- (e) Create or maintain any nuisance within the boat harbor facilities or to become a nuisance thereon.
- (f) Allow dogs or any animals to run at large on any of the boat harbor facilities. Dogs must be on leash and accompanied by owner who will be responsible for cleaning any offal left by the animal.
- (g) Allow children under the age of twelve years within the float or beach areas of the harbor facility unless they are accompanied by the parent or other responsible adult.
- (h) Erect, place, post or maintain any advertising matter, other than legal notices, upon any part of the boat harbor facilities without the approval thereof first being obtained from the harbormaster. All unauthorized advertising and signs shall be removed by the harbormaster.
- (i) Disregard, deface, remove, tamper with, or damage any sign or notice posted by the harbormaster relating to the use of the harbor facilities.
- (j) Fail to register with the harbormaster any vessel prior to occupying any of the boat harbor facilities.
- (k) Pump bilge into boat harbor waters.
- (l) Deposit, place or leave any cargo, merchandise, supplies, articles or things upon any float, ramp, decline, walk or other public place within the facility excepting at such places as may be designated as loading areas by the harbor.

- (m) Dump any offal or refuse, including but not limited to, waste materials from canneries, fish processors and other land or water based facilities, within the small boat harbor or in such close proximity as to cause overflow or drift of such material into the harbor facilities or the entrance thereto.
- (n) Store any explosives, gasoline or any other flammable substance in drums, cans or any other type of containers within the boundaries of the boat harbor facilities.
- (o) Set any net or fish taking device within the harbor facility unless it is attended at all times and shall not interfere with the movement of vessels within the harbor.
- (p) Swim, waterski or use any unorthodox type of boat, raft or other device within the harbor.
- (q) Loiter around the premises of the harbor facility without lawful reason or justification.
- (r) Refuse to comply with any lawful order of the harbormaster.

_____.130 ACTS PROHIBITED WITHOUT APPROVAL OF HARBORMASTER

The following acts are prohibited without the prior approval of the harbormaster:

- (a) Using a vessel as a residence. Persons requesting mooring space for a vessel used as a residence must first comply with such separate regulations and conditions as are set forth and deemed appropriate by the harbormaster.

- (b) Major maintenance and repair work, including spray painting, sandblasting, welding, burning, outfitting, etc., upon any vessel in the harbor area must have prior approval of the harbormaster. An approved fire extinguisher shall be required when welding or burning.
- (c) Tapping, connecting, disconnecting or interfering with or tampering with electrical outlets or devices installed within the harbor facility shall not be allowed.
- (d) Building any type of float, shed, floating boat shelter or structure within the harbor facility.
- (e) Moving or altering any wharf, float, gang plank, ramp or other facility.
- (f) Posting of signs for the sale of items or the charter or rental of vessels.
- (g) Conduct any commercial business within the boat harbor facilities without proper licenses.

_____.140 RENTALS AND FEES

- (a) A schedule of mooring charges and fees shall be established by resolution of the City Council and be subject to review as occasion demands.
- (b) Berthing or storage rentals and other fees for the use of facilities shall be paid in advance to the harbormaster. Failure to register or pay such rentals or fees shall be presumed to be an abandonment.

(c) The rental of moorage space shall be on an annual basis from January 1 through December 31.

(d) At his discretion, the harbormaster may charge a new renter on a pro rata basis from the date of entry into the harbor.

(e) Mooring, storage or other boat harbor facility fees shall be payable in advance, unless special arrangements are made with the harbormaster. Payment of such fees shall be made to the harbormaster's office. Payment of such fees shall entitle the owner of a boat for which all mooring fees have been paid to so moor or tie-up for the paid up period.

(f) The harbormaster, or a person designated by him, shall prepare a receipt for all monies paid for harbor facility fees. The receipt shall be prepared in triplicate. The payor shall be given the original copy, a copy shall be given to the city clerk with the payment and a copy will be retained for the harbormaster's records.

.150 HARBOR PRIVILEGE AGREEMENT

The harbor privilege agreement shall be signed by the applicant and, in the event the applicant is not the owner, endorsed by the owner of the vessel agreeing to the terms and provisions thereof. The following terms and provisions shall be made a part of the harbor privilege agreement.

(a) The applicant agrees to abide by the rules and regulations and all amendments thereto relating to the Bethel small boat harbor as established by or pursuant to Article 28 of the Bethel Municipal Code as now constituted or hereafter

amended. Applicant acknowledges that a copy of said Title has been made available for inspection by the harbor master. The applicant further understands and agrees that this agreement applies only to the vessel described herein and is not transferable. In the event of a change of ownership and/or operator, a new harbor privilege agreement shall be executed, but failure to do so shall in no way negate, compromise or alter the rights of the City pursuant hereto. Applicant also agrees to pay moorage and other fees and charges at rates established by the City Council.

- (b) The applicant agrees that any unpaid fees and charges shall become a lien against the vessel described in this agreement.

- (c) Nothing herein contained or in the ordinances and regulations of the City of Bethel have been or shall be interpreted to impose upon the City of Bethel any obligation or responsibility for the care and protection of any private property, including vessels, this agreement being limited to privileges of moorage space only. Applicant hereby expressly consents and authorizes the City to move the vessel in the event that rents, fees or charges are not paid, ordinances or regulations are violated, or in the event of necessity or emergency. He further agrees to hold the City harmless against the loss or damage to the vessel, including its equipment, nets, gear, tanks, lines or other personal property on, attached or related to said vessel, resulting from the use of the City facilities and any movement of the vessel.

- (d) Applicant hereby consents to a physical inspection of the vessel and its equipment by the harbormaster in the exercise of his duties as outlined in the Bethel Municipal Code at any time while the vessel is within the boundaries of the Bethel small boat harbor or the port of Bethel pursuant to the grant of harbor privileges.

_____.160 DUTIES OF BOAT OWNERS AND USERS

- (a) Every owner, operator or managing agent of any boat using the harbor facilities shall take reasonable precautions to see that the boat in his charge is kept clean, well secured, free from fire hazards of all types, sufficiently pumped out to maintain the boat afloat and to otherwise attend to the requirements of the boat to avoid damage to other boats or to the harbor.
- (b) The harbormaster is hereby granted the power and authority, from time to time but without any obligation or liability to do so, to replace defective mooring lines, pump out boats which are in danger of sinking, or move any boat which may be creating a hazard to other boats or the harbor facilities. The boat owner is hereby required to pay for these services.

_____.170 REVOCATION OF PRIVILEGES

In the event of the default in the performance of any obligation or failure to comply with any ordinance or regulation relating to the Bethel small boat harbor, harbor privileges may be revoked by the harbormaster following notice to the permittee by certified

mail and non-compliance for a period of thirty (30) days from the date said letter is postmarked.

_____.180 LIEN

The City of Bethel shall have a lien for any unpaid rentals, fees or services. Should any such rentals or fees be unpaid for a period of sixty (60) consecutive days after due, any boat upon which such rental or fee has accrued shall be impounded and disposed of in the manner provided for in section _____.210.

_____.190 REMOVAL OF ABANDONED BOATS

Boats within the harbor which are derelicts, maintained in such a manner as to make them liable to sinking, maintained in a manner to constitute a fire hazard to other boats or otherwise damage the harbor facilities and sunken boats are hereby declared abandoned and are subject to removal from the harbor facility without liability for any damage done by virtue of the removal. Boats removed under the provisions of this section shall be disposed of in the manner provided for in section _____.210.

_____.200 REMOVAL OF ABANDONED PROPERTY

Any nets, gear, tanks, lines or other personal property which is deposited, stored or otherwise placed on any of the harbor facilities for a period of over twenty-four (24) hours is declared to be abandoned and a public nuisance and may be impounded, removed, sold or otherwise disposed of in the manner provided for in section _____.210.

Any boat or other personal property which is abandoned or declared to be a public nuisance or for which rentals, fees or services remain unpaid for a period of sixty (60) consecutive days after due, may be impounded, removed and disposed of as provided below.

--- 210 Deposition of Boats and Property

- (a) Immediately upon determination that rentals or fees remain unpaid for a period of sixty (60) consecutive days after due, or that a boat is abandoned, derelict or a public nuisance, the harbormaster shall, by registered or certified mail, with a return receipt, notify the registered owner of the boat or vessel and the permittee at their last known addresses, and all lienholders shown on the records of a state or federal agency, that said boat or vessel has been impounded and may be removed, sold or otherwise disposed of. A notice need not be sent to the purported owner or any lienholder whose interest in the vessel is not recorded with a state department or a federal agency, unless his address is otherwise known. A duplicate of the notice shall be posted on the vessel.
- (b) The notice of impoundment and intent to sell or otherwise dispose of the vessel shall be published in a newspaper of general circulation once a week for four consecutive weeks prior to sale or other disposition of the vessel. The notice shall include the following:
- (1) A brief description of the vessel and the location of its custody.
 - (2) Amount of the City's lien against it, if any.
 - (3) The date, place and manner of sale or other intended disposition.
 - (4) The name of the owner or reputed owner, if known.

- (5) A statement that the owner can redeem the vessel by payment of the amount against it, including all port or harbor use fees, rental, berthing, utility and service fees, towing, handling, storage, appraisal, advertising, attorney's fees, court costs and any other expenses incurred by the City in connection with the vessel.
- (6) A statement that any purchaser at a sale of the vessel may be taking it subject to outstanding liens.
- (c) If the vessel is not repossessed within thirty (30) days after the mailing of the notice, the vessel shall be disposed of by public auction, through oral tenders, or by sealed bids. If no bid is received, the vessel may be sold by negotiation, disposed of as junk, donated to a governmental agency, or destroyed.
- (d) Public auction is not required when the appraised value of the vessel, as determined by an independent appraiser is less than \$100. The appraiser must have at least one year of experience in the sale, purchase or appraisal of vessels. Upon that determination, the harbormaster may sell the vessel by negotiation, dispose of it as junk or donate the vessel to a governmental agency, or destroy it.
- (e) Proceeds from the sale, if any, shall be applied in order to the following:
- (1) The City's lien, including all port or harbor use fees, rental, berthing, utility and service fees, towing, handling, storage, appraisal, advertising, attorney's fees, court costs and any other expenses incurred by the City in connection with the vessel.

- (2) Any other liens against the vessel of which the City has actual notice, depending upon their status under maritime law; provided, however, the City shall have no obligation to ascertain or to inquire concerning the existence or status of such other liens.
- (3) The remainder, if any, shall be forwarded to the registered owner of the vessel if he can be found, and if not, it shall be deposited in the Bethel Small Boat Harbor Fund and shall be paid out to the registered owner of the vessel if a proper claim is filed for it within one year from the date of sale. If no claim is made within that year, the money shall escheat to the Bethel Small Boat Harbor Fund.
- (4) The City may sue for any deficiency not covered by the sale provided, however, nothing herein shall be construed to require the City to sell or otherwise dispose of the boat before proceeding directly against the owner, his agent or the permittee or any other responsible party.
- (f) Any nets, gear, tanks, lines or other personal property abandoned on any harbor facility as defined in §_____.140 may be disposed of in any manner in the discretion of the harbormaster without liability therefor.

_____.220 LIABILITY FOR DAMAGES

- (a) The City, its officials and agents, including the harbormaster, shall not be responsible for any damage to any boat or person using the facilities of the harbor and nothing contained in this Title shall be construed or interpreted to constitute authority for the establishment of

a bailment relationship between the City and any individual for the care, custody, management and control of the boat or any other personal property.

- (b) Any person who causes to be damaged any float, grid, dock, launching ramp, approach, piling, dolphin, navigation aid, buoy, breakwater, building or related appurtenances within the harbor shall be held responsible for the costs of repair or replacement thereof.

_____.230 PERSONS TO OBEY LAWFUL REGULATIONS

Those persons and vessels utilizing the small boat harbor facilities shall obey all municipal, state and federal laws and regulations as well as generally accepted safety standards and regulations.

_____.240 PENALTIES AND REMEDIES

- (a) A person who violates the provisions of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than Two Hundred Dollars (\$200.00) or by imprisonment not to exceed thirty (30) days, or both.
- (b) Notwithstanding the availability of any other remedy, the City or any aggrieved person may bring a civil action to enjoin any violation of this chapter, or to recover money due and owing or to obtain damages for any injury the plaintiff suffered as a result of the violation.

_____.250 EQUALITY

The City of Bethel small boat harbor facilities will be available on an equal basis irregardless of race, color, sex, creed and/or natural origin.

_____.260 STATE AND FEDERAL LAW

This ordinance may not be construed to contravene any applicable state or federal law or regulation.

Section 2: This ordinance is effective immediately upon passage and approval by the City Council for the City of Bethel, Alaska.

PASSED AND APPROVED this _____ day of _____, 1984, at Bethel, Alaska.

CITY OF BETHEL

:

:

Mayor

ATTEST:

By: _____
City Clerk