

## TITLE 85 WATERS AND HARBORS<sup>1</sup>

### *Chapter 85.02 DOCKS AND HARBORS BOARD<sup>2</sup>*

#### **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. The Board shall additionally be responsible for the day to day operation and maintenance of the municipal cruise ship docks, but not for rate setting, scheduling or policy issues affecting the cruise ship industry or for issues related to the interface between industry and citizens of Juneau, including the impacts of tours.
  - (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

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<sup>1</sup>**Administrative Code of Regulations cross reference**—Docks and harbors, Part IV, Title 5.

Cross reference(s)—Boat harbor, CBJ Code § 03.30.052; building regulations, CBJ Code tit. 19; litter in lakes and fountains, CBJ Code § 36.30.060; land use, CBJ Code tit. 49; waterfront districts, CBJ Code § 49.25.250; wetlands management, CBJ Code § 49.70.1000 et seq.; recreation, parks and community centers, CBJ Code tit. 67; marine passenger fee, CBJ Code ch. 69.20.

<sup>2</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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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, subject to the following limitations:
- (A) No sale, purchase, or trade of land shall be made without prior review by the assembly lands, housing, and economic development committee and approval by the assembly.
  - (B) Unless otherwise designated in advance by the assembly, 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.
    - (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 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.

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- (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; Serial No. 2022-48(b) , § 3, 1-30-2023, eff. 3-2-2023)

#### **~~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)~~

#### **85.02.080 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.

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- (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.
  - (9) Consistent with the limitations of authority on cruise ship tourism in 85.02.060 A (1), the Port Director shall take direction from the City Manager.

(Serial No. 2004-03b, § 2, 3-9-2004)

### **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)

## ***Chapter 85.05 DEFINITIONS***

### **85.05.010 Definitions.**

Whenever the following words and terms are used in this title they shall have the meaning ascribed to them in this chapter, unless the context clearly indicates otherwise:

*Aircraft* means aircraft of every kind or description which is able to alight upon or take off from water.

*Assembly* means the assembly of the City and Borough.

*Aurora Harbor* means that area of tide and submerged lands south of Norway Point which was dredged and constructed as a boat basin by the United States Corps of Engineers in 1963 and 1964 together with its breakwater, jetty, dolphins, docks, wharves, floats, ramps, gridirons, utilities, approaches, and appurtenances.

*Board* and *board of directors* mean the docks and harbors board.

*Boat harbor* means all facilities and appurtenances of Harris Harbor, Aurora Harbor, the Douglas Harbor, and the Don D. Statter Harbor Facilities at Auke Bay, all additions and improvements thereto, and the waters of Harris Harbor, Aurora Harbor, the Douglas Harbor, the Don D. Statter Harbor Facilities at Auke Bay float and dock, the entrances and exits of Harris Harbor, Aurora Harbor, and the Douglas Harbor and municipal wharves.

*Boats* means all vessels, ships, boats, skiffs and watercraft of every kind and description, and aircraft using or present in the boat harbor. The essential element of a boat is that its purpose and use is navigation as a means of transportation.

*City and Borough* means the City and Borough of Juneau, Alaska.

*Derelect* means any boat moored or otherwise located in the boundaries of the Juneau boat harbor facilities which is forsaken, abandoned, deserted or cast away, or which by appearance gives evidence of being forsaken, abandoned, deserted or cast away, or which in the opinion of any recognized marine surveyor is unsound,

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unseaworthy and unfit for its trade or occupation and which by any substantial evidence of neglect may be considered abandoned.

*Douglas Harbor* means that area of tide and submerged lands located north of the Bureau of Mines jetty which was dredged and constructed as a boat basin by the United States Corps of Engineers in 1962 together with its breakwater, jetty, dolphins, docks, wharves, floats, ramps, gridirons, utilities, approaches, and appurtenances.

*Finger floats* means numbered or lettered floats attached and connected to the master floats. All floats, now or hereafter installed, whether or not so connected with master floats, shall be suitably identified.

*Float* means a nonfixed pier.

*Harris Harbor* means that area of tide and submerged lands located between the Juneau-Douglas bridge and the University of Alaska Southeast Marine Technology Center which was dredged and constructed as a boat harbor by the United States Corps of Engineers in 1940, together with its breakwaters, dolphins, docks, wharves, floats, ramps, gridirons, utilities, approaches and appurtenances.

*Houseboat* means a dwelling built upon a barge, log raft or similar floating structure, constructed for habitation, and for which no other reasonable use appears or can be demonstrated.

*Imminent danger of sinking* means any condition where the lack of, or the failure of a pump or of power to the pump would materially contribute to the sinking of the vessel within 24 hours of such failure.

*Master floats* means the main or master floats reached by ramps from the dock or wharf approaches. All master floats shall be suitably identified.

*Municipal wharves* means Douglas Wharf, Juneau Fishermen's Terminal, Ferry Dock Wharf, Juneau Cold Storage Wharf, and the Alaska Steamship Wharf.

*Port* means those facilities located on the downtown waterfront, including the ferry terminal and lightering docks, which are not included under the term "boat harbor" and which are used for commercial purposes related to marine shipping, transportation, and tourism.

*Port director* means the duly appointed port director of the City and Borough.

*The Don D. Statter Harbor Facilities at Auke Bay float and dock* means those certain float and all facilities and appurtenances thereto, leased from the state, which are located in Auke Bay.

*Transient vessel* means any boat or vessel with a home port outside the City and Borough which has not occupied rented mooring space for more than 150 days.

(CBJ Code 1970, § 85.05.010; Serial No. 71-44, § 4, 1971; Serial No. 95-05am, § 5, 1995)

Cross reference(s)—Definitions generally, CBJ Code § 01.15.010.