

## ***Chapter 85.02 DOCKS AND HARBORS BOARD<sup>1</sup>***

### **85.02.010 Board of directors.**

There is established the board of directors of the City and Borough docks and harbors which shall be known as the City and Borough docks and harbors board and shall consist of nine members appointed by the assembly to serve without compensation for staggered three-year terms. City and Borough docks and harbors board members shall serve at the pleasure of the assembly. Terms shall commence on July 1. No board member, or member of a board member's immediate family or household, may be employed by the Harbors Department. To the extent possible, appointments to the City and Borough docks and harbors board shall include persons having marine, engineering, financial, or other skills relevant to port and harbor matters. Appointments to fill vacancies shall be for the unexpired term. In the event a seat has six months or less remaining to the unexpired term, the assembly, at its discretion, may choose to appoint the member to the remainder of the current term as well as to the full term immediately following the expiration date of the unexpired term. No member of the docks and harbors board who has served for three consecutive terms or nine years shall again be eligible for appointment until one full year has intervened, provided, however, that this restriction shall not apply:

- (1) If there are no other qualified applicants at the time reappointment is considered by the assembly human resources committee, or
- (2) To qualified board members serving in board seats for which a specific occupation or expertise is set forth by ordinance.

(Serial No. 2004-03b, § 2, 3-9-2004; Serial No. 2004-08, § 10, 3-22-2004; Serial No. 2005-03(d), § 9, 6-13-2005)

### **85.02.020 Organization.**

The City and Borough Docks and Harbors Board shall elect annually from its members a chair and vice chair and such other officers as it deems necessary. The board may appoint such committees as it deems necessary.

(Serial No. 2004-03b, § 2, 3-9-2004)

### **85.02.030 Vacancies.**

- (a) A vacancy in the City and Borough Docks and Harbors Board shall exist under the following conditions:
- (1) If a person appointed to membership fails to qualify and take office within 30 days of appointment;
  - (2) If a member departs from the City and Borough with the intent to remain away for a period of 90 or more days;
  - (3) If a member submits his or her resignation to the board or assembly;

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<sup>1</sup>Charter reference(s)—Docks and harbors board, § 3.21.

State law reference(s)—Port facilities grants, § 30.15.010 et seq.; boat harbor, dike, jetty, and breakwater facilities, AS 35.10.090 et seq.

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- (4) If a member fails to attend three consecutive regular board meetings, unless excused by the board;
  - (5) If a member misses more than 40 percent of the regular board meetings in a 12-month period; or
  - (6) If a member is removed by the assembly, in its sole discretion, for the convenience of the City and Borough.
- (b) For the purposes of counting attendance, a member participating telephonically in accordance with the Assembly Rules of Procedure shall be counted as present.
- (c) The chair of the City and Borough Docks and Harbors Board shall notify the clerk's office of any vacancy on the board. Upon notification, the assembly shall appoint a new member for the unexpired term.
- (Serial No. 2004-03b, § 2, 3-9-2004; Serial No. 2005-03(d), § 10, 6-13-2005; Serial No. 2010-36, § 2, 1-10-2011)

#### **85.02.040 Meetings.**

The City and Borough Docks and Harbors Board shall meet at least once each month at a place and time to be designated by the chair.

(Serial No. 2004-03b, § 2, 3-9-2004)

#### **85.02.045 Coordination.**

- (a) The City and Borough Docks and Harbors Board shall, no later than November 30 each year, provide the assembly with a written review of docks and harbors department operations during the preceding fiscal year. The review shall include fee schedules, revenues by source, operating expenditures, customers served, and any recommended amendments to the Downtown Waterfront Development Plan. The manager shall review and comment on the recommendations.
- (b) The board shall submit to the assembly committee of the whole at least semi-annually a report on port and harbor operations and pending issues.
- (c) The assembly shall appoint a member to serve as liaison to the board.
- (d) The board shall adopt safety policies acceptable to the City and Borough risk manager or such other officer as the manager may designate.
- (e) In emergencies, the harbor shall, to the extent necessary to resolve the emergency, be under the control of the fire chief or such other officer as the manager may designate.
- (f) Reserved.

(Serial No. 2004-03b, § 2, 3-9-2004; Serial No. 2017-13, § 2, 6-26-2017, eff. 7-27-2017 )

#### **85.02.050 Membership in associations.**

The City and Borough Docks and Harbors Board may maintain membership in any local, state or national group or association organized and operated for the promotion, improvement or assistance in the administration of port and harbor facilities and, in connection therewith, pay dues and fees thereto.

(Serial No. 2004-03b, § 2, 3-9-2004)

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## **85.02.060 General powers.**

- (a) Subject to state laws and City and Borough ordinances, the City and Borough Docks and Harbors Board shall generally exercise all powers necessary and incidental to operation of all port and harbor facilities in the public interest and in a sound business manner. In particular, and without limitation on the foregoing, the board shall:
- (1) Be responsible for the operation, development and marketing of municipally owned and operated port and harbors, including such facilities as boat harbors, docks, ferry terminals, boat launching ramps, and related facilities except as designated by the assembly by resolution.
  - (2) Adopt pursuant to CBJ 01.60 and enforce regulations necessary for the administration of the facilities under its management.
  - (3) Prescribe the terms under which persons and vessels may use the facilities and shall establish and enforce standards of operation.
  - (4) (A) Within the docks and harbors appropriation and in conformity with the rates of pay established for municipal positions of similar responsibility, establish, and may amend, the pay plan for harbor employees.  
  
(B) The Docks and Harbors Department shall conform to the City and Borough Personnel Management Code, the City and Borough Personnel Rules, Personnel Classification Plan, and the manager's policies relating to personnel. The Docks and Harbors Department shall utilize the services of the Human Resources and Risk Management Department when hiring or terminating any employee, when responding to grievances, in labor agreement negotiation, and in substantial disciplinary matters. The City and Borough Human Resources and Risk Management Director shall annually certify that the Harbor Department Classification Plan conforms to that utilized for employees of the manager.
  - (5) Administer and dispose of City and Borough tideland, submerged land, and other land as provided by the assembly by resolution as subject to docks and harbors board administration, subject to the following limitations:
    - (A) No sale, purchase, or trade of land shall be made without prior review by the assembly lands committee and approval by the assembly by resolution.
    - (B) Unless otherwise designated in advance by the assembly by resolution, any lease of land shall be limited to marine-related uses, and those uses accessory to tenancy on the boat harbor or use of the port.
    - (C) All land transactions by the board in accordance with this section shall be consistent with the land management plan developed under CBJ 85.02.063.
      - (i) Land shall be leased as provided in title 53, provided that the provisions of section 53.20.020 relating to a declaration of availability and identification in the land management plan shall not apply.
      - (ii) For purposes of applying title 53 pursuant to this subsection (C), any action required by title 53 of the manager may be performed by the port director.
  - (6) Shall administer the design and construction of all capital improvements on lands managed by the docks and harbors board unless otherwise specified by the assembly by resolution. The board may propose capital improvement projects to and apply for funding from state and federal agencies; provided, that such requests shall be subject to prioritization by the assembly with other municipal capital improvement funding requests prior to application for funds. The board shall, no later than

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November 30 each year advise the assembly of its recommendations for capital improvements to be included in the six-year capital improvement plan prepared by the manager.

- (7) (A) Shall enter into memoranda of understanding and similar agreements with public agencies for port or harbor purposes. Notwithstanding chapter 53.50, the City and Borough Docks and Harbors Board may negotiate and enter into contracts for goods and services; provided, that all legal services shall be provided by, or under the supervision of, the City and Borough Attorney, and further provided that all purchases shall be consistent with the requirements set forth in CBJ 53.50. All services provided by a City and Borough agency other than the City and Borough Attorney shall be pursuant to a memorandum of understanding or other instrument providing for payment or such other settlement as the manager and the board may approve.
- (B) Contracts for public improvements and, whenever practicable, other purchase of supplies, materials, equipment, and services, except professional services and services of officers and employees of the municipality, shall be subject to the competitive bidding and property standards and procedures established in chapter 53.50, provided that the board may, for all contracts, a class of contracts, or a particular contract, specify prior to issuance of a public solicitation that for purposes of applying chapter 53.50, all actions required thereby of the manager or the purchasing officer shall be performed by the port director, and provided further that any appeal of any protest of a contract so administered shall be from the bidding review board to the docks and harbors board and thereafter to the superior court.
- (C) All contracts and purchases exceeding \$100,000.00 shall require prior assembly approval.
- (b) *Private dock reservations.* The docks and harbors board is authorized to execute a reservation agreement for private docks with the following essential terms:
- (1) *Scope.* The docks and harbors department may manage reservations, including moorage services, for any privately owned docks within the City and Borough of Juneau.
  - (2) *Priority.* Docks and harbors shall prioritize reservations at municipally owned facilities.
  - (3) *Compensation.* Docks and harbors shall receive fair market value for its services, which shall be determined by the docks and harbors port director.
  - (4) *Liability.* The City and Borough of Juneau is not assuming control, maintenance, or responsibility of any of private property, including, but not limited to, vessels using a private dock or private docks and associated facilities. The City and Borough of Juneau is not responsible for the inability to make a reservation, reservation disruptions, reservation changes, market fluctuations, or vessel relocations.
  - (5) *Public records.* All records received by the docks and harbors department related to public-private agreements are public records and subject to the Alaska Public Records Act and CBJC 01.70.

(Serial No. 2004-03b, § 2, 3-9-2004; Serial No. 2006-06, § 4, 4-3-2006; Serial No. 2013-29, § 5, 1-6-2014, eff. 2-5-2014 ; Serial No. 2019-19, § 5, 7-22-2019, eff. 8-22-2019 ; Serial No. 2022-02, § 2, 2-7-2022, eff. 3-10-2022)

### **85.02.063 Land management plan.**

- (a) After public hearing and deliberation, the docks and harbors board shall draft and forward to the planning commission and assembly a land management plan. The plan shall address the retention, use, disposal, and development of City and Borough land under the jurisdiction of the docks and harbors board. After public hearing and deliberation, the planning commission shall forward its recommendation to the assembly. Recommended changes to the land management plan shall be developed using the same procedure.

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- (b) Development of the land management plan, or a change to the plan, shall be guided by the following principles:
- (1) Multiple use should be encouraged;
  - (2) A sound local economy will be promoted;
  - (3) Adequate lands for public development and public use, including recreational beaches with appropriate uplands, should be reserved;
  - (4) Tidelands should be leased only for specific water-dependent and water-related uses and not sold;
- (c) In developing the land management plan to implement the policies outlined in this section, the following issues, without limitation, shall be considered:
- (1) The supply of publicly owned lands to meet public needs;
  - (2) The supply of privately owned lands to meet the private-sector needs of the community;
  - (3) The comprehensive plan, the long-term capital improvements program, and other plans adopted by the assembly;
  - (4) Restrictions created by written instruments, zoning, and state and federal regulations;
  - (5) Physical, economic, resource, population and social factors affecting the area under consideration;
  - (6) Comments of the general public, affected landowners, state and federal agencies and local advisory groups;
  - (7) Ownership patterns and waterfront development plans of private landowners and state and federal agencies;
  - (8) The development and growth patterns and potentials of different areas of the City and Borough and waterfront services that may be needed as a result of that development and growth;
  - (9) The requirements of public access to and along public and navigable bodies of water;
  - (10) The protection of other public values including recreational, scenic, wildlife, and other environmental qualities; and
  - (11) Other matters which are relevant to a land use management plan.
- (d) The plan shall contain the following elements:
- (1) Proposed land acquisitions;
  - (2) A listing of those lands to be retained for public use;
- (e) The plan shall be reviewed by the Docks and Harbors Board and the Planning Commission if a major unanticipated development affecting basic assumptions occurs, and in any case at least every five years.
- (f) Any lease, disposal, or use of land shall conform to the Long Range Waterfront Plan, the land management plan adopted above, Juneau Coastal Management Plan, and all other adopted City and Borough land use plans.
- (g) Upon receipt of a land management plan or a change recommended by the Docks and Harbors Board and Planning Commission, the assembly shall consider the plan, or change, and may adopt the plan or change only after it conducts a public hearing on the matter.

(Serial No. 2004-03b, § 2, 3-9-2004)

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#### **85.02.065 Limitation on authority.**

The Board of Directors of the City and Borough Docks and Harbors Board may commit the City and Borough to long-range port development or capital improvement plans or projects only as authorized in advance by the assembly by ordinance or resolution.

(Serial No. 2004-03b, § 2, 3-9-2004)

#### **85.02.070 Reserved.**

#### **85.02.080 Port director designated; appointment.**

The chief executive officer of the municipal port and harbors shall be the port director appointed by the City and Borough Docks and Harbors Board only upon the affirmative vote of a majority of the entire board. The port director serves at the pleasure of the board. For purposes of Chapter 44.05, the port director shall have the status of a department director. The board shall establish the compensation and benefits to be provided to the port director. Personnel actions regarding the port director, including hiring, evaluation, discipline, and termination, shall be after consultation with the city manager.

(Serial No. 2004-03b, § 2, 3-9-2004; Serial No. 2005-32(b), § 5, 10-10-2005)

#### **85.02.090 Duties and responsibilities of port director.**

- (a) The port director is responsible for the overall supervision and direction of the operation of the municipal port and harbors. The authority and duties of the port director shall include the following:
  - (1) To be responsible for carrying out all applicable laws, ordinances, rules and regulations.
  - (2) To be responsible for carrying out policies established by the board of directors.
  - (3) In consultation with the City and Borough Personnel Director and consistent with that utilized by other City and Borough departments, to prepare and submit a plan of organization and a job classification plan for the personnel employed in the docks and harbors department to the docks and harbors board for approval.
  - (4) To prepare an annual budget as required by City and Borough ordinance.
  - (5) To select, employ, control and discharge all port and harbor employees and such other employees as the assembly by ordinance hereafter places under the supervision of the port director subject to the provisions of the City and Borough personnel ordinance.
  - (6) To prepare such reports as may be required on any phase of harbor activity.
  - (7) To attend all meetings of the board of directors and of standing committees except where otherwise authorized by the board.
  - (8) To perform any other duty that may be necessary in the interest of the port and harbor area.

(Serial No. 2004-03b, § 2, 3-9-2004)

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### **85.02.100 Schedule of fees and charges.**

- (a) The board shall, by regulations adopted pursuant to CBJ 01.60, impose a schedule of fees and charges for use of ports and harbors, and facilities designated by the assembly by resolution.

(Serial No. 2004-03b, § 2, 3-9-2004)

### **85.02.105 Port dues.**

- (a) Every vessel carrying passengers for compensation and utilizing the port facilities, and not otherwise exempted by subsection (d) of this section, shall be assessed and pay port dues for each port visit. The port dues shall be in addition to other port facility fees and charges, provided, however, that port dues paid to the CBJ Docks and Harbors Department may be taken as a credit against port dues owed under this chapter. Port dues shall be calculated on the basis of registered net tonnage of the vessel as follows:

[Base rate per registered net ton] X [Registered net tonnage]

= Port dues per vessel per use of port facilities

- (b) Rate schedule. The base rate per registered net ton shall be established by the city manager by regulation pursuant to CBJ 01.60 utilizing the services of an independent appraiser. The rate shall be the market rate for facilities with like amenities and services. The manager shall determine the market rate every five years, or from time to time as he or she shall determine. The market rate shall then be adjusted annually by the manager based on the Anchorage Cost of Living Index.
- (c) Port dues collected pursuant to this chapter shall be deposited in the port development fund.
- (d) Exemptions. The port dues shall not apply to:
- (1) vessels having accommodations for 12 or fewer passengers;
  - (2) vessels traveling only between the City and Borough and points within 100 miles of the City and Borough port facilities; and
  - (3) noncommercial vessels, or vessels owned and operated by the state, the United States government, or a foreign government.
- (e) Administration and disposition of port dues. The proceeds of the port dues shall be placed in the port development fund. The port development fund shall be used for projects that benefit the cruise industry as outlined in the long-range waterfront development plan as it may be amended from time to time.

(Serial No. 2005-02, § 2, 3-14-2005)

### **85.02.108 Reserved.**

### **85.02.110 Preparation and submission of budget.**

The port director shall prepare the budget in accordance with approved City and Borough procedure and format and shall submit it to the City and Borough Docks and Harbors Board for approval. The board shall modify the budget as it deems necessary and forward it to the City and Borough Manager for transmittal to the assembly. The operating portion of the budget submitted by board shall be for a self-sustaining operation without a general fund subsidy and with all harbor revenues and all interest earned thereon, and shall include reasonable additional

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revenues to fund harbor facilities replacements; such additional revenues shall be computed using accepted accounting principles and the estimated remaining useful life of harbor facilities owned by the City and Borough. The board may include in its operating budget projections for additional revenues to provide funds for the expansion or construction of new harbor facilities in future years as well as replacement of harbor facilities leased to the City and Borough.

(Serial No. 2004-03b, § 2, 3-9-2004)

#### **85.02.120 Other fiscal matters.**

All other fiscal matters, including custody of and expenditure of funds, accounting and collection, shall be governed by general City and Borough ordinance.

(Serial No. 2004-03b, § 2, 3-9-2004)

#### **85.02.130 Employee relations.**

Employees of the harbors shall be subject to Chapter 44.10 of this Code. For purposes of that chapter, the port director is a management employee who formulates, determines or effectuates management policies. Wherever in chapter 44.10 a duty, responsibility, or authority falls to the City and Borough Manager, such duty, authority, or responsibility shall fall to the port director. The City and Borough Docks and Harbors Board must ratify any collective bargaining agreement; provided, no such ratification may occur unless there are, or will be, adequate funds available to fund the initial fiscal year or portion thereof affected by the contract. The contract ratified by the board and the employees shall be immediately submitted to the assembly for assembly ratification under section 44.10.120.

(Serial No. 2004-03b, § 2, 3-9-2004)

#### **85.02.140 Reserved.**