

Presented by: Assembly Port
Development Committee
Introduced: 01/22/90
Drafted by: B.J.B.

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 89-52

(Committee Substitute, Amended 02/12/90)

AN ORDINANCE AMENDING THE WATERS AND HARBORS CODE RELATING TO ADMINISTRATION OF THE DOCKS AND FERRY TERMINAL TO PROVIDE FOR PORT ADMINISTRATION, ESTABLISH PORT DUES, ESTABLISH A PORT ADVISORY COMMITTEE, AND TO PROVIDE FOR THE ADOPTION OF A PORT DEVELOPMENT PLAN; AND AMENDING THE FINANCE CODE TO ESTABLISH A SPECIAL REVENUE FUND FOR PORT DEVELOPMENT AND MAJOR MAINTENANCE.

WHEREAS, in the past the City and Borough of Juneau has expended substantial funds to acquire and improve the docks, the ferry terminal, and related port facilities in the downtown Juneau area largely for the use and benefit of the cruise ship industry, and

WHEREAS, the entire cost of such acquisition and improvement has been borne by the city and borough through local revenues and state grants, and

WHEREAS, the city and borough intends to continue its efforts to improve the port facilities, undertake major repairs, and pursue land acquisitions so as to further develop and enhance the port and passenger terminal facilities available for use by the cruise ships and their passengers, and assure the continued safe and efficient operation of the port facilities, and

WHEREAS, there are few, if any, existing federal or state programs to fund all or part of such projects, and

WHEREAS, many ports in the United States and elsewhere require cruise ships to pay charges known as "harbor dues" or "port dues," the proceeds from which are used to fund needed port facility improvements, and

WHEREAS, the Assembly has determined that the establishment of port dues is necessary and appropriate in order to fund capital acquisitions and improvements to the city and borough's port facilities for the use and benefit of the cruise ship industry;

NOW, THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

* Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the city and borough code.

* Section 2. Amendment of Section. Section 85.05.110 of the city and borough code is amended to read:

85.05.110 "Port" means those facilities located on the waterfront in Service Area No. 1, 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.

* Section 3. Amendment of Table of Contents. The table of contents for Chapter 85.30 of the city and borough code is amended to read:

Chapter 85.30

PORT ADMINISTRATION

Sections:

- 85.30.010 Port administration.
- 85.30.020 Harbormaster--powers and duties.
- 85.30.030 Adoption of regulations.
- 85.30.040 Schedule of rates, fees, and charges.
- 85.30.050 Port dues.
- 85.30.060 Port development plan.
- 85.30.070 Port advisory committee.
- 85.30.080 Passenger fee.
- 85.30.090 Speed limits.

* Section 4. Amendment of Section. CBJ 85.30.010 is amended to read:

85.30.010 PORT ADMINISTRATION. The port shall be under the administration of the harbor board.

* Section 5. Amendment of Section. CBJ 85.30.020 is amended to read:

85.30.020 HARBORMASTER -- POWERS AND DUTIES. The harbor-master shall supervise and manage the port facilities. The harbormaster shall enforce all laws and regulations governing the operation and use of the port facilities.

* Section 6. New Section. A new section to be numbered 85.30.030 is added to Chapter 85.30, to read:

85.30.030 ADOPTION OF REGULATIONS. The harbor board shall adopt regulations for the administration of the port facilities which regulations shall become effective upon adoption or such later date as the board may specify. The regulations, and all additions and changes to the regulations, shall be submitted immediately to the assembly. The assembly may, by motion or resolution, modify any regulations adopted by the board. The regulations adopted by the board may not be inconsistent with this title or with other applicable ordinances.

* Section 7. New Section. A new section to be numbered 85.30.040 is added to Chapter 85.30, to read:

85.30.040 SCHEDULE OF RATES, FEES, AND CHARGES. (a) A schedule of rates, fees, and charges for use of the port and its facilities shall be approved by the board annually or more often as the need may arise. The fee schedule shall be in the form of a resolution for adoption by the assembly and shall be forwarded immediately to the city and borough clerk for transmittal to the assembly.

(b) All rates, fees, and charges for the use of the port and its facilities shall become effective upon adoption of the fee schedule resolution by the assembly. The assembly, by motion, may change any rate, fee, or charge approved by the board in the resolution transmitted to the assembly. The assembly may at any time, by resolution, change any rate, fee, or charge for use of the port and its facilities.

* Section 8. Deletion of Section. CBJ 85.30.035, entitled "Criminal liability" is deleted.

* Section 9. New Section. A new section to be numbered CBJ 85.30.050 is added to Chapter 85.30, to read:

85.30.050 PORT DUES. (a) Port Dues. Every vessel carrying passengers for compensation and utilizing the port facilities, and not otherwise exempted by subsection (e) 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 use fees and charges. 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 in accordance with the following schedule:

March 23 - December 31, 1990.....	\$.05
January 1 - December 31, 1991.....	\$.15
January 1 - December 31, 1992.....	\$.17
January 1 - December 31, 1993.....	\$.21
January 1 - December 31, 1994.....	\$.23
January 1, 1995 - December 31, 2001.....	\$.25

The base rates may be adjusted to reflect the actual costs for the final project design.

(c) Purpose of 1990 Port Dues. Port dues of \$.05 per registered net ton will be assessed and collected in 1990. In furtherance of joint cooperation, the Northwest Cruise Ship Association will have access to up to \$50,000 of the port dues collected in 1990 to select and retain experts to review the project scope, designs, and cost estimates.

(d) Change in Base Rate or Fee. The port dues base rate may be changed by resolution in the same manner as other port fees and charges as set forth in Section 85.30.040, provided that the port dues base rate shall not exceed \$.25 per registered net ton unless otherwise provided by ordinance. In changing the base rate, the factors to be considered shall be the amount of revenue necessary to: retire outstanding bonded indebtedness for port facilities; perform scheduled port facility improvements, major maintenance, and land acquisition; and maintain a fund balance in the Port Development and Major Maintenance Fund sufficient to offset reasonable fluctuations in annual cruise ship visits without an additional change to the base rate.

(e) Exemptions. The port dues shall not apply to:

(1) Vessels having accommodations for twelve or fewer passengers;

(2) Vessels traveling only between the city and borough and points within 100 miles of the city and borough port facilities;

(3) Noncommercial vessels or vessels owned and operated by the State of Alaska, the United States government, or a foreign government.

(f) Administration and Disposition of Port Dues. The port dues shall be administered by the harbor master in the same manner as other port fees and charges. The port dues shall be paid by the owner or agent of the vessel to the city and borough within forty-five days from the invoice date. The proceeds of the port dues shall be placed in the Port Development and Major Maintenance Fund. The proceeds of the fund shall be used for projects which directly benefit the operations of the port and which primarily serve the cruise ship industry, including:

(1) Docking or lightering of cruise ships;

(2) Off-loading of passengers and movement of passengers along the waterfront;

(3) Passenger staging facilities on upland areas adjacent to port facilities, including facilities to transfer passengers to other activities, Marine Park, waterfront parks, and waterfront tourist facilities;

(4) Acquisition of land for the above facilities;

(5) Beautification and enhancement of the above facilities.

(g) Expiration of Section. The provisions of this Section 85.30.050 will expire on January 1, 2002, and thereafter no port dues may be collected unless this section is extended by ordinance before that date.

* Section 10. New Section. A new section to be numbered CBJ 85.30.060 is added to Chapter 85.30, to read:

85.30.060 PORT DEVELOPMENT PLAN. The manager shall present a City and Borough of Juneau Port Development Plan to the assembly no later than May 7, 1990. The plan shall set forth the port related projects, schedules, the preliminary estimated costs of the projects, and funding sources. The plan shall be adopted by ordinance and may be revised from time to time by the assembly by ordinance. Prior to the revision of the plan, those cruise ship companies that operated in the city and borough at any time during the previous twelve months, and those cruise ship companies that are scheduled to operate in the city and borough during the next twelve months, shall be given a detailed written presentation on the proposed revisions to the plan and notice of all public hearings on the plan. Following a minimum

thirty-day review period, a joint or separate public hearing or hearings on the proposed revisions to the port development plan shall be held by the harbor board and the planning commission. The harbor board and the planning commission shall make recommendations on the revisions to the plan which shall be forwarded to the assembly for consideration and adoption.

* Section 11. New Section. A new section to be numbered CBJ 85.30.070 is added to Chapter 85.30, read:

85.30.070 PORT ADVISORY COMMITTEE. There is established a port advisory committee which shall consist of seven members appointed by the harbor board to serve for staggered three-year terms. Committee members shall include at least three representatives of the cruise ship industry and at least two representatives of shore-based operators. The purpose of the committee shall be to advise the harbor board on the implementation of the port development plan and to annually review all port rates, fees, and charges. The committee will be provided an opportunity to initiate, review, and comment on proposed revisions to the plan, specific design and acquisition plans prior to implementation, and to recommend methods to enhance projects or reduce costs through design efficiencies or acceptable alternatives. The committee shall undertake an annual review and evaluation of all port rates, fees, and charges, including but not limited to port dues, and shall make recommendations to the harbor board on the sufficiency of the rates, fees and charges to cover the payment of bonded indebtedness for port facilities and other port project expenses, and shall present its recommendations to the harbor board prior to January 1 of each year. The purpose of this review is to ensure that port rates, fees, and charges are equitable, taking into consideration total net tonnage increases or decreases, passenger load increases or decreases, and other relevant factors.

* Section 12. New Section. A new section to be numbered CBJ 85.30.080 is added to Chapter 85.30 to read:

85.30.080 PASSENGER FEE. (a) In the event the port dues established in Section 85.30.050 is challenged in a court or regulatory agency as unenforceable, or is determined to be unenforceable, a passenger fee shall be assessed and paid as set forth in this section. The passenger fee would commence on the first day of the month following the month in which the port dues provision is challenged, and would be assessed and paid in lieu of the port dues.

(b) In the event a passenger fee is assessed, it shall apply to every vessel carrying passengers not otherwise exempted by Section 85.30.050(e). The passenger fee shall

apply to each passenger on board a vessel arriving at or utilizing the port facilities, and to each passenger initially boarding a vessel departing from or utilizing the port facilities. The passenger fee shall be \$4.00 for each passenger embarking or debarking a vessel. The passenger fee for each vessel shall be calculated based on the Juneau passenger manifest for the vessel. The passenger fee may be changed in the same manner as the port dues, and shall be subject to the same exemptions and expiration date as the port dues.

* Section 13. Amendment of Section. CBJ 85.30.030 is renumbered as 85.30.090 and amended to read:

85.30.090 SPEED LIMITS. (a) No person shall operate, or allow the operation by a person under their supervision or in that person's behalf, a boat or an aircraft in any area within two hundred fifty feet of the port at a speed in excess of five nautical miles per hour.

(b) This section shall be effective only at such times as there are commercial boats over one hundred fifty feet in length and regularly engaged in the transport of persons, either tied up at the port or riding at anchor in the harbor within one mile of the port.

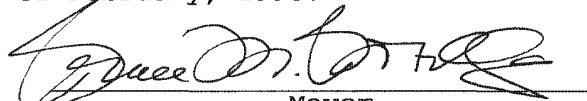
(c) Any person violating the provisions of this section is guilty of an infraction.

* Section 14. Amendment of Section. Section 57.05.020 is amended by the addition of a new subsection (16) to read:

(16) Port Development and Major Maintenance Fund. This fund is established as a special revenue fund for the proceeds of the port dues established in Section 85.30.050. Income derived from the investment of the principal of the fund shall be deposited in the fund. The proceeds of the fund may be appropriated for the purposes set forth in Section 85.30.050.

* Section 15. Effective Date. This ordinance shall be effective thirty days after its adoption.

Adopted this 21st day of February, 1990.



Mayor

Attest:



Clerk