

Title 13
PORT OF KETCHIKAN Revised 2/19

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Chapter 13.04
PORT – GENERALLY

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13.04.010 General purpose.

It is the general purpose of this chapter, among other things, to provide a means whereby the economy of the city can be diversified by providing a port of Ketchikan to provide an Alaskan ferry winter maintenance base, to expand the cruise ship industry, and a container transshipment center, and to expand the trading and transportation access to the downtown area by commercial fishing and industrial vessels. (Ord. 834 § 1, 1975)

13.04.050 Funds – Accounting system.

The port of Ketchikan, owned and operated by the city, shall be operated from a fund or funds separate from the general fund. An accounting system for each such fund shall be established within the department of finance and shall be set up and maintained so as to reflect the financial condition of the enterprise, its income and expense. A balance sheet and statement of income and expense shall be made for each such fund annually and as often as the city council may require. (Ord. 834 § 5, 1975)

13.04.060 Use of moneys.

None of the income money or property of the port of Ketchikan enterprise shall be placed in the general fund or be used for the benefit of anything outside of the fund to which it belongs without due compensation or due value received and returned; provided, that this shall not prohibit payment into the general fund of the city by the port of Ketchikan enterprise of an amount in lieu of taxes reasonably estimated to be the amount which the enterprise would pay in taxes if it were privately owned. (Ord. 834 § 6, 1975)

Chapter 13.08
PORT USE

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13.08.010 General provisions.

(a) Conditions for using any port of Ketchikan properties are subject to specific authorization by the city manager or his designee and may include provisions to protect public safety, security, environment and health. The city manager or his designee may waive the provision contained in this chapter whenever such action is in the best interests of the port of Ketchikan.

(b) Vessels utilizing port of Ketchikan properties or facilities shall fully comply with provisions of applicable federal, state, local statutes, laws, ordinances and regulations.

(c) The use of port of Ketchikan properties or services shall be deemed complete acceptance of the terms and conditions named in this chapter. (Ord. 841 § 1, 1976)

13.08.020 Definitions.

“Dockage” means the charge assessed against vessels for berthing at or making fast to port of Ketchikan docks, wharves, piers or for mooring to another vessel so berthed.

“Duty-free goods” means merchandise sold by a duty-free seller on which neither federal duty nor federal tax has been assessed pending exportation from the customs territory.

“Duty-free seller” means a person who sells, for use outside U.S. customs territory, duty-free goods that are delivered from a bonded warehouse to an exit point for exportation by, or on behalf of, individuals departing from the customs territory.

“Exit point” means the point at which a departing individual has no practical alternative to continuing on to a foreign country or returning to customs territory by passing through a U.S. customs inspection facility.

“Port of Ketchikan” means city docks and port facilities including all land, tidelands, docks, and improvements owned or operated by the city under Chapter 13.04 KMC, including, but not limited to, Berths I, II, III, and IV, Daly Float, the Berth III and Berth IV tender floats, and their adjacent tidelands.

“Port pass” means a pass issued by the city of Ketchikan to vehicles for the purpose of entering the port premises.

“Service vehicle” means a vehicle used to transport items such as goods, supplies, and equipment, but not passengers.

“Vessel” means any watercraft, barge, or raft that is presented for berthing and includes, without exception, its owner and its agent.

“Wharfage” means a charge assessed all cargo passing or conveyed over, into, or under wharves or between vessels (to or from barge, lighter or water), when berthed at a port of Ketchikan dock, wharf, piling structure, pier, bulkhead structure. Wharfage is solely the charge for use of wharf and does not include charges for any other service. (Ord. 1682 §§ 1 – 3, 2011; Ord. 1510 § 4, 2005; Ord. 1173 § 1, 1989; Ord. 841 § 2, 1976)

13.08.030 Berthage reservations.

Vessels are requested to submit reservation for berth with the port of Ketchikan as far in advance as possible, but not less than five city working days prior to expected arrival, subject to final confirmation of berth arrangements 48 hours in advance of expected time of docking. Any changes in expected time of arrival must be reported promptly. Vessels which fail to notify the port of Ketchikan of cancellation of a scheduled call at least five working days prior to its expected arrival shall be subject to a charge of one-half the dockage rates provided in KMC 13.08.100. (Ord. 841 § 3(a), 1976)

13.08.035 Designated charter vessel loading zones.

The city manager or his designee is authorized to establish, change and abolish charter vessel loading zones along any wharf or float or part thereof. Vessels offering charter sport fishing tours or charter sightseeing tours may, upon payment of the fee set forth in KMC 13.08.100(e), use or occupy charter vessel loading zones for not more than 15 minutes within any one-hour period for the sole purpose of embarking or disembarking charter passengers during that time. Except for such charter sport fishing or sightseeing tour vessels or such other vessels as the city manager or his designee may permit, no vessel may use, occupy or obstruct charter vessel loading zones while any cruise ship is docked or is docking at a port facility or is anchored in Tongass Narrows. Under this section, no vessel or person shall have any rights to or exclusive use of any charter vessel loading zone. The city manager or his designee may prescribe regulations governing the use of charter vessel loading zones, may define which vessels are cruise ships for purposes of this section, may schedule use of charter vessel loading zones, may further limit the length of time a charter vessel loading zone may be occupied or used by a vessel, may grant priority use to any charter vessel, or may terminate use of any charter vessel loading zone by any vessel or type of vessel, and shall make all determinations as to whether a vessel is classified as a charter sport fishing or a charter sightseeing tour vessel. (Ord. 1301 § 1, 1994)

13.08.040 Rights not exclusive.

Berth assignments shall include only the right to dock vessel at the assigned berth, to embark and disembark passengers and their baggage, and to assemble and distribute the cargos of such vessel over, through or upon the assigned area or facility, subject to the provision that when the assigned area or facility is not required in whole or in part for the use of the vessel, the city manager or his designee may make temporary assignments of the berth, wharf, wharf premises or other facility, or any part thereof, to any other vessel. (Ord. 841 § 3(b), 1976)

13.08.045 Assignment of cruise ship berths.

(a) The city will endeavor to assign cruise ships to berths in such a way that satisfies the Policy of Equitable Distribution, herein “policy,” stated in Section 13.10.19 of the Berth IV Lease, which requires, in part, that 75 percent of cruise ship passengers be allotted to Berths I, II, or III, and approximately 25 percent to Berth IV; with 100 percent of the lightered passengers allocated equally between Berths III and IV.

(b) Subject to the overall objectives stated in subsection (a) of this section, the decision as to where each individual ship will be berthed or lightered to at any given time will be determined by any one or more of the following criteria:

- (1) Ship characteristics such as size, length, location of gangway access points, location of mooring lines, and services received by the ship while berthed;
- (2) Ship scheduled times of arrival, departure, and direction of travel;
- (3) Dock characteristics such as height, type (fixed or floating), location and type of mooring bollards, available services and gangways, condition, and safety;
- (4) Existing and predicted weather and tides;
- (5) Facility and vessel security requirements, existing maritime security (MARSEC) level, and availability of security personnel;
- (6) Ongoing or anticipated construction or repair work on the dock, adjacent uplands, or adjacent roadways;
- (7) Ship’s captain or cruise line special requests;
- (8) Special circumstances such as emergencies, festivals, exercises, events, etc.;
- (9) Convenience of passengers;
- (10) Sufficiency of ground transportation, pedestrian ways, and the impact of motor vehicle traffic;
- (11) Safe and efficient use of city port facilities and resources.

The port and harbors director shall determine the weight, if any, to be given to each of the above considerations and shall be the final authority for berth assignments.

(c) The city manager or his designee shall be permitted to participate in berth scheduling conferences between cruise line agencies and participating cruise lines when such participation is requested by the city manager. A cruise ship schedule for each season, which includes anticipated berth assignments, will be prepared by cruise line agencies and forwarded to the city of Ketchikan at least three months prior to the arrival of the first cruise ship of the season. The city manager or his designee will provide written consent of the berth assignments along with any required or recommended changes.

(d) The city manager may establish additional regulations as he determines to be useful in determining where cruise ships are berthed; provided, however, that those regulations do not conflict with this policy and do not conflict with Section 13.10.19 of the Berth IV Lease with Ketchikan Dock Company dated July 14, 2006. (Ord. 1597 § 2, 2008)

13.08.050 Assignment not transferable.

Assignment shall not be transferred except with the written consent of the city manager or his designee. (Ord. 841 § 3(c), 1976)

13.08.060 Assignments revocable.

All assignments shall be revocable by the city manager or his designee without compensation for costs incurred thereby to the vessel at any time upon written notice to the vessel except when otherwise provided in the assignment. (Ord. 841 § 3(d), 1976)

13.08.070 Vessel liable for damage.

Any vessel assigned a berth, wharf, wharf premises or other facility or attempting to use or using any of the facilities or services of the port of Ketchikan shall be responsible and liable to the port of Ketchikan for any damage occurring during their tenancy and occupancy, unless such vessel secures and furnishes the city manager or his designee with adequate information and evidence fixing the responsibility and liability for any such damage on some other responsible person and such other person reimburses the port of Ketchikan for any such damage. Upon the refusal, failure or neglect of any such vessel to accept responsibility and liability in the manner and under the circumstances aforesaid, the city manager or his designee may immediately revoke the assignment to any such vessel without notice and may refuse the use of any wharf, berth, or other facility to any such vessel until the port of Ketchikan has been fully reimbursed for any such damage. Anything contained in this section shall not be construed, nor is it intended, to be a sole remedy of the city. (Ord. 841 § 3(e), 1976)

13.08.080 Dockage period.

The period upon which dockage is assessed shall commence when the vessel is made fast to an assigned berth or moored and shall continue until such vessel lets go and has vacated the position assigned. When a vessel is shifted directly from one position to another berth, the total time at such berths shall be considered together when computing the dockage charge. All time is counted and no deductions are allowed because of Sundays, holidays, weather or other conditions. (Ord. 841 § 4(a), 1976)

13.08.090 Basis for computing dockage.

(a) Dockage is assessed upon length-overall (LOA) of the vessel. "Length-overall" means the linear distance, in feet, from the most forward point of the stem to the aftermost part of the stern of the vessel, measured parallel to the base line of the vessel. Length-overall of the vessel as published in "Lloyds Register of Shipping" will be used and when not published, the port reserves the right to:

- (1) Obtain the length-overall from the vessel's register;
- (2) Measure the vessel.

(b) In computing dockage, charges are for a 24-hour day or fraction thereof. (Ord. 841 § 4(b), 1976)

13.08.100 Dockage charges.

(a) Dockage charges are in addition to all other charges contained in this chapter and shall be assessed against all vessels, except as provided in subsection (f) of this section, as follows:

<u>LOA</u>	<u>Rate per Foot per Day</u>		
	<u>0 – 6 Days</u>	<u>7 – 14 Days</u>	<u>15 Days and Over</u>
Under 100'	\$0.60	\$0.50	\$0.45
100' – 149'	0.60	0.50	0.45
150' – 199'	0.70	0.56	0.44
200' – 299'	0.88	0.70	0.56
300' – 399'	1.15	0.92	0.72
400' – 499'	1.38	1.10	0.92
500' – 599'	1.85	1.48	1.48
600' – 699'	2.12	2.12	2.12
700' and over	2.42	2.42	2.42

The above rates shall be assessed for each day or any part thereof a vessel is docked at the port facility and at the rate fixed for the longest period the vessel is docked.

(b) Vessels less than 400 feet LOA may apply for and make advance arrangements for a special 30-day flat rate docking fee. Such 30-day flat rate will apply only during the period October 15th through April 30th and is as follows:

<u>LOA</u>	<u>30-Day Flat Rate</u>
Under 100'	\$ 415.00
100' – 149'	920.00
150' – 199'	1,380.00
200' – 299'	2,500.00
300' – 399'	4,300.00

(c) Lighter vessels used to transport passengers or cargo from designated areas of Hansen, Daly, Ryus or other city floats shall be assessed a fee of \$280.00 for each day or any part thereof.

(d) The following provisions apply to vessels docked at the port facilities:

(1) Mooring lines shall be tended by ships' personnel and shall be in good condition and of a suitable size and quantity for the vessel.

(2) An operator shall be available at all times to tend and to move the vessel, if and when required.

(e) Except as provided in this subsection, vessels using charter vessel loading zones shall be assessed a fee of \$2.50 per foot per calendar month or any part thereof. Vessels with beams of less than four feet powered only by oars or paddles shall be assessed a reduced fee of \$1.25 per foot per calendar month; provided, however, that they use only those loading zone areas where the city manager has made this reduced fee applicable.

(f) Dockage charges for passenger ships shall be assessed at 105 percent of the rates per foot per day provided for in subsection (a) of this section. For example, a passenger vessel with an LOA of 700 feet or more shall be assessed a rate per foot per day of \$2.54. For purposes of this subsection, a “passenger ship” means a vessel carrying passengers for compensation that is not exempted from payment of passenger wharfage fees under KMC 13.10.030. (Ord. 1811 § 1, 2016; Ord. 1483 § 2, 2004; Ord. 1363 § 1, 1997; Ord. 1301 § 2, 1994; Ord. 1204 § 1, 1991; Ord. 1173 § 2, 1989; Ord. 1062 § 1, 1985; Ord. 841 § 4(c), 1976)

13.08.101 Promotional port dockage rates.

In lieu of the dockage charges assessed by KMC 13.08.100(a) and (b), the city manager may assess the following dockage charges against certain vessels docked at port facilities:

<u>LOA</u>	<u>Temporary Rates per Foot per Day</u>		<u>Temporary 30-Day</u>
	<u>7 – 14 days</u>	<u>15 days and over</u>	<u>Flat Rate</u>
Under 100'	\$0.17	\$0.14	\$ 290.50
100' – 149'	0.28	0.22	644.00
150' – 199'	0.39	0.31	966.00
200' – 299'	0.49	0.39	1,750.00
300' – 499'	0.64	0.50	3,010.00

Vessels which are assessed the above rates shall not receive utility service or other port services unless approved by the city manager. The manager may limit the availability of the above rates to certain dockage locations. The manager may also limit the availability of the above rates to vessels receiving repair, reprovisioning or other services in this borough, and vessels which, in his determination, might otherwise dock elsewhere to receive these services.

The above rates may be offered only for dockage which begins on or after October 1st and which ends on or before March 1st. The manager may, however, begin offering the above rates at a later date and may discontinue the above rates at an earlier date. Vessels which are docked at port facilities after March 1st or after discontinuance of the above rate, whichever is earlier, and vessels with a length-overall of 500 feet or more shall pay the rates set out in KMC 13.08.100(a) or (b), or other applicable sections of the KMC. (Ord. 1406 § 1, 1998)

13.08.105 Dockage – Not chargeable when.

The dockage charges otherwise chargeable pursuant to KMC 13.08.100 shall not be applied to vessels that use the port of Ketchikan when such vessels, by reason of length and draft, are

qualified to moor in boat harbor facilities, as defined and referred to in KMC 14.08.040 and 14.20.090, provided the director of the port determines that there exists no moorage space available in the boat harbor facilities, that docking at the port of Ketchikan is in the best interest of the city, and that the moorage fees established by Chapter 14.40 KMC are to be assessed. (Ord. 976 § 1, 1982)

13.08.110 Wharfage rates.

Wharfage shall be assessed against all cargo as follows:

<u>Cargo</u>	<u>Rate</u>
Bulk, break bulk	\$2.00 per short ton of 2,000 pounds
Timber products	\$0.50 per 1,000 board feet
Liquid cargo	\$1.00 per short ton of 2,000 pounds
Containers/vans	\$5.00 per container/van

(Ord. 1062 § 2, 1985; Ord. 841 § 5(a), 1976)

13.08.120 Wharfage – Not chargeable when.

No wharfage shall be assessed on:

- (a) Handling and stevedore tools, equipment and appliances taken on wharf for the purpose of loading or discharging a vessel;
- (b) Baggage of passenger when carried on same vessel as passenger and on which no revenue is collected by the water carrier, either as excess baggage, freight, or cargo;
- (c) Stores and supplies purchased by the vessel for use by the vessel. (Ord. 841 § 5(b), 1976)

13.08.125 Additional fees.

(a) In addition to any other fees assessed pursuant to this chapter, an additional fee shall be assessed against each vessel which exceeds 120 feet length-overall and either carries revenue generating passengers or loads or unloads cargo at port of Ketchikan facilities. This additional fee shall be assessed each time the vessel uses port of Ketchikan facilities during the period of May 1st through September 30th of each year. A vessel will be considered to have used port of Ketchikan facilities once each time it is moored to a port of Ketchikan facility.

(b) The additional fee shall be determined by multiplying the vessel's length-overall (as listed on the certificate of registry issued to the vessel by an internationally recognized classification society) by the following applicable fees:

- (1) \$1.25 per foot for all vessels with a length-overall of between 120 to 499 feet;
- (2) \$1.90 per foot for all vessels with a length-overall of 500 or more.

(c) The master or agent of each vessel shall provide the length-overall of the vessel upon request of the city.

(d) Proceeds from this fee shall be dedicated for the design and construction of mooring facilities.

(e) Effective Date. The provisions of this section shall be subject to a review by the city council no later than July 15, 1999. Such review may include the consideration of a sunset provision. (Ord. 1414 § 1, 1999; Ord. 1306 § 1, 1994; Ord. 1237 §§ 1, 2, 1993)

13.08.130 Manifest required.

Vessel must furnish a complete copy of manifest of cargo and statement of passengers loaded or discharged at port of Ketchikan. (Ord. 841 § 5(c), 1976)

13.08.140 Stevedoring services and charges.

Vessels shall enter into their own contract arrangements for stevedoring services. (Ord. 841 § 6, 1976)

13.08.150 Motor vehicle parking charges.

Parking stalls for motor vehicles within the port of Ketchikan may be managed by the city manager as commercial parking lots under Chapter 10.60 KMC. If parking fees or permits are required for the parking of motor vehicles on the port of Ketchikan, the city manager shall allocate an equitable portion of such parking fees or permit fees to the port fund established under KMC 13.04.050. (Ord. 1682 § 4, 2011)

13.08.155 Motor vehicle port access passes.

(a) Port access passes, valid for the period of May 1st through September 30th, shall be obtained and displayed on vehicles entering the port premises when conducting business related to tourism vessels docked, or to be docked, at the port facilities. The charge for a port access pass is as follows:

<u>Vehicle Size</u>	<u>Rate</u>
Up to 20' and service vehicles	\$30.00 per month
Over 20' – 30'	\$50.00 per month
Over 30'	\$125.00 per month

Monthly port access passes shall be required for any portion of a month that a vehicle enters on the port premises when conducting business related to tourism vessels docked or to be docked at the port facilities. Monthly port access passes shall not be prorated for partial month use.

(b) No port access pass may be issued to any duty-free seller, his agents, employees, or contractors unless that seller has executed a concession agreement with the city of Ketchikan. Duty-free goods may not be delivered or kept in any vehicle for which a port access pass has been issued except to the extent allowed under a concession agreement between the seller and the city.

(c) Issuance of a port access pass permits only the use of a vehicle on designated port premises. It does not permit the holder to conduct business on port premises or make other use of port premises. Any such business or other use must be separately requested by the applicant

and approved by the city. Any port access pass may be canceled by the city at any time for any or no reason upon prorated refund of charges paid. (Ord. 1682 § 5, 2011; Ord. 1510 § 2, 2005; Ord. 1442 § 1, 2001; Ord. 1280 § 1, 1993; Ord. 1204 § 2, 1991; Ord. 1173 § 3, 1989; Ord. 949 §§ 1, 2, 3, 1980; Ord. 841 § 7, 1976)

13.08.160 Electricity.

Pending availability, charges for electric current supplied to vessels shall be assessed at the same rates as are established under KMC 11.08.040, Commercial general service – Schedule C, plus a surcharge of \$0.25 per foot per day. (Ord. 1406 § 2, 1998; Ord. 994 § 1, 1982; Ord. 841 § 8(a), 1976).

13.08.170 Telephone.

Subject to availability, temporary telephone service supplied to vessels shall be provided at a rate equivalent to the private line rate as established under KMC 11.12.070, Business service – Schedule B, for each temporary connection. The vessels will be held responsible for all long-distance charges occurring during the time the telephone is connected and for all loss or damage to the equipment furnished. (Ord. 1000 § 1, 1983; Ord. 841 § 8(b), 1976)

13.08.180 Water.

(a) Subject to availability, fresh water may be supplied to vessels at the port of Ketchikan's facilities at the following rate:

Vessel Length-Overall	Fee for Each Servicing
199 feet or less	\$60.00
200 to 299 feet	\$120.00
300 to 399 feet	\$180.00
400 to 499 feet	\$240.00
500 to 599 feet	\$360.00
600 to 699 feet	\$480.00
700 to 799 feet	\$600.00
800 to 899 feet	\$720.00
900 to 1,100 feet	\$840.00

(b) The above rates may be waived or reduced by the manager for certain vessels docked at the port facility during the period beginning October 1st and ending March 1st. (Ord. 1865 § 1, 2018; Ord. 1703 § 1, 2012; Ord. 1565 § 1, 2007; Ord. 1483 § 3, 2004; Ord. 1428 § 1, 2000; Ord. 1409 § 1, 1998; Ord. 1362 § 3, 1997; Ord. 1000 § 2, 1983; Ord. 841 § 8(c), 1976)

13.08.185 Wastewater.

Subject to written approval by the city of Ketchikan's public works department, vessels may offload "grey water" wastewater into the city of Ketchikan's wastewater collection system on a case-by-case basis. Acceptance will be based on several factors including quantity, anticipated or actual concentration of biochemical oxygen demand, anticipated or actual total suspended

solids, method of delivery and the city's wastewater facilities ability to adequately collect and process the grey water. The rate shall be \$150.00 per day plus \$100.00 per 1,000 gallons of effluent. (Ord. 1865 § 2, 2018)

13.08.190 Payment of charges.

All charges for services rendered by the port of Ketchikan or for the privilege of using any port of Ketchikan facility are due and payable within 25 days after the invoice date and, if not so paid, become delinquent. Upon failure of the vessel owner, operator, or agent to pay an invoice on or before the delinquent date, the account shall be deemed in default and a penalty of five percent shall be added to the amount due. (Ord. 1204 § 3, 1991; Ord. 841 § 9, 1976)

13.08.200 Obligation of port.

The setting forth of rates or charges in this chapter shall not imply an obligation on the port of Ketchikan's part to provide such facility or service. (Ord. 841 § 10, 1976)

13.08.205 Impoundment.

The parking and moorage facilities are not for the use of the general public except upon the making of advance arrangements as provided for in this chapter. Any unauthorized use of the parking and moorage facilities as provided for in this chapter or as established by rules and regulations promulgated under this chapter may subject the unauthorized use to immediate impoundment at the owner's expense in addition to any other remedies otherwise available to the port of Ketchikan. (Ord. 1682 § 7, 2011; Ord. 841 § 11, 1976)

13.08.210 Impoundment authority.

The harbormaster is authorized to remove and impound, pursuant to the procedure provided for in KMC 13.08.215, any boat or obstruction in the port under any of the following circumstances:

- (a) When the applicable fees or charges set forth in this chapter due the city for the boat remain unpaid for 30 days after such became due.
- (b) Any boat or obstruction which is in violation of KMC 14.20.070 (rules for loading areas), 14.30.010(a) (nuisances, unseaworthy or derelict vessels), 14.30.010(c) (unattended vessel obstructing the port, disabled vessel, vessel moored in mooring space without authority), 14.30.010(e) (other nuisance), or which poses a clear and present danger to the public health, safety, or welfare. (Ord. 1682 § 8, 2011)

13.08.215 Impoundment – Procedure and disposition.

- (a) As to any boat or obstruction proposed to be impounded pursuant to KMC 13.08.210(a) by or at the request of the city, its agents or employees, a person in lawful possession of the boat shall have the right to a pre-impoundment administrative hearing to determine whether there is cause to impound the boat under applicable local, state or federal law, ordinances, rules or regulations, provided such person files a written request for such a hearing with the harbormaster at the harbormaster's office not later than five calendar days after the completion of service of the notice of proposed impoundment issued pursuant to subsection (c) of this section.

(b) As to any boat or obstruction impounded pursuant to KMC 13.08.210(b) by or at the request of the city, its agents or employees, a person in lawful possession of the boat or obstruction shall have the right to a post-impoundment administrative hearing to determine whether the impoundment was proper under applicable local, state, or federal law, ordinances, rules or regulations, provided such person files a written request for such hearing with the harbormaster at the harbormaster's office not later than five calendar days after the completion of service of the notice of impoundment issued pursuant to subsection (c) of this section. The right to a post-impoundment hearing shall be deemed waived if not timely requested as provided herein and, upon such waiver, the harbormaster may proceed with disposition of the boat or obstruction by sale, destruction or other disposition as authorized by this title, unless the boat or obstruction is redeemed as provided in subsection (j) of this section.

(c) Notice to Owner. Not later than five calendar days prior to the impoundment of any boat or obstruction pursuant to subsection (a) of this section, the harbormaster shall cause a notice of such action proposed to be taken by the city to be posted on the boat or obstruction proposed to be impounded, in the harbormaster's office, in the city clerk's office, and on a board located outside of the harbormaster's office. Immediately upon the impoundment of any boat or obstruction pursuant to subsection (b) of this section, the harbormaster shall cause a notice of such action taken by the city to be posted on the boat or obstruction so impounded in the harbormaster's office, in the city clerk's office, and on a bulletin board located outside the harbormaster's office. A copy of the notice of proposed impoundment, or notice of impoundment, as applicable, shall also be given to the owner of the boat or obstruction, if known, either by personal delivery or certified mail, return receipt requested, mailed to the owner's last known address. Service of notice by personal delivery shall be complete on delivery; service by mail shall be deemed complete on the delivery date certified by the postal service on the return receipt. Proof of the giving of notice in either manner may be made by affidavit of the person giving notice by personal delivery or by mail, naming the person to whom the notice was given, and, if by mail, the address, and specifying the time, place and manner of giving notice. If the boat or obstruction is documented, the applicable notice will also be mailed to the U.S. Coast Guard Documentation Officer of the port of documentation, if such port can be reasonably ascertained.

(d) Contents of Notice. The notice of proposed impoundment and the notice of impoundment referred to in subsection (b) of this section shall contain the following information:

- (1) A description of the boat or obstruction, its name and number, if any, and its location;
- (2) The name and address of the owner, if known;
- (3) The grounds for impoundment and, if the boat or obstruction has been impounded, the date of such impoundment;
- (4) State that if a written request for a hearing is filed with the harbormaster at the harbormaster's office within five calendar days after the completion of service of the notice, a hearing will be conducted within 24 hours, excluding Saturdays, Sundays, and city holidays, to determine whether there is a cause to impound the boat or obstruction or, if the

boat or obstruction has been impounded, whether the impound was proper under applicable local, state or federal law, ordinances, rules and regulations, unless the right to a hearing within such 24-hour time period is waived;

(5) State that the right to a hearing shall be deemed waived if not timely requested as provided herein and state that upon the waiver of the right to a hearing, the harbormaster may proceed with impoundment and disposition of the boat or obstruction by sale, destruction or other disposition as authorized by this title;

(6) The notice of proposed impoundment shall state that if the boat or obstruction is impounded and is not redeemed within 30 days after the date of service of notice of such proposed impoundment, title to the boat or obstruction, and its contents, shall vest in the city and the boat or obstruction, and its contents, will be sold or otherwise disposed of as provided in this title;

(7) The notice of impoundment shall state that if the boat or obstruction is not redeemed within 30 days after the date of service of such notice, title to the boat or obstruction, and its contents, shall vest in the city and that boat or obstruction, and its contents, shall be sold or otherwise disposed of as provided in this title.

(e) Hearing.

(1) A pre-impoundment or a post-impoundment hearing, as applicable, shall be conducted before a hearing officer designated by the city manager within 24 hours after receipt of a written request therefor from the person seeking the hearing unless such person waives the right to a hearing or has been granted a hearing delay by the hearing officer. Saturdays, Sundays, and city holidays shall be excluded from the calculation of the 24-hour period. The hearing officer may not have participated in the decision under review. The issue before the hearing officer in a pre-impoundment hearing shall be whether there is cause to impound the boat or obstruction in question. "Cause to impound" shall mean such a state of facts as would lead a person of ordinary care and prudence to believe that there was a violation of local, state, or federal law, ordinances, rules or regulations rendering the boat or obstruction subject to impoundment. The issue before the hearing officer in a post-impoundment hearing shall be whether the impoundment was proper under applicable local, state or federal law, ordinances, rules or regulations. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The proceedings at the hearing shall be recorded.

(2) The hearing officer may grant a hearing delay if the party requesting the delay presents good cause for the delay. If the person requesting the hearing, or other authorized person on his behalf, fails to appear for a scheduled hearing and a hearing delay has not been granted, such failure to appear shall be deemed a waiver of the right to a hearing, and upon such waiver the harbormaster may proceed with impoundment and disposition of the boat or obstruction by sale, destruction or other disposition as authorized by this title, unless the boat or obstruction is redeemed as provided in subsection (j) of this section.

(3) The hearing officer shall render a written decision within 48 hours after the conclusion of the hearing, which shall state the reasons for the determination and indicate the evidence relied upon. Saturdays, Sundays, and city holidays shall be excluded from the calculation of the 48-hour period. A copy of such decision shall be provided to the harbormaster, the owner of the boat or obstruction, if the owner's name and address is known, and the person who requested the hearing. The hearing officer's decision shall in no way affect any other proceedings brought pursuant to this title or any criminal proceedings in connection with the impound in question and any proceedings pursuant to this title or criminal charges relating to such events may only be challenged in the appropriate court.

(4) If, in the case of a pre-impoundment hearing, the hearing officer determines that there is cause to impound the boat or obstruction, the harbormaster may, upon receipt of the decision, proceed with impoundment and disposition by sale, destruction or other disposition as authorized by the title, unless the boat or obstruction is redeemed as provided in subsection (j) of this section. Immediately upon such impoundment, the harbormaster shall cause a notice of such action taken by the city to be posted and delivered as provided in subsection (c) of this section for a notice of proposed impoundment and a notice of impoundment. Such notice shall contain the information set forth in subsections (d)(1), (2) and (3) of this section, and shall further state that if the boat or obstruction is not redeemed within 30 days after the date of service of such notice, title to the boat or obstruction, and its contents, shall vest in the city and the boat or obstruction, and its contents, will be sold or otherwise disposed of as provided in this title.

(5) If, in the case of a post-impoundment hearing, the hearing officer finds that the impoundment was not proper, the boat or obstruction shall be released to the owner or other authorized person and no charges shall be imposed for any towing or storage charges accrued prior to the time the hearing officer finds the impound improper. If the hearing officer finds that the impound was proper, the harbormaster may proceed with disposition of the boat or obstruction by sale, destruction or other disposition as authorized by this title, unless the boat or obstruction is redeemed as provided in subsection (j) of this section.

(f) Title. Title to an impounded boat or obstruction, and its contents, shall vest in the city 30 days after completion of service of the notice of impoundment; provided, that if a post-impoundment hearing is requested pursuant to subsection (b) of this section, title shall vest upon determination that the impoundment was proper.

(g) Notice of Sale. Any boat or obstruction impounded shall be held by the city before any sale or disposition for a period of not less than 30 days after the completion of service of the notice of impoundment, before any sale or disposition. The city shall, not less than 10 calendar days prior to the sale, publish in a newspaper of general circulation in the city a notice describing the boat or obstruction in general terms, its name and number, if any, the name and address of the owner, if known, its location, and the intention of the city to sell the boat or obstruction at public auction, on a day and at a place and time specified, for cash to the highest bidder.

(h) Sale. The proceeds of the sale shall be first applied to the costs of sale, including costs and charges for towing, hauling, storage and notice, then to moorage and service fees accrued, and the balance, if any, shall be held in trust, without accrual of interest, by the city for the owner of the boat or obstruction to claim. If such balance is not claimed within one year, it shall be deemed to be abandoned to the city and be deposited into the port enterprise fund. Upon the sale being made, the city shall make and deliver its bill of sale, without warranty, conveying the boat or obstruction or contents to the buyer.

(i) Other Disposition. If at the public sale there are no bidders for the boat or obstruction, or its contents, the city may destroy, sell at private sale, or otherwise dispose of the boat or obstruction, or its contents, for which there were no bidders. Such disposition shall be without liability on the city for any damage done by virtue of such disposition or for any consequences of such action by the city, including loss of use or profits or other consequential, direct, or indirect damages.

(j) Redemption. A person who presents to the harbormaster satisfactory proof of ownership or right to possession of an impounded boat or obstruction or contents may redeem such boat or obstruction or contents at any time before sale or other disposition by paying to the harbormaster all fees, costs, and charges incurred or imposed by reason of impoundment or removal, including towing, hauling, mooring, storage and notice. Storage charges shall be calculated at the current daily rate per foot plus \$10.00 per day if stored by the city, or such charges the city is required to pay for any commercial storage.

(k) Deposit in Contested Cases. If an impoundment conducted pursuant to subsection (a) of this section is contested, the aggrieved party may, in addition to the remedy of redemption as outlined in subsection (j) of this section, provided such person has requested a hearing pursuant to subsection (b) of this section, obtain return of the boat or obstruction or contents impounded upon tender of one of the following forms of security pending outcome of the hearing to be conducted as provided in subsection (e) of this section:

(1) A surety bond in an amount equal to any fees due and owing plus costs incurred in impounding the boat or obstruction or contents at issue in the proceedings (including for storage and towing);

(2) A cash deposit equal to 10 percent of the sum of: the fees at issue, if any, plus the costs incurred in impounding the boat or obstruction or contents (including for storage and towing) at issue in the proceedings; provided, however, that if the amount of such loss and costs is \$100.00 or less the entire amount shall be deposited. If the impoundment is found after hearing to have been improper the security deposit provided under this subsection (k) shall be released. Should the impoundment be found after hearing to have been proper, or in the event the person requesting the hearing has waived the right to a hearing pursuant to subsection (b) or (e)(2) of this section or otherwise, the cash security deposited pursuant to this subsection (k) shall be applied to the amounts due. Any amount remaining after payment of all amounts due shall be returned to the person making the deposit without interest.

(l) Securing. Any boat or obstruction impounded by the harbormaster shall be secured by chaining or otherwise mooring the same to a work float or other suitable stationary object or by removing, or having it removed, from the water and placed in city or commercial land storage with all expenses and risks of haul-out and storage to be borne by the owner or other person responsible for such boat or obstruction.

(m) Additional Remedies. Nothing in this title shall preclude the city from pursuing any and all remedies otherwise available at law or in equity in addition to those set forth herein. (Ord. 1682 § 9, 2011)

13.08.220 Delegation of authority.

The city manager or his designee is authorized to establish rules and regulations to carry out the intent, provisions, and purposes of any ordinance covering or creating the port of Ketchikan, or establishing charges and rates for the port of Ketchikan. (Ord. 841 § 12, 1976)

13.08.230 Extraterritorial application of regulations.

Pursuant to and as provided in AS 29.48.037, this title, and any revisions or amendments thereto, shall apply to all boat and harbor facilities owned, leased or operated by the city located outside as well as inside the boundaries of the city. (Ord. 938 § 1, 1980)

**Chapter 13.09
PORT RULES Revised 2/19**

Sections:

13.09.010 Designated – Penalty for violation.

13.09.015 Criminal trespass to city docks and port facilities.

13.09.025 Lease of dock vending locations.

13.09.030 Permit for the sale of fresh seafood.

13.09.040 Program for performing artists. Revised 2/19

13.09.010 Designated – Penalty for violation.

(a) The following are the rules governing and regulating the city's dock facilities under the jurisdiction of the port of Ketchikan:

(1) The provisions of KMC 10.60.040, 10.60.050 and 10.60.060 are hereby adopted and made a part of this chapter by reference.

(2) It is unlawful for any person upon the dock facilities to commit an act, in a violent or reckless manner, whereby the property of any person is destroyed or damaged, or whereby the property of any person is placed in immediate danger of being destroyed or damaged.

(3) It is unlawful upon the dock facilities for any person to cause, provoke or engage in any fight, or to commit an act, in a violent or reckless manner, whereby the safety, life, limb or health of another is placed in immediate jeopardy.

- (4) It is unlawful upon the dock facilities to be or be found to be under the influence of intoxicating liquor or drugs, in such condition as to be unable to exercise care for his own safety or the safety of others.
- (5) It is unlawful upon the dock facilities to physically resist or obstruct in performance of their duties the Alaska State Troopers, the police of the city, or any other duly authorized official of the city.
- (6) It is unlawful upon the dock facilities to incite, or participate in inciting, a riot.
- (7) It is unlawful upon the dock facilities to address threats of immediate violence to any peace officer, or to any other duly authorized official of the city who is engaged in the lawful performance of his duties, or to any other person, when such words have a direct tendency to cause immediate acts of violence.
- (8) It is unlawful upon the dock facilities to damage, defoul or tamper with public property, or private property of another person, or to create a hazardous, unhealthy or physically unsafe condition upon the dock facilities.
- (9) It is unlawful upon the dock facilities to fail to obey a lawful order by a peace officer to disperse when one or more persons are committing criminal acts of violence in the immediate vicinity of the officer.
- (10) It is unlawful upon the dock facilities to engage in deliberate baiting of peace officers by verbal excesses, or by making gestures to said officers which gestures have no apparent purpose other than to provoke a violent reaction.
- (11) It is unlawful upon the dock facilities to throw or deposit litter except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the dock facilities, or upon any street or highway or other public place. Where the public receptacles are not provided, or are full, all such litter shall be carried away from the dock facility by the person responsible for its presence and properly and lawfully disposed of elsewhere. "Litter," as used in this section, is defined in KMC 9.68.020, and that definition is hereby adopted by reference and made a part of this section by reference.
- (12) It is unlawful upon the dock facilities to bring domestic garbage or litter to the facilities and to deposit the same in the public receptacles. "Garbage," as used in this section, is defined in KMC 9.68.020, which definition is hereby adopted and made a part of this section by reference.
- (13) It is unlawful upon the dock facilities to permit any animal to run at large.
- (14) It is unlawful upon the dock facilities to start or maintain a fire.
- (15) It is unlawful upon the dock facilities to pick any flowers, or to break, tear, or otherwise injure or destroy any growing plant thereon.

(16) It is unlawful upon the dock facilities to lie down or sleep anywhere upon the facilities, including, but not limited to, the restrooms, bandstand, visitors center, and the planters and planter/benches.

(17) It is unlawful upon the dock facilities to urinate, expectorate, or defecate at any place at any time except in the restrooms in the facilities designed and customarily used for such purposes.

(18) It is unlawful upon the dock facilities to drink, consume or possess intoxicants of any kind, including, but not limited to, alcoholic beverages, other drugs or hallucinogens.

(19) It is unlawful upon the dock facilities to run, shove or push another person or persons, strike another person, or in any manner to interfere with the legitimate use of such dock facilities by another person.

(20) It is unlawful upon the dock facilities for any person to sell to another goods or services, unless said person has previously applied to the city manager or his designee, in writing, and has received from the city manager or his designee a permit therefor, as elsewhere in this code required.

(21) Going in and upon the dock facilities by solicitors, peddlers, hawkers, itinerant merchants, transient vendors of merchandise, or any other persons selling, or taking orders to sell, any merchandise, howsoever described, or performing any services whatsoever, for hire or otherwise, who have not applied to and received from the city manager or his designee a license so to do as elsewhere in this code provided, is unlawful, and is declared to be a common and public nuisance.

(22) It is unlawful upon the dock facilities to procure or to solicit, or to offer to procure or solicit, for the purpose of prostitution. As used in this rule, "prostitution" means the giving or receiving of the body by a female or male person for sexual intercourse for hire.

(23) The speed limit for all vehicles upon the dock facilities is not more than five miles per hour, but at all times a speed which is reasonable and prudent under the circumstances then existing.

(24) It is unlawful upon the dock facilities to sell, distribute, deliver, store, or possess duty-free goods for commercial purposes unless sold, distributed, delivered, stored, or possessed except to the extent permitted by a concession agreement with the city. It is unlawful for a duty-free seller, his agents, employees, or contractors to enter port facilities for any purpose related to the sale, delivery, or export of duty-free goods except to the extent permitted by a concession agreement between the seller and the city.

(b) Any violation of the foregoing rules in this section is a misdemeanor and violators shall be punished as provided in KMC 1.02.030. (Ord. 1761 §§ 1, 2, 2014; Ord. 1683 § 1, 2011; Ord. 1510 § 3, 2005; Ord. 890 § 11, 1978)

13.09.015 Criminal trespass to city docks and port facilities.

(a) A person commits the crime of criminal trespass to city docks and port facilities if the person enters or remains unlawfully upon city docks or port facilities. A person enters or remains unlawfully upon city docks or port facilities when:

(1) The person fails to immediately leave city docks or port facilities after being directed to do so by a city harbormaster, city police officer, or any other person authorized by the city manager.

(2) The person enters or remains on city docks or port facilities where notice has been posted that access is prohibited or is restricted to other, designated persons.

In addition to entering and remaining on foot, motor vehicle, or other means, a person enters and remains on city docks or port facilities when the person occupies a vessel moored to a city dock or port facility or occupies a vessel which remains so close to city dock or port facilities as to interfere with the use of the dock or port facility. City docks and port facilities are all land, tidelands, docks and improvements within the port of Ketchikan owned or operated by the city under Chapter 13.04 KMC, including, but not limited to, Daly Float, Berths I, II, III and IV, their associated tender floats, and adjacent tidelands. The culpable mental state for criminal trespass is the same as that for criminal trespass under KMC 9.44.050.

(3) The person enters or remains on city docks or port facilities when not otherwise privileged to do so.

(b) Criminal trespass to city docks and port facilities is punishable by a fine not to exceed \$500.00 or imprisonment for 30 days or both such fine and imprisonment. (Ord. 1682 § 10, 2011; Ord. 1510 § 5, 2005; Ord. 1502 § 1, 2004)

13.09.025 Lease of dock vending locations.

(a) Sales Prohibited. No person shall provide, sell, offer to sell, take orders to sell, or advertise the sale of any goods or services on any dock facilities of the port of Ketchikan except as permitted under a lease granted to that person by the city pursuant to this section. No person shall solicit contributions or in any way offer or provide goods or service of any sort on the dock facilities unless permitted by the city manager.

(b) Leases. The city manager may lease up to eight areas on the city's dock facilities for use as dock vending locations. Two of those areas shall be designated for only the sale of food prepared for immediate consumption. The remaining six areas will be designated for the sale of tours. The term "tour" includes charter fishing. The city manager shall determine whether each lessee shall lease a single area or whether all lessees will lease all six areas in common with each lessee having the right to use each area on a rotational basis. A map or other description of each area shall be kept on file in the office of the city clerk. All leases shall contain such terms and conditions as the city manager shall determine, but shall include the following:

(1) Duration. No lease shall exceed three years and may be renewed upon mutual agreement for an additional three-year period. No lessee shall be given any other right to renew the lease or any preference in the award of any subsequent lease.

(2) Use. The leased area shall be used for only those purposes allowed by the lease. No subleasing will be permitted. The lessee may not assign or otherwise transfer any rights or interests under the lease. Only the lessee or its employees may make sales on the leased area.

(3) Employees. By May 1st of each year, the lessee shall provide the city manager with a list of all employees who will sell or provide goods or services from the leased area. The lessee shall notify the city manager in advance of the names of any employees who will be hired after May 1st of each year. The city manager shall, within 15 days of receiving the list of names, either approve of or reject any or all of the employees. Any employee who has been rejected by the city manager shall not sell or provide goods or services on the leased area. The lessee shall provide payroll tax and other information to the city manager for the purpose of determining whether a person is an employee of the lessee.

(4) Seasonal Use. The uses permitted under the lease shall be permitted only from May 1st to September 30th of each year unless a longer period is permitted by the city manager. The lessee shall remove all of its property from the leased areas by October 1st of each year unless otherwise permitted by the city manager. During the period from October 1st through April 30th of each year, the lessee shall have no rights to the leased area except as the city manager may permit, and the city may use the leased area or permit the use of the leased area by any person as it determines.

(5) Failure to Operate. A lessee who, without the prior approval of the city manager, does not conduct business on the leased area for 15 consecutive days shall be deemed to have abandoned and terminated the lease.

(6) No Activities Outside of Leased Area. The lessee shall not permit any of its activities to occur anywhere on the dock facilities except on the leased area; provided, however, that lessee may use designated loading zones for the sole purpose of loading and unloading passengers. Lessee may use designated walkways and driveways for access to the leased area; provided, that no solicitation, boarding or disembarking, sales or other activities occur.

(7) Indemnification. The lessee shall indemnify, defend and hold harmless the city, its employees, officers, agents and contractors from and against any and all loss, damage, cost, expenses, injuries, deaths, and claims arising from or related to any act or omission of the lessee, its agents, officers, employees, invitees, affiliates or contractors. The lessee shall be responsible for the entire cost of repairing, remodeling, rebuilding, or restoring any damage to city facilities or property arising from or related to the acts or omissions of the lessee, its officers, agents, customers or employees.

(8) Insurance. Each lessee shall at all times during the period of operations maintain a current comprehensive general liability insurance policy in the amount of not less than \$1,000,000 combined single limit, which policy shall name the city, its officers, agents and employees as additional named insureds and contain a waiver of subrogation endorsement as to the city, its officers and employees. The policy shall not contain any self-insured

retention or deductible in excess of \$1,000, and shall include a provision requiring written notification be given to the city by the insurance company not less than 30 days before the policy expires, or is canceled, modified or terminated for any reason. Lessees shall submit a copy of the policy, or, at the option of the city, a certificate of the policy, to the city prior to April 15th of each year.

(9) Utilities. Each lessee shall be responsible for the proper installation and connection of any utilities and shall pay the full cost of installation and use of the utilities. Utility installation and connection shall be of a quick-disconnect design and must be approved by the city prior to installation.

(10) Facilities and Signs. No facilities or equipment shall be placed upon the leased premises without the prior approval of the city manager. No permanent improvements to the leased area will be made. All facilities and equipment shall be designed and built in such a manner as to be readily removable. No signs shall be placed on the leased area without the approval of the city manager. Signs may advertise only the goods or services which are sold on the leased area under the terms of the lease.

(11) Cleanup. The lessee shall keep the leased areas clean, sanitary, and in good condition, and shall immediately repair or replace any damage.

(12) No Warranties or Representations. The city shall make no warranties or representations as to the condition, suitability or stability of the leased areas or of the pilings, decks, and supports or the leased areas. The lessee shall take the leased area and its pilings, decks, and supports in as-is condition. The city makes no warranties or representations as to the existence, condition or suitability of any utilities, streets, pilings, decks, supports, accessways or docks which are adjacent to the leased areas or which may be used for access to or from the leased areas. The city shall have no duty to maintain, repair or replace any utilities, streets, pilings, docks, decks, supports, and accessways. The city shall have no liability to any lessee for lost revenue, earnings, business opportunities or profits whether such losses are caused by the intentional or negligent acts or omissions of the city, its officers, agents, contractors, lessees or permittees. The city may at any time and without notice or liability close or restrict use of any streets, docks, accessways or dock space. Nothing in any lease shall be deemed to limit the city's right to permit any other use of the dock facility and nothing shall grant lessees any exclusive rights to use dock facilities other than the leased area. The city shall have no duty to lessees to enforce the provisions of subsection (a) of this section or any other ordinances, laws, rules or regulations including, but not limited to, those which affect the use of dock facilities, streets, sidewalks or other public facilities.

(13) Early Termination. The city may, at its convenience and without any payment or liability to any lessee, terminate any or all leases by providing the lessee with written notice on or before December 1st of any year. If such notice is provided the lease shall be terminated on December 31st of that year. In addition, the city may, upon 15 days' written notice, terminate any lease in the event the lessee, its employees, officers, agents, affiliates or invitees violate any of the terms and conditions of the lease or violate any

ordinance, law or rules or regulation relating to the use of the leased areas. The city may suspend or terminate a lessee's use of the leased areas in the event that the dock facilities or leased areas are damaged, unsafe, in need of maintenance, repair, remodeling or improvement or are needed for public purposes.

(14) Rules and Inspection. The city manager may establish reasonable rules for the use and occupation of the leased areas and dock facilities. The city manager or his designee may at any time inspect the leased area and all facilities, equipment and utilities located on the leased facilities.

(15) Limitation of Damages. Under no circumstances shall the city be liable to the lessee for any damages, losses, or costs of any sort arising from or related to the lease, the leased areas, the dock facilities, the lessee's business or the termination or breach of the lease by the city, which are in excess of the rent paid under the lease prior to the date of the damage, loss, or cost.

(c) Process for Awarding Leases. The city will award leases in the following manner:

(1) The city manager may award leases for dock vendor areas by sealed competitive bids after such notice as the manager deems feasible. The city manager may also award leases in the same sealed competitive bid manner if the number of lessees offering tours falls below six, or the number of lessees selling food falls below two, or in the alternative may award such leases to the next highest qualified bidder that submitted a responsive bid pursuant to the original bid solicitation.

(2) Exemption from Other Competitive Bid Requirements. The award of leases under this subsection is exempt from the provisions of Charter Sections 5-16 and 5-17, KMC 3.12.060, and other requirements for competitive bidding.

(d) Eligibility Requirements. Potential lessees must meet the following eligibility requirements prior to submitting a bid for a lease and during the term of the lease:

(1) Hold a current Alaska business license in a line of business commensurate with the respective vendor program, either sales or tours or food;

(2) Maintain a place of business under the name on the Alaska business license within the boundaries of the Ketchikan Gateway Borough;

(3) Maintain a year-round mailing address within the Ketchikan Gateway Borough; and

(4) Designate a single individual by physical address, mailing address and phone number within the Ketchikan Gateway Borough upon whom service of notices and legal proceedings may be made. Service of any notice concerning the permit to that person shall be legal and sufficient notice to any of the holders, owners, or any other with an interest in the permit. The harbormaster must be notified in writing no less than 10 days before there is a change in the name, address, or phone number of the designated person for a permit.

Failure to timely notify the harbormaster shall be considered a violation of the lease conditions.

- (e) Citations. Police officers and harbormasters are authorized to give notice to persons accused of violating provisions of this section by delivering citations to such persons. The citations shall include at least such information as is required by law.
- (f) Warrant Issuance. In the event any person fails to comply with a citation given to such person, a warrant for his arrest may be issued if the person has failed to comply with the citation or complaint.
- (g) Notices.

(1) Notices of Violation. In addition to or in lieu of any other procedures provided for in this section, police officers and harbormasters are authorized to give notice to persons accused of violating any provision of this section by issuing notices of violation to the alleged violators. The notices of violation shall provide:

- (A) A brief description of the violation;
- (B) The appropriate time and place of the violation;
- (C) The penalty for the violation;
- (D) The city office and address where the penalty may be paid;
- (E) A statement that, unless an appeal is filed within 10 days from the date of the violation or the penalty is paid within 30 days of the violation, an additional fee of \$15.00 will be imposed;
- (F) A brief description of the procedure for appealing the notice of violation, the office where such appeal must be filed, and the time for filing an appeal;
- (G) A notice that timely payment of the penalty will waive all rights to appeal or contest the notice of violation or penalty;
- (H) A notice that the person has a right to an administrative hearing at which the person may be represented by counsel, confront and question witnesses, testify, and subpoena witnesses;
- (I) A notice that failure to timely and properly file an appeal or pay the penalty will be deemed an admission of the violation; will waive all rights to appeal or contest the notice of violation or penalty; will cause the penalty and late payment fee to become immediately due and payable; and will subject the person to additional collection costs if the penalty and fee are not paid; and
- (J) Such other information as the city manager may require.

Failure to timely pay the penalty shown on the notice of violation or failure to timely and properly appeal the notice of violation or contest the notice of violation or penalty shall be deemed an admission of the violation described in the notice of violation and shall cause the penalty and late payment fee described in subsection (h) of this section to become immediately due and payable. Timely payment of the penalty will waive all rights to appeal or contest the notice of violation or penalty.

(2) Additional Notice. If the penalty set forth in subsection (h) of this section has not been paid within at least 30 days from the date the notice of violation was issued and if an appeal has not been filed, an additional notice shall be sent to the person alleged to have been in violation. The notice shall contain:

- (A) A brief description of the violation;
- (B) The appropriate time and place of the violation;
- (C) A statement that the penalty and additional fee of \$15.00 is due;
- (D) A statement that the time for appeal has passed unless within 10 days from the date the notice was mailed the person files a written appeal and proves to the hearing officer by satisfactory evidence that the person did not receive the notice of violation and that the failure to receive the notice was not the result of any act or omission of the person;
- (E) A brief statement of the procedure for appealing and the office where such appeal must be filed;
- (F) The city office and address where the penalty and fees may be paid; and
- (G) Such other information as the city manager may require.

(h) Violations – Schedule of Fines and Penalties.

(1) The following fine and civil penalty schedule shall apply to the violations listed below:

<u>Type of Violation</u>	<u>Fine/Penalty</u>
Any violation of KMC 13.09.025	\$100.00

(2) Late Payment Fee. The above fines or penalty shall be increased by an additional \$15.00 in the event that the fine or penalty is not paid in full within 30 days of the date the notice of violation or citation was issued. In computing the 30-day period, the period during which a properly filed and timely appeal is pending shall not be considered. If a citation has been issued, the period prior to the rendering of a final sentence shall not be considered in computing the 30 days; provided, however, that the violator or presumed violator has appeared in court at the time shown on the citation and at such other times as scheduled by the court. In addition to the fines and penalties described above, the violator shall pay

all collection and legal costs incurred in the collection of a fine or penalty which has not been timely paid.

(3) Collection of Fines, Penalties, and Costs. An alleged violator of any of the ordinances described in subsection (h)(1) of this section who has failed to pay all fines, penalties, late payment fees, and costs described in this section shall, upon the expiration of any time for appeal, be indebted to the city in the amount of such fines, penalties, late payment fees, and costs. In addition to or in lieu of any other provision for collection of such fines, penalties, late payment fees, and costs, the city may collect these amounts as a debt and may use such collection services and methods as are determined by the city manager.

(i) Administrative Appeal.

(1) Right to Appeal Notices of Violation. Any person to whom a notice of violation as described in this section has been issued may appeal the notice of violation in the manner set forth below.

(2) Time for Appeal. Within 10 days of the date the notice of violation was issued, any person appealing a notice of violation shall file with the hearing officer a written appeal. A written appeal may also be filed with the hearing officer within 10 days of the date the additional notice described in subsection (g)(2) of this section was mailed; provided, however, that the appeal will be considered untimely unless the appellant proves to the hearing officer by satisfactory evidence that the person did not receive the notice of violation and that the failure to receive the notice was not the result of any act or omission of the person. If the person appealing provides such satisfactory evidence, the person shall not be charged a late payment fee for the period prior to the date of the hearing officer's decision. Failure to file a written appeal within the time limits set forth above shall waive any right to appeal or contest the notice of violation or the penalties, fees, and costs imposed for the violation.

(3) Contents of Written Appeal. The written appeal shall state:

- (A) The name and mailing address of the appellant;
- (B) The number or other sufficient identification of the notice of violation;
- (C) Any facts, documents, photographs, witness statements, or other evidence supporting the appeal;
- (D) A statement of the reasons for the appeal;
- (E) A statement as to whether the appellant requests a hearing before an administrative hearing officer or desires to have the administrative hearing officer decide the matter without a hearing. Unless a hearing is requested, the appellant's rights to a hearing, to be represented by counsel at appellant's cost, and the opportunity to present evidence and to examine and cross-examine witnesses will be waived. If the appellant waives hearing, the hearing officer may determine the case

based upon the written statements of the appellant, the issuing officer and any witnesses and upon the hearing officer's own observations;

(F) The signature of the appellant and the date of signing; and

(G) Such other information as the city manager may require.

The manager shall prepare appeal forms which appellant may use.

(4) Hearing Procedures.

(A) Date. Unless otherwise agreed by the appellant and the hearing officer, any hearing requested pursuant to this section shall take place no later than 15 days from the date the written notice of appeal is filed with the city.

(B) Procedure. The administrative hearing shall be conducted informally and may be governed by such rules and procedures as the hearing officer may choose to establish, except that:

(i) Parties may appear in person or through counsel;

(ii) Parties may present witnesses and evidence on their own behalf;

(iii) Parties or their counsel may cross-examine opposing witnesses on matters relevant to the issues, impeach witnesses regardless of which party first called the witness to testify, and rebut evidence against himself;

(iv) Relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule which makes improper the admission of the evidence over objection in a civil action. Hearsay evidence may be considered, provided there are guarantees of its trustworthiness and that it is more probative on the point for which it is offered than any other evidence which the proponent can procure by reasonable efforts;

(v) All proceedings shall be open to the public;

(vi) All parties shall have the right to subpoena witnesses and documents using a form provided by the city clerk and submitted to the clerk for issuance at least five working days before the date of the hearing;

(vii) The hearing shall be memorialized by an electronic recording or a stenographic record;

(viii) Failure of an appellant to appear at the hearing when such hearing has been requested by appellant shall waive all right to a hearing and shall render the amount of the fines, penalties, and costs due and owing.

(5) Scope of Review. The hearing officer's decisions shall be based solely upon the law and the facts applicable to the case. If a violation is legally determined to have occurred, the hearing officer shall not substitute his/her judgment for that of the police officer or harbormaster as to whether a notice of violation should have been issued. If a violation is legally determined to have occurred, the hearing officer shall furthermore not substitute his/her judgment for the council, manager, or other authority which enacted the regulation or ordinance and shall not reduce the penalty below that provided for under subsection (h) of this section.

(6) Decision. No later than 15 days following the hearing, the hearing officer shall issue a written decision based on findings and conclusions adopted by the hearing officer. Such findings must be in writing and must be reasonably specific so as to provide interested persons and, where appropriate, reviewing authorities a clear and precise understanding of the reasons for the decision entered. The decision, findings of fact, and conclusions of law shall be forwarded to all parties to the appeal.

(7) Payment. If the hearing officer upholds the notice of violation, the appellant shall pay the penalty, any applicable late fees, and costs of collection.

(8) Reconsideration and Appeal. The decision of the hearing officer reached at the conclusion of a quasi-judicial proceeding or administrative hearing may be reconsidered or reheard only if:

- (A) There was substantial procedural error in the original proceedings;
- (B) The hearing officer acted without jurisdiction; or
- (C) The original decision was based on fraud or misrepresentation.

Any person seeking reconsideration or rehearing must file a request with the city clerk together with the materials supporting one or more of the grounds stated above within 15 days of the decision for which reconsideration or rehearing is requested. A rehearing shall be conducted in the same manner as the original proceeding. The decision of the hearing officer may be appealed to the superior court pursuant to the Alaska Rules of Court, Appellate Rules.

(9) Appointment of Hearing Officers. The hearing officers shall be appointed by the manager and confirmed by the council. (Ord. 1792 § 1, 2015; Ord. 1729 § 1, 2013; Ord. 1682 §§ 11, 12, 2011; Ord. 1498 § 1, 2004; Ord. 1344 § 3, 1996)

13.09.030 Permit for the sale of fresh seafood.

(a) General. No person shall sell, offer to sell, or take orders to sell any fresh seafood on any of the dock facilities of the port of Ketchikan except as authorized by a duly issued and currently valid permit for the sale of fresh seafood obtained pursuant to this section.

(b) Terms. Permits issued under this section shall be issued only for the sale of fresh seafood. A permit shall be effective on the date determined by the harbormaster and shall remain in

effect, unless sooner revoked, until the date of termination as determined by the harbormaster. Permits, or any rights or privileges thereunder, may not be assigned or transferred. Acceptance of a permit for the sale of fresh seafood by the permittee shall constitute an agreement by such permittee that he has no property right in the permit, and that such permittee shall appear and defend, and indemnify and hold the city, its elected and appointed officials and employees, harmless from and against any and all claims, loss, persons, or for damage to property resulting from or arising out of any act or omission of such permittee, or any of permittee's employees, agents, representatives or customers on the dock facilities. The city and its elected and appointed officials and employees assume no responsibility for or regarding any goods sold or activities by any permittee, or any of permittee's employees, agents, representatives, contractors or customers.

(c) Application. A person seeking a permit for the sale of fresh seafood shall file a written application for such permit with the harbormaster on a form provided by the harbormaster. The availability of applications for permits for the sale of fresh seafood shall be advertised by the harbormaster. Applications will be accepted by the harbormaster only during the period commencing on November 1st and ending on December 15th of each year. The application shall contain the following information:

- (1) Name, address and telephone number of the applicant;
- (2) A description of the vending unit proposed to be used in the business, including the size of the unit;
- (3) The specific type or types of fresh seafood proposed to be sold;
- (4) An acknowledgement by the applicant that he agrees to be bound by all of the terms, conditions and provisions set forth in this section, and such additional terms and conditions as may be set forth in the permit;
- (5) Such other information as the harbormaster may deem necessary to make a determination on the application.

(d) Issuance. Prior to issuance of a permit for the sale of fresh seafood, the applicant shall provide the harbormaster with proof that he has been issued and is the holder of a currently valid state business license and with proof that he is in compliance with any other applicable state laws, regulations or requirements.

(e) Location of Sales. The harbormaster shall designate two spaces on the dock facilities where permittees may conduct sales of fresh seafood. The use of such spaces by permittees shall be on a daily first-come, first-served basis.

(f) Limitations.

- (1) The permit issued under this section shall be prominently displayed on the vending unit whenever the unit is being used for vending. No permittee, or any employee, agent or representative thereof, shall operate a vending unit unless there is displayed on the unit a

current state of Alaska business license, a current state of Alaska food handling permit if applicable, and the permittee's operation complies with all local, state and federal health and sanitation requirements, and with all other laws, ordinances, regulations and permit conditions.

(2) Permittees may sell fresh seafood from self-propelled or non-self-propelled vending units. All units shall be mounted on wheels and shall be capable of locking or blocking two wheels to prevent accidental movement.

(3) All vending units shall be removed from the dock facilities each day not later than 10:00 p.m.

(4) Each permittee, and any employee, agent or representative thereof, shall each day pick up, remove and dispose of all trash, litter and refuse remaining from sales made by such permittee, employee, agent or representative, before leaving the vending space utilized by such permittee.

(g) Fees. A permit for the sale of fresh seafood is subject to the following nonrefundable fees:

(1) Application Fee. The application fee shall be \$25.00, which fee shall be nonrefundable and payable at the time of filing of the application.

(2) Permit Use Fee. A permit use fee shall be charged for use of the dock facilities. The permit use fee shall be \$10.00 per day, and shall be payable on a monthly basis for those days on which business is conducted. The permit use fee accrued for each month shall be paid not later than five days before the first day of the next following month.

(h) Insurance. Each permittee shall maintain at all times during the entire term of the permit a current comprehensive general liability insurance policy in an amount of not less than \$500,000 combined single limit, which policy shall name the city as an additional named insured and contain a waiver of subrogation endorsement. The policy shall not contain any self-insured retention or deductible in excess of \$1,000, and shall include a provision requiring written notification be given to the city by the insurance company not less than 30 days before the policy expires, or is canceled, modified or terminated for any reason. Permittees shall submit a copy of the policy, or, at the option of the city, a certificate of the policy, to the city prior to beginning operations.

(i) Revocation. The harbormaster may at any time revoke a permit for the sale of fresh seafood for noncompliance with any term, condition or provision of the permit, for violation of any provision of this section, or other applicable local, state or federal law, ordinance or regulation, or upon a determination that the operation of the permittee is causing a hazard or a disruption of pedestrian or vehicular traffic, or that the area affected by the permit is required for a public purpose, or for other reasons. The permittee shall be given written notice of the proposed revocation and an opportunity to be heard by the harbormaster before revocation of the permit, if so requested by such permittee not later than five days after the date of the written notice of proposed revocation. The permittee may appeal the decision of the harbormaster to

the city manager by filing a written notice of appeal with the city clerk not later than three days after the date of the decision being appealed.

(j) Fraud. Any person issued a permit under this section who commits any act of fraud, cheating or misrepresentation, whether through the permittee or through an employee, agent or representative thereof, while performing any activities provided for in the permit, directly or indirectly, or who shall barter, sell or peddle any goods upon the dock facilities other than those specified and authorized in his permit shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in subsection (k) of this section.

(k) Penalty. Any person who violates any provision of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$300.00. A separate offense shall be deemed committed on each day during which a violation occurs or continues. (Ord. 1046 § 2, 1984)

13.09.040 Program for performing artists. Revised 2/19

(a) The city manager or designee may authorize a program for performing artists on the Port of Ketchikan with the intent to provide a venue for local musicians to entertain cruise ship passengers and other visitors.

(b) The city manager or designee may establish rules for the program to include the application and selection process, authorized locations, scheduling and any other relevant guidelines. (Ord. 1891 § 1, 2019)

Chapter 13.10 PASSENGER WHARFAGE FEES

Sections:

13.10.010 Purpose.

13.10.020 Definitions.

13.10.030 Imposition of passenger wharfage fees.

13.10.040 Calculation of fees.

13.10.050 Payment of fees and penalties.

13.10.060 Protest of fees.

13.10.070 Exemptions.

13.10.080 Administration and enforcement.

13.10.090 Record-keeping.

13.10.100 Use of passenger manifests by the city.

13.10.110 Delinquency.

13.10.115 Failure to provide passenger manifests.

13.10.120 Liens and other costs.

13.10.130 Liability.

13.10.140 Use of fees.

13.10.010 Purpose.

The purpose of imposing fees under this chapter is to offset costs heretofore and hereafter incurred by the city of Ketchikan in acquiring, constructing and equipping its port facilities to provide related services for ships and their passengers who visit Ketchikan, and to mitigate impacts of increased utilization of city services by ships and their passengers.

13.10.020 Definitions.

The following definitions shall apply for purposes of this chapter:

“Agent” or “authorized agent” means the master or person in charge of the ship or any other person authorized by the owner or operator of the ship to act on behalf of the owner or operator with respect to the ship.

“City manager” or “manager” means the city of Ketchikan city manager or his or her designee.

“Entry into any port” means anchoring or mooring and allowing passengers to embark or disembark.

“Passenger” means any person who has paid any amount for a ticket contract entitling that person to transportation aboard the ship. The term does not include:

- (1) The owner’s or operator’s employees or their immediate family members sharing their quarters;
- (2) The owner’s or operator’s contractors or subcontractors; or
- (3) Musicians, artists, guest speakers, art auctioneers, interpreters, rangers, or similar persons traveling without charge and providing passenger services for the ship’s owner or operator.

“Passenger manifest” means a document stating the total number of passengers aboard a ship at the time it enters or leaves the boundaries of the city.

“Passenger ship” or “ship” means a vessel carrying passengers for compensation.

“Person” means any individual, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

“Visit” means an entry into a port or dock within the boundaries of the city more than 24 hours before or after another entry by the same ship, excluding visits for emergency purposes. (Ord. 1682 § 13, 2011)

13.10.030 Imposition of passenger wharfage fees.

- (a) Beginning January 1, 2007, upon each visit by a passenger ship docking at a city-owned or city-leased port facility, a passenger wharfage fee of \$7.00 per passenger shall be assessed.
- (b) Beginning January 1, 2007, upon each visit by a passenger ship that lighters passengers to or from a wharf or port facility owned or leased by the city or any private entity, a passenger wharfage fee of \$4.00 per passenger shall be assessed.
- (c) Beginning January 1, 2007, upon each visit by passenger ship docking at a wharf or port facility owned by a private entity, a passenger wharfage fee of \$4.00 per passenger shall be assessed.
- (d) Council Review. On or before October 1, 2019, the city council intends to review whether \$1.00 of the \$7.00 fee set in subsection (a) of this section should continue or should be reduced. (Ord. 1829 § 1, 2016; Ord. 1732 § 1, 2013; Ord. 1688 § 1, 2012; Ord. 1682 § 14, 2011; Ord. 1669 § 1, 2011; Ord. 1555 § 1, 2007; Ord. 1517 § 1, 2005)

13.10.040 Calculation of fees.

- (a) The total amount of passenger wharfage fees for each ship shall be calculated based on the passenger manifest upon arrival or departure, whichever is greater, for the ship upon its entry into or departure from any port within the city. Only one passenger wharfage fee shall be assessed per passenger per ship per visit.
- (b) Upon entry into or departure from any port within the city, the owner, operator or authorized agent from each ship shall provide the city manager with a passenger manifest.
- (c) The city manager shall develop procedures in accordance with KMC 13.10.080 for transmission of the passenger manifest from the owner, operator or authorized agent to the city manager. (Ord. 1682 § 15, 2011)

13.10.050 Payment of fees and penalties.

Passenger wharfage fees shall be paid by the owner, operator or agent of the ship to the city within 25 days after the billing date in accordance with payment procedures established by the manager under KMC 13.10.080. Such payment procedures shall provide for the payment of a penalty of five percent of fees due if not paid within 25 days.

13.10.060 Protest of fees.

An owner, operator or agent may protest the payment of the passenger wharfage fees charged under this chapter by paying the fees within the time established for payment of the fees and providing the manager with a written statement of protest specifying the amount of fees paid and the basis for the protest. The manager's decision regarding the protest shall be in writing and shall be a final decision. Such decision may be appealed to the superior court in the first judicial district for the state of Alaska at Ketchikan, Alaska.

13.10.070 Exemptions.

- (a) The passenger wharfage fees provided for in KMC 13.10.030 shall not apply to:
 - (1) Ships without berths or overnight accommodations for passengers;

(2) Ships operated by entities described in Section 501(c) of the Internal Revenue Code of 1986, as amended; or

(3) Ships operated by a state or political subdivision of the state, the United States government, or a foreign government.

(b) The burden of proving an exemption shall be on the person claiming the exemption. Persons claiming an exemption shall be required to obtain an exemption certificate from the city manager in accordance with procedures established by the manager under KMC 13.10.080.

13.10.080 Administration and enforcement.

(a) The city manager may adopt policies, procedures, rules and/or regulations to administer and enforce this chapter.

(b) The city manager shall take all steps necessary and appropriate to administer and enforce this chapter including but not limited to establishing policies, procedures, rules and/or regulations to administer and enforce this chapter, and conducting audits or examinations of the records and books of owners, operators, or agents of passenger ships.

13.10.090 Record-keeping.

To facilitate the administration and enforcement of the provisions of this chapter, each owner, operator or agent of a ship subject to payment of fees under this chapter shall maintain and keep for a period of three years after the date of transmission to the city all of the passenger manifests, forms and supporting records, and any other books and records prescribed by the city manager in accordance with KMC 13.10.080. Upon the request of the city manager, the owner, operator or agent of the passenger ship shall make available for examination in the city all such passenger manifests, books, records and other documents unless the manager authorizes the examination to be conducted at a different location.

13.10.100 Use of passenger manifests by the city.

(a) Except as otherwise provided herein or by applicable law, all passenger manifests transmitted to the city, obtained in the course of an audit, or otherwise by the city under this chapter, shall be kept confidential and shall not be subject to public inspection. Except upon court order, such manifests shall be made available only to employees, officials, attorneys and other representatives of the city whose responsibilities are directly related to such manifests; and to the person supplying such documents and information; as well as persons authorized in writing by the person supplying such documents and information.

(b) Notwithstanding subsection (a) of this section, the following information shall be made available to the public: the names of ships subject to payment of fees, whether or not the ship is current in payment of fees, the total fees due, and names of ships which have been issued an exemption certificate. The manager may, from time to time, make public the names of the ships and owners, operators or agents delinquent in payment of fees and the amount thereof; provided, that the names of owners, operators or agents who have executed a confession of judgment for the delinquent fees and penalties, and who are current in their fee payments under such confession of judgment as of the date on which the names are made public, will not be

made public. Information may also be made available to the public in the form of statistical reports if the identity of a particular passenger is not revealed by the reports.

(c) Notwithstanding subsection (a) of this section, the city manager may use the information in a manifest as reasonably necessary to respond to an emergency involving the ship that provided the manifest.

13.10.110 Delinquency.

(a) Whenever the city manager reasonably believes any ship has become delinquent in the payment of fees or penalties, the city manager shall mail to the owner, operator or agent's last known address a written demand by certified mail, return receipt requested, for payment of such fees and penalties within 10 days of receipt of such written demand. In the event of noncompliance with such demand, the manager may prepare a passenger wharfage fee and penalty billing statement ("billing statement") for the delinquent ship, based on the ship's passenger manifest(s), or if such manifest(s) have not been provided to the city, any reasonable estimate of the passenger count during the period of delinquency. The billing statement shall be sent to the owner, operator or agent at the owner, operator or agent's last known address by certified mail, return receipt requested. The owner, operator or agent shall have a right to a hearing before the manager at which time the owner, operator or agent shall make available for examination by the manager the books, papers, records and other documents pertaining to the fees or penalties for the period of delinquency. The owner, operator or agent may exercise the right to a hearing by delivering to the manager within 15 days of the date that the billing statement was mailed a written request for such a hearing. The manager shall establish a date and time for the hearing to be held within 10 days of receipt of the request unless a later time is mutually agreed to. The hearing shall be informal. At the hearing, the manager may uphold the original billing statement or issue an amended billing statement based on the information received at the hearing. The amended billing statement, or the original billing statement if it is not amended by the manager, shall be the final billing for the purpose of determining the amount owed to the city. If no timely request for a hearing is made, the original billing shall become the final billing.

(b) The city may file a civil action for collection of any fees and penalties due in the superior court for the first judicial district, state of Alaska, at Ketchikan, Alaska.

(c) Whenever any owner, operator or agent fails to pay delinquent fees after notice is given as provided in subsection (a) of this section, the manager may require such owner, operator or agent to pay fees immediately upon entry into a port or may deny the ship, or any lightering craft carrying passengers to or from such ship, berth or moorage at any city owned port until payment is received in full.

13.10.115 Failure to provide passenger manifests.

(a) Whenever the city manager does not receive a manifest, or whenever the city manager reasonably believes a manifest provided by a ship contains inaccurate information, the city manager shall mail to the owner, operator or agent's last known address a written demand by certified mail, return receipt requested, for submission of the corrected or required manifest

within 10 days of receipt of such written demand. The owner, operator or agent shall have the same hearing rights provided for in KMC 13.10.110(a).

(b) In the event of noncompliance with such demand, the manager may take any lawful action to bring about compliance with such demand, including but not limited to denying the ship, or any lightering craft carrying passengers to or from such ship, berth or moorage at any city owned port until the ship has provided an accurate manifest.

(c) The city may also collect from the owner, operator or agent of a ship all expenses that relate to the city's effort to bring about compliance with such a demand, including but not limited to:

- (1) Costs of bringing about compliance;
- (2) Attorney's fees and costs; and
- (3) Court costs.

13.10.120 Liens and other costs.

(a) The amount of delinquent fees and penalties shall constitute a lien on real and personal property of the owner, operator or agent of a ship.

(b) The city may also collect from the owner, operator or agent of a ship all expenses that relate to the city's effort to collect, including but not limited to:

- (1) Costs of collection;
- (2) Attorney's fees and costs;
- (3) Recorder's fees; and
- (4) Court costs.

13.10.130 Liability.

Any person violating any of the provisions of this chapter or failing or refusing to comply with a lawful request or demand of the manager authorized or made under this chapter shall be subject to the general penalty provision in KMC 1.02.030.

13.10.140 Use of fees.

The fees collected under this chapter shall be deposited in the Ketchikan port fund established pursuant to KMC 13.04.050 and applied to pay and reimburse costs heretofore and hereafter incurred to acquire, construct and equip port facilities and other city infrastructure and facilities and to pay and reimburse costs of:

(a) Services provided, made available to, or required as a result of passenger ships and passengers. (Ord. 1483 § 1, 2004)