

Introduced by: Council Member Pike
Introduction Date: February 9, 2010
Public Hearing: February 23, 2010
Action: Passed
Vote: 5-0

CITY OF BETHEL, ALASKA

Ordinance 10-06

AN ORDINANCE AMENDING 14.10.010 THROUGH 14.10.045 OF THE BETHEL MUNICIPAL CODE REGARDING LOGS AND LOG RAFTS ON PORT FACILITIES

WHEREAS, 14.10.010 The port director and required assistants will supervise and manage the Port Facilities. The port director will hire a harbor master or other designee, and delegate duties as necessary for the operation and maintenance of the Port facilities.

WHEREAS, 14.10.020 Transactions to be conducted

WHEREAS, 14.10.030 Registration

WHEREAS, 14.10.040 Classification and use of mooring facilities.

WHEREAS, 14.10.045 Logs and log rafts on port facilities

THEREFORE BE IT ORDAINED by the City Council of Bethel, Alaska, that:

SECTION 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Bethel Municipal Code.

SECTION 2. Amendment. Section 14.10.010 through 14.10.045 of the Bethel Municipal Code is amended as follows (new language is underlined and old language is stricken out):

Chapter 14.10 ***SMALL BOAT HARBOR & PORT FACILITIES***

Sections:

- 14.10.010 Port director.
- 14.10.020 Transactions to be conducted.
- 14.10.030 Registration.
- 14.10.040 Classification and use of mooring facilities.
- 14.10.045 ~~Permit allowing Logs or a~~ and Log rafts on ~~in the small boat harbor~~ Port Facilities
- 14.10.050 Unlawful acts.
- 14.10.060 Acts prohibited without the approval of the port director.

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- 14.10.070 Rentals and fees.
- 14.10.080 ~~Small boat harbor~~ Port Facilities privilege agreement.
- 14.10.090 Duties of boat owners and operators.
- 14.10.100 Revocation of privileges.
- 14.10.110 Lien.
- 14.10.120 Removal of abandoned property.

14.10.010 Port director.

A. The port director and required assistants will supervise and manage the ~~small boat harbor~~ Port facilities. The port director may hire a harbor master or other designee, and delegate duties as necessary for the operation and maintenance of the ~~small boat harbor~~ Port Facilities

B. The port director shall supervise and manage the assignment of moorage stalls, the assignment of dry land storage and the use of the boat lift, launching ramps, grid iron and all other facilities made available by the city. The port director may, in the interest of safety or convenience, require any boat owner to change from one (1) moorage to another and may, in the absence of the boat owner, move the boat without incurring liability to the city.

C. The port director may, at his discretion, refuse moorage or storage to any boat which is cumbersome or may become a menace to the safety or welfare of another boat or its occupants. He may refuse the use of any facilities to a boat 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.

D. Use of the ~~small boat harbor~~ port facilities by floating boat shelters, floating storage buildings, or houseboats is prohibited. The port director may refuse moorage or use of any of the ~~small boat harbor~~ port facilities to any boat or boat owner violating any provision of this code.

E. The port director shall have the duty and exclusive power to post signs and to thereby designate the limit of ~~small boat harbor~~ port facilities speeds, classification and use of ~~small boat harbor~~ port facilities moorage and storage areas, and such other signs and notices necessary to inform the public, and is authorized to direct all waterborne and vehicular traffic within the limits of the ~~small boat harbor~~ port facilities boundaries, including designated parking and storage areas.

14.10.020 Transactions to be conducted.

All registration of boats, payments of moorage and other charges, and other ~~small boat harbor~~ port facilities business shall be conducted at the port office.

14.10.030 Registration.

Every boat owner using the ~~small boat harbor~~ port facilities shall register his/her name, address, telephone number and the name and/or number of the boat with the port director on forms provided for that purpose.

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14.10.040 Classification and use of mooring facilities.

A. All of the mooring spaces in the ~~small-boat harbor~~ port facilities 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.

B. 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- (1st-) come, first- (1st-) 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.

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 mooring space, shall apply to the port director. No such space shall be so reserved or assigned until the mooring fee has been paid.

2. Possession of a reservation for a reserved mooring space does not guarantee the holder any right to exclusive use of the reserved mooring for the duration of the reservation agreement. Possession of a reservation is a guarantee that the reserved mooring shall be available for the use of the holder of the reservation during those periods when the boat is within the ~~small-boat harbor~~ port facilities. The port director may temporarily assign another boat to a reserved mooring as he determines it expedient when the boat assigned to a reserved mooring is away from the ~~small-boat harbor~~ port facilities.

3. In the event that the holder of a reserved mooring returns to the ~~small-boat harbor~~ port facility and finds his reserved mooring occupied, the holder shall contact the port director. The port director will cause the temporarily assigned boat to be moved to another location.

4. The boat owner who possesses a reserved mooring shall not sublease or in any other manner permit the use of the mooring by another boat owner without prior notification of the port director.

5. No property rights are created by this section. The holder shall only have a permit to use the mooring reserved to him as provided for in this chapter.

6. A waiting list will be maintained by the port director of names of persons requesting reserved moorings at times when no reserved moorings exist. As reserved moorings become available they will be offered to the first (1st) name on the waiting list whose LOA fits the criteria for the mooring available.

D. No boat shall be moored in any area designated by the port director as a loading area any longer than it is necessary for loading/unloading the boat. No unattended boats shall be left at any loading area.

E. No boat shall block or be moored in any area designated by the port director as a launching area any longer than necessary for launching/hauling out the boat.

F. Any person moving a boat they do not own shall report to the port director where the boat was moved from and where the boat has been moved to.

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G. Any person having knowledge of a petroleum spill within the ~~small boat harbor~~ port facilities shall immediately report such spill to the port office; if the port office is closed, the spill shall be reported to the police department.

H. No person shall bring into, moor or berth within the ~~small boat harbor~~ port facilities any boat which is unseaworthy or is in such a badly deteriorated condition that it is liable to sink or damage ~~small boat harbor~~ port facilities or other boats or which may become a menace to navigation, except in cases of extreme emergency, in which case the boat owner shall be liable for any damage caused by such boat. In the event a boat sinks within the ~~small boat harbor~~ port facilities, the boat owner shall mark its location and provide for the raising and disposition of the boat and assume all liabilities for damage to city property and other boats in the ~~small boat harbor~~ port facilities.

I. No aircraft or float plane shall land, operate within, or take off from the ~~small boat harbor~~ port facilities or the entrance thereto.

J. Vehicles and boat trailers must be removed from the launching areas after the boat has been launched and parked only in areas designated and posted by the port director as parking areas. Vehicles and boat trailers parked in areas not designated and posted as parking areas may be removed and impounded.

K. Launching or hauling out of boats on skids is prohibited; trailers or other wheeled conveyances shall be used for launching or hauling out boats. Boats shall be launched at designated launching areas only.

L. Beach storage of supplies, merchandise, or other property of boat owners shall be limited to areas designated by the port director. Boat owners shall obtain a space assignment for storage of property from the port director and pay storage fees in advance.

M. Except as provided in BMC 14.10.045, no logs or firewood shall be unloaded and placed on the beach of the ~~small boat harbor~~ port facilities, and no log rafts shall be allowed within the ~~small boat harbor~~ port facilities or the entrance thereto.

N. No vessels will be allowed to be more than one (1) beam's width from the dock.

14.10.045 Permit allowing Logs or a and Log rafts on in the ~~small boat harbor~~ port facilities.

~~A. Any person may submit a permit application on a form provided by the port director request permission from the port director or designee to bring logs or a log raft into the ~~small boat harbor~~ port facilities for off-loading. The purpose for the logs must be for personal use and not commercial use, commercial operations use the cargo dock or beach #1. Personal use includes use of the logs for home heating, artistic purposes, steambaths, or constructing shelters, fish racks, or fences.~~

~~B. The application A request must be submitted to the port director at least twenty-four (24) hours eight (8) hours in advance, before the requested effective date of the permit. No fee is required to obtain a permit.~~

~~1. The port director has the sole discretion to grant, deny, or cancel a permit request.~~

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2. The decision of the port director to deny or cancel a permit request may only be reversed for abuse of discretion if appealed under subsection I of this section.

C. The permit request will designate state the maximum size and number of logs, method for removing logs from the water, the location for storing and off-loading the logs or log raft, and the rules for transporting, cutting, off-loading, and/or removing the logs in the small boat harbor port facilities.

D. A permit request is good for; allowing logs or a log raft in the small boat harbor port facilities expires for three (3) days after it is issued. The logs or log raft, as well as all debris from the logs or log raft, must be removed by the expiration of the permit. ~~The permit will only be extended after the three (3) day period has expired for good cause, which means circumstances beyond the control of the permittee that has prevented the complete removal of the logs, log raft and/or debris within three (3) days, from the small boat harbor port facilities.~~

Unless extended at the discretion of the port director or designee.

E. Any logs, log raft, and/or debris that remains after ~~expiration of the permit the three (3) day request~~ shall be declared abandoned and a public nuisance, and may be impounded, removed, sold, or otherwise disposed of in the following manner:

1. The port director shall send a registered or certified letter, with a return receipt, notifying the permittee person at the address listed on the permit application users request, that the logs, log raft, and/or debris has been impounded and may be removed, sold or otherwise disposed of within seven (7) days after the date of the letter, unless the permittee user:

a. Redeems the property by payment of all the charges listed in the letter, which shall include expenses for clearing and storing the logs, log raft, and/or debris; or

b. Timely submits a written appeal to the port commission under subsection I of this section.

2. If the property is not redeemed and no appeal is filed, the logs, log raft, and/or debris may be disposed of by public auction if valued by an independent appraiser at over one thousand dollars (\$1,000), or if valued at one thousand dollars (\$1,000) or less, may be disposed of as junk, donated to a governmental agency, local nonprofit agency, or destroyed.

F. The permittee user is liable for any expenses incurred by the city for the removal, storage, and/or disposal of the logs, log raft, and/or debris. Additionally, even if the logs, log raft, and/or debris are sold, the permittee user shall be liable for any remaining charges not covered by the sales proceeds. Interest and collection costs shall be included regarding any charges that are not paid within thirty (30) days of the billing by the port director under subsection E of this section. Penalties may also be imposed and the city may seek injunctive relief in accordance with BMC 14.02.086. Additionally, the permittee user shall be subject to loss of privileges for use of the small boat harbor port facilities until all charges, interest, collection costs, and any penalties are paid.

G. ~~Any person issued a permit under this section shall sign a written agreement to assume all risk of loss or damage to property and risk of injury to persons, as well as to defend, indemnify and hold the city harmless from any and all claims and damages to~~

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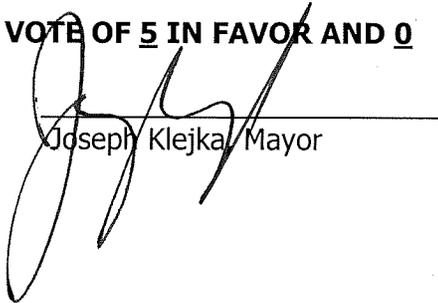
~~his or her own property, or the property of another person or entity, or injury to persons, including costs and attorney fees, caused by or resulting from any act or omission involving the log raft or logs while entering into or while in the small boat harbor port facilities.~~

H. In accordance with BMC 14.02.070, any person issued a permit acting under this section shall be strictly liable to the city without regard to fault or negligence for any damage to the port facilities or any property owned by the city caused directly or indirectly by the log raft or logs while entering into or while in the small boat harbor port facilities.

I. Any appeal must be filed in writing with the port commission within seven (7) days after the port director denies or cancels a permit, or issues a letter that assesses charges, interest, collection costs, and/or penalties, or denies the permittee user use of the small boat harbor port facilities. Any appeal of a decision of the port commission issued under this subsection shall be in writing and filed with the city council within seven (7) days of the date of the written decision by the port commission.

SECTION 3. Effective Date. This ordinance shall become effective immediately upon passage by the City Council.

ENACTED THIS 23 DAY OF FEBRUARY 2010, BY A VOTE OF 5 IN FAVOR AND 0 OPPOSED.



Joseph Klejka, Mayor

ATTEST:



Lori Strickler, City Clerk