Introduced by: City Manager Herron
Date May 8, 2001
Public Hearing: November 13, 2001
Action: Enacted
Vote: 6-0

CITY OF BETHEL, ALASKA

ORDINANCE #01-18

AN ORDINANCE AMENDING CERTAIN SECTIONS OF TITLE 14 HARBORS AND PORTS REGARDING PAYMENT OF FEES AND CHARGES

BE IT ORDAINED by the City Council of Bethel, Alaska, that:

SECTION 1. Classification. This ordinance is permanent in nature and shall be incorporated into the Bethel Municipal Code ("Code").

SECTION 2. Content. Section 14.02.020 of the Bethel Municipal Code (the Port of Bethel Facilities Code) is hereby amended as follows (new language is underlined and deleted language is stricken out):

14.02.020 Definitions.

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D. "Delinquent list" means the record of vessels, their owners or agents, or other users of the port of Bethel who have failed to pay charges when due or who have not furnished proper cargo statements to the Port Director.

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CC. "Tariff Charges" include all Dockage, Wharfage Demurrage, Terminal Charges, moorage fees, rentals and any other charges or fees authorized by the Port Commission and approved by the City Council for use of the Port. Tariff Charges shall also include any amounts a person owes the Port under 14.02.070, 14.02.085 or 14.08.030(G).

SECTION 3. Content. Section 14.02.055 of the Bethel Municipal Code is repealed and reenacted to read as follows:

14.02.055 Payments.

A. Tariff Charges are due prior to commence of service from, or use of, the Port facilities. When the Port Director determines that the exact amount of the Tariff Charges cannot be ascertained prior to the commencement of service or use, the director may accept a deposit of an estimated amount of the Tariff Charges which amount will be applied to the total Tariff Charges when the exact amount of such charges is determined.

B. A user of the Port's facilities may request from the Port Director a waiver from the requirement to pay for service or use in advance. If the Port Director determines that it is in the Port's interest to grant the waiver, the director will require the user to make a deposit instead of advance payment. The amount of the deposit shall not be less than 75% of the amount expected to be due nor more than 125% of the amount expected to be due. Upon completion of the service, the director will provide the user with an invoice stating the exact amount due. Payment of the invoice is due 30 days after it is mailed, delivered or faxed to the user. In the event the user does not pay an invoice when due, the Port Director will apply the deposit to the unpaid invoice. In the event the deposit exceeds the amount due, the director will apply the deposit to the invoice and send the user a check for the amount on deposit, which is in excess of the amount due.

C. All Tariff Charges are due and payable in United States currency. Failure to pay invoices when due, shall place the watercraft, its owners or agents or the user of the Port facilities upon a delinquent list. A watercraft whose owner or agents have been placed on the delinquent list shall not be allowed to utilize the Port facilities until all past due balances and late charges have been paid in full. When a watercraft has been placed on the delinquent list, the past-due balance shall accrue a late charge at the rate of one and one-half percent per month on the unpaid balance.

SECTION 4. Content. Section 14.02.085 of the Bethel Municipal Code is hereby amended as follows (new language is underlined and deleted language is stricken out):

14.02.085 Expenses of Corrective Action.

A. If a person or watercraft fails to comply with the duties specified by this title, and this failure requires the Port Director to take corrective action as permitted by this title or regulations promulgated under it, the person and the watercraft shall be responsible for all expenses, including attorneys fees, incurred by the Port Director in the enforcement of this title or regulations promulgated under it.

B. If the Port Director assumes possession or control of a watercraft or other property pursuant to this title, then such possession or control may be maintained until all expenses, including attorneys fees, storage fees, custodial fees and any other cost or fee, incurred by the Port Director in taking or maintaining possession or control of the watercraft or other property are paid. All persons and watercraft that owe fees or expenses under this section 14.02.085 shall be denied use of the Port facilities until such fees are paid.

SECTION 5. **Content.** Chapter 14.02 is amended by adding a new section to read as follows:

14.02.100 Disposition of Watercraft and Property

Any watercraft or other personal property which is abandoned, derelict or a public nuisance or for which Tariff Charges are past due more than thirty (30) days may be disposed of as provide herein.

A. The Port Director will post a written notice on the watercraft and send a duplicate by registered or certified mail to the registered owner of the watercraft at the registered owner's last known address and to all known lien holders. The notice must contain a brief description of the vessel, a statement of the amount owed to the City by the watercraft and its owner, the watercraft's location, and the intended disposition of the vessel, including the date, place and manner of the intended disposition if not redeemed within thirty (30) days after the mailing of the notice. The notice shall also inform the owner that the watercraft can be redeemed if payment of all amounts due the City is made prior to disposition of the watercraft. A notice need not be sent to a purported owner or any other person whose interest in the vessel is not recorded with a state department or federal agency. The director shall also cause the notice to be published in a newspaper of general circulation at least one week prior to sale or other disposition.

B. If the watercraft is not redeemed within thirty (30) days after the mailing of the notice, the watercraft may be disposed of by public auction, through oral tenders, or by sealed bids or negotiation. If the Port Director is unable to dispose of the watercraft through any of the above described means, the watercraft may be disposed of as junk, donated to a governmental agency, local non-profit agency, or destroyed.

SECTION 6. Content. Section 14.08.020(F) of the Bethel Municipal Code is hereby amended as follows (new language is underlined and deleted language is stricken out):

14.08.020 Mooring.

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F. Mooring agreements will be issued by the Port Director upon advance payment of moorage fees. All watercraft mooring along the seawall without executing a moorage agreement and paying the fee due under the agreement will be moved and/or impounded by the Port Director consistent with federal and state law.

SECTION 7. Content. Section 14.10.070(D) of the Bethel Municipal Code is hereby amended as follows (new language is underlined and deleted language is stricken out):

14.10.070. Rentals and Fees.

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D. Mooring, rental, storage, or other Small Boat Harbor facility fees shall be paid in advance. The watercraft or other equipment or gear of a person who fails to register with the Port Director or to pay moorage, rental, storage or other fees in advance of using the Small Boat Harbor facilities will be moved and/or impounded by the Port Director consistent with federal and state law.

SECTION 8. Content. Section 14.10.080(A) of the Bethel Municipal Code is hereby amended as follows (new language is underlined and deleted language is stricken out):

14.10.080. Small Boat Harbor Privilege Agreement.

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A. Applicant also agrees to pay in advance, moorage, rental, storage and other fees and charges at rates established by the City.

SECTION 9. Content. Section 14.10.110 of the Bethel Municipal Code is hereby amended as follows (new language is underlined and deleted language is stricken out):

14.10.110. Lien.

The City shall have a lien upon any watercraft for which moorage, rentals, fees, or services are not paid when due.

SECTION 3. Repeal. Section 14.10.130 is repealed.

SECTION 4. Effective Date. This Ordinance shall take effect immediately.

ENACTED THIS 13th DAY OF NOVEMBER 2001, by a vote of 6 in favor and 0 opposed.

Stanley "Tundy" Rodgers, Mayor

ATTEST:

Colleen Soberay, City Clerk