

**CITY OF GUSTAVUS, ALASKA
ORDINANCE FY10-07**

**AN ORDINANCE FOR THE CITY OF GUSTAVUS AMENDING TITLE 8
HARBOR FACILITIES**

BE IT ENACTED BY THE GUSTAVUS CITY COUNCIL AS FOLLOWS:

- Section 1. Classification This ordinance is of general and permanent nature and shall become a part of the City of Gustavus Municipal Code.
- Section 2. Severability If any provisions of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and its application to other persons, or circumstances shall not be affected thereby.
- Section 3. Enactment Now therefore, be it enacted by the Gustavus City Council that Title 8 be amended as follows.
Bolded items are additions, ~~strickthroughs~~ are deletions.

TITLE 8

HARBOR FACILITIES

Chapters:

- 8.01 General Provisions**
8.02 Administration
8.03 Moorage
8.04 Transfer of Cargo, Storage and Other Activity
8.05 Duties of Boat/Skiff/Landing Craft/Barge Owners
8.06 Prohibited Practices
8.07 Fees and Penalties
8.08 Impoundment.

Sections:

- 8.01 General Provisions.**
8.01.1 Purpose
8.01.2 Interpretation
8.01.3 Implied Agreement from Use of Facilities
8.01.4 Tariff for Use by Common Carriers
8.01.5 Definitions.
- 8.02 Administration.**

- 8.02.1 Harbormaster
- 8.02.2 Disclaimer of Liability
- 8.02.3 The Marine Facilities Committee
- 8.02.4 Commission Duties
- 8.02.5 Commission Procedure

8.03 Moorage.

- 8.03.1 Registration Required
- 8.03.2 (Reserved) Transient Moorage
- 8.03.3 (Reserved)
- 8.03.4 (Reserved) Reserved Moorage
- 8.03.5 Moorage Conditions and Restrictions
- 8.03.6 Refusal of Moorage
- 8.03.7 (Reserved) Required Equipment
- 8.03.8 (Reserved) Utilities
- 8.03.9 Authority of Harbormaster to Board and Move Vessel
- 8.03.10 Forfeiture of Space

8.04 Transfer of Cargo, Storage and Other Activity

- 8.04.1 Transfer of Cargo
- 8.04.2 Storage
- 8.04.3 (Reserved) **Harbor Zones**
- 8.04.4 (Reserved) Repairs

8.04.5 Launching

- 8.04.6 (Reserved) Floatplanes
- 8.04.7 Restricted Areas
- 8.04.8 Parking
- 8.04.9 Residential Use
- 8.04.10 Signs
- 8.04.11 Accident Report

8.05 Duties of Boat/Skiff/Landing Craft/Barge Owners

8.06 Prohibited Practices

- 8.06.1 Speeding
- 8.06.2 Operating Under the Influence
- 8.06.3 Improper Boat Operation
- 8.06.4 Hazard to Navigation
- 8.06.5 Failure to Register
- 8.06.6 Improper Moorage
- 8.06.7 Reserved
- 8.06.8 Improper Use of Facilities
- 8.06.9 Improper Waste Disposal
- 8.06.10 Reserved
- 8.06.11 Unattended Cargo or Freight
- 8.06.12 Improper Petroleum Products Disposal

- 8.06.13 Improper Care and Control of Animals
- 8.06.14 Posting Written or Printed Material
- 8.06.15 Reserved
- 8.06.16 Reserved
- 8.06.17 Failure to Report

8.07 Fees and Penalties

- 8.07.1 Fee Schedule (by resolution)
- 8.07.2 Fee Collection and Lien
- 8.07.3 Penalties

8.08 Impoundment

- 8.08.1 Vessels and/or Property Which May Be Impounded
- 8.08.2 Notice to Owner
- 8.08.3 Hearing
- 8.08.4 Decision
- 8.08.5 Impoundment
- 8.08.6 Notice of Sale
- 8.08.7 Sale

TITLE 8

HARBOR FACILITIES

Chapter 8.01

General Provisions

Section:

- 8.01.1 Purpose**
- 8.01.2 Interpretation**
- 8.01.3 Implied Agreement for Use of Facilities**
- 8.01.4 Tariff for Use by Common Carriers**
- 8.01.5 Definitions**

8.01.1 Purpose. The purpose of this title is:

- (a) To provide for the safe and efficient use of Salmon River harbor facilities and all dock and float facilities, including those in Icy Passage managed by the City of Gustavus.
- (b) To provide for the orderly management, development, and control of the harbor facilities;

- (c) To protect and preserve the lives, health, safety and well-being of persons who use, work or maintain property at the harbor facilities;
- (d) To protect public property;
- (e) To prevent fire or health hazards and abate nuisances;
- (f) To prevent and discourage the use of the harbor facilities for derelict vessels and property
- (g) To insure adequate financial resources are available for upkeep and eventual replacement of the harbor facilities by the assessment of reasonable user fees or through other means; and
- (h) To conform with State of Alaska standards regarding ordinances for harbor facilities.

8.01.2 Interpretation. This title shall be construed to the greatest extent reasonable, in such a manner as to be consistent with applicable federal and state law, regulation, and any conveyances or agreements from or with the State of Alaska pertaining to harbor facilities.

8.01.3 Implied Agreement for Use of Facilities. The use of the harbor facilities or the presence of a vessel therein shall constitute an agreement by the owner, operator, master and managing agent to conform to the provisions of this title and any rule, regulation or order made pursuant thereto and to pay all fees and charges provided by this title. The City of Gustavus does not assume responsibility or liability for loss or damage to property, or injury to persons within or upon its harbor facilities. All persons visiting or using harbor facilities do so at their own risk.

8.01.4 RESERVED

Chapter 8.02

Administration

Section:

- 8.02.1 Harbormaster**
- 8.02.2 Disclaimer of Liability**
- 8.02.3 Marine Facilities Committee**
- 8.02.4 Committee Duties**
- 8.02.5 Committee Procedure**

8.02.1 Harbormaster. The Mayor may appoint a Harbormaster who shall administer harbor facilities with the powers provided by this title. The Harbormaster, working with the Mayor and/or Gustavus City Council and Marine Facilities Committee, may issue regulations not inconsistent with this title for the operation and use of the harbor facilities. Regulations shall be in writing and posted for public view at the in three public places for 30 days prior to becoming effective. Thereafter, they shall be available for public distribution at the Gustavus City Clerk's office.

8.02.2 Disclaimer of Liability. The authority granted to the Harbormaster shall not create an obligation or duty requiring the Harbormaster to take any action to protect or preserve any vessel or property located at or within the harbor facilities, or utilizing the harbor facilities. The City of Gustavus shall not be liable for any loss or damage to real or personal property at the harbor facilities resulting from fire or other casualty, theft, or vandalism.

8.02.3 Marine Facilities Committee. The Marine Facilities Committee shall be appointed and function as a standing committee in accordance with Gustavus City Ordinance Section 2.40.150 for standing committees. The Harbormaster shall not be a voting member of the Marine Facilities Committee, but will serve the Committee in an advisory role.

8.02.4 Committee Duties. The Committee shall advise the Mayor and Council on all matters regarding supervision and control of the harbor facilities. The Committee shall supervise the Harbormaster and recommend regulations for the use of the harbor facilities to the Council. The Council may adopt or disregard the Committee's recommendations.

8.01.5 Definitions. Whenever the words, terms, phrases and their derivations set forth in this section are used in this title, they shall have the meaning set forth in this section.

- (e) (a) Anchor. "Anchor" means to secure a vessel to the bed of a body of water by dropping an anchor or anchors or by using a buoy or other ground tackle
- ~~(p)~~(b) Cargo/Freight. **For the purposes of this section, cargo/freight will be defined as goods or materials that are loaded or off-loaded by a commercial vessel**
- ~~(d)~~(c) Derelict. "Derelict" means any vessel or property which is or reasonably appears to be forsaken, abandoned, deserted, cast away, unsound, unseaworthy, or unfit for its trade or occupation.
- (e)-(d) Distress. "Distress" means a state of disability or a present or obvious imminent danger which if unduly prolonged could endanger life and/or property.
- ~~(f)~~(e) Emergency. "Emergency" means a state of imminent or proximate danger to life or property in which time is of the essence.

~~(b)~~ **(f)** Floats. "Floats" hereafter refers to the gangway and floats attached to the main Gustavus dock.

~~(a)~~ **(g)** Harbor. "Harbor" hereafter refers to the Salmon River Boat Harbor area and facility.

~~(g)~~ **(h)** Harbor facilities. "Harbor facilities" includes the Salmon River Boat Harbor area and facility, the Gustavus Dock Facility, it's dock and bridge, the gangway and floats attached thereto, all water, tidal areas, adjacent upland areas, floats, pilings, docks, moorings, buoys, stalls, vehicle parking area, structures, or other harbor improvements constructed, maintained, owned, or leased by the City, together with any and all facilities of a port or maritime nature either publicly or privately owned that are primarily used by or for the service of vessels, including docks, floats, pilings, ramps, hoists, parking areas, leased water areas, concessions and/or service facilities located within the area defined herein and more particularly described as follows:

The Salmon River Boat Harbor area and facility:

Means all the land within ~~Parcel #3~~ **Tract B**, Government lot 6, the Salmon River Boat Harbor area (35.65 acres minus the 12 acres subdivided from the parcel and dedicated to the Gustavus Disposal and Recycling Center), Section 8 of Township 40 S., Range 59 E., Copper River Meridian.

The Gustavus Dock facility:

This facility begins within the uplands of the N.E. ¼ of Section 19 of Township 40 S., Range 59 E, Copper River Meridian and proceeds south across the tidelands into Icy Passage waters according to current tideland surveys.

Those structures included in the facility are the dock and approach, the gangway, floats and all tidelands and waters 300 feet on either side of the bridge to include a "navigation clear zone" off the south face of the main Gustavus Dock as indicated on the attached map. In addition to the "navigation clear zone," a "navigation approach zone" SW off the main Gustavus dock is provided to assure safe and clear passage for ships and barges as they approach the main dock face

~~(h)~~ **(i)** Harbormaster. "Harbormaster" means the individual described in Section 08.02.01 and any assistant Harbormaster or other person designated by the Harbormaster/Gustavus City Council/Mayor to act in his/her place.

~~(i)~~ **(j)** Moor. "Moor" means to secure a vessel other than by anchoring.

~~(j)~~ **(k)** Moorage. "Moorage" means the process of mooring or the state of being moored and, when the context requires, the fees for such acts imposed by this title.

~~(k)~~ **(l)** Nuisance. "Nuisance" means derelict private property including a vessel, a vessel which is not kept and/or regularly pumped free of excess water inside its hull, or is submerged, or which constitutes a fire, health, safety or navigation hazard. A vessel may be presumed to constitute a nuisance if:

1. The vessel is sunk or in immediate danger of sinking, or is obstructing a waterway, or is endangering life or property and has been left unattended for a continuous period of twenty-four (24) hours; or
2. The vessel has been moored or otherwise left at a harbor facility; and

- 8.03.7 (Reserved) Required Equipment**
- 8.03.8 (Reserved) Utilities**
- 8.03.9 Authority of Harbormaster to Board and Move Vessel**
- 8.03.10 (Reserved) Forfeiture of Space**

8.03.1 Registration Required.

Each owner, master or managing agent of a vessel using the harbor facilities is required to register the person's name, address and telephone number, and the vessel's name, with the Harbormaster/City and will be required to sign a user agreement. Registration forms will be available at the harbor sites. Said owner, master or managing agent shall promptly notify the Harbormaster/City of Gustavus of any changes in registration information.

8.03.2 Transient Moorage. Moorage at the Gustavus Dock facility shall not exceed the times as posted on signage at the dock to be established by resolution.

- 8.03.3 (Reserved)**
- 8.03.4 (Reserved) Reserved Moorage**
- 8.03.5 (Reserved) Moorage Conditions and Restrictions**
- 8.03.6 (Reserved) Refusal of Moorage.**
- 8.03.7 (Reserved) Required Equipment.**
- 8.03.8 (Reserved) Utilities**

8.03.9 Authority of Harbormaster to Board and Move Vessel.

In the event of a fire or other emergency affecting the safety of persons and property in the harbor facilities, the Harbormaster may board, move, replace inadequate mooring lines on, remove snow from, pump water from, and take any other action to prevent loss of life or property with respect to any vessel in the harbor facilities.

- 8.03.10 (Reserved) Forfeiture of Space**

Chapter 8.04

Transfer of Cargo, Storage and Other Activity

Section:

- 8.04.1 Transfer of Cargo**
- 8.04.2 Storage**
- 8.04.3 Reserved Harbor Zones**
- 8.04.4 (Reserved) Repairs**
- 8.04.5 Launching**

- 8.04.6 (Reserved) Floatplanes
- 8.04.7 Restricted Areas
- 8.04.8 Parking
- 8.04.9 Residential Use
- 8.04.10 Signs
- 8.04.11 Accident Report

- 8.04.1 Transfer of Cargo.** These provisions are intended to govern common carrier cargo operations and sale or transfer of seafood products at harbor facilities.
- (a) Location. Transfer of cargo may occur only at designated loading zones within the harbor facilities. Loading zones shall be adequately marked with time limits at the discretion of the Harbormaster/City. **Freight not delivered or removed within from the loading zone within twenty-four (24) hours shall moved to the freight staging area by the freight agent.**
 - (b) Notification. Cargo carriers ~~should~~ **will** coordinate their entrance into the harbor facilities ~~at the discretion under the direction of~~ the Harbormaster/City prior to use. All hazardous materials shall be clearly marked and labeled in accordance with state and federal regulations.
 - (e)
 - (d)(c) Freight Transfer Duration. Freight transfer time at the facility is limited to:
 1. The transferring of/or loading of materials only. In special situations these times may be extended by the Harbormaster/City.
 - (e)(d) Liability and Indemnity. All risk of loss from theft, fire, or other casualty to cargo shall be assumed by the parties to the shipping agreement and not the City of Gustavus. The person loading/unloading cargo shall defend, indemnify, and hold the City of Gustavus harmless from all claims arising from the cargo transfer at the harbor facilities.
 - (f)(e) Cargo Area Cleanup. Cargo carriers will keep the cargo transfer area clean and free of trash, pallets or operational equipment associated with freight service. Failure to comply may result in a refusal of facility use for the carrier.

- 8.04.2 Storage.**
- (a) Availability. Storage space may be available at the harbor facilities in designated areas. A person may apply to use storage space at the harbor facilities by contacting Harbormaster/City.
 - (b) Assignment of Storage Space. Storage space will be let by a first-come first-serve basis.
 - (c) Use Period. ~~Items may be placed in the designated storage area for up to two weeks without charge or longer by special arrangement.~~
Refer to Resolution 2009-25 Exhibit 1

Chapter 8.05

Duties of Boat/Skiff/Landing Craft/Barge Owners

Section:

8.05.1 In addition to the duties of registration and identification as herein provided, every owner, master, operator or managing agent of any boat using the mooring and/or other facilities of the harbor shall be obliged to use due diligence in performing the following requirements:

- (a) Use all reasonable effort and precautions in keeping the boat in his or her charge well secured, securely moored with lines in reasonably fit condition, sufficiently pumped out at all times to keep the boat afloat, and to otherwise attend the needs of the boat to avoid need for attention by the Harbormaster/City.
- (b) To promptly pay all charges and taxes assessed or levied according to law either against the boat or its owner.
- (c) Supply and use adequate fenders to safeguard floats and vessels from chafing and other damages.

Chapter 8.06

Prohibited Practices

Section:

- 8.06.1** Speeding
- 8.06.2** Operating Under the Influence
- 8.06.3** Improper Boat Operation
- 8.06.4** Hazard to Navigation
- 8.06.5** Failure to Register
- 8.06.6** Improper Mooring
- 8.06.7** (Reserved)
- 8.06.8** Improper Use of Facilities
- 8.06.9** Improper Waste Disposal
- 8.06.10** Improper Dumping or Discarding of Property
- 8.06.11** Unattended Cargo or Freight
- 8.06.12** Improper Petroleum Product Disposal
- 8.06.13** Control of Animals
- 8.06.14** Posting Written or Printed Matter
- 8.06.15** (Reserved) Water Sports
- 8.06.16** (Reserved) Conducting Commercially Oriented Business
- 8.06.17** Failure to Report

8.06.1 **Speeding.** To operate or cause to be operated any water craft at a speed in excess of five (5) nautical miles per hour or at any speed which causes an excessive wake.

8.06.2 Operating Under the Influence. No person may operate a vessel within the harbor facilities area described in 8.06.01, while under the influence of alcohol or other drugs to the extent that it would be unlawful to operate a motor vehicle under state law in such conditions.

8.06.3 Improper Boat Operation. No person shall operate or cause to be operated any boat or watercraft in a reckless/negligent manner and in willful and wanton disregard for the safety of persons or property within the limits of the boat harbor facilities

No person shall operate any boat or watercraft in a manner that shall unreasonably or unnecessarily interfere with other watercraft or vessels or with the free and proper navigation of the waterways of the harbor facilities.

8.06.4 Hazard to Navigation. No person shall create or fail to remove, after request from the Harbormaster/City, a hazard to navigation within the area described in 8.01.5 part g, known as the harbor facilities.

8.06.5 Failure to Register. No owner/operator of a vessel shall fail to register a vessel operated by that person with the Harbormaster/City.

8.06.6 Improper Mooring. No person shall moor a vessel or anchor any boat, vessel or other floating structure;

- (a) in such a manner as to obstruct access to the float or harbor facilities;
- (b) within the navigation clear zone or the navigation approach zone in Icy Passage.

8.06.7 (Reserved) Inadequate Equipment.

8.06.8 Improper Use of Facilities. No person may use portions of the harbor facilities for purposes or in a manner contrary to Title 8 of this ordinance.

8.06.9 Improper Waste Disposal. No person shall dispose of trash, garbage, refuse, human, or any similar substance into the water at the harbor facilities. Disposal of seafood wastes may occur from the Gustavus Dock and floats. Only small amounts of seafood waste should be disposed of at the Salmon River Boat Harbor facility.

8.06.10 Improper Dumping or Discarding of Property. No person shall dump or discard tangible property at or on the Salmon River boat harbor facility.

8.06.11 Unattended Cargo or Freight. No person shall deposit, place or leave any cargo, merchandise, supplies, freight, articles or other objects upon any float, ramp, decline, walk or other public place at the harbor facilities excepting at such places as may be designated as loading and unloading zone by the Harbormaster/City. Free and unencumbered access must be maintained at all times to the public facilities.

8.06.12 Improper Petroleum Product Disposal. No person shall release any fuel, oil, their derivatives, wastes or by-products, or other petroleum products in the water at the harbor facilities.

8.06.13 Control of Animals. Owners will be responsible for cleaning up after their pets.

8.06.14 Posting Written or Printed Matter. No person shall erect, place, write, post or maintain any written or printed matter, advertising matter or sign at the harbor facilities without having first obtained permission of the Harbormaster/City. All unauthorized signs shall be removed by the Harbormaster/City.

No person shall disregard, deface, remove, tamper with or damage any sign or notice posted or erected by the Harbormaster/City relating to the use of mooring areas or other uses of the harbor facilities. Signs shall be placed at normal height requirements at the harbor facilities.

8.06.15 (Reserved) Water Sports

8.06.16 (Reserved) Conducting Commercially-Oriented Business.

8.06.17 Failure to Report. No person shall fail to report accidents required by Section 8.04.11 of this title.

Chapter 8.07

Fees and Penalties

Section:

- 8.07.1 Fee Schedule**
- 8.07.2 Fee Collection and Lien**
- 8.07.3 Penalties**

8.07.1 Fee Schedule. A fee schedule will be set forth in resolution

8.07.2 Fee Collection and Lien

- (a) Invoicing. Invoices may be delivered personally or mailed when due as set forth in resolution.
- (b) Delinquent Fees and Fines. Fees are delinquent when they are more than thirty (30) days past due. Fines are delinquent on the day after they are issued by the City. The Harbormaster/City may, but need not, give notice of any delinquent fees or fines.
- (c) Interest on Delinquent Fees and Fines. Delinquent fees and fines under this title shall accrue interest at the rate of one and one-half percent (1.5%) per month from the date they were due until paid in full.

- (d) **Collection Action**. The Mayor is authorized to commence suit or exercise any other legal remedy to collect any delinquent fee or fine. In the event such suit is commenced, the person obligated to pay the fee or fine shall, in addition to any other liability imposed by this title, be liable for the City of Gustavus' actual, reasonable attorney's fees and costs associated with the collection.
- (e) **Lien for Unpaid Fees**. In addition to all other remedies available by law, the City shall have a lien for any fees, interest and costs of collection, including attorney's fees, provided by this title, upon any vessel (including all equipment, tackle, and gear) cargo and property giving rise to such fees. The lien may be enforced by any procedure otherwise provided by law and by the procedure set forth in 8.08 of this title.

8.07.3 Penalties.

- (a) Every act prohibited by this title is unlawful and may be enjoined by judicial order. The list of prohibited practices listed in Chapter 8.06 may be subject to civil penalties, in amounts to be established by resolution of the City Council, not to exceed three (\$300) per violation. Each act or violation and every day upon which a violation occurs or continues constitutes a separate offence.
- (b) Citation: A person committing a violation of this title shall be issued a citation, unless otherwise required by law or the immediate circumstances. If the violation for which the citation is issued is one which does not require a mandatory appearance, the person to whom it is issued may plead no contest or guilty to the offense without a court appearance by signing the appropriate blank on the citation and paying the specified fine in person or by mail within five (5) days of the date of the citation, to the City Clerk at The City of Gustavus, P.O. Box 1, Gustavus, Alaska 99826. Acceptance of payment of the prescribed fine is complete satisfaction for the violation, and the offender shall be given a receipt which so states, if requested.
 - 1. Mail-In Fine Procedure. If the violation for which the citation is issued is one for which only a fine may be imposed, the person to whom it is issued may plead no contest or guilty to the offense without a court appearance by signing the appropriate blank on the citation and paying the specified fine. Acceptance of payment of the prescribed fine is complete satisfaction for the violation, and the offender shall be given a receipt that so states, if requested.
- (c) Promise to Appear. The citation form shall contain a place for the accused to sign acknowledging receipt of the citation and if the person refuses to accept the citation or refuses to sign acknowledgement of receipt and promise to appear, the

Harbormaster/City shall proceed in the manner provided by law for violations. If the accused accepts the notice but fails to pay the fine or appear in court as required, the citation shall be considered a summons for the charge of the violation and the accused shall be proceeded against in a manner prescribed by law.

Chapter 8.08

Impoundment

Section:

8.08.1	Vessels and/or Property Which May be Impounded
8.08.2	Notice to Owner
8.08.3	Hearing
8.08.4	Decision
8.08.5	Impoundment
8.08.6	Notice of Sale
8.08.7	Sale

8.08.1 Vessels and/or Property Which May be Impounded. The Harbormaster/City is authorized to impound a vessel or property under any of the following circumstances:

- (a) The vessel or property is within the harbor facilities and is a derelict or a nuisance as defined by this title;
- (b) The fees for which the City of Gustavus has a lien on the vessel are delinquent;
- (c) The vessel or property is located at the harbor facilities and is in violation of this title, a regulation of the harbor facilities, or a state or federal law.

8.08.2 Notice to Owner.

- (a) Contents. Prior to impounding any vessel or property, the Harbormaster/City shall prepare a written notice of intent to impound the vessel/property. The notice shall contain:
 1. The name and/or official number or state registration number of the vessel;
 2. The name and address, if known, of the owner, operator, master or managing agent, the location of the vessel or property;
 3. The basis or reason for impoundment; and
 4. The moorage space, if any, which will be forfeited if the vessel is impounded.
- (b) Distribution. The notice of intent to impound shall be at least sixty (60) days before impoundment.

1. Mailed by certified mail, return receipt requested, to the last known owner, master, or managing agent of the vessel or property at his last known address; and
2. Posted on the vessel or property and in three public places.

8.08.3 Hearing.

- (a) Demand for Hearing. The owner, master or managing agent or any other person in lawful possession of a vessel or property proposed for impoundment has the right to a pre-impoundment administrative hearing to determine whether there is cause to impound the vessel or property. Any such person desiring a hearing shall file a written demand with the City of Gustavus Clerk within ten (10) days after mailing and posting of the notice of intent to impound.
- (b) Hearing Procedure. The hearing shall be conducted within seventy-two (72) hours of receipt of a written demand therefore from the person seeking the hearing, unless such person waives the right to a speedy hearing. Saturdays, Sundays and City of Gustavus holidays are to be excused from the calculation of the seventy-two (72) hour period. The hearing officer shall be designated by the Mayor and shall be someone other than the Harbormaster. The sole issue before the hearing officer shall be whether there is cause to impound the vessel or property in question. "Cause to impound" shall mean such a state of facts as would lead a reasonable person exercising ordinary prudence to believe there are grounds for impounding the vessel or property. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The person demanding the hearing shall have the burden of establishing that he has the right to possession of the vessel or property. The Harbormaster/City shall have the burden of establishing if there is cause to impound the vessel or property. Failure of the owner, operator, master or managing agent to request or attend a scheduled pre-impoundment hearing shall be deemed a waiver of the right to such a hearing.

8.08.4 Decision. At the conclusion of the hearing, the hearing officer shall prepare a written decision. The hearing officer shall only determine that, as to the vessel or property in question, either that there is cause to impound the vessel or property or that there is no such cause. A copy of the decision shall be provided to the person demanding the hearing, and the owner of the vessel or property, if the owner is not the person requesting the hearing. The hearing officer's decision shall in no way affect any criminal proceedings in connection with the impoundment in question, and any criminal charges involved in such proceedings may only be challenged in the appropriate court. The decision of the hearing officer is final.

8.08.5 Impoundment. In the event the hearing officer determines there is cause to impound the vessel/property, the Harbormaster/City may proceed immediately with impoundment. The Harbormaster/City may impound the vessel or property by immobilizing it, removing it or having it removed from the water or land and placing it in public or commercial storage, with all expenses of haul out and storage and an impound fee to be borne by the owner of such vessel or property. At any time, prior to the sale of the vessel or property, the owner, operator, master or managing agent, or person in lawful possession of the vessel/property may redeem the vessel by a cash payment of all fees against the vessel/property, including interest and costs.

8.08.6 Notice of Sale.

(a) Contents. Prior to the sale of any impounded vessel or property, the Harbormaster/City shall prepare a written notice of sale of the vessel or property. The notice shall contain:

1. The name and/or official number or state registration number of the vessel;
2. The date, time and place of the sale; and
3. The fees, interest, and costs which are due against the vessel or property and the bidding terms provided by Section 8.07 of this title.

(b) Distribution. The notice of sale shall be, at least thirty (30) days before the sale:

1. Mailed by certified mail, return receipt requested, to the last known owner, master, or managing agent of the vessel or property at his last known address.
2. Posted on the vessel or property, in three public places, a notice of such action to be taken; and
3. Published in a newspaper of general circulation in Gustavus, Alaska, if such a publication exists, at least once.

8.08.7 Sale.

(a) Bids. The minimum acceptable bid shall be a sum equal to the fees against the vessel or property, including interest and costs to be paid in cash at the time of sale or within twenty-four (24) hours thereafter. The proceeds of such sale shall be first applied to the cost of the sale, then to interest, then to fees accrued, and the balance, if any, shall be held in trust by the City of Gustavus for the owner of the vessel or property to claim. If such balance is not claimed within six (6) months, the balance shall be forfeited to the City of Gustavus. Upon sale being made, the City of Gustavus shall make and deliver its bill of sale, without warranty, conveying the vessel or property to the buyer.

(b) No Bids. If at the public sale there are no acceptable bids for the vessel or property, the City of Gustavus may destroy, sell at a private sale, or otherwise dispose of the vessel/property. Such disposition shall be without liability to the owner, master or managing agent, person in possession of the vessel or property, or lien holder of the vessel or property.

Section 4. Effective Date This ordinance becomes effective upon adoption by the Gustavus City Council.

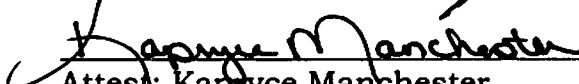
Date of introduction and Publication: October 8, 2009

Date of Public Hearing: December 10, 2009

Passed and Approved by the Gustavus City Council this 10th day of December, 2009.



Paul Berry, Mayor



Attest: Kapryce Manchester
City Clerk



Handwritten text, possibly a signature or name, located in the middle left area.

Handwritten text, possibly a date or number, located below the first signature.

Small handwritten mark or number, possibly '103', located on the right side of the page.

