



# City of Bethel Port Commission Agenda

Regular Meeting  
Monday Jan. 16, 2017 - 7 pm  
City Council Chambers, City Hall, Bethel, AK



## **Commissioners**

Alan Murphy  
Chair  
Term Expires 2015  
(907)543-2805

Greg Roczicka  
Vice-Chair  
Term Expires 2017  
(907)543-2903  
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Richard Pope  
Port Commissioner  
Term Expires 2017  
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Alisha Welch  
Council Member  
Term Expires 2017  
(907)545-6026  
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**Ex-Officio**  
Peter A. Williams,  
Port Director  
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Nathan Greydanus  
Port Admin  
(907)543-2310  
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Allen Wold  
City Dock Attendant  
(907)543-2310  
[awold@cityofbethel.net](mailto:awold@cityofbethel.net)

- i. **CALL TO ORDER**
- ii. **ROLL CALL**
- iii. **PEOPLE TO BE HEARD**
- iv. **APPROVAL OF AGENDA**
- v. **APPROVAL OF MINUTES FROM THE SPECIAL MEETINGS**  
-APPROVAL OF MINUTES FROM THE SEPTEMBER 22, 2016 OCTOBER 27, 2016 NOVEMBER 21, 2016  
DECEMBER 5, 2016
- vi. **SPECIAL ORDER OF BUSINESS**
- vii. **DEPARTMENT HEAD COMMENTS**
- viii. **OLD BUSINESS**  
-Port Office
- ix. **NEW BUSINESS**  
-BMC Chapter 14  
-FY 18 Budget for discussion
- x. **COMMISSION MEMBER'S COMMENTS**
- xi. **ADJOURNMENT**



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I. **City of Bethel Port Commission Meeting Minutes**

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DECEMBER 5, 2016

Regular Meeting 7 p.m.

Bethel, Alaska

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**I. CALL TO ORDER**

MEETING CALLED TO ORDER AT 1905 (7:05 P.M.)

No quorum

**II. ROLL CALL**

COMMISSIONERS PRESENT:

CHAIRMAN MURPHY, COMM. POPE, COMM WELCH

Absent-Comm. Roszicka

**III. PEOPLE TO BE HEARD**

**IV. APPROVAL OF AGENDA**

**V. APPROVAL OF MINUTES**

**VI. SPECIAL ORDER OF BUSINESS**

**VII. PORT DIRECTOR'S REPORT**

**VIII. UNFINISHED BUSINESS**

**IX. NEW BUSINESS**

**X. COMMISSION REPRESENTATIVES COMMENTS**

**XI. ADJOURNMENT**

Respectfully Submitted:

\_\_\_\_\_  
Alan Murphy, Chairman

APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_ 2016.

ATTEST: \_\_\_\_\_





- **Misc./Vehicles**

- Mail run for City Hall.

- Port Director Peter Williams is City Manager.

- Servicing our own vehicles. (Dump truck, 950-E Loader, D-5 Dozer, & Pickup Trucks)

- Put new LED lights on the Loader. Putting Chains on the Loader.

- Safety checks along the seawall and overflows.

- Fixing cable fencing.

- Picking up as needed where needed.

- Maintaining gates and Locks from freezing.

- Prepping the Light Plants for the K-300.

Peter Williams

Port Director

## Chapter 14.02 GENERAL PROVISIONS

### Sections:

<u>14.02.000</u>	Title.
<u>14.02.005</u>	Purpose.
<u>14.02.010</u>	Equality.
<u>14.02.015</u>	State and federal law.
<u>14.02.020</u>	Definitions.
<u>14.02.030</u>	Port director.
<u>14.02.040</u>	Regulations.
<u>14.02.050</u>	Establishment of rates, charges and tariffs.
<u>14.02.055</u>	Payments.
<u>14.02.060</u>	Administrative inspection.
<u>14.02.070</u>	Facility damage.
<u>14.02.080</u>	Reporting injury or damage.
<u>14.02.085</u>	Expenses of corrective action.
<u>14.02.086</u>	Penalty for noncompliance.
<u>14.02.090</u>	City not responsible for loss or damage.
<u>14.02.095</u>	Revenues.
<u>14.02.100</u>	Disposition of watercraft and property.

#### **14.02.000 Title.**

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This title shall constitute the "Port of Bethel Facilities Code" of the city of Bethel, Alaska, hereafter referred to as city and may be cited as such. [Ord. 209 § 5, 1992.]

#### **14.02.005 Purpose.**

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The purpose of this title is to protect and preserve the lives, health, safety, and well-being of the people of the city who have property in, use or work upon boats using the city's port facilities, or who make sales and deliveries of goods, merchandise and services to boats therein, or who use these facilities in the course of visits for commercial or pleasure purposes; to protect the property of such boat owners by regulating the port and its facilities to deter nuisances, fire, and health hazards; to make reasonable charges for the use of certain facilities to enable the city, insofar as possible, to pay the cost of maintenance, operation and supervision of the city's port facilities from the revenue derived therefrom; all provisions of this title are to be liberally construed to promote the general welfare; and to allow the port facilities to operate upon a nonprofit basis. [Ord. 209 § 5, 1992.]

#### **14.02.010 Equality.**

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The city port facilities will be available on an equal basis regardless of race, color, sex, creed or national origin. [Ord. 209 § 5, 1992.]

#### **14.02.015 State and federal law.**

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This title shall not be construed to contravene any applicable state or federal law or regulation. [Ord. 209 § 5, 1992.]

**14.02.020 Definitions.**

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As used in this title:

- A. "City" means the city of Bethel.
- B. "Beam" means the greatest overall width of a vessel.
- C. "Boat owner" means the actual or registered owner, charterer, master, agent or the person in navigational control or person responsible for the operation of the boat.
- 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.
- E. "Derelict" means any watercraft moored or otherwise located within the port which is forsaken, abandoned, deserted or whose owner fails to contact the port director within seven (7) days after written notice declaring the watercraft to be abandoned is attached to said watercraft.
- F. "Dockage" means a charge made for vessels at wharves or moored on city property.
- G. "Floating docks/floats" means docks/floats equipped with or without gangways that are secured to the seawall or appurtenant to it for the use of small vessels.
- H. "Handling" means the service accorded to cargo movement to or from a vessel.
- I. "LOA" means the overall length of a watercraft measured from the most forward point at the stem to the aftermost part of the stern of the watercraft, to include the motor.
- J. "Local boats" means watercraft operating out of the port and whose owners or operators are residents of Bethel.
- K. "Mooring" means any weight, chain, rope, float, structure, or any appliance used for anchoring purposes by a watercraft which is not carried aboard a watercraft as part of it.
- L. "Motor vehicle" means a vehicle which is self-propelled except a vehicle moved by human or animal power.
- M. "Person" means an individual, firm, association, organization, partnership, business trust, corporation, company or any other business entity.
- N. "Port director" means the director of the port or the port director's designee.
- O. "Port facilities" means all docks, floats, berths, wharfs, seawalls, and other landing, launching, mooring, cargo or other facilities located within the port of Bethel.
- P. "Port of Bethel" or "port" means all navigable streams, rivers, continuous waterways, the adjacent shorelines and facilities thereto under the ownership or control of the city located within the corporate limits of the municipality, including, but not limited to, the petroleum dock, the city cargo dock, the small boat harbor, the city seawalls and any other similar facilities excepting those areas within the exclusive jurisdiction of the state or federal government.

Q. "Small vessel" means boats or other crafts, less than thirty-two (32) feet LOA including but not limited to motor boats, steam ships, floatplanes, canal boats, tugs, barges, sailing vessels, and every structure or vehicle designed or adapted to be navigated either wholly or partially on water and used to transport people or property.

R. "Seawall" means the bulkhead constructed of pipe piling, or other material along the waterfront of Bethel.

S. "Transient watercraft" means a watercraft whose home port is other than Bethel, or any watercraft that is not registered by an exclusive or term moorage agreement with the Bethel small boat harbor.

T. "Vessel" means ships or crafts of all types, in excess of thirty-two (32) feet LOA (length overall), including but not limited to: motor ships, steam ships, canal boats, tugs, barges, sailing vessel, motor boats, and every structure adapted to be navigated from place to place for the transportation of property and persons by any means.

U. "Wharf" means and includes every pier, bulkhead, dock, seawall, landing, float, grid iron, and other structure to which vessels make fast or upon which persons or cargo are discharged from a vessel or from which persons or cargo are loaded upon a vessel.

V. "Wharfage demurrage" means the charge made against any cargo and commodities left on city premises beyond the time specified in Rule 200 of the Port of Bethel Terminal Tariff.

W. "Terminal charges" means the charges included in the current Port of Bethel Tariff as filed with the Federal Maritime Commission. "Terminal charges" includes only charges for facilities, goods, or services provided by the city.

X. "Watercraft" or "boat" means any vessel or small vessel including but not limited to houseboats, floatplanes, waterborne aircraft, floats, scows, rafts, pile drivers, or any other floating structure adapted to be navigated from place to place, used for recreational, commercial, or other purpose upon the waterways within the port or moored at any place within the port.

Y. "Small boat harbor" or "harbor" means that area so designated as the Bethel small boat harbor.

Z. "Loading area" means that area designated by the port director for the purpose of loading and unloading small items into a boat for noncommercial purposes and is not subject to wharfage charges.

AA. "Launching area" means that area designated by the port director for the purpose of launching and retrieving boats.

BA. "Parking area" means that area designated and posted by the port director for the purpose of parking motor vehicles and boat trailers.

CA. "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 BMC [14.02.070](#), [14.02.085](#) or [14.08.030\(G\)](#). [Ord. 01-18 § 2; Ord. 209 § 5, 1992.]

#### **14.02.030 Port director.**

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A. The city manager shall appoint the port director.

B. The port director shall:

1. Be the chief administrator of the port under the supervision of the city manager;
2. Perform the duties imposed by state or federal law upon harbor masters, port directors, and administrative directors of harbors and ports;
3. Regulate and allocate the use of port facilities;
4. Remove, or cause to be removed to a place of safety, any motor vehicle found parked within the port in violation of this title, or in such a manner as to create a significant danger to the safety of persons or property;
5. Take corrective action if a watercraft or person fails to comply with the provisions of this chapter, an order of the port director, or a rule or regulation promulgated pursuant to this title by rendering such performance himself.

C. Port Director – Subordinates. Whenever a power is granted to, or a duty is imposed upon the port director, that power may be exercised or the duty may be performed by any duly authorized representative or such other person as the port director may designate for the enforcement of this title.

D. The port director shall enforce the provisions of this title and shall enlist the aid of any duly authorized police officer of the city to take appropriate action for violation of the provisions of this title.

E. Port Director – Refusal to Obey. No person shall intentionally fail or refuse to comply with a lawful order of the port director in any matter pertaining to the operation of the port or its facilities. [Ord. 209 § 5, 1992.]

#### **14.02.040 Regulations.**

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All operations within the port including, but not limited to, the seawall, petro port, cargo dock, and small boat harbor, if not provided for specifically by ordinance, shall be conducted in accordance with rules and regulations established by the port commission and approved by the city council. [Ord. 209 § 5, 1992.]

#### **14.02.050 Establishment of rates, charges and tariffs.**

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A. The port commission, subject to approval by the city council, shall establish the rates, charges and fees to be charged for the use of any and all port facilities including, but not limited to, charges assessed against watercraft, their owners, agents or operators which load or discharge cargo at any of the terminals within the area under the commission's jurisdiction; charges for dockage while loading or discharging cargo; charges for administrative expenses in serving the carrier; charges for freight-handling operations; and wharfage, handling, loading, unloading, wharf demurrage rates, storage rates, fuel thru-put fees, mooring to the seawall, small boat harbor, derelicts, delinquent accounts, and use of adjacent property.

B. Such rates, charges and classifications shall be just, reasonable and nondiscriminatory and shall be established after a public hearing conducted by the port commission. Notice specifying the time and

place of such hearing shall be given by at least one (1) publication at least fifteen (15) days before the hearing in a newspaper of general circulation in the city.

C. At the hearing, interested parties may make such arguments before the port commission, whether in person or by attorney, as they consider proper, addressing matters at issue, and thereafter the port commission shall prepare a schedule of rates to be submitted to the council at its next regular meeting.

D. The council may adopt the commission's proposed schedule of rates by ordinance but the date upon which the rates established or regulated go into effect may not be less than ten (10) days after passage and approval by the council.

E. Terminal tariffs established for the cargo dock are also subject to the approval of the Federal Maritime Commission. [Ord. 209 § 5, 1992.]

#### **14.02.055 Payments.**

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A. Tariff charges are due prior to commencement 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 seventy-five (75) percent of the amount expected to be due nor more than one hundred twenty-five (125) percent 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 thirty (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 (1 1/2) percent per month on the unpaid balance. [Ord. 01-18 § 3.]

#### **14.02.060 Administrative inspection.**

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A. The port director may make a warrantless inspection of any watercraft for the purpose of determining whether it poses a threat to the health, safety or welfare of the public or port facilities. The port director may take such other action as necessary to prevent an immediate and substantial danger to the public health, safety or welfare.

B. The port director may make a warrantless inspection of any common carrier utilizing port facilities to ascertain the kind, quality, and quantity of cargo aboard. Utilization of the port facility shall constitute

consent for such inspection.

C. Except as specified in subsections A and B of this section, the port director shall apply to the trial courts of the state for an inspection warrant. The application shall identify the vessel to be inspected, the authority to make the inspection, the nature and the extent of the inspection, and those facts or circumstances which demonstrate the valid public purpose and the effect and force of this title sufficient to justify such inspection. Inspections to ensure that proper terminal tariffs or other charges are assessed and paid shall be sufficient justification for such warrant.

D. No person shall refuse to allow the port director to enter upon a vessel for purposes specified in this section. [Ord. 209 § 5, 1992.]

#### **14.02.070 Facility damage.**

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Any person who damages a port facility or any property owned by the port shall be strictly liable to the city, without regard for fault or negligence, for all damages including, but not limited to, costs incurred in repairing or replacing damaged property, administrative overhead, and collection costs. [Ord. 209 § 5, 1992.]

#### **14.02.080 Reporting injury or damage.**

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A person who is involved in an incident within the port or any port facility which results in the injury or death of a person, or any property damage, shall immediately notify the port director. If the office of the port director is closed, notification shall be given to the Bethel police department. The notification shall include the name and address of the person, the type and extent of the injury and the time when the injury occurred, and such other information as shall be requested in an accident form provided by the port director. [Ord. 209 § 5, 1992.]

#### **14.02.085 Expenses of corrective action.**

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A. If a person or watercraft fails to comply with the duties specified by this chapter, 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 that employs that person shall be responsible for the expenses incurred by the port director in the enforcement of this title or regulations promulgated under it.

B. If the port director has to assume 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 shall be denied use of the port facilities until such fees are paid. [Ord. 01-18 § 4; Ord. 209 § 5, 1992.]

#### **14.02.086 Penalty for noncompliance.**

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A. Failure to comply with the provisions of this title shall subject the offender to a penalty not to exceed three hundred dollars (\$300). Each day of continuing noncompliance shall constitute a separate violation for purposes of this penalty. The city may seek injunctive relief in order to restrain noncompliance with provisions of this title or regulations promulgated under it.

B. Notwithstanding the availability of any other remedy, the city or any aggrieved person may bring a civil

action to enjoin any violation of this title or to obtain damages for any injury the plaintiff suffered as a result of the violation. [Ord. 209 § 5, 1992.]

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**14.02.090 City not responsible for loss or damage.**

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The city shall not be responsible for loss or damage from fire or other casualty, theft, vandalism, or any other cause of injury to vessels or property moored or located within the port. [Ord. 209 § 5, 1992.]

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**14.02.095 Revenues.**

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Two cents (\$0.02) of fuel through-put revenue produced by the port shall be transferred to a designated deferred seawall maintenance account upon payment. All other revenues produced by the port excluding amounts received from fines imposed under this title shall be held in the port enterprise fund for the maintenance and operation of the port. [Ord. 09-24 § 2; Ord. 209 § 5, 1992.]

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**14.02.100 Disposition of watercraft and property.**

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Any watercraft or other personal property that 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 provided in this section.

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 (1) 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 means described in this subsection, the watercraft may be disposed of as junk, donated to a governmental agency or local nonprofit agency, or destroyed. [Ord. 01-18 § 5.]

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**The Bethel Municipal Code is current through Ordinance 16-33, and legislation passed through November 8, 2016.**

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## Chapter 14.03 PORT COMMISSION

### Sections:

14.03.010 Composition, term of office and procedures.

14.03.020 Duties.

14.03.030 Vacancies.

14.03.040 Administrative support.

### **14.03.010 Composition, term of office and procedures.**

A. The port commission shall consist of seven (7) members who shall be residents of the city and shall be appointed by the mayor subject to confirmation by the city council. One (1) of the seven (7) members shall be a city councilmember. Initial appointments to the port commission shall be for staggered terms with two (2) members appointed for a one- (1-) year term, three (3) members appointed for a two- (2-) year term and two (2) members appointed for a three- (3-) year term. All appointments after the initial appointments shall be for three- (3-) year terms except where an interim appointment is necessary to complete the term of a commissioner who resigns, dies, or is otherwise removed from office. In the event of vacancies, the mayor, subject to confirmation by the city council, shall make appointments to fill the vacant positions. A chairperson shall be elected by the commission and shall serve in this capacity for a one- (1-) year term. Commissioners can be removed from office for cause only. The city shall supply staff support for the commission.

B. The commission shall use Robert's Rules of Order. Regular meetings of the commission will be at least quarterly. Special meetings may be called at the discretion of the chairperson or by two (2) members of the commission. All meetings of the commission shall be open to the public.

C. A majority of the commission shall constitute a quorum for the transaction of business. Four (4) affirmative votes shall be necessary to carry any question.

D. An agenda of meetings shall be prepared and published according to established rules of the city council.

E. Permanent records, or minutes, shall be kept, for all meetings held. All resolutions and minutes of the port commission or a similar report shall be presented to the city council by a member of the council appointed to serve on the commission, or in his absence, by the city manager. The minutes shall be properly filed in the office of the city clerk and shall be open to inspection by the public.

F. Alternate Members. The mayor shall appoint up to two (2) additional members to serve as alternate members, subject to confirmation by the council. An alternate member will be activated as a voting member whenever there is an absence or conflict of interest of another member. At all other times the alternate member shall be an ex officio member. [Ord. 09-09 § 5; Ord. 209 § 5, 1992.]

### **14.03.020 Duties.**

The port commission shall:

A. Regulate the operation of the port facilities by promulgating a terminal tariff and rates, charges, rent,



a membership on the port commission creates a conflict or the pervasive appearance of a conflict of interest. [Ord. 209 § 5, 1992.]

#### **14.03.040 Administrative support.**

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The port commission shall receive full cooperation and support from the city manager including full access to any and all information concerning the port of Bethel. [Ord. 209 § 5, 1992.]

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## Chapter 14.04 CARGO DOCK/PETRO PORT

### Sections:

- 14.04.040 Manifest.
- 14.04.050 Preferred vessels.
- 14.04.060 Fishing from city cargo dock and petroleum dock prohibited.
- 14.04.070 Fine.

#### **14.04.040 Manifest.**

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Masters, owners, agents or operators of vessels are required to furnish the port with complete copies of vessel manifests and bills of lading, showing names of consignees and a listing of commodities with weights of all freight loaded or discharged at the facilities of the port. The port director must receive manifests and bills of lading prior to the arrival of inbound vessels. Outbound manifests and bills of lading listing cargo loaded across the port will be furnished to the port director concurrent with the departure of outbound vessels. [Ord. 209 § 5, 1992.]

#### **14.04.050 Preferred vessels.**

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Common carriers shall have priority use of the cargo dock. Resupply tanker barges shall have priority use of the petroleum dock during the time of discharge or taking on fuel. However, after the fueling operation is completed, the subject vessel no longer has priority. When more than one (1) vessel is brought up river by the river pilot together, the first (1st) vessel arriving at the pilot bar shall have first (1st) berthing with the port cargo dock. [Ord. 209 § 5, 1992.]

#### **14.04.060 Fishing from city cargo dock and petroleum dock prohibited.**

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Fishing from the petroleum dock and the city cargo dock is prohibited. [Ord. 13-06 § 2; Ord. 94-19 § 2.]

#### **14.04.070 Fine.**

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For each violation of BMC 14.04.060, the city may assess a penalty in the amount of twenty-five dollars (\$25). The city may assess and collect this penalty without a court appearance. [Ord. 94-19 § 2.]

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## Chapter 14.08 SEAWALL

### Sections:

- 14.08.020 Mooring.
- 14.08.030 Berth regulations and privileges.
- 14.08.040 Safety ladders.
- 14.08.050 Seawall fence.

### **14.08.020 Mooring.**

- A. No watercraft shall be allowed to moor or tie up to the city seawall without prior approval having been obtained from the port director and without the execution of a moorage agreement with the port.
- B. Mooring of watercraft along the seawall shall be limited to designated areas only.
- C. Adequate bumpers or fenders must be placed by the watercraft to prevent damage to the seawall.
- D. The watercraft shall be secured only to mooring bits that are installed independently of the bulkhead.
- E. Mooring bits may only be placed by the city or with the city's permission, after approval by the city engineer as to the mooring bit's location. No mooring bit may be placed such that tie backs are damaged.
- 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.
- G. No watercraft shall be allowed to moor alongside another watercraft moored at the seawall for the purpose of loading or unloading without the port director's approval.
- H. The floating docks situated along the seawall are for the use of small vessels only and only as authorized by the port director.
- I. No floatplanes shall be allowed to moor at the floating docks or the seawall.
- J. No hazardous nor explosive freight or material may be stored along the seawall or loaded/unloaded to/from watercraft over the seawall.
- K. Small vessels using the floating docks shall not load, discharge or transport over the seawall to the docks any boxes, packages, or other freight that is too large or heavy to safely carry down the gangways. Heavy or bulky freight shall be loaded either at the small boat harbor or at the slough by the bridge.
- L. No small vessel shall be allowed to refuel or transfer gasoline or other flammable liquids while moored at any floating docks.
- M. Persons under the influence of intoxicating liquors or drugs shall not be allowed on the floating docks.  
[Ord. 01-18 § 6; Ord. 209 § 5, 1992.]

**14.08.030 Berth regulations and privileges.**

- A. The vessel owner shall neither sublease nor allow another vessel to use its assigned space. When a vessel leaves its mooring for a day or more, the owner or operator shall notify the port director, who may temporarily assign another vessel the vacant space.
- B. There shall be no refueling of vessels moored to the seawall. Vessels must be moved to the petroleum dock or other designated fueling location.
- C. The vessel owner or operator shall not allow another vessel to moor alongside the permitted vessel, except for the purpose of loading or unloading fish or cargo. When loading or unloading operations are completed, the outside vessel must move out.
- D. Fish or freight which is loaded or unloaded to, from or across the permitted vessel, except for vessel provisions and ice, shall be subject to the payment of wharfage charges, as provided for by Rules 220 and 230 of the Port of Bethel Terminal Tariff, FMC-T No. 1.
- E. The vessel mooring permit is limited to the moorage of a specific vessel, assigned to a specific location for a specific period of time, and does not provide for any shore-side facilities or property use.
- F. The vessel owner shall be responsible for conducting his/her operations in a safe and lawful manner.
- G. The vessel owner, master or agent shall indemnify and hold harmless the city from any and all claims and damages, including costs and attorney fees, caused by or resulting from any negligent, intentional or malicious act or omission while the vessel is moored to the seawall or other port property.
- H. No welding shall be permitted without the permission of the port director, and then only after all possible precautions have been made to prevent fire and/or explosion. [Ord. 209 § 5, 1992.]

**14.08.040 Safety ladders.**

- A. Mooring to safety ladders is prohibited.
- B. Mooring in a manner that blocks safety ladders in unassigned areas is prohibited. [Ord. 209 § 5, 1992.]

**14.08.050 Seawall fence.**

- A. Damaging, tampering with or removing of life rings is prohibited.
- B. Removal of the seawall fence for access to moored vessels may only be done with the permission of the port director.
- C. Replacement of the seawall fence is the responsibility of the permit holder, and must be replaced whenever the vessel is not at its moorings.
- D. The permit holder is responsible for damage to the seawall fence at the assigned space for the period of the permit.
- E. No modifications to the seawall fence are permitted without the approval of the port director, and the fence must be restored to its original form at the end of the period of the permit, unless otherwise authorized by the port director. [Ord. 209 § 5, 1992.]

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## Chapter 14.10 SMALL BOAT HARBOR AND PORT FACILITIES

### Sections:

- 14.10.010 Port director.
- 14.10.020 Transactions to be conducted.
- 14.10.030 Registration.
- 14.10.040 Classification and use of mooring facilities.
- 14.10.045 Logs and log rafts on port facilities.
- 14.10.050 Unlawful acts.
- 14.10.060 Acts prohibited without the approval of the port director.
- 14.10.070 Rentals and fees.
- 14.10.080 Port facilities privilege agreement.
- 14.10.090 Duties of boat owners and operators.
- 14.10.100 Revocation of privileges.
- 14.10.110 Lien.
- 14.10.120 Removal of abandoned property.

### **14.10.010 Port director.**

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A. The port director and required assistants will supervise and manage the port facilities. The port director may hire a harbor master or other designee, and delegate duties as necessary for the operation and maintenance of the port facilities.

B. The port director shall supervise and manage the assignment of moorage stalls, the assignment of dry land storage and the use of the boat lift, launching ramps, grid iron and all other facilities made available by the city. The port director may, in the interest of safety or convenience, require any boat owner to change from one (1) moorage to another and may, in the absence of the boat owner, move the boat without incurring liability to the city.

C. The port director may, at his discretion, refuse moorage or storage to any boat which is cumbersome or may become a menace to the safety or welfare of another boat or its occupants. He may refuse the use of any facilities to a boat that may cause damage to the facilities. He may, at his discretion, refuse berthing to boathouses, floats, scows, log rafts, barges and other cumbersome floating structures.

D. Use of the port facilities by floating boat shelters, floating storage buildings, or houseboats is prohibited. The port director may refuse moorage or use of any of the port facilities to any boat or boat owner violating any provision of this code.

E. The port director shall have the duty and exclusive power to post signs and to thereby designate the limit of port facilities speeds, classification and use of port facilities moorage and storage areas, and such other signs and notices necessary to inform the public, and is authorized to direct all waterborne and vehicular traffic within the limits of the port facilities boundaries, including designated parking and storage areas. [Ord. 10-06 § 2; Ord. 209 § 5, 1992.]

### **14.10.020 Transactions to be conducted.**

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All registration of boats, payments of moorage and other charges, and other port facilities business shall

be conducted at the port office. [Ord. 10-06 § 2; Ord. 209 § 5, 1992.]

#### **14.10.030 Registration.**

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Every boat owner using the port facilities shall register his/her name, address, telephone number and the name and/or number of the boat with the port director on forms provided for that purpose. [Ord. 10-06 § 2; Ord. 209 § 5, 1992.]

#### **14.10.040 Classification and use of mooring facilities.**

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A. All of the mooring spaces in the port facilities can be classified as either open mooring or reserved mooring. The use of either classification of mooring facilities is contingent upon payment of the appropriate fee as set forth in this chapter.

B. Areas designated as open mooring shall be open to all members of the public. Such areas shall be used primarily for temporary mooring. Open mooring spaces shall be utilized on a first- (1st-) come, first- (1st-) served basis. No boat owner shall have exclusive rights to open mooring space. Should any boat leave, it shall have no exclusive right to return to the same space.

C. Use of Reserved Mooring Facilities.

1. Every boat owner desiring to guarantee the availability of a mooring space, or to moor temporarily at any vacant reserved mooring space, shall apply to the port director. No such space shall be so reserved or assigned until the mooring fee has been paid.
2. Possession of a reservation for a reserved mooring space does not guarantee the holder any right to exclusive use of the reserved mooring for the duration of the reservation agreement. Possession of a reservation is a guarantee that the reserved mooring shall be available for the use of the holder of the reservation during those periods when the boat is within the port facilities. The port director may temporarily assign another boat to a reserved mooring as he determines it expedient when the boat assigned to a reserved mooring is away from the port facilities.
3. In the event that the holder of a reserved mooring returns to the port facility and finds his reserved mooring occupied, the holder shall contact the port director. The port director will cause the temporarily assigned boat to be moved to another location.
4. The boat owner who possesses a reserved mooring shall not sublease or in any other manner permit the use of the mooring by another boat owner without prior notification of the port director.
5. No property rights are created by this section. The holder shall only have a permit to use the mooring reserved to him as provided for in this chapter.
6. A waiting list will be maintained by the port director of names of persons requesting reserved moorings at times when no reserved moorings exist. As reserved moorings become available they will be offered to the first (1st) name on the waiting list whose LOA fits the criteria for the mooring available.

D. No boat shall be moored in any area designated by the port director as a loading area any longer than it is necessary for loading/unloading the boat. No unattended boats shall be left at any loading area.

E. No boat shall block or be moored in any area designated by the port director as a launching area any longer than necessary for launching/hauling out the boat.

F. Any person moving a boat they do not own shall report to the port director where the boat was moved from and where the boat has been moved to.

G. Any person having knowledge of a petroleum spill within the port facilities shall immediately report such spill to the port office; if the port office is closed, the spill shall be reported to the police department.

H. No person shall bring into, moor or berth within the port facilities any boat which is unseaworthy or is in such a badly deteriorated condition that it is liable to sink or damage port facilities or other boats or which may become a menace to navigation, except in cases of extreme emergency, in which case the boat owner shall be liable for any damage caused by such boat. In the event a boat sinks within the port facilities, the boat owner shall mark its location and provide for the raising and disposition of the boat and assume all liabilities for damage to city property and other boats in the port facilities.

I. No aircraft or float plane shall land, operate within, or take off from the port facilities or the entrance thereto.

J. Vehicles and boat trailers must be removed from the launching areas after the boat has been launched and parked only in areas designated and posted by the port director as parking areas. Vehicles and boat trailers parked in areas not designated and posted as parking areas may be removed and impounded.

K. Launching or hauling out of boats on skids is prohibited; trailers or other wheeled conveyances shall be used for launching or hauling out boats. Boats shall be launched at designated launching areas only.

L. Beach storage of supplies, merchandise, or other property of boat owners shall be limited to areas designated by the port director. Boat owners shall obtain a space assignment for storage of property from the port director and pay storage fees in advance.

M. Except as provided in BMC [14.10.045](#), no logs or firewood shall be unloaded and placed on the beach of the port facilities, and no log rafts shall be allowed within the port facilities or the entrance thereto.

N. No vessels will be allowed to be more than one (1) beam's width from the dock. [Ord. 10-06 § 2; Ord. 04-15 § 2; Ord. 209 § 5, 1992.]

#### **14.10.045 Logs and log rafts on port facilities.**

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A. Any person may request permission from the port director or designee to bring logs or a log raft into port facilities for off-loading. The purpose for the logs must be for personal use and not commercial use; commercial operations use the cargo dock or beach No. 1. Personal use includes use of the logs for home heating, artistic purposes, steambaths, or constructing shelters, fish racks, or fences.

B. A request must be submitted to the port director at least eight (8) hours in advance.

1. The port director has the sole discretion to grant, deny, or cancel a request.

2. The decision of the port director to deny or cancel a request may only be reversed for abuse of

discretion if appealed under subsection I of this section.

C. The request will state the size and number of logs, method for removing logs from the water, the location for storing and off-loading the logs or log raft, cutting, off-loading, and/or removing the logs in the port facilities.

D. A request is good for allowing logs or a log raft in the port facilities for three (3) days. The logs or log raft, as well as all debris from the logs or log raft, must be removed within three (3) days from the port facilities unless extended at the discretion of the port director or designee.

E. Any logs, log raft, and/or debris that remains after the three- (3-) day request shall be declared abandoned and a public nuisance, and may be impounded, removed, sold, or otherwise disposed of in the following manner:

1. The port director shall send a registered or certified letter, with a return receipt, notifying the person at the address listed on the user's request, that the logs, log raft, and/or debris has been impounded and may be removed, sold or otherwise disposed of within seven (7) days after the date of the letter, unless the user:

a. Redeems the property by payment of all the charges listed in the letter, which shall include expenses for clearing and storing the logs, log raft, and/or debris; or

b. Timely submits a written appeal to the port commission under subsection I of this section.

2. If the property is not redeemed and no appeal is filed, the logs, log raft, and/or debris may be disposed of by public auction if valued by an independent appraiser at over one thousand dollars (\$1,000), or, if valued at one thousand dollars (\$1,000) or less, may be disposed of as junk, donated to a governmental agency or local nonprofit agency, or destroyed.

F. The user is liable for any expenses incurred by the city for the removal, storage, and/or disposal of the logs, log raft, and/or debris. Additionally, even if the logs, log raft, and/or debris are sold, the user shall be liable for any remaining charges not covered by the sales proceeds. Interest and collection costs shall be included regarding any charges that are not paid within thirty (30) days of the billing by the port director under subsection E of this section. Penalties may also be imposed and the city may seek injunctive relief in accordance with BMC [14.02.086](#). Additionally, the user shall be subject to loss of privileges for use of the port facilities until all charges, interest, collection costs, and any penalties are paid.

G. *Repealed by Ord. 10-06.*

H. In accordance with BMC [14.02.070](#), any person acting under this section shall be strictly liable to the city without regard to fault or negligence for any damage to the port facilities or any property owned by the city caused directly or indirectly by the log raft or logs while entering into or while in the port facilities.

I. Any appeal must be filed in writing with the port commission within seven (7) days after the port director denies or cancels a permit, or issues a letter that assesses charges, interest, collection costs, and/or penalties, or denies the user use of the port facilities. Any appeal of a decision of the port commission issued under this subsection shall be in writing and filed with the city council within seven (7) days of the date of the written decision by the port commission. [Ord. 10-06 § 2; Ord. 04-15 § 3.]

**14.10.050 Unlawful acts.**

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It is unlawful for any person within the small boat harbor to:

- A. Operate or to be in actual control of any boat when under the influence of intoxicating liquor, illicit narcotics, or other dangerous drugs;
- B. Operate or cause to be operated any boat within the small boat harbor that exceeds the posted speed limit or causes a wake or wave action;
- C. Operate or cause any boat to be operated recklessly or otherwise engage in a course of conduct that is dangerous or a nuisance to persons or property;
- D. Throw or otherwise cause to be deposited any gasoline, oil, sewage, trash, garbage or debris of any type into the water's entrance or upon the grounds of the small boat harbor;
- E. Create, become or maintain any nuisance;
- F. Allow dogs or any other animal to run at large. Dogs shall be on a leash and accompanied by the owner who shall be responsible for removing any offal left by the dog;
- G. Allow children under the age of twelve (12) years within the float or beach area of the small boat harbor unless they are accompanied by a responsible adult;
- H. Disregard, deface, remove, tamper with, or damage any sign or notice posted by the port director;
- I. Fail to register with the port director any boat prior to occupying the small boat harbor facilities;
- J. Pump bilge water into the small boat harbor;
- K. Deposit, place or leave any cargo, merchandise, supplies, articles or things upon any float, ramp, decline, walk or other public place except at such places as may be designated as loading areas;
- L. Dump any offal or refuse, including but not limited to waste materials from canneries, fish processors, and other land- or water-based facilities within the small boat harbor or in such close proximity as to cause overflow or drift of such material into the small boat harbor or the entrance thereto;
- M. Store any explosives, gasoline, or any other flammable substance in drums, cans, or any other type of containers;
- N. Set any net or fish-taking device unless it is attended at all times and does not interfere with the movement of boats within the small boat harbor;
- O. Swim, waterski, jetski;
- P. Refuse to comply with any lawful order of the port director or his designee;
- Q. Operate on any wharf or float any wheeled conveyance including, but not limited to, three (3) wheelers, motorcycles, bicycles, tricycles, in or on which a person or persons is carried or transported, with the exception of wheel chairs, and those conveyances used only to transport provisions to and from the boat. [Ord. 209 § 5, 1992.]

**14.10.060 Acts prohibited without the approval of the port director.**

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The following acts are prohibited without the approval of the port director:

- A. Using a boat as a residence;
- B. Major maintenance and repair work, including but not limited to sandblasting, welding, burning and outfitting;
- C. Tapping, connecting, disconnecting, or interfering or tampering with electrical outlets, meters or devices installed within the small boat harbor facility;
- D. Building any type of float, shed, floating boat shelter, or structure within the small boat harbor;
- E. Moving or altering any wharf, float, gang plank, ramp or other facility;
- F. Posting of signs;
- G. Conducting any commercial business within the small boat harbor. [Ord. 209 § 5, 1992.]

**14.10.070 Rentals and fees.**

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- A. A schedule of mooring charges and fees shall be established by the port commission. The charges and fees shall be effective if approved by ordinance adopted by the city council.
- B. The rental of moorage space shall be on a seasonal basis. At the discretion of the port director, monthly rentals or moorage may be charged by prorating the seasonal fees.
- C. At his discretion, the port director may charge a new renter on a prorated basis from the date of entry into the small boat harbor.
- 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.
- E. The port director shall prepare a receipt for all moneys paid for small boat harbor fees. The receipt shall be prepared in triplicate. The payer shall be given the original copy, a copy shall be given to the city clerk with the payment, and a copy shall be retained by the port director. [Ord. 01-18 § 7; Ord. 209 § 5, 1992.]

**14.10.080 Port facilities privilege agreement.**

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A small boat harbor privilege agreement in a form approved by the city council shall be signed by the applicant and, in the event the applicant is not the boat owner, endorsed by the boat owner agreeing to the terms and provisions thereof. The following terms and provisions shall be made part of the small boat harbor privilege agreement.

- A. Applicant also agrees to pay, in advance, moorage, rental, storage and other fees and charges at rates established by the city.
- B. The applicant agrees that any unpaid fees and charges shall become a lien against the boat

described in this agreement.

C. Nothing herein contained shall be interpreted to impose upon the city any obligation or responsibility for the care and protection of any private property, including boats, this agreement being limited to privileges of moorage space only. Applicant expressly consents and authorizes the city to move the boat in the event that rents, fees or charges are not paid, ordinances or regulations are violated, or in the event of necessity or emergency. Applicant further agrees to hold the city harmless against the loss, damage or theft of the boat, including its equipment, nets, gear, tanks, lines or other personal property on, attached, or related to said boat. [Ord. 10-06 § 2; Ord. 01-18 § 8; Ord. 209 § 5, 1992.]

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#### **14.10.090 Duties of boat owners and operators.**

A. Every boat owner using the small boat harbor facilities shall take reasonable precautions to see that their boat is kept clean, well secured, free from fire hazards of all types, sufficiently pumped out to float and otherwise attend to the requirements of the boat to avoid damage to other boats or to the small boat harbor.

B. The port director may but is not obligated to replace defective mooring lines, pump out boats which are in danger of sinking, or move any boat which may be creating a hazard to other boats or the small boat harbor facilities. The boat owner shall pay the city's actual costs for these services. [Ord. 209 § 5, 1992.]

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#### **14.10.100 Revocation of privileges.**

Small boat harbor privileges will be revoked in the event of the default in the performance of any obligation or failure to comply with any ordinance or regulation of the small boat harbor. Small boat harbor privileges may be revoked by the port director if the noncompliance continues for a period of thirty (30) days from the date a certified letter noticing the default is mailed to the permittee. [Ord. 209 § 5, 1992.]

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#### **14.10.110 Lien.**

The city shall have a lien upon any watercraft or other property for which rent, fees, moorage, wharfage or other fees, charges or services are not paid when due. [Ord. 01-18 § 9; Ord. 209 § 5, 1992.]

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#### **14.10.120 Removal of abandoned property.**

Any nets, gear, tanks, lines and other personal property which is deposited, stored, or otherwise placed on any of the small boat harbor facilities without a permit for a period of over twenty-four (24) hours is declared to be abandoned and a public nuisance and may be impounded, removed, sold, or otherwise disposed of in the manner provided for in BMC 14.02.100. [Ord. 209 § 5, 1992.]

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