

An Ordinance of the Haines Borough amending Haines Borough Code Title 16, Sections 16.28.010 and 16.28.030 to prohibit verbal abuse, physical assault and threats against borough and harbor staff; physical assault and threats against members of the public while within the harbor; using port and harbor refuse containers for non-harbor or port refuse; refusing to comply with lawful directives by the harbormaster; and giving the harbormaster the authority to suspend or revoke the privilege of using borough port and harbor facilities.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance is effective upon adoption.

Section 4. Amendment of Title 16. Haines Borough Code Title 16 is amended to clarify chapter titles to read as follows:

NOTE: **Bolded/UNDERLINED** ITEMS ARE TO BE ADDED
STRIKETHROUGH ITEMS ARE DELETED

Chapters:

- 16.20 Duties of **Vessel** Boat Owners
- 16.24 Harbor Nuisances
- 16.28 **Hazardous Conditions**, Prohibited Acts and Enforcement

Section 5. Amendment of Section 16.28.010. Haines Borough Code 16.28.010 is amended, by the addition of sections S – U, to read as follows:

NOTE: **Bolded/UNDERLINED** ITEMS ARE TO BE ADDED
STRIKETHROUGH ITEMS ARE DELETED

16.28.010 Prohibited Acts

It shall be unlawful for any ~~person vessel owner, master or manager or other person in charge of the operation of a vessel~~ using the borough port and harbor facilities, to commit any of the **following** prohibited acts:

A. To operate, or cause to be operated, any vessel, as defined in this title, within the limits of the borough port and harbor facilities, in excess of three miles per hour. All vessel operators are legally liable for any damages from their wake.

B. To operate, or cause to be operated, any vessel, as defined in this title, within the limits of the borough port and harbor facilities, in a negligent manner in willful and wanton disregard for the safety of persons or property.

C. To operate, or cause to be operated, any vessel, as defined in this title, within the limits of the borough port and harbor facilities, in a negligent manner likely to endanger the safety of person or property.

D. To throw or otherwise cause to be deposited gasoline, oil, trash, garbage or refuse on any float or into the water of the borough port and harbor facilities. **To use the borough port and harbor refuse containers for non-harbor or non-port refuse**. It is prohibited to leave snow removed from vessels on any dock, float, or finger.

E. To fail to register with the harbormaster, as provided in HBC 16.20.010.

F. To leave any vessel or floating structure moored at any of the borough port and harbor facilities unattended while any fire is burning thereon. Any such fire shall be deemed unattended unless the owner or operator is within 100 feet of the same.

G. To start or allow to continue any fire on a float or dock.

H. To create and maintain any nuisance within the borough port and harbor facilities.

I. To conduct or carry on any unlawful business or occupation within the limits of the borough port and harbor facilities.

J. To live aboard a vessel moored in the harbor at any time from October 15th to April 1st, except on a transient moorage basis for periods of two weeks or less. For any person or owner in charge of any dog or animal to allow or permit such dog or animal to run at large within the borough port and harbor facilities.

K. To deposit, place or leave any cargo, merchandise, supplies, freight, articles or thing, including fecal matter deposited on docks, upon any float, ramp, walk or other public place in the borough port and harbor facilities, except while loading to or from a boat or vehicle.

L. For any person or owner in charge of any dog or animal to fail to clean up after their animals.

M. To tap, disconnect, interfere with, or tamper with any water outlet, water pipe, water connection, or any electrical wiring, electrical outlet, or electrical device of any kind installed or maintained in the borough port and harbor facilities by the borough without first having obtained the permission of the harbormaster.

N. To interfere with any wharf, gangplank, ramp or any other facility of the borough port and harbor facilities.

O. To write or post any written or printed matter or sign upon any bulletin board constructed or maintained by the borough without first having obtained the permission of the harbormaster.

P. To erect, place, post or maintain any advertising matter, sign or other printed matter other than legal notices on any part of the borough port and harbor facilities without approval thereof first being obtained from the harbormaster.

Q. To disregard, deface, remove, tamper with or damage any sign or notice posted or erected by the harbormaster or by the direction of the borough assembly relating to the use of mooring areas or other uses of the borough port and harbor facilities.

R. To moor, berth, tie, attach or connect to any part of the Letnikof Cove facility any boat or other waterborne structure without paying the fees or charges prescribed in this title.

S. To verbally abuse, physically assault, or threaten any borough or harbor personnel at any time. For the purposes of this section, "verbal abuse" means "fighting words" as that term is defined under Alaska law, and encompasses oral utterances which would be expected to provoke an immediate violent response in the average reasonable listener. "Verbal abuse" includes, but is not limited to, threatening significant physical harm or threatening or causing significant emotional harm to a person through the use of:

1. Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule; or

2. Harassment, coercion, threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

T. To verbally abuse, physically assault, or threaten other harbor users or members of the public while within the borough port and harbor facilities.

U. To refuse to comply with any lawful order of the harbormaster or his representatives.

Section 6. Amendment of Section 16.28.030. Haines Borough Code 16.28.030 is amended, as follows:

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16.28.030 Penalties for violations.

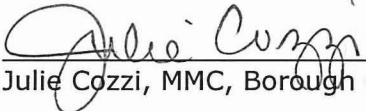
A. Any person violating any of the provisions of this title will be fined according to the fees set out in the most current assembly approved fee schedule.

B. In addition to the remedies under subsection A, the privilege of using the borough port and harbor facilities may be suspended or revoked if the harbormaster determines that suspension or revocation is in the best interest of the borough or other harbor users. Notice of suspension or revocation of privileges shall be delivered in person or by certified mail to ensure receipt, and, for the purposes of AS 11.46.320 -- 11.46.350, shall constitute a lawful directive by the person in charge of the premises to vacate and to refrain from entering all borough port and facilities for any reason for as long as the suspension or revocation is in effect. Failure to comply with the harbormaster's revocation of mooring privileges or an order to vacate may result in impoundment under Chapter 16.24.070 of this title. The remedies of this title are in addition to any civil and criminal remedies the harbormaster, Haines Borough, State of Alaska, or any other authority may have.

C. Any person or vessel owner whose privileges have been suspended or revoked has the right to an administrative hearing to determine whether there was probable cause for the suspension or revocation of privileges. The request shall be in writing submitted to the port and harbor advisory committee via the borough manager within five (5) business days of the of the receipt of the notice suspension or revocation. Within fourteen (14) business days, the manager shall call a port and harbor advisory committee meeting to address the suspension or revocation. The hearing shall be conducted in an informal manner and shall not be bound by technical rules of evidence. At the hearing, the harbormaster shall carry the burden of establishing that probable cause exists to believe that the person or vessel owner violated a provision of this title and that suspension or revocation is in the best interest of the borough or other harbor users. If the port and harbor advisory committee determines that probable cause exists, the suspension or revocation shall be affirmed and continue to be effective until the harbormaster determines that revocation or suspension is no longer in the best interest of the borough or other harbor users.

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS 27th DAY OF NOVEMBER, 2012.

ATTEST:


Julie Cozzi, MMC, Borough Clerk


Stephanie Scott, Mayor

Date Introduced: 08/28/12
Date of First Public Hearing: 09/11/12
Date of Second Public Hearing: 10/23/12 - Adoption postponed to 11/6/12
Amended & Postponed to 11/27/12: 11/06/12
Adopted: 11/27/12



